

OPENING PLENARY SESSION

MINUTES

Opening of Meeting

The meeting opened at 1:30 p.m. on Sunday, August 6, 1995, at the Lowes Le Concorde Hotel in Quebec City, with Peter Lown, Q.C. as Chair and Claudette N. Racette as Secretary.

Note of Welcome

Paul Monty, Chair of the Organizing Committee, welcomed the delegates and guests to Quebec City. He reviewed the social program for the week and announced that there would be someone from La Communauté urbaine de Québec at the reception desk to provide information on interesting things to see and do during the week. He highlighted two special activities: the medieval festival which will begin on Wednesday, August 11 and the arts and craft show outside the walls of the City which offers high quality products by the best Quebec artists and craftsmen.

On behalf of all the delegates, the Chair thanked Paul Monty and indicated how pleased everyone was to be in Quebec City.

Introduction of the Executive Committee

Stating that it had been a pleasure to work with members of the Executive over the past two years, the Chair introduced the members of the Executive Committee: Paul Monty, Chair of the Criminal Law Section and Chair of the Host Committee. An expression of gratitude was extended to Mr. Monty for all the work he has done, and for the welcome given to the delegates; Douglas Moen, Chair of the Uniform Law Section. Congratulations were extended to Doug Moen and Susan Amrud for the superb job they did in organizing the ULS agenda; Claudette Racette, Executive Director, who has done a superb job during the year and in preparation for this meeting; John Gregory, who has had a relatively busy year as Vice-President; and Howard Morton, Immediate Past President, a valuable member of the Executive. The Chair of the Drafting Section, Gordon Johnson was unable to attend.

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Introduction of Guests and the Delegates from the NCCUSL

The Chair introduced Graham Walker, who attends as a Past President and who will also make a presentation to the Uniform Law Section.

The American guests this year were Bion Gregory, President of the NCCUSL, accompanied by his wife Patty and Jeremiah Marsh, Chairman of the liaison committee of the NCCUSL with the ULC who was also accompanied by his wife, Marietta.

Introduction of Delegates

The senior delegate from each jurisdiction introduced members of his/her delegation.

The Chair reported that Madam Justice Georgina Jackson was representing the Canadian Judges Conference and Judge Owen Kennedy, the Canadian Provincial Court Judges' Association.

Financial Resolutions

Approval of Audited Financial Statements

At last year's meeting, the Conference determined to be as frugal and responsible as possible in its operations and set a budget which was tight but realisable. The Chair was pleased to report that all three of the objectives had been met. On the expense side, the line was held or expenditures reduced in almost all categories. On the revenue side, certain revenue categories were increased.

This year, there were more meetings of the Executive by telephone conference calls than in the past and more meetings of the Steering Committee on the Uniform Law side. The Executive is relatively satisfied with the level of communications and yet this was accomplished within the allotted budget.

MOVED by John Gregory, seconded by Douglas Moen, THAT the Audited Financial Statements for the financial period ending March 31, 1995 be approved as presented. Motion carried. (See Appendix A at page 118)

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Appointment of Auditors for 1995/96

MOVED by John Gregory, Seconded by Douglas Moen, THAT Maurice Vance be appointed as the Conference's auditor for the financial period ending March 31, 1996. Motion carried.

Banking Resolution

Upon a motion by John Gregory, seconded by Douglas Moen, the following banking resolution was carried:

THAT any two members of the Executive or one member of the Executive and the Executive Director be given signing authority as officers for all banking matters for the Conference AND THAT for the purpose of purchasing G.I.Cs. and Term Deposits, and for the purpose of transferring funds from the research to the general account and vice versa, the signature of the Executive Director alone will be sufficient.

Approval of 1995/96 Budget

The President presented the budget. His comments were limited to three budget items: The Annual Meeting, the Executive Committee and the Research Fund.

The Annual Meeting - The Conference must now become responsible for a number of expenses that were previously borne by the Canadian Intergovernmental Conference Secretariat. For this reason, the budget item "Annual Meeting" has been increased to \$23,000. This figure represents the best estimate of the expenses the Conference must now assume for such items as simultaneous translation equipment, interpreters, etc. This is a rather volatile figure that will vary considerably from year to year depending on the location of the meeting and the host jurisdiction's ability to provide equipment, supplies and personnel for the meeting.

If this figure proves to be higher than actual expenses in 1995, the Executive will want to maintain the excess funds in that item against future meetings when the costs will exceed such a figure. The Conference is dealing with a very static income side and with highly volatile items on the expenditure side. In his opinion, the only way to deal with this is to develop a small reserve which will allow the Conference to

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meet the high figures when they occur.

Executive Committee - By appropriate dial-in conference calls, the Executive Committee meetings were kept to a very small figure. An expression of gratitude was expressed to all those who participated in the difficult meetings for their contribution. This has been a very important measure for keeping the expenses at this level.

Research Fund - The expenditures on the Research Fund were kept as low as possible. Funds are not expended unless the Executive feels it absolutely has to. They hope that they can continue to do that in a responsible manner and that by failing to expend the income in one year, the Conference can avoid a drop in the income for the following year. We are balancing responsibility versus even streams of income.

John Gregory provided an overview of how the Research Fund operates. It is the Conference's traditional practice to have the Vice-President submit to the Executive for its meeting in November, an outline of the research projects. The research projects of the year depend to some extent on the projects adopted for that year and these are not known until the end of the annual meeting. At its November meeting, the Executive will decide how to allocate the funds. That is the reason why delegates are being asked to approve a research budget with no amounts indicated for specific research projects. These will be accounted for in the following year.

MOVED by John Gregory, seconded by Doug Moen, THAT the budget for the fiscal period 1995-96 be approved. Motion carried.

Appointment of Committees

The Resolutions Committee

MOVED by Peter Lown, seconded by John Gregory, THAT the Resolutions Committee shall consist of Daniel Grégoire, Susan Amrud and Chris Curran. Motion carried. Their report will be presented at the Closing Plenary Session.

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The Nominating Committee

Moved by Peter Lown, seconded by Douglas Moen, THAT the most Immediate Past President, Howard Morton, Q.C., shall act as Chair of the Nominating Committee. He must, in consultation with the President, select four other members of the Conference to constitute the Committee. Regional representation must be taken into account in the selection of those members. The Committee will report to the Closing Plenary Session. Motion carried.

Change of Name

John Gregory proposed a modification in the French version of the Conference's name from "Conference sur l'uniformisation des lois au Canada" to "Conference pour l'harmonisation des lois au Canada". Two reasons were given for the proposed change. First, the word "harmonisation" reflects more accurately the functions of the Conference. It was suggested that the English term "uniform" is broader than its French equivalent and extended more easily to harmonization. It was further suggested that the French name of the Uniform Law Section should also be changed. Second, it has not been possible to have a uniform civil law at the national level because there is the Civil Code in the Province of Quebec and the uniform laws in the form adopted by the Conference cannot be simply inserted into the Civil Code. Therefore we do not necessarily unify the law in Canada, but we always hope to attain harmonisation of the laws.

MOVED by John Gregory, seconded by Paul Monty, THAT the name of the Conference in the French language shall be "Conference pour l'harmonisation des lois au Canada".

Several delegates expressed the view that if a change of name does take place, it should take place in both the English and the French versions since, in their opinion, the reasons put forward for the change in French apply equally to the change in English given that very few laws are uniform across Canada.

Others expressed the view that changing the name in French was essentially a symbolic act. The same symbolism was not needed in English, so that they preferred keeping the English name. Another reason put forward for keeping the English name was the links that the Conference has had with its U.S. counterpart, the National

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Conference of Commissioners on Uniform State Laws. Keeping the English name as is emphasizes and strengthens those ties.

The motion as presented by John Gregory, seconded by Paul Monty was carried.

President's Report

The President tabled his report.

"It was my privilege to serve a second term as President of the Conference. During my second term we had to adapt to the withdrawal of the support of the Canadian Intergovernmental Conference Secretariat. That took some considerable time and creative effort.

"it was with some regret that having developed what we thought were appropriate means by which the cost of servicing the Conference could be reduced, it ultimately became clear that those issues were not a relevant part of the decision making process of the Secretariat. The jurisdictional representatives will be aware of my correspondence with Deputy Ministers in order to canvas support for the arguments which we made to the Secretariat to attempt to persuade them to continue their support. I remain convinced of the correctness and strength of those arguments. We do serve Deputy Ministers sufficiently directly that it would be appropriate to have the Secretariat continue to support the Uniform Law Conference activities. I think that we should continue to put that argument to the Secretariat. I think that it is inappropriate merely to count heads of the Deputies and decide on the value of the long term work of the Conference accordingly.

"Même si les services du Secrétariat sont sensiblement réduits cette année, leur prestation n'en impose pas moins un lourd fardeau à la Conférence. Les conséquences financières avoisinent en effet les 20 000 \$. Nous avons réussi à régler ce problème en réduisant le niveau de soutien offert aux délégués et en demandant à la province hôte d'assumer une partie des obligations. Je tiens tout particulièrement à exprimer ma gratitude au comité d'accueil et à la province de Québec pour la manière dont ils ont aidé la Conférence à compenser cette lacune dans le soutien du Secrétariat.

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"I wanted to tell you that in this year when we have had to work somewhat on an ad hoc basis in preparing the Conference what a great help the host Committee has been in dealing with those increased obligations and we express our complete gratitude for that assistance.

"I remind you of the hopes that I had last year in terms of increased implementation rates. That continues to be an issue with which we must wrestle. The Executive has certainly done its part in adhering to its budget and will continue to do that. We rely heavily on volunteers. I do want to express my gratitude to volunteers who have prepared resolutions and papers and have consulted in preparation for this conference.

"Je ne m'attendais pas à assurer un second mandat à titre de président, ni à voir surgir certains des problèmes qui se sont posés durant cette période. Je tiens cependant à vous assurer que ce second mandat est loin d'avoir été pour moi une obligation et que ce fut plutôt un honneur, celui de prendre part aux travaux de la Conférence et de promouvoir l'harmonisation des lois à l'échelle du Canada. I look forward to my government continuing to appoint me as a Commissioner on Uniformity of Law in Canada."

Registration Fee

The President reminded delegates that the question of a registration fee had been discussed at previous annual meetings. There are two elements that now force the Conference to entertain such an issue. First, we must now look to the host Committee to undertake more of the support obligations for the Conference than has ever been the case in the past. Second, some of our expenses will vary per capita according to the number of people who attend the Conference. He suggested that there must be a financial method by which we can gauge and anticipate some of those per capita expenses. The Executive will have to, with the endorsement of the Conference, look at the possibility of implementing a modest registration fee to assist with those obligations.

He proposed that delegates consider this issue during the course of the week and that at the Closing Plenary Session, it be resolved that some discretion be given to the incoming Executive to entertain setting a registration fee for subsequent conferences.

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Outline of Business of the Week

Criminal Law Section

Paul Monty, Chair of the Criminal Law Section, reported that the Section had more than 50 resolutions to study and more than eight discussion papers.

Uniform Law Section

Doug Moen, Chair of the Section stated that the Section has a very busy week ahead. A more detailed Agenda was distributed to the delegates earlier in the day. The session will start at 9:00 a.m. sharp tomorrow.

Other Business

Responding to a question on the status of the 1994 Proceedings, the President stated that the Proceedings were received in Ottawa at 10:30 a.m. on Monday, July 31 and were in the mail before 6:00 p.m. that same day, before the increase in postal rates. In order to keep the Proceedings to a manageable size, some of the appendices that did not represent final conference materials were left out. Arrangements have been made to have those materials available on the World Wide Web. The Conference will be using a site hosted by the University of Alberta as of September 1 of this year. Discussion will take place this week with Arthur Close to determine whether it would be possible to duplicate some of those materials on the Web site which the British Columbia Law Reform Commission operates. Also, during the year, the incoming President will be asked to have an Agenda item looking at the possibility of having a Uniform law Conference Web site where these materials can be available in electronic form and available through the INTERNET.

There being no further business, the meeting adjourned at 3:30 p.m.