

WILLS AND SUCCESSION

Presenter: Lynn Romeo, Acting Director, Civil Legal Services, Manitoba
Department of Justice

Lynn Romeo provided a progress report on the Wills and Succession project. Ms. Romeo indicated that this was a project proposed by Manitoba Justice at the 2007 meeting of the Conference. Manitoba submitted a project proposal respecting conflict provisions in succession matters (including wills and intestacies). Ms. Romeo described the problem and noted that clear, comprehensive conflict of laws' provisions are proposed to address the full range of situations where more than one jurisdiction's laws apply to the administration of a testate or an intestate estate.

Ms. Romeo advised the Conference that following the 2007 meeting of the Conference, several of Manitoba Justice's lawyers and Manitoba's Public Trustee met to talk about the project. In an attempt to gauge the extent of the problem and to assess whether there was any interest in proceeding with the project, Manitoba's Public Trustee sent a brief questionnaire to the Public Guardians and Trustees across Canada. A total of four formal responses were received. The responses indicated that while conflict of law issues are of concern to jurisdictions, they do not appear to arise often. The responses also indicated that there appears to be a patchwork across the country in terms of legislative provisions addressing conflict of laws in this area.

It was noted that preliminary discussions with the jurisdictions indicate that there is interest in proceeding with this project. A number of jurisdictions have expressed a willingness to participate in a working group. Alberta Justice has expressed an interest in partnering with the Conference. To date, the discussions with Alberta Justice have focused on engaging an expert to prepare a study paper on conflict of laws issues in succession law (both testate and intestate). The study paper would provide an overview of conflict provisions in succession legislation in Canadian jurisdictions, examine conflict issues and options for addressing the issues and make recommendations for consideration at the 2009 meeting of the Conference.

Ms. Romeo reported to the Conference that Alberta Justice has recently received authorization to fund the study paper and requested guidance from the Conference as to whether this would be a project that the Conference would like to undertake, if delegates have any suggestions in terms of issues that should be considered and how the project might be framed.

RESOLVED:

THAT the Civil Section of the ULCC explore partnering with Alberta Justice to engage an expert to prepare a study paper on conflict of law issues in succession law.

THAT the study paper consider the issues raised in the Report and the directions of the Conference.

THAT the study paper be prepared for consideration at the 2009 meeting.

