

## CRIMINAL LAW SECTION

### MINUTES

#### ATTENDANCE

Thirty-nine delegates representing all jurisdictions, except Nunavut and NWT, attended the Criminal Section proceedings. (All jurisdictions were, however, represented at the Conference.) Jurisdictional delegations included Crown Attorneys, defence counsel, academics, government officials and judges.

#### OPENING

Lee Kirkpatrick presided as Chair and Catherine Kane acted as Secretary for the meetings of the Criminal Section. The Section convened to order on Sunday, August 13.

The Heads of each delegation introduced the members of their delegations.

#### PROCEEDINGS – RESOLUTIONS

Fifty-three resolutions were submitted by jurisdictions for consideration including two floor resolutions. Of the 53 resolutions considered, 38 were carried as proposed or amended, 7 were withdrawn after discussion, 1 was withdrawn before any discussion, and 8 were defeated. (Note – one resolution was in two parts, one part carried, one part defeated.) In several instances, the total number of votes varies, due to the absence of some delegates for part of the proceedings.

#### REPORT OF THE CHAIR

The following discussion papers were tabled:

##### **Regulating *Charter* Applications – Final Report of the Working Group**

A subcommittee of the Uniform Law Conference, Criminal Section was established in 1997, in response to a resolution, to study the issue of the regulation of *Charter* applications and develop rules to govern such applications and to make such other rules as deemed appropriate in consultation with the bar and judiciary.

The Working Group provided progress reports in 1998 and submitted an Interim Report in 1999. At the 1999 Conference, it was agreed that the Working Group should pursue the recommended option of creating a model set of rules of court to regulate *Charter* applications.

The final report submitted to the 2000 Uniform Law Conference, Criminal Section sets out such rules with a detailed rationale for the overall approach and for each rule.

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Following discussion of the Report and Rules, the following recommendations of the Working Group were supported:

- 1 The Working Group recommends that the Uniform Law Conference ratify and endorse the Rules of Court Governing the Conduct of Applications in Constitutional Matters, as a model set of rules.
- 2 The Working Group recommends that a copy of this Report be forwarded to the Chief Judges and Chief Justices of each Criminal Court in Canada, and to federal and provincial Judicial Councils, for their consideration as a means of promoting the orderly litigation of *Charter* applications.
- 3 The Working Group recommends that a copy of the Report be forwarded to the Attorney General of Canada and the Attorney General and/or Minister of Justice of each province and territory for their consideration on the question of whether a wide ranging consultation with interested groups (including members of the bar) should be conducted with a view to enacting National Rules of Court Governing the Conduct of Applications in Constitutional Matters.

By way of resolution, the Uniform Law Conference of Canada voted to approve the recommendations, 29-0-1. See Appendix R at page 452 .

### **Corbett Applications – A Background Research Paper**

In response to a 1999 resolution calling on the Uniform Law Conference of Canada to establish a subcommittee to examine a range of issues arising from *Corbett* applications, regarding limitations on cross-examination of an accused on their previous convictions, and to investigate the relevant law in other common law jurisdictions, and develop guidelines and/or make recommendations, the Uniform Law Conference of Canada commissioned a background research paper. The paper was prepared by Professor David Paciocco, University of Ottawa, and submitted to the 2000 Conference.

Delegates praised the comprehensive review of the law and procedure governing *Corbett* applications and the analysis of related provisions, including the issue similar fact evidence and the bad character rule.

Some of the debate focussed on the proposed shift of the onus to the Crown to establish why the criminal record should be introduced, and the lack of a rationale to support such a significant change. Discussion also focussed on whether or not codification is necessary.

Professor Paciocco's paper includes several proposed amendments to s. 12 of the *Canada Evidence Act*. Delegates noted that the proposals would require more careful analysis and discussion.

Following preliminary discussion of the paper, the Canadian Council of Criminal Defence Lawyers proposed an amendment to their resolution, originally submitted to call for a review of s. 666 of the *Criminal Code* and s. 12 of the *Canada Evidence Act*.

The resolution, as amended, and as carried, calls for a subcommittee of the Uniform Law Conference of Canada to be established (including Crown, defence bar, government officials and others interested) to review the proposals in detail and make recommendations to the 2001 Uniform Law Conference. Professor Paciocco's paper provides the groundwork for the discussion of the subcommittee. See Appendix H at page 387.

### **Law Enforcement and Criminal Liability – White Paper, June 2000**

The Government White Paper, tabled in the Senate, June 22, 2000, along with draft legislative proposals was discussed by delegates. Although the consultation process seeks comments by September 15, 2000, delegates were advised to carefully consider the issues and their comments would be received up to October 15, 2000. Delegates representing the defence bar (CBA, Criminal Justice Section, CCCDL and Criminal Lawyers Association) noted concerns about the general principle of sanctioning any criminal offences and the scope of the proposed immunity. The debate centered around the need to balance the risk to public safety with risks of increasing police powers. A majority of delegates noted that despite the complexity of the issue, legislation was essential.

Department of Justice officials invited the CBA, CLA, CCCDL and Barreau de Québec to participate in focussed face-to-face consultations, in addition to encouraging written submissions.

### **Group Assault; “Swarming”**

An issues paper on group assault, commonly referred to as “swarming” was discussed briefly and further comments (in writing) by delegates were invited by the Department of Justice.

The paper reviewed the type of conduct referred to as “swarming”, the offences and applicable punishment available to address this conduct.

Delegates noted that the existing offences are adequate to address the behaviour, however proof of the offence (e.g., assault causing bodily harm, homicide) is often problematic since more than the mere presence of a person (participant) at the scene must be proved. It was also noted that the behaviour which results in swarming often requires a non-legal approach; i.e. preventative measures and other interventions to ensure that youth, in particular, are not drawn to violent “gang” type behaviour. See Appendix I at page 411.

## REPORT OF THE SENIOR FEDERAL DELEGATE

The following Report of the Senior Federal Delegate, Richard G. Mosley, Assistant Deputy Minister, Criminal Law Policy and Community Justice Branch was tabled.

Several initiatives over the last year (1999-2000) have been influenced by the work of the Criminal Section and/or would be of interest to Criminal Section delegates. These initiatives include:

***Law Enforcement and Criminal Liability: White Paper*** - The White Paper was tabled by the Minister of Justice in the Senate on June 22, 2000. It includes draft legislation to respond to the Supreme Court of Canada's ruling in *John Campbell and Salvatore Shirose v. The Queen*.

A copy of the paper was distributed to U.L.C. delegates.

***Bill C-36, An Act to amend the Criminal Code (criminal harassment, home invasions, applications for Ministerial review – miscarriages of justice, and criminal procedure) and to amend other Acts***, was tabled in the House of Commons by the Minister of Justice on June 8, 2000.

This enactment amends the *Criminal Code* by

- (a) codifying and clarifying the review process for applications to the Minister of Justice with respect to allegations of miscarriage of justice;
- (b) increasing the maximum penalty for criminal harassment;
- (c) reforming and modernizing criminal procedure with respect to
  - procedural aspects of preliminary inquiries,
  - the disclosure of expert evidence,
  - rules of court in relation to case management and preliminary inquiries,
  - electronic documents and remote appearances,
  - a plea comprehension inquiry scheme,
  - private prosecutions,
  - the selection of alternate jurors, and
  - restriction on the use of agents.

This enactment also amends the *National Capital Act* by increasing the maximum fine available and the *National Defence Act* by providing for fingerprinting.

**Bill C-17, *An Act to amend the Criminal Code (cruelty to animals, disarming a peace officer and other amendments) and the Firearms Act (technical amendments)***, was tabled in the House of Commons by the Minister of Justice on December 1, 1999.

**Bill C-18, *An Act to amend the Criminal Code (impaired driving causing death and other matters)*** was introduced on December 1, 1999 and was passed by the House of Commons and Senate in June and received Royal Assent on June 30, 2000. The amendments will be proclaimed into force September 1, 2000.

These amendments

- increase the maximum penalty for impaired driving causing death from 14 years to life imprisonment;
- allow police to seek a warrant for a blood sample from a driver suspected to be drug impaired, following a collision involving injury or death when a driver cannot consent; and
- amend the definition in the French version of motor vehicle (reflecting the 1999 U.L.C. resolution).

Note that Private Member's **Bill C-202 (Dan McTeague), *An Act to amend the Criminal Code (flight)*** was passed by the House of Commons and Senate and came into force on March 30, 2000. The amendment created new offences.

- failing to stop a motor vehicle with intent to evade a peace officer (5 year maximum)
- dangerous driving causing bodily harm during such flight from police (14 year maximum)
- dangerous driving causing death during such a flight (life, maximum)

The issue of police chases was discussed at the 1999 U.L.C.

Bill C-23, ***The Modernizing Benefits and Obligations Act***, was tabled on February 11, 2000 and received Royal Assent June 30, 2000. The Omnibus Bill amends sixty-eight federal statutes including the *Criminal Code* to ensure that same sex and common law relationships are equally recognized in our law. The amendments to the *Criminal Code* include:

- a definition of common law partner (s. 2)
- repeal of s. 23(2) (husband or wife not accessories after the fact)
- s. 215(1)(b) amended to refer to spouse or common law partner (re providing necessities of life)
- repeal of s. 215(4)(a) (presumptions of marriage)
- amendment of s. 215(4)(c) regarding presumption of failure to provide necessities of life for a child

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- repeal of s. 329 (theft between husband and wife)
- replacement of the word “spouse” with “spouse or common law partner” in the following sections
  - s. 215(4)(d)
  - s. 423(1)(a)
  - s. 718.2(a)(ii)
  - s. 722(4)(b)
  - s. 738(1)(c)
  - s. 810(1)
  - s. 810(3.2)

Bill C-19, *An Act respecting genocide, crimes against humanity and war crimes and to implement the Rome Statute of the International Criminal Court, and to make consequential amendments to other Acts*, relates to the implementation of Canada’s obligations under the Rome Statute of the **International Criminal Court**. The legislation makes it an offence to commit genocide, a crime against humanity or a war crime. Consequential changes are also made to Canada’s extradition and mutual legal assistance legislation to enable Canada to comply with its obligations to the ICC. The enactment also affirms that any immunities otherwise existing under Canadian law will not bar extradition to the ICC or to any international criminal tribunal established by resolution of the Security Council of the United Nations.

Bill C-19 was reported (with amendments) to the House of Commons on June 7, 2000 from the Standing Committee on Foreign Affairs and International Trade. The Bill received Royal Assent on June 29, 2000.

Bill C-244, *An Act to provide for the taking of samples of blood for the benefit of persons administering and enforcing the law and good Samaritans and to amend the Criminal Code*, was introduced in the House of Commons by the Honourable Member for Fraser Valley (Mr. Chuck Strahl) on October 18, 1999. The Bill passed Second Reading and is now being examined by the Standing Committee on Justice and Human Rights. The Committee has heard witnesses, including officials of the Department of Justice, Health Canada, the Canadian Police Association, the Canadian HIV/AIDS Legal Network and representatives of non-governmental organizations.

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Bill C-244 would create legislation that would establish a mechanism for obtaining and executing a search warrant on the human body. This means that a designated person (a fire-fighter, a doctor, a person whose profession is to care for sick people, a peace officer, a security officer or a person assisting a peace officer), could ask a justice of the peace to issue a warrant authorizing a peace officer to require a medical practitioner or a qualified technician to take samples of blood. These samples would be taken from a person who has received assistance from the designated person, where there has been contact of bodily fluids and where the person who received help could be suspected of being infected with some diseases, more specifically hepatitis B, hepatitis C or HIV.

The amendments, if passed would apply where there has been an exchange of bodily fluids; there is no requirement than an offence is alleged to have been committed.

[Recall that a 1998 Uniform Law Conference resolution called for an amendment to authorize a warrant for a blood sample to determine the seriousness of the offence or prove the commission of the offence where there are reasonable grounds to believe that the person named in the warrant: suffers from an infectious disease that could endanger the security or life of another person; that the person transmitted the infectious disease to another person, while committing an offence against the security or life of that person; and that reasonable grounds exist to believe the person was aware of their infectious disease.]

Bill C-22, the *Proceeds of Crime (money laundering) Act* (PCMLA) replaces the current *Proceeds of Crime (money laundering) Act*. Bill C-22 received Royal Assent on June 29, 2000 and the sections of the new *Act* dealing with the establishment of the new financial intelligence centre were proclaimed into force on July 5, 2000.

This new *Act* continues the existing financial transaction record keeping requirements. It also requires persons to whom the *Act* applies to report suspicious financial transactions. These persons include banks and other deposit-taking institutions, life insurance companies, casinos, securities dealers, foreign exchange dealers and persons engaged in a business, profession, or activity where cash is received for payment or transfer to a third party (e.g. lawyers, accountants). The new regime creates an obligation for these persons or their employees to file a report with the Financial Transactions Reporting and Analysis Centre (FTRAC) when certain indicators are present in the transaction or when there are reasonable grounds to suspect that the transaction is related to the commission of a money laundering offence. Failure to comply with the obligation to report is an offence and is punishable by imprisonment and/or fines or both penalties.

In addition, a Cross-Border Currency Reporting regime is included in the *Act*. This regime creates an obligation on all persons entering into, or leaving, the country to declare to Revenue Canada Customs currency and other monetary instruments over a specified threshold amount. Customs will forward this information to CFTRAC.

Last year the issue of **corporate criminal liability** was discussed at a joint session of the Civil and Criminal Branches of U.L.C.; Professor Anne-Marie Boisvert's paper was the focal point for the discussion. While there was no formal resolution on the table, it was agreed that Justice Canada would continue to study and consult on the matter. Since then, the House of Commons has given greater attention to the criminal law's approach to corporate liability in view of the Westray Inquiry Report and a subsequent Private Member's Motion and Bill requesting that the Department of Justice develop appropriate amendments. The House of Commons Standing Committee on Justice and Human Rights submitted a Report to the House on June 7, 2000, requesting that the Minister of Justice undertake such a study; the Government has 150 days to respond. The Department of Justice is currently developing a consultation paper outlining issues and options. This document will be widely distributed and will be posted on the Department's Website. It is also noteworthy that the United Kingdom issued a package of law reform proposals in May, 2000, *Reforming the Law on Involuntary Manslaughter: The Government's Proposals*, which proposes a codification of British law.

To follow up on the 1999 resolution that a joint study be conducted on the standards for the electronic disclosure of evidence by the CBA and CACP in consultation with relevant federal, provincial and territorial government departments and other interested professional associations, the Department of Justice hosted an initial meeting in Ottawa in April 2000. Representatives of the Canadian Bar Association and Ontario Criminal Lawyers Association attended, along with several government officials. A follow up meeting will be held in the fall 2000.



CRIMINAL SECTION – MINUTES

**RESOLUTIONS**

**1 - ALBERTA**

**ITEM 1**

Dangerous Offenders

*That the Criminal Code be amended to add a section to the provisions respecting Search Warrants or Dangerous Offenders to allow for the gathering of information in relation to a Dangerous Offender Hearing.*

**(Withdrawn)**

**ITEM 2**

Prohibited Firearms

*That s.95(1) of the Criminal Code be amended to include unloaded firearms.*

**(Withdrawn)**

**ITEM 3**

Criminal Harassment

*That the Criminal Code be amended to restrict the ability of an accused to personally cross-examine the complainant in a harassment/stalking trial akin to s. 486(2.3).*

**(Carried: 16-11-5)**

**ITEM 4**

Protection of Child Witnesses (as amended)

*That s. 486(2.1) of the Criminal Code be amended to include references to murder, attempted murder and homicide offences.*

**(Carried: 20-3-10)**

## 2 – BRITISH COLUMBIA

### ITEM 1

#### Medical and Psychological Reports at Sentencing

*That s. 721 be amended to authorize medical and psychological reports for sentence hearings modeled on the provisions of the Young Offenders Act.*

**(Defeated: 6-19-8)**

### ITEM 2

#### Failure to Provide Copies of Orders

*That (subsections 732.1(5)(a), 734.2(a), 737(8) and 742.3(3)(a)) of the Criminal Code be amended to provide that failure of the court to provide an offender with a copy of any court order, notice or prohibition does not affect the validity of the order, notice or prohibition.*

**(Carried: 23-3-8)**

### ITEM 3

#### The Effect of Merged Sentences on Pre Existing Prohibition Orders (as amended)

*That the Federal-Provincial-Territorial Sentencing Committee review the effect of sentence merger on probation orders and make recommendations:*

- (1) *to consider the automatic retroactive invalidation of probation orders where the merged sentence is two years or more incarceration,*
- (2) *to consider capping the maximum length of a probation order and the expanding power to modify a probation order,*
- (3) *that recognize the impact a subsequent custodial sentence may have on the ability of*
  - a) *the probation order to achieve any of its purposes, and*
  - b) *the offender to comply with the terms of the probation order.*

**(Carried: 28-0-3)**

### ITEM 4

#### Bail on Appeal (as amended)

*That the words “is not frivolous” in paragraph 679(3)(a) be replaced with the words “the appellant has a reasonable basis for questioning the decision”.*

**(Carried: 23-2-7)**

**3 - MANITOBA**

**ITEM 1**

Internet Luring and the Exploitation of Children (as amended)

*That the Criminal Code be amended to deal with the exploitation of children by means of the Internet ... by making it an offence for a person to use a computer to communicate with someone they know or believe to be a child, for the purpose of facilitating an offence against the child.*

**(Carried: 29-0-4)**

**ITEM 2**

Non-Communication Orders During Period of Imprisonment

*That the sentencing provisions of the Criminal Code be amended to provide to the sentencing court the power to make a non-contact or communication order during the offender's period of imprisonment.*

**(Carried: 22-0-11)**

Marital Communication Privilege

*That the marital communication privilege, set out in ss. 4(3) of the Canada Evidence Act, should be abolished.*

**(Carried: 21-11-2)**

**ITEM 4**

Compellability of Spouses To Give Evidence

*That the wife or husband of a person accused of any offence should be a competent and compellable witness for the prosecution without the consent of the accused (and that ss. 4(2) and 4(4) of the Canada Evidence Act be amended accordingly).*

**(Carried: 23-9-2)**

**ITEM 5**

Restitution (as amended)

*That consideration be given to (amending or enacting) legislation to allow a court of competent jurisdiction to make an order of restitution in favour of a person where both the accused and the Crown are in agreement with the order and criminal proceedings will not be concluded against the accused.*

**(Carried: 19-5-7)**

**[Note, the discussion also focussed on the need to explore the obstacles to the enforcement of restitution orders made pursuant to s.738.]**

**ITEM 6**

Seizure of Blood Samples (amended)

*That consideration be given to amending the Criminal Code to permit a police officer to obtain a blood sample, for the purpose of blood alcohol screening only, where the police reasonably suspect that the driver at the time of the accident had alcohol in his body and it is impractical to do a breath test involving an approved screening device.*

**(Carried: 15-9-7)**

**ITEM 7**

Support/Vulnerable Persons

*That the support provided to young persons in certain cases be extended to other vulnerable persons. That s. 486 be amended to permit persons with a mental or physical disability to seek permission from the court to have a support person present and in close proximity while they testify.*

**(Withdrawn)**

**ITEM 8**

Contempt of Court (amended)

*That the federal Department of Justice undertake a review of the procedure surrounding the conduct of criminal contempt proceedings, with a view to enacting amendments to the Criminal Code which would permit, to the extent reasonably possible, and recognizing the need to proceed with dispatch, such proceedings to be governed by the procedure that guides all other criminal offences in Canada.*

**(Carried: 34-0-0)**

**4 - ONTARIO**

**ITEM 1**

Onus At Bail Hearings Where The Charge Is Unlawfully At Large

*That ss. 515(6)(c) of the Criminal Code be amended to include reference to ss. 145(1).*

**(Carried: 23-4-6)**

**ITEM 2**

Application Of Reverse Onus At Bail Hearing

*That ss. 515(6)(c) of the Criminal Code be amended to include reference to ss. 145(5.1).*

**(Carried: 28-0-5)**

**ITEM 3**

Revocation Of Suspended Sentence

*That s. 732.2(5) be amended to ensure that, where an application to a court is made by the Crown under this section, the running of probation order is suspended pending the hearing of the application, and that some mechanism be available to provide for an undertaking, with or without conditions, to be entered into by the offender, pending the hearing of the application.*

**(Carried: 10-9-4)**

**ITEM 4**

Admissibility of Videotaped Evidence

*That s. 715.1 of the Code be amended to include the offences set out in sections 215(3), 218, 280, 281, 282, 283 and 284.*

**(Carried: 18-5-9)**

**ITEM 5**

Prohibition Orders In Relation To Protection Of Children

*That s. 161 be amended to include the offences set out in s. 163.1.*

**(Carried: 24-3-5)**

**ITEM 6**

Warrants To Arrest Absconding Witness

*That sections 698(2), 704 and 705 be amended to provide for an endorsement on the warrant issued pursuant to those sections that would authorize release by a police officer on an undertaking subject to conditions.*

**(Carried: 32-0-0)**

**ITEM 7**

Impaired/Over 80 Operation Of A Vessel (amended)

*That the Small Vessel Regulations (Canada Shipping Act) be amended and if necessary, the Canada Shipping Act be amended, to provide authority for police officers to conduct checks on boats to determine whether the operator is impaired or to make a demand for a blood alcohol test.*

**(Carried: 24-0-7)**

**ITEM 8**

Forfeiture Of Authorizations, Licenses And Registration Certificates

*That s. 116 be amended so that persons not yet found guilty are only subject to suspensions of their authorizations, licenses or certificates.*

**(Carried: 27-0-4)**

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**ITEM 9**

Procedure For Reviewing Revocations Of Firearms Authorizations

*That the Firearms Act be amended to provide for one procedure to review all authorizations refused or revoked under the Act.*

**(Carried: 28-0-2)**

**ONTARIO, (Criminal Lawyers Association) (AMENDED)**

**ITEM 1**

“Jailhouse” Or In Custody Informants (amended)

*That the Department of Justice establish a task force or study group to undertake an examination of the role played by in custody informants in cases of wrongful conviction and make recommendations concerning this issue and report back to the Uniform Law Conference in 2001.*

**(Carried: 23-0-0)**

**ITEM 2**

Bench Warrants “With Discretion” (amended)

*That ss. 511(4) and 597(5) of the Code be amended to provide that where the accused appears voluntarily before a judge or justice pursuant to s. 511(3) or 597(4), the warrant shall be deemed to be rescinded and not executed.*

**(Carried: 22-0-4)**

5 – QUEBEC

ITEM 1

Consent By Parties To Facts Related To A Separate Offence At Sentencing

*That ss. 725(1)(c) of the Code be amended to make consent and consideration of the public interest prerequisites to the application of that provision.*

*That ss. 725(2) be amended to require the court to record on the information or the indictment any consent by the parties required by that section.*

**(Carried: 22-0-8)**

ITEM 2

Order Prohibiting An Offender From Attending An Arcade (amended)

*That the Department of Justice, (in the context of the Children As Victims Project) study the possibility of amending s. 161 and (perhaps) s. 810.1 to include “amusement arcades” as places in respect of which an order of prohibition may be issued.*

**(Carried: 20-1-11)**

ITEM 3

Appearance By Means Of A Telecommunications Device Of A Person Held For An Offence Under s. 469 (amended)

*That s. 515(11) of the Code be amended to allow a person held for an offence under s. 469 to appear before a justice by means of a telecommunications device.*

**(Carried: 21-2-10)**



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ITEM 4

Prohibition Orders Related to Explosive Offences (amended)

*That the Department of Justice consider whether explosives should be included in paragraphs 109(1)(d) and 110(1)(b), and whether the offences set out in sections 80, 81 and 82 of the Code should be included in paragraph 109(1)(b) of the Code. [OR That the Department of Justice examine the possibility that those who commit offences set out in sections 80, 81 and 82 should be subject to a prohibition order.]*

**(Carried: 27-0-5)**

ITEM 5

Person In custody Prohibited From Communicating With An Identified Person Prior To Appearance

*That the Criminal Code be amended to give the peace officer or officer in charge, as the case may be, the authority to require that a person he or she is holding in custody with or without a warrant for purposes of a court appearance refrain from communicating with an identified person.*

**(Defeated: 11-13-7)**

ITEM 6

Care And Euthanasia Of Seized Animals

*Add to the Criminal Code a provision allowing the authority which seizes an animal to obtain an order authorizing the euthanasia of the animal and/or, where applicable, an order requiring the owner of the animal to reimburse the seizing authority for the costs of keeping the animal during the legal proceedings.*

**(Withdrawn: After Discussion)**

ITEM 7

Destruction Of Seized Things Of Small Value (as amended)

*That s. 490.01 of the Criminal Code and s. 7 of the Seized Property Management Act be amended to permit the destruction or disposal of seized things with little value that do not need to be stored during legal proceedings.*

*That s. 13 of the Controlled Drugs and Substances Act, S.C. 1996, c. 19, be amended to permit the destruction or disposal of things seized that are perishable or of little value.*

**(Carried: 22-1-7)**

**ITEM 8**

Fear Of Sexual Offences By Persons With Disability (amended)

*That the Criminal Code be amended to include a new provision to protect persons with a mental or physical disability in the same manner (i.e. to provide similar protections) as s. 810.1.*

**(Carried: 24-2-6)**

**ITEM 9**

Restraint And Confiscation Of Property On Behalf Of A Foreign State

*That the Criminal Code and Mutual Legal Assistance Act be amended to allow the restraint and confiscation of property as well as the exemplification of judgments at the request of the foreign state.*

**(Carried: 27-0-26)**

**ITEM 10**

Alcohol Ignition Interlock Program

*That s. 259 of the Criminal Code be amended to provide:*

- (1) that for greater certainty, driving after participation in the ignition interlock program has been revoked or after the ignition interlock system has been altered constitutes an operation of a vehicle while disqualified and is subject to the penalties provided for in paragraph 259(4); and*
- (2) that participation in an ignition interlock program is not restricted to cases where a minimum driving prohibition period has been imposed.*

**(Carried: 32-0-1)**

CRIMINAL SECTION – MINUTES

6 – SASKATCHEWAN

ITEM 1

Onus At At Bail Hearing Where Accused Unlawfully At Large

*That s. 515(6) of the Criminal Code be amended to include reference to s. 145(5.1).*

**(Withdrawn: - See Ontario Item 1 - Carried)**

ITEM 2

Criminal Negligence *Simpliciter* (amended)

*That the federal government give consideration to amending the Criminal Code to make the commission of a criminally negligent act or omission that endangers the safety or life of another individual, a criminal offence.*

**(Carried: 18-5-7)**

ITEM 3

Gross Indecency (amended)

*That the Criminal Code (s. 171(1)(c)) be amended to create an offence of an indecent act in any place, where it is committed without the consent of the other person who is the subject or object of the act.*

**(Defeated: 9-13-6)**

ITEM 4

Making Indecent Act A Dual Procedure Offence

*That subsections 173(1) and 173(2) be amended to make them dual procedure offences.*

**(Carried: 19-0-11)**

**ITEM 5**

Mandatory Condition Of Keeping The Peace While On Bail (amended)

*That the relevant sections of the Criminal Code be amended to require any person released on bail be subject to a statutory condition that he keep the peace and be of good behaviour:*

**(Carried: 22-4-5)**

**ITEM 6**

References To Historic Sexual Offences In s. 278.2(1)(b), s. 486(3)(b)

*That the list of offences in sections 278.2(1)(b) and 438(3)(b) of the Criminal Code and the Schedule to Bill C-7, An Act to Amend the Criminal Records Act be amended by deleting reference to sections 245 and 246 of the Criminal Code, R.S.C. 1970 as those sections read immediately before January 4, 1983.*

**(Withdrawn: After Discussion)**

**ITEM 7**

Criminal Voyeurism

*That Part V of the Criminal Code be amended to create a specific offence that would prohibit surreptitious, non-consensual viewing, photographing or videotaping of another person in a dwelling house or business premises where there is an expectation of privacy and if the viewing, photographing or videotaping is done for a sexual purpose.*

**(Carried: 21-1-8)**

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**ITEM 8**

Judicial Interim Release After Indictment (as amended)

Part I

*That s. 597 of the Criminal Code be amended to provide that the onus is on the accused to show cause under ss. 597(3).*

**(Defeated: 12-3-15)**

Part II

*That the federal government clarify the powers of review respecting orders made pursuant to ss. 597(3) of the Criminal Code.*

**(Carried: 25-0-5)**

**ITEM 9**

Detention In Custody Pending Assessment Under s. 672.11 (amended)

*That the federal Department of Justice ensure that Part XX.1 and Form 48 be amended such that every order for an in custody assessment will include the authority to hold a person in a prison pending placement for assessment and return to court after assessment.*

**(Defeated: 7-9-17)**

7 – CANADA

ITEM 1

Electronic Surveillance

*That consideration be given to amending s. 183 of the Criminal Code to include specified environmental and wildlife offences as set out in the Canadian Environmental Protection Act, the Wild Animal and Plant Protection and Regulation of International and Interprovincial Trade Act, the Canada Wildlife Act and the Migratory Birds Convention Act, 1994.*

**(Withdrawn: After Discussion)**

ITEM 2

Applications To Extend Period For Notification Of Wiretap Authorizations

*That Part VI of the Criminal Code be amended to permit stand alone applications for delay of notification orders.*

**(Carried: 22-0-7)**

ITEM 3

Sealing Orders (amended)

*That s. 487.3(1) of the Criminal Code be amended to preserve common law powers respecting sealing orders and to include other types of orders including restraint orders, income tax information orders, assistance orders, etc.*

**(Carried: 24-0-4)**

ITEM 4

Change of Venue Between Provinces

*That sections 531 and 599 of the Criminal Code be amended to allow for a change of venue from one province to another, subject to the consent of Attorneys General concerned.*

**(Withdrawn)**

CRIMINAL SECTION – MINUTES

CANADIAN BAR ASSOCIATION – CRIMINAL JUSTICE SECTION

ITEM 1 – FLOOR RESOLUTION

Re-Codification of Criminal Law

*That the federal government undertake a project to re-codify the criminal law to make it clear, fair and contemporary.*

**(Defeated: 14-0-15)**

CANADIAN COUNCIL OF CRIMINAL DEFENCE LAWYERS

ITEM 1

*That the Uniform Law Conference – Criminal Section establish a subcommittee to study the questions/issues arising out of Corbett applications with a view to recommending appropriate amendments to the Criminal Code and/or Canada Evidence Act which would address the problems identified in the research paper prepared for the Uniform Law Conference (2000) by Professor David Pacciocio.*

**(Carried: 21-0-9)**