

## **OPENING PLENARY SESSION**

### **MINUTES**

#### **Opening of Meeting**

The meeting opened at 1:30 p.m., on Sunday, August 16, 1998, at the Westin Nova Scotian in Halifax, with Douglas E. Moen, Q.C. as Chair and Claudette N. Racette as Secretary.

The Chair welcomed the delegates and guests to the 80th Annual Conference and stated that it was a tremendous treat to be in the Province of Nova Scotia.

On behalf of the Province of Nova Scotia, the City of Halifax and the Department of Justice, Jonathan Davies and Neil Ferguson welcomed the delegates to the Province. They stated that the Organizing Committee had developed what they hoped would be an interesting and enjoyable week of activities that will balance the hard work and energy that will go into the deliberations. They gave a brief summary of the social activities for the week and were delighted to say that the Minister would be attending the opening reception on Sunday evening to bring greetings on behalf of the province and to meet the delegates and their guests.

#### **Introduction of the Executive Committee**

The Chair introduced members of the Executive Committee: himself, Douglas Moen from Saskatchewan, Paul Monty from Quebec, Richard Mosley from Ottawa, Ron Perozzo from Manitoba, Alexander Pringle from Alberta and the Executive Director, Claudette Racette.

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### **Introduction of the Commissioners**

The Senior Commissioners from each jurisdiction introduced the members of their respective delegations.

### **Introduction of Guests and Commissioners from the NCCUSL**

The Chair welcomed the U.S. guests from the National Conference of Commissioners on Uniform State Laws, Gene Lebrun, the President and Jeremiah Marsh, the Chair of the Co-operation Committee between the ULCC and the NCCUSL. He was also pleased to welcome Mrs. Pat Lebrun and Mrs. Marietta Marsh.

He was delighted to welcome Graham Walker, a Past President and a guest of the Conference.

### **Report from the President**

The President presented the following report:

"This has been a very interesting year for the Conference. It has been an honour to serve the Conference as President during the course of this year. My first conference was 10 years ago in Toronto, and I have had the pleasure and privilege of attending every conference except one since that time.

I believe the Conference has evolved considerably to the point where both the Civil and Criminal Sections have increased in credibility and relevance to law makers, the legal community and the general public. As this evolution continues, our responsibility to ensure that efforts are highly professional, our research is well grounded and that we have strategic objectives in our agenda setting is essential. I will say more about that later.

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I want to indicate my appreciation to the Immediate Past President, Richard Mosley, two Past Presidents, Peter Lown and John Gregory, as well as to the Vice President, Paul Monty for the wise and generous counsel over the course of the year. The work of the Conference was made considerably easier by the building blocks that have been laid in the past.

Aussi, il faut noter les efforts de l'Exécutif. Ce fut un travail d'envergure que de préparer cette conférence. L'Exécutif m'a beaucoup aidé. L'Exécutif était prêt à se réunir aussi souvent que nécessaire cette année. On a discuté les travaux et les défis de la Conférence. Je vous dis à tous merci beaucoup.

Ron Perozzo, Président de la section civile et Alex Pringle, Président de la section pénale, assisté de Catherine Kane ont établi un ordre du jour intéressant. Des vives discussions sont prévues pour les cinq prochains jours.

In addition, significant contributions have been made by the Steering Committee of the Civil Section, which has met on numerous occasions to plan their agenda.

All of this leads me to the conclusion that this exercise is very much a team effort and brings about a significant amount of social cohesion within the Conference that leads to very successful meetings.

Next I would like to comment on the significant role played in the Conference by Claudette Racette our Executive Director. Her efforts on our collective behalf have been significant. She has supported the Conference faithfully throughout the year. She is really the eyes and ears of the Conference, making sure that bills are paid and the day to day issues of the Conference are dealt with in an efficient and effective way. One of the major reasons for our ability to evolve into a more successful organization is because of her perseverance and great competence and I think we owe her a great debt of gratitude. I would ask you to extend it to her with me. (A round of applause followed).

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When I began my term as President, one of the objectives that I discussed for the Conference was the enhancement of delegates from the respective jurisdictions. Many recognized the need to ensure that the delegations would have a greater representation from the private Bar, from the academic community and from the judiciary and would have greater gender balance. As we can see from the numbers in attendance today, this will be one of the largest conferences in recent years, about 86 Commissioners. We have made progress in diversifying the Conference, but more work needs to be done. I think we can take some satisfaction that this diversity is occurring and should make our discussions all the more useful.

One of the other objectives that we discussed coming out of last year's meeting was the need to see more implementation of Uniform Law Conference work. I am pleased to be able to report that in June, the Minister of Justice and Attorney General for Canada, the Hon. Anne McClellan, tabled the 3rd in a series of omnibus criminal law amendment bills, Bill C-51, which is based largely on resolutions adopted by the Criminal Section of this Conference. This Bill, similar to Bills C-17 and C-42, passed by Parliament in last session, contains a number of changes to the Criminal Code and related Federal Statutes.

I can also report that the Uniform Law Conference work dealing with the Cost of Credit Disclosure has been adopted in Alberta and the Fair Trading Act, in Saskatchewan amendments to the Trustee Act dealing with Prudent Investments have been made as well as the Adoption of the Foreign Judgments Convention Act. In New Brunswick, a Bill based on the Enforcement of Canadian Judgments Act is before the Legislature, consultation is occurring on Privacy and on Data Protection. The Uniform Act on International Wills has been proclaimed. In Newfoundland, consideration is being given to the introduction of the Enforcement of Canadian Judgments Act and in Nova Scotia, consideration has been given to the introduction of the Uniform Commercial Arbitration Act.

This is just a brief summary of the work that has gone on during the course of the year. Undoubtedly, there are projects being planned in other jurisdictions as well.

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I am pleased to be able to report that during the course of the year, a number of Uniform Acts were adopted by the Conference. They are:

- The Uniform Settlement of International Investments Disputes Act.
- The Uniform Jurisdiction and Choice of Law Rules in Domestic Property Proceedings Act.
- The Uniform Enforcement of Canadian Judgments and Decrees Act.
- The Uniform Cost of Credit Disclosure Act.

As well, the Conference adopted a model law on Criminals' Financial Exploitation of Violent Crimes.

This represents a great deal of work adopted within the calendar year. We have not always been successful to ensure that the legislation we had planned to adopt mid-year was successfully adopted. Therefore I congratulate Ron Perozzo for shepherding this legislation to its final conclusion.

I would also mention that a number of working groups, both in the Criminal and Civil Sections, have worked through the year on papers in preparation for this conference. These efforts have been considerable and if that does not happen, we do not make progress. Thank you so much to the working groups who have worked during the course of the year.

I would also like to note that the financial affairs of the Conference are in good order. Claudette will give us her report in a few minutes. But I can say that she has provided very capable leadership in our financial affairs. We have strong positions in both the administration account and our research fund. We have also received a commitment for a special contribution of \$20,000 from Industry Canada, to be managed by Justice Canada, relating to the Electronic Commerce Project, which will be of considerable assistance in making this a successful project.

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I would report that during the course of this year, there has been a significant number of searches made at the ULCC website. We have received positive feedback on the usefulness of the database from researchers in the United States as well as in Canada, legislative drafters, government personnel and translators. We have received comments to the effect that the website is proving to be a good way to broaden our profile and to provide timely information about the work of the Conference.

During this past year, the main ULCC directory has had 34,000 hits. As a result of this higher profile we are now receiving calls for additional information about the Conference and its current projects. We are also receiving unsolicited research papers on topics that the Conference is addressing. Some of the project leaders have had to deal with this increased interest by responding to inquiries made about their projects. This success brings with it additional responsibilities and we will have to monitor fairly closely what additional work the website generates, but on the whole, it is a very positive turn.

It is important that we acknowledge the work of John Gregory and the administrative staff at the Alberta Law Institute who have faithfully maintained the website. I would also note as well John's role in preparing the Proceedings and working on the Consolidation of Uniform Acts, which he has done faithfully for a number of years. This has been of tremendous assistance to the Conference.

I would make a couple of comments about our international activities. First of all, John Gregory and I recently attended a very successful meeting with the NCCUSL in Cleveland, Ohio. You will have a report from Gene and Jerry on the substantive work of the U.S. Conference at a later point in the meeting. Allow me to say that the Conference is a very professionally run enterprise dealing with some complex and interesting topics in a highly efficient way. I congratulate Gene Lebrun, the President of the Conference, for his very successful stewardship during this past year.

While we were in Cleveland we had an interesting meeting with the Canada/U.S. Liaison Committee which Jerry chairs, where we undertook to look at ways to expand the

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role of Canada/U.S. liaison between working groups undertaking similar projects in our respective Conferences. We will have more to say on this later on in the meeting.

I would also note that during the course of the year we made a decision that it would not be possible to proceed with a joint meeting with the U.S. Conference in the year 2000. This did not prove to be a practical undertaking for the two Conferences at the present time. However, the possibility of increasing communications between the working group may be a more practical way to improve communications between the two Conferences.

I would also add that during the course of the year, I have been in contact with the Australian Justice Ministry as well as Law Reform Agencies in Australia about encouraging links between our Conferences in an effort to harmonize laws in that country. I can report that while it is not possible for Australia to be in attendance at this Conference, they are very interested in establishing links with the ULCC and may consider possible attendance at next year's conference in Winnipeg.

Let me conclude my remarks by saying that we have had a very positive year and we are in a strong position to move forward. We do continue to have challenges in front of us. We need to make progress on implementation of Uniform Law Conference work. We need to ensure that we have appropriate diversity within the Conference in terms of membership. We need to ensure that we are communicating to law makers, the Bar and the broader community about the work of this Conference. We have a strong challenge to think strategically about our agenda to ensure that we have a plan for the future and a means to ensure that the plan is relative and creative. But we are fundamentally on the right track. With your continued good will and a bit of collective vision, the future looks bright.

Finally, I would say that our Nova Scotia hosts have given us the opportunity to have a very interesting and enjoyable meeting. We should take advantage of the opportunity of fruitful and creative discussions in obviously wonderful surroundings, but we should have a little fun also. Thank you very much."

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### **Financial Resolutions**

#### **Approval of Audited Financial Statements**

MOVED by Richard Mosley, seconded by Carol Snell, THAT the Audited Financial Statements for the fiscal period ending March 31, 1998 be approved as presented. Motion carried.

#### **Appointment of Auditor**

MOVED by Paul Monty, seconded by John Gregory, THAT Maurice Joseph be appointed as Conference Auditor for the fiscal period 1998-99. Motion carried.

#### **Approval of 1998-99 Budget**

The Executive Director presented the proposed budget. Moved by Paul Monty, seconded by Jonathan Davies, THAT the budget be approved as presented. Motion carried.

#### **Banking Resolution**

Upon a motion by Ron Perozzo, seconded by Susan Amrud, the following banking resolution was carried:

THAT any two members of the Executive or one member of the Executive Committee and the Executive Director be given signing authority as officers for the banking matters of 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 account to the general account and visa versa, the signature of the Executive director alone will suffice.



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### **Appointment of Committees**

#### **The Resolutions Committee**

Frédérique Sabourin agreed to head the Resolutions Committee. Other members to be added during the week. Their report will be presented at the Closing Plenary.

#### **The Nominating Committee**

In accordance with the Constitution of the Conference, the Immediate Past President, Richard Mosley will chair the Nominating Committee. Other members to be added during the week. Their report will be presented at the Closing Plenary.

### **Outline of the Business of the Week**

#### **Criminal Section**

Alex Pringle, Section Chair, reported that the Criminal Section had a busy week ahead. A large part of the work of the Section involves consideration of resolutions submitted by the various provinces and the Federal government. This year there are 46 in total. The year before last and last year, the Section commissioned three study groups that were asked to examine issues.

The working groups will be submitting papers and recommendations for consideration. The topics include:

- Evidence by spouses in Criminal Proceedings
- Consideration of a National Procedure for Advancing Charter Applications in Criminal Cases
- Toplessness in Public Places. This group was asked to study the issues dealing with nudity and indecency provisions of the Criminal Code and also whether there should be any other laws regulating this type of conduct.

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The Section will also receive three other discussion papers from members of the Federal government. Topics include:

- Diversity, Equality and Access to Justice.
- Defense of Provocation. This paper also deals with the defense of self-defence.
- A paper involving Section 690 of the Criminal Code which deals with Applications for Mercy. The Section will consider whether there are alternative approaches to that particular procedure other than what is being followed at the present time.

### **Civil Section**

The Section Chair, Ron Perozzo stated that the Section has over 50 delegates this year, which is quite a large number compared to previous years. The Section has quite a program. It carried on the work that was begun last year by the then Chair, Jeff Schnoor. He acknowledge the work of the Federal government personnel, Elizabeth Sanderson and Philippe Lortie in not only having papers prepared but helping with translation as well. This was a big task and was done in a timely fashion.

He gave a brief overview of the topics that would be addressed during the week.

### **Other Business**

#### **ULCC Website**

John Gregory distributed a copy of the main index page to the ULCC website in both official languages. He welcomed comments and suggestions from delegates on the organization and content of the Index.

**Criminals' Financial Exploitation of Violent Crimes**

Richard Mosley reported that during the course of the year, the Senate Standing Committee on Legal and Constitutional Affairs held extensive hearings on a Private Member's Bill that was modelled on the U.S. Son of Sam legislation. As a result of these hearings, they elected to report back to the Senate that that Bill should not proceed. In doing so, they commented very favourably on the thorough work that had been done by the Conference in preparation of its Model Act and urged the provincial governments to consider the adoption of that Act.