

JUNE 2005

newsletter



I C J C A N A D A

Local Meetings Across Canada/ Stories Inside

Inside

Letter from the President2

Local Meetings . 3-5

Annual Meeting .5, 8

Project Update6

Report on Olso7

Member News8

Membership2



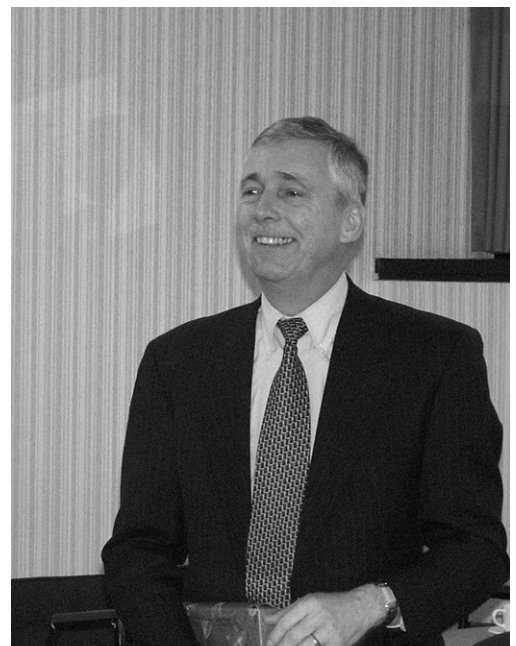
Justice Ian Binnie speaks in Saskatoon



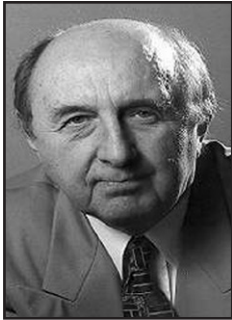
Justices Rosalie Abella and Louise Charron honoured in Toronto



Tribute to the Honourable Connie Glube in Halifax



Judge Paul Chevalier speaks in Ottawa



ED RATUSHNY, Q.C.

Letter from the President

August is rapidly approaching, and plans are in the works for a full and exciting Annual Meeting in Vancouver.

Since the last Annual Meeting in Winnipeg, ICJ Canada has managed to sponsor a record four local meetings in Saskatoon, Toronto, Ottawa, and Halifax. Each of these meetings has raised the profile of the ICJ in the legal and judicial communities, and our membership has grown to reflect this awareness.

Our special thanks to the ICJ members who organized these events: Justice Bob Richards, Vice-President for the Prairie provinces; Ron Atkey, Vice-President for Ontario; Justice Maria Linhares De Sousa, Pat Whiting, and law students Sam Shoamanesh and Ryan Ross; and Dr. Moira McConnell, Vice-President for the Atlantic provinces.

As you'll read in this Newsletter, ICJ Council members also figured significantly in the presentation aspect of the meetings. Justice Ian Binnie was the featured speaker in Saskatoon, and Judge Paul Chevalier of the Quebec Court was the featured speaker in Ottawa.

In Toronto, Justices Rosalie Abella and Louise Charron's appointments to the Supreme Court of Canada were the raison d'être for the dinner jointly sponsored with the Advocates Society, and the retirement of Constance Glube from her position as Chief Justice of Nova Scotia provided the occasion for us to jointly sponsor the symposium

held in her honour. At the very least, these meetings make evident the incredible extent to which ICJ Canada is capable of contributing to its own fun!

Vancouver promises to carry on this tradition of good work and good company. The agenda is on page 8 of the Newsletter, and details of the meeting appear on page 5.

Our Annual Meeting on Monday afternoon will feature a presentation by our web master, Professor Ken Norman, as well as an address by this year's Tarnopolsky Award recipient, Marcia Kran. Thanks in advance to Bertie McClean, Vice-President for British Columbia, and to Paul Fraser, incoming Vice-President for BC, for all their help with organizing the meeting.

Following the meeting, the law firm of Fraser Milner Casgrain LLP has generously offered to host a reception for ICJ members. This will be a great opportunity to re-connect with friends and associates from across the country.

I look forward to seeing a great many of you in Vancouver. It's sure to be a fun and collegial gathering.

Membership Drives in Two Jurisdictions

Two very successful membership drives by President Ed Ratushny and the Hon. Ginette Piché, Vice-President for Quebec, have significantly increased the ranks of judges who belong to ICJ Canada.. Through Professor Ratushny's initial appeal to the Chief Justices of Provincial Courts, the number of Provincial Court judges was increased from fewer than ten to 33. Justice Piché conducted her membership drive among the Quebec Superior Court judges, and we have 19 new members as a result.

Recruitment is not limited to the ICJ Executive. If you are interested in conducting a membership drive, however modest, in your court, law school, or law office, ICJ Canada will be very pleased to provide you with promotional materials.

newsletter

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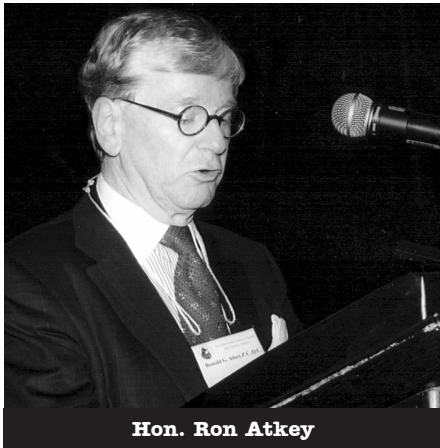
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Meetings

Local Meeting in Toronto



Hon. Ron Atkey

On March 29, 2005, about 450 people gathered at the Four Seasons Hotel in Toronto to celebrate the appointments of the Honourable Rosalie Abella and the Honourable Louise Charron to the Supreme Court of Canada. The dinner was jointly sponsored by ICJ Canada and the Advocates' Society. Speakers included Ben Zarnett and Linda Rothstein of the Advocate's Society, and the Honourable Ron Atkey, ICJ Canada Vice-President for Ontario.

Mr. Atkey remarked on Justice Abella's longtime involvement as a Council Member of ICJ Canada, noting that she was the 2004 recipient of the Walter S. Tarnopolsky Award for her outstanding contributions to human rights. He also spoke of ICJ Member Justice Charron's many accomplishments as a lawyer, a law professor, and a judge. More generally, Mr. Atkey spoke about the history and mandate of the International Commission of Jurists and the recent activities of ICJ Canada.

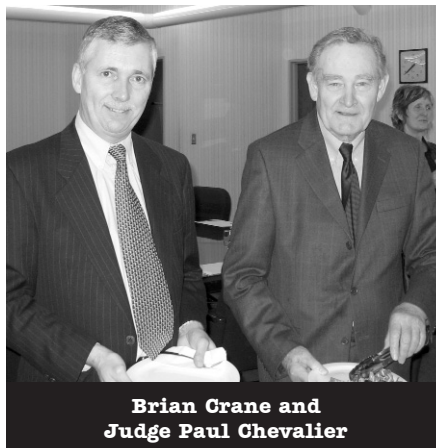
A high point of the evening occurred during the "responses" by the two honorees. Noting that some people have expressed

reservations about their appointments based on the stance they have taken on certain issues, Justices Abella and Charron slipped behind a screen, donned sequined dresses, wigs, and boas, and, Canadian Idol-style, sang words they had written to pre-recorded music of a Supremes hit.

Other ICJ Canada dignitaries attending included Mr. Justice Ian Binnie of the Supreme Court of Canada and ICJ Commissioner, the Honourable Frank Iacobucci, Interim President of the University of Toronto, and the Honourable Roy McMurtry, Chief Justice of the Court of Appeal of Ontario.

Of the meeting, Ron Atkey commented "only in Canada could you see two new Supreme Court Justices cutting up in this way. What a delight!"

Local Meeting in Ottawa



Brian Crane and Judge Paul Chevalier

On March 31, Judge Paul Chevalier of the Court of Quebec related his experiences and impressions of being an international judge in Kosovo to two different groups of ICJ Canada members and the Ottawa legal and judicial community. At the first of these events at the University of

Ottawa, Judge Chevalier addressed an appreciative crowd of almost 50 law students, law faculty, and legal practitioners. National Vice-President Brian Crane acted as "m.c." for this phase of the evening's activities.

Judge Chevalier spoke of the physical and judicial challenges that he faced during his ten months as an international judge under the direct supervision of UNMIK (United Nations Mission in Kosovo), which ranged from being provided with almost no procedural preparation prior to his arrival to the difficulties of reaching compromises within teams of judges from very different cultural backgrounds. A lively question period followed Judge Chevalier's speech, following which Judge Michèle Rivet, ICJ Commissioner, former President of ICJ Canada, and Chair of the International Projects Committee, spoke briefly of ICJ Canada's involvement in the Balkans.

The gathering at the University was largely and capably organized by fourth-year Civil Law student Sam Shoamanesh, assisted by Professors Manon Lavoie and Pacifique Manirakiza of the University of Ottawa Law School. Fourth-year International Affairs and Law student Ryan Ross acted as official photographer. Both Sam and Ryan are ICJ members.

Following the meeting at the University, Judge Chevalier and Judge Rivet adjourned to the Court House where a buffet dinner had been organized by Justice Maria Linhares De Sousa of the Ontario Superior Court. Justice De Sousa welcomed eighteen ICJ members and guests to the dinner in the Marriage Room of the Court House. Justice Charles Hackland, also of the Ontario Superior

continued on page 4

Court and Secretary-Treasurer of ICJ Canada, served as official photographer for this phase of the evening. An even livelier question period followed Judge Chevalier's dinner speech.



Justice Maria De Sousa

Justice De Sousa summed up her impression of the evening: "I was struck by the humility and respect that Judge Chevalier showed for his host country when recounting the nature of his judicial functions in Kosovo. He worked with local judges as well as lay judges and had to arrive at a consensus on cases in which the cultural differences and diverse legal training or the absence of legal training made consensus building difficult. This was especially so in some criminal matters where questions of human dignity and rights, equality of the sexes and respect for the rule of law were at stake. For Judge Chevalier, based on his Canadian experience and his Canadian legal training, some results were obvious. However, not so for some of his panel colleagues. While the experience was at times frustrating, Judge Chevalier found it an extremely rewarding and educative one. He considered himself privileged to have been able to serve in the way that he did. For my part, I was proud that someone like Judge Chevalier represented the quality of Canadian justice."

Halifax Symposium Recognizes Hon. Constance Glube

On April 2, 2005, ICJ Canada partnered with the Nova Scotia Barristers' Society, the Canadian Institute for the Administration of Justice, the Canadian



The Hon. Constance Glube

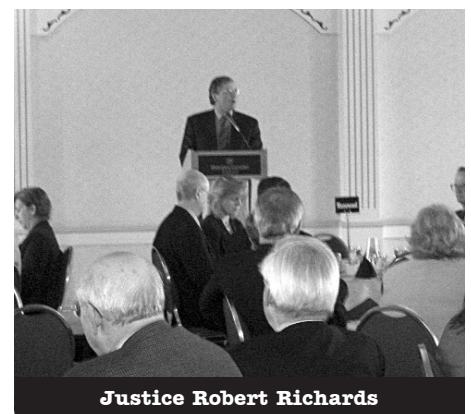
Bar Association-Nova Scotia Branch, and Dalhousie Law School to organize a Symposium and gala dinner to pay tribute to the contribution of the Honourable Constance Glube, the former Chief Justice of Nova Scotia and an active member of ICJ Canada's Council. The Symposium, held at Dalhousie Law School, was attended by over 160 members of the judiciary, bar, and law faculties from across Canada.

The theme of the day-long Symposium, "Judging: Evolving Roles and Changing Expectations," involved commentary, debates, and observations on a wide range of contemporary issues and challenges that judges, especially trial judges, regularly face. These included judging in the face of intensive media attention in high-profile cases, dealing with self/un represented litigants, the impact of alternative dispute resolution processes on the role of the judge, and the need for judicial education, to name but a few topics. All topics, to some degree, touched on the question of the importance of impartiality and the independence of the judiciary, concerns central to the work of the ICJ. ICJ Canada President Ed Ratushny addressed the question of whether conduct processes for lawyers and judges are keeping pace with

public expectations. One of the many highlights of the day was a luncheon address by the Rt. Honourable Beverly McLachlin, P.C., Chief Justice of Canada, about the role of a chief justice, effective leadership, and the importance of a modern leadership style based on an ethos of service.

The Symposium was organized by a committee that included ICJ Canada members the Hon. Justice Deborah Gass, Hon. Justice Thomas Cromwell, and Atlantic Vice-president Moira McConnell. The day culminated in a dinner for over 300 judges, lawyers, and academics and friends and family, where the many contributions of the Honourable Constance Glube were the subject of reflection and celebration.

Local Meeting in Saskatoon



Justice Robert Richards

Mr. Justice Ian Binnie of the Supreme Court of Canada was the featured speaker at a luncheon held in Saskatoon on February 3, 2005. The event was hosted by ICJ Canada and organized by ICJ Canada Vice-President for the Prairies, Justice Robert Richards. It was attended by 120 members of the legal community, including lawyers from government and all corners of the private bar, faculty and students from the University of Saskatchewan



Meetings

College of Law, and members of the Provincial Court, the Court of Queen's Bench and the Court of Appeal.

Among the many distinguished guests were the Dean of the Law School, the Attorney General of Saskatchewan, and the Chairperson of the Saskatchewan Human Rights Commission. Justice Richards acted as "m.c." ICJ Canada Webmaster Ken Norman spoke for the purpose of encouraging people to become involved with ICJ Canada.

The highlight of the event was the speech delivered by Justice Binnie. It focused on the necessity of achieving a proper balance of power and authority between the judiciary and the state during periods of increased security risk such as we are now experiencing with the war on terror.

Justice Binnie emphasized the importance of language in determining the proper course of action during such times, using the word "war" in the term "war on terror" as a case in point. The justice system and society typically accord government a degree of "legal slack" during times of war. However, the war on terror is not a typical war, because it likely has no end point. Although the courts should allow the executive branch of the government a degree of deference in dealing with security matters, Justice Binnie said, the question arises: "how much deference is enough and how much is too much?"

Whereas the rule of law generally punishes people for what they do and not for what they think, the prevention of terrorism requires authorities "to get inside the heads of those who may be plotting such activities and by doing so, push beyond the limits of what has traditionally been the boundaries of criminal responsibility."

In the war on terror, there will always be

an uneasy balance between the interests of society and the human rights of suspects. "There is great difficulty in adapting our normal judicial proceedings to working out the rights and wrongs of that kind of conflict," Justice Binnie commented. He also stressed the critical importance of the Charter in providing a framework for finding ways to address the threat of the war on terror in ways that are both rational and proportional.

The response of the audience to Justice Binnie's speech was extremely positive. According to Justice Richards, many of those in attendance indicated that they had found it to be both very helpful and very thought-provoking.



Annual Meeting in Vancouver

The Annual Meeting of the Canadian Section of the International Commission of Jurists will be held on Monday, August 15, 2005, from 3:00 p.m. to 6:00 p.m. in Room 13 of the Vancouver Convention Centre. The Meeting will include the President's Report from President Ed Ratushny and a range of reports and presentations by Executive Committee members. Please see the Annual Meeting Agenda on page 8 for details. New members of the Executive, Council, and Council Emeritus will be introduced, and the meeting will also feature an address by the 2005 recipient of the Walter S. Tarnopolsky Award, Vancouver-based international lawyer Marcia Kran, who is currently in the Slovak Republic managing the UN Development Program's democratic governance team for Eastern

Europe and the Commonwealth of Independent States. Ms. Kran will be introduced by the Honourable Ian Binnie, International ICJ Commissioner. The Meeting will end circa. 5:00 p.m., followed by a Reception generously hosted by the law firm of Fraser Milner Casgrain LLP.

The actual presentation of the Walter S. Tarnopolsky Award will take place as part of the joint meeting of ICJ Canada and the Canadian Judges' Forum, whose subject is "Judges mingling with lawyers: damned if you do, damned if you don't." The participants in this program will be Hon. Claire L'Heureux-Dubé (ICJ) and Neil Whitman (Alberta Supreme Court), moderated by J.J. Camp. This meeting will take place from 8:30 to 10:30 a.m. in Ballroom B, Vancouver Convention Centre.

Please note that, although you are welcome to attend the ICJ Canada Annual Meeting without prior registration, CBA conference registration is required for the Canadian Judges' Forum meeting. Day passes are available through the CBA web site.

ICJ Canada members may also be interested in attending the annual workshop of the International Development Committee of the CBA on Sunday, August 14, from 8:30 a.m. to 1:00 p.m. This year's workshop is on "Media and the Rule of Law," and it will focus on the importance of a free press in upholding the rule of law and the role of the media in raising public awareness and engaging civil society in exercising their rights.

Registration for the workshop is possible at the door, subject to available space.

Projects



ICJ Project to Support the Independence and Impartiality of the Judiciary in the Southeast Adriatic Countries

Hon. Michèle Rivet, Director of International Projects

As has been reported in past Newsletters, between December 1998 and March 2005, ICJ Canada implemented three projects on Judicial Independence and Impartiality in the Southeast Adriatic countries. The general objectives of these projects have been to promote greater professionalism in local judges as individuals and to build stronger, independent, and more efficient judicial institutions.

The last active project officially ended March 31, 2005, when all reports were satisfactorily submitted to CIDA's officials. CIDA's "Program Performance Report" concluded that the project was very positive. The unique judges-to-judges approach developed by the project was in itself successful.

Concerning the new project proposal, submitted in June 2004, CIDA informed us on May 3 that it is not going to fund ICJ Canada's 2005-2009 project. On May 9, I met CIDA's representatives in my office in Montreal to discuss further certain aspects of the rationale of its decision. On May 17, I met with Mr. Gilles Rivard to appeal the decision, emphasizing the necessity of implementing this project, as the Independence and Impartiality of the Judiciary comprise the cornerstone of any democratic society. On May 24, Mr. Rivard responded negatively to our appeal, and therefore it seems that ICJ Canada will not be involved in the reform of that region's justice sector in the short term.

CIDA's major argument against funding our project is the lack of sufficient funds for the

region at this time and in the future. Facing the scarcity of financial resources, it seems that even with its strong positive history, solid proposal, and outstanding prerequisite conditions, ICJ Canada cannot be further funded by CIDA in the region.

During the last meetings we had with CIDA's representatives, I strongly conveyed to them my profound disagreement with their decision which will result in a great loss for all the Judiciaries involved in the proposed project.

For the time being, however, ICJ Canada accepts this decision, and it is with great regret that I have to inform you of this sad conclusion to such a promising endeavour.

After my six years' experience in the region, combined with many discussions with my colleagues, I strongly believe that opening a dialogue with the key members of the judiciaries leads to a more sustainable reform process. It was a great learning experience for the judges in the Balkan countries, as it was for their Canadian colleagues. I feel privileged to have been part of initiating long-lasting dialogue with members of the different judiciaries and to have witnessed many changes.

I would like especially to thank the ICJ Canada Executive Committee, who permitted the projects to evolve and who were always supportive, especially during the preparation phase of the proposals. The ICJ Canada team was able to benefit from the wise advice of the Executive Committee



members during this crucial phase. I want also to thank the Canadian judges who took their own personal time to contribute their expertise to all activities in Canada or abroad, and also to thank the local judges whose continual willingness to share and learn is an inspiration.

Finally, I want to thank the ICJ Canada international project team, Me Caroline Meilleur and Me Manon Montpetit, who worked diligently to implement our past projects.

CONSULTATIONS ON HUMAN RIGHTS DEFENDERS - OSLO, MAY 2005

Allan McChesney, ICJ Canada External Affairs Representative

The high number of human rights violations committed against individuals around the world because they are engaged in promoting and defending human rights is a matter of widespread concern. States and non-state actors continue to harass “human rights defenders” who strive peacefully for human rights and the rule of law. Among those who act as human rights defenders are lawyers, judges, professors, journalists, NGO personnel, and representatives of disadvantaged or vulnerable groups. From May 25-27, Norway’s Ministry of Foreign Affairs and the Norwegian Centre for Human Rights hosted consultations on global efforts to protect and support human rights defenders. In 1998, the UN adopted the Declaration on Human Rights Defenders, and in 2000, appointed lawyer Hina Jilani as Special Representative on Defenders.

Ms. Jilani was the keynote speaker at Oslo. Her able work has highlighted problems confronting human rights defenders and continuously seeks appropriate remedies. Ms. Jilani’s mandate concludes in 2006. The Oslo workshop facilitated a timely review of achievements thus far as well as potential

future measures for protecting human rights defenders and their work.

Participants at Oslo included senior UN human rights experts, diplomats, and representatives of NGOs. The ICJ had two representatives. Secretary-General Nicholas Howen was a key part of a panel discussing how the UN Special Representative assists defenders in different countries. Allan McChesney was the ICJ’s Official Representative throughout the 1990s in negotiations toward the Defenders’ Declaration. He is also currently writing a legal handbook on the Declaration.



Member News



**The Hon. Judge
Michèle Rivet**

The Honourable Michèle Rivet: At the University of Ottawa's Spring Convocation on June 5, 2005, the Honourable Michèle Rivet received an honorary doctorate that recognizes her important contributions to society. The honorary doctorate was presented by Chancellor Huguette Labelle. Judge Rivet is the President of the Quebec Human Rights Tribunal and has been involved with ICJ Canada for many years and in many capacities. She has been a Member of Council since 1992, served as Vice-President for Quebec from 1992 to 1996, and as President from 1996 to 2001. Since 2003, she has served as Director of International Projects on the Executive. In 2004, she was named ICJ Commissioner to the international body.



**Professor
Louis Perret**

Professor Louis Perret: On April 20, 2005, at the French Embassy, Professor Louis Perret received the Chevalier de la Légion d'honneur medal from France's Ambassador to Canada, Mr. Daniel Jouanneau. Professor Perret is the former Dean of the Civil Law Section of the University of Ottawa Faculty of Law. He was a Member of the Council of ICJ Canada from 1996 to 2002 and Vice-President for Quebec from 1996 to 2000.

In decorating Professor Perret, France aims to recognize an unrelenting defender of the civil law tradition and of the dialogue between legal cultures.

Annual Meeting

August 15, 2005

3:00 p.m.

Room 13 Convention Centre
Vancouver, British Columbia

AGENDA

1. Welcome - Paul Fraser, Q.C.
2. Approval of Minutes of 2004 Meeting - Professor Ed Ratushny, President
3. President's Report - Professor Ed Ratushny
4. Report on International Projects - Hon. Michèle Rivet
5. Financial and membership matters - Hon. Charles T. Hackland
6. Report of the Nominating Committee - Professor Ed Ratushny
7. Report from Geneva - Hon. Ian Binnie and Hon. Michèle Rivet
8. Web site presentation - Professor Ken Norman
9. Address by Marcia Kran, the 2005 recipient of the Walter S. Tarnopolsky Award
10. Other business

A short meeting of Council will follow the Annual Meeting, after which there will be a Reception hosted by the law firm Fraser Milner Casgrain LLB.

NB: The actual presentation of the Walter S. Tarnopolsky Award will take place as part of the joint meeting of ICJ Canada and the Canadian Judges' Forum, whose subject is "Judges mingling with lawyers: damned if you do, damned if you don't." This meeting will take place from 8:30 to 10:30 a.m. in Ballroom B, Vancouver Convention Centre. Registration required.