

OPENING PLENARY SESSION

MINUTES

Opening of Meeting

The meeting opened at 1:30 p.m., on Sunday, August 19, 2001, at the Toronto Colony Hotel in Toronto, Ontario, with Earl Fruchtman as Chair and Claudette Racette as Secretary. The Chair welcomed the Commissioners and guests to the 83rd Annual Conference.

Introduction of the Executive Committee

The Chair introduced members of the Executive Committee, Susan Amrud, Chair of the Civil Section, Arthur Close, Vice-President, Earl Fruchtman, Chair, Claudette Racette, Executive Director, Glen Abbott, Chair of the Criminal Section and Jeff Schnoor, Immediate Past President. He then introduced H el ene Yaremko-Jarvis, National Coordinator, Commercial Law Strategy.

Introduction of Commissioners

The Senior Commissioner from each jurisdiction introduced members of his/her respective delegates.

Introduction of Guests and Delegates from the NCCUSL

The Chair welcomed Graham Walker, a Past President of the Conference and two representatives from the NCCUSL, King Burnett, President and Jeremiah Marsh, Co-Chair of the Cooperation Committee between the ULCC and the NCCUSL, who was attending his 12th ULCC conference.

Word of Welcome from the Host Jurisdiction

The Chair stated that it was his pleasure, on behalf of the Government of Ontario and the Ministry of the Attorney General, to welcome the delegates and guests, as well as the presenters, to Toronto for this conference. He went on to say that it was an honour for Ontario to take its turn to host the Conference. He commented that this was a difficult job, particularly with regard to the wonderful experiences we have had in other jurisdictions over the last number of years. He then proceeded to provide a brief overview of the social program for the week.

The President's Report

The President presented the following report.

“Let me begin by saying, with pride and confidence, that this Conference continues to grow in stature. We remain vital and relevant with respect to the work that we do. It is not, I would submit, inaccurate to say that this Conference provides a unique and necessary role as an institution dedicated to the improvement of laws in this country through modernization, and of course, harmonization within a federal context, and that we provide this product through the expertise of our Commissioners.

During the last year, without getting into the details, we continued to see jurisdictions implementing the recommended Uniform Acts of this Conference. In particular, the Civil Section itself adopted two further Uniform Acts during the year, which of course, we invite jurisdictions to implement. One is the Uniform Liens Amendment Act, which, among other things, consolidated various amendments into a single Act. The second was the Uniform Wills Amendment Act.

Next, I want to mention the Commercial Law Strategy. It began its activities in full force over the last year. The National Coordinator, H  l  ne Yaremko Jarvis, made extensive efforts throughout the year to promote the strategy across the country to various key stakeholders and organizations. I know that she will be providing the details of her work to the Civil Section when it meets, but I can say at this point that her efforts were tremendously successful. She was able to obtain the support and endorsement of these groups, and I would want to note that the Commercial Law Strategy was the subject of a favourable editorial in the Financial Post in June. I would like to take this opportunity thank H  l  ne on her accomplishments over the last year.

I know that many of you realize that the current funding for the Strategy will run out this year. There have been some discussions that are ongoing concerning the future of the Strategy and I am sure that when the Civil Section meets, you will engage in your own discussions on this topic.

I am pleased to announce that during the last year, the Criminal Section established a Steering Committee. This Steering Committee will assist in dealing with the continuously growing work load of that Section. We will be developing procedures and by-laws to ensure that the work of the Section occurs in an efficient manner and that the Section is able to continue to provide important recommendations to improve the criminal law.

Next, I would like to say a few words about our Website. Thanks to the generous grant of the Department of Justice Canada, the Conference was able to establish its own Website. Over the last number of years, we have been using the Alberta Law Reform Institute's own Website as well as its services to have our site on its location. This began, basically, as a location for overflow materials that were not reproduced in the Annual Proceedings. Gradually, over time, we began to put more and more materials on the site, to the point where it became very difficult for the Institute to provide their services to us on a timely basis. With the grant from the Department of Justice, we were able to arrange for our own site, with our own domain name, our own services to set up the site, which we have designed to be "user friendly", as well as our own services to put content on the site, both historical and current, in both official languages. On Wednesday, Arthur Close will be providing a demonstration of the site for you. Perhaps more

than anything else, in this new internet age, this Website will create a significant awareness of our Conference throughout the world.

Finally, I want to mention one more thing. This is last, but not least. Despite our growth we remain a small organization. The question is: how do we do this? We do this primarily through the volunteer work of the delegates and the jurisdictions. This volunteer work is essential to the Conference. A few moments ago, John Twohig, the Jurisdictional Representative from Ontario, mentioned John Gregory, his predecessor, who was part of this Conference for 13 years. John Gregory himself provided many tasks essential to the work of this Conference, such as: ensuring that our Annual Proceedings are published, working on the Consolidation to the Uniform Acts, the up-keep of the Website. Well, John is no longer with us, and these tasks remain an essential part of our work. It is very important that we continue to have volunteers providing these services to us. I urge you to consider taking an active role in the on-going work of this Conference and volunteering your time and service as much as possible. We appreciate the work that has been done, but it is important that we keep this up. Thank you.”

Financial Resolutions

Approval of Audited Statements

The Chair presented the Audited Financial Statements for approval. He commented that the Conference has a clear auditor’s report again this year. He then opened the floor to questions. No questions were forthcoming.

MOVED by Arthur Close, seconded by Glen Abbott **THAT** the Audited Statements for the fiscal period ending March 31, 2001 be approved as presented. Motion carried.

The Chair then reminded delegates of the discussion that took place last year on the creation of a stabilization fund for the Conference. As a result of the discussion, the Executive Committee was authorized to deal with this issue. Some discussions did take place this year, however, no final decision was reached. The new Executive Committee will be addressing this issue in the coming year.

Appointment of Auditor

MOVED by Jeffrey Schnoor, seconded by Susan Amrud, **THAT** Maurice Joseph be appointed as Auditor for the Conference for the fiscal period 2001-2002. Motion carried.

Banking Resolution

MOVED by Arthur Close, seconded by Glen Abbott **THAT** for amounts over \$5,000, two members of the Executive Committee or one member of the Executive Committee and the Executive Director be given signing authority as officers for all banking matters of the Conference, **AND THAT** for amounts under \$5,000 and for the purposes of purchasing G.I.Cs

and terms deposits, and for the purposes of transferring funds from the research account to the general account and vice versa, and from the research or general account to the commercial law strategy account or vice versa, the signature of the Executive Director alone will suffice.

Arthur Close commented that previously for all cheques, the signatures of two members of the Executive were required. In practice, that meant the signature of the Executive Director and one member of the Executive Committee. That worked fine because until a year ago, there was always one member of the Executive Committee in Ottawa. That is no longer the case. For that reason, the Executive Committee was recommending the changes mentioned above. Motion carried.

Approval of the Budget for the Fiscal Period 2001-2002

The Chair presented the budget for approval. **MOVED** by Susan Amrud, seconded by Jeffrey Schnoor, **THAT** the budget for the fiscal period 2001-2002 be approved as presented. Motion carried.

Nominating Committee

Jeff Schnoor, stated that in accordance with the By-Laws, the Nominating Committee will be chaired by the Immediate Past President. The Committee will be composed of at least four other Commissioners. As Chair, he undertook to establish the Committee, to consult with various Jurisdictional Representatives, and to submit the Committee's report at the Closing Plenary.

Outline of the Business of the Week

Civil Section

The Chair of the Civil Section reported that the Section will start with a report from the National Coordinator of the Commercial Law Strategy, who has made tremendous progress over the course of the last year in furthering the goals of the strategy. The Section will be reviewing six Uniform Acts: *The Uniform Enforcement of Foreign Judgements Act*, *Amendments to the Uniform Personal Property Security Act*, *The Uniform Unclaimed Intangible Property Act* and three Acts that will provide for the implementation of international conventions: *The Hague Convention on the International Protection of Adults*, *The Hague Convention in respect of Parental Responsibility and Measures for the Protection of Children* and *the UNIDROIT Convention on International Interests in Mobile Equipment*.

There will be reports from two speakers in the *Electronic Commerce* area on enforcing our laws on the internet, a Law Commission of Canada report on *Security Interests in Intellectual Property*, a progress report on *Civil Enforcement of Judgments Project*, a report respecting the use of *Electronic Wills*. There will be a report from the Ontario Securities Commission on *Transfer of Investment Securities*, the annual reports from the Federal Department of Justice on *Private International Law*, and a report from our friends from the United States on the work of the NCCUSL.

The Section will have two joint sessions with the Criminal Law Section: The *Joint Awareness on Civil Law and Bijurilism* and *Extraterritorial Police Powers of Investigation*.

Criminal Section

The Chair of the Criminal Section commented that the Criminal Section had a record number of delegates this year, 55. That the Section is going to be hard-pressed to complete its work, as there is so much on the Agenda. He is looking forward to a very busy week. Of the 59 Resolutions, several, 15 or more, deal with the DNA Databank Legislation and changes to various other substantive Criminal Code sections and procedural amendments to the Criminal Code. There will be a joint session with the Civil Section on the Bijurilism presentation on Wednesday morning. A committee will be reporting back to the ULCC Criminal Section on the *Corbett Rules*. The Section will also receive a number of papers, one on *Criminal Voyeurism*, a second on *Custody Informants* and their testimonial use, and thirdly, a paper on the topic of *Extraterritorial Powers of Police* which will be presented at the joint session with the Civil Section.

Term of Civil Section Chair

The Chair stated that the terms of office for the Chair of the Civil Section is two years. That is part of the By-Laws of the Conference, Section 5.2. The Executive has decided to change the By-Law and to have the Chair of the Civil Section serve a term of only one year, as the Chair of the Criminal Section does. Section 22.1 of the ULCC Constitution requires that this change be ratified by the Conference as a whole. He gave notice that a Resolution would be put forward at the Closing Plenary seeking a change for the term of the Chair of the Civil Section from a two-year to a one-year term. The Executive will be asking the Conference to ratify that decision during the Closing Plenary.