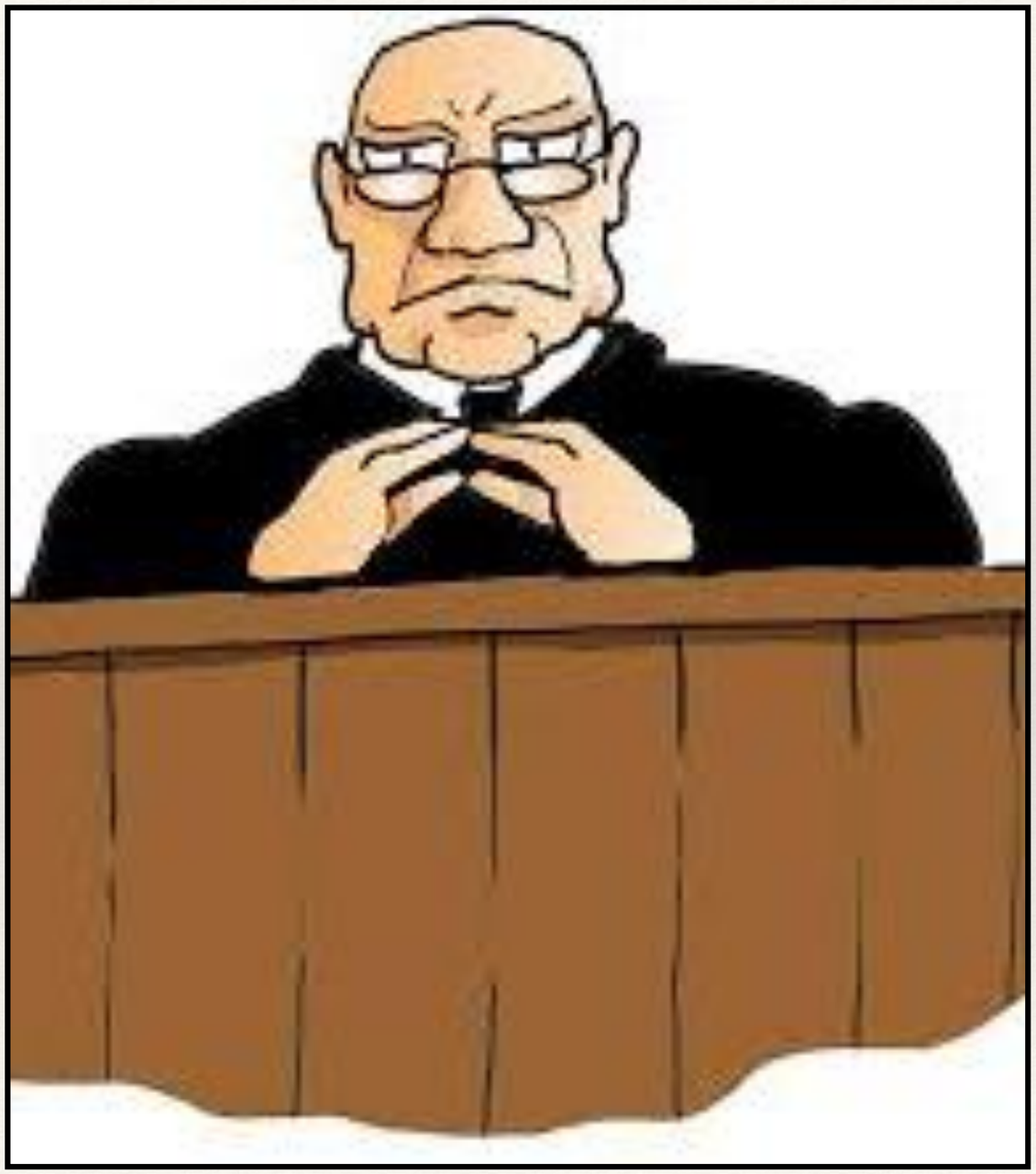
Building the CAPCJ

A HISTORY

The Old Days

per Past Pres Bob Conroy

- **No inter-provincial contact**
- **Limited to no education**
- **No national input into administration of justice issues**
- **No exchange of info re salaries, pensions, facilities and staff**
- **No forum for exchanging ideas**
- **No national education programs**

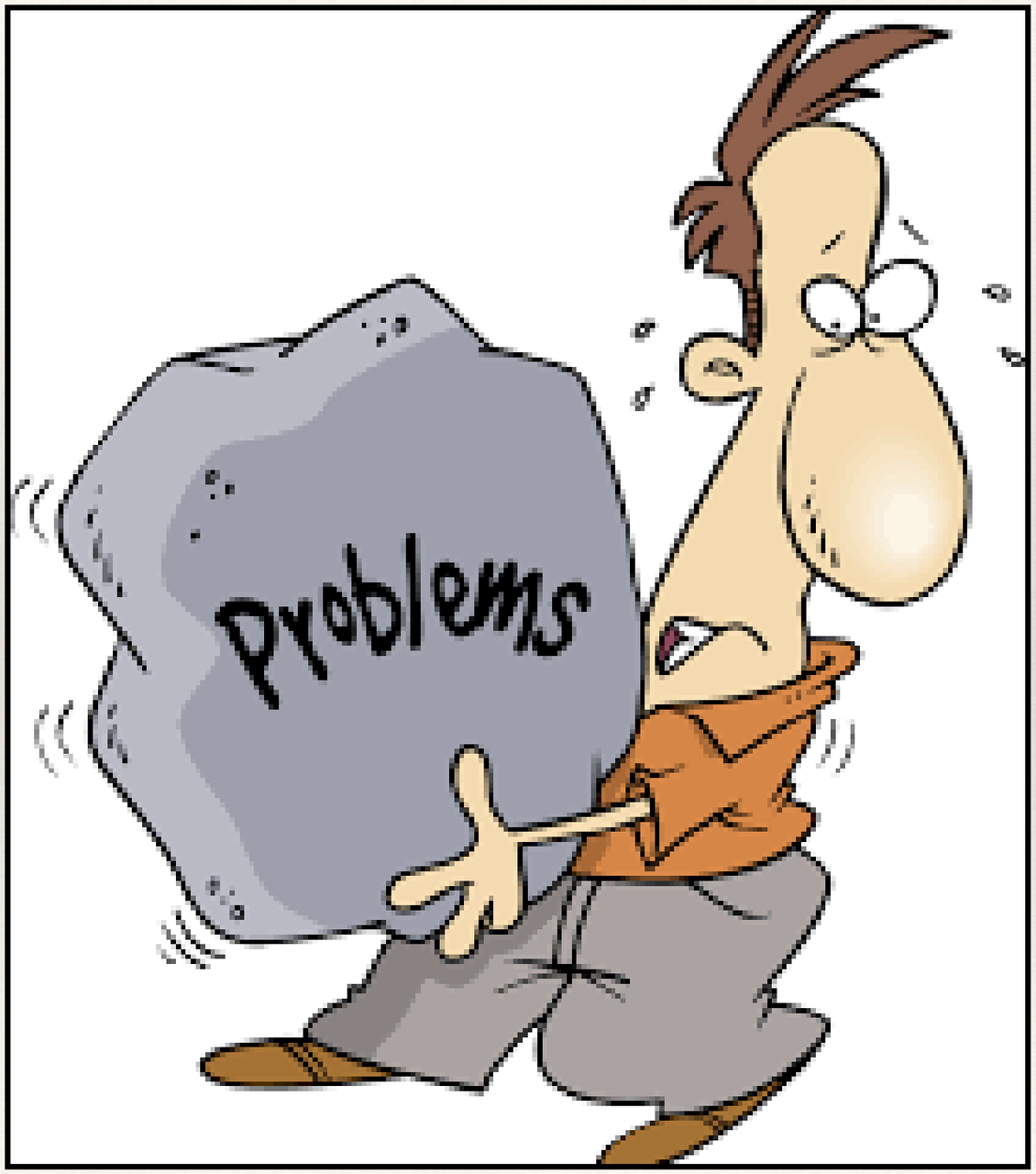


The Kirby Report 1973

- Reviewed administration of Provincial Court in Alberta
- Problems overwhelming
- Duplicated to greater or lesser degree across the country

PROBLEMS PROBLEMS PROBLEMS

- Lack of identity and prestige
- Impossible workloads
- Underpaid and overworked clerks
- Identification of PCJs as instruments of AG's department
- Congestion, delays, enormous caseloads, inadequacy of facilities



Meanwhile in Newfoundland....

Magistrate Lloyd Wicks spends 3 years working towards national organization

Began with a questionnaire re standards, legislation, jurisdiction, salaries, gowning, transfer policies, etc.

CAPCJ formed May 4th, 1973 in St. John's

Minister of Justice Otto Lang gave $10,000 grant with consent of all provincial AGs and Nfld gave $9,000. Seed money!

Magistrate Wicks first President

- **Aims and objectives set**
- **Included safeguarding judicial independence, providing continuing education and forging links between members by hosting regional and national meetings**
- **Promote distribution of Provincial and Territorial Court decisions and strive for adequate recognition for Provincial and Territorial Courts**
- **Second meeting set for Winnipeg in 1974**

Federal government provided $15,000 grant May 24th, 1974

President Wicks

The First Year

President Wicks traveled across the country attending provincial court meetings. Membership flourished.

Ontario observed only - did not want to join organization with lay members

Held primarily aboard The Lord Selkirk

Winnipeg 1974

Judge Harold Gyles became President - traveled to member meetings and met with DOJ in Ottawa

Gyles' Presidency

- **Discussion about starting Journal, but no result due to financial constraints**
- **Salary scales to be shared**
- **Logo adopted**
- **Unusually, served concurrently as CJ Provincial Court of Manitoba and CAPCJ President**

Passing of Accounts

- **Judge Gyles took over as Treasurer in 1975**
- **Box arrived from Nfld Treasurer**
- **Same day clerk received clock which was a bomb - exploded resulting in injury**
- **Police proposed blowing up box of records to ensure safety**
- **Judge Gyles persuaded the officers to not blow up the box**

St. Andrews-By-The-Sea, NB. 1975

President
Joe Bérubé

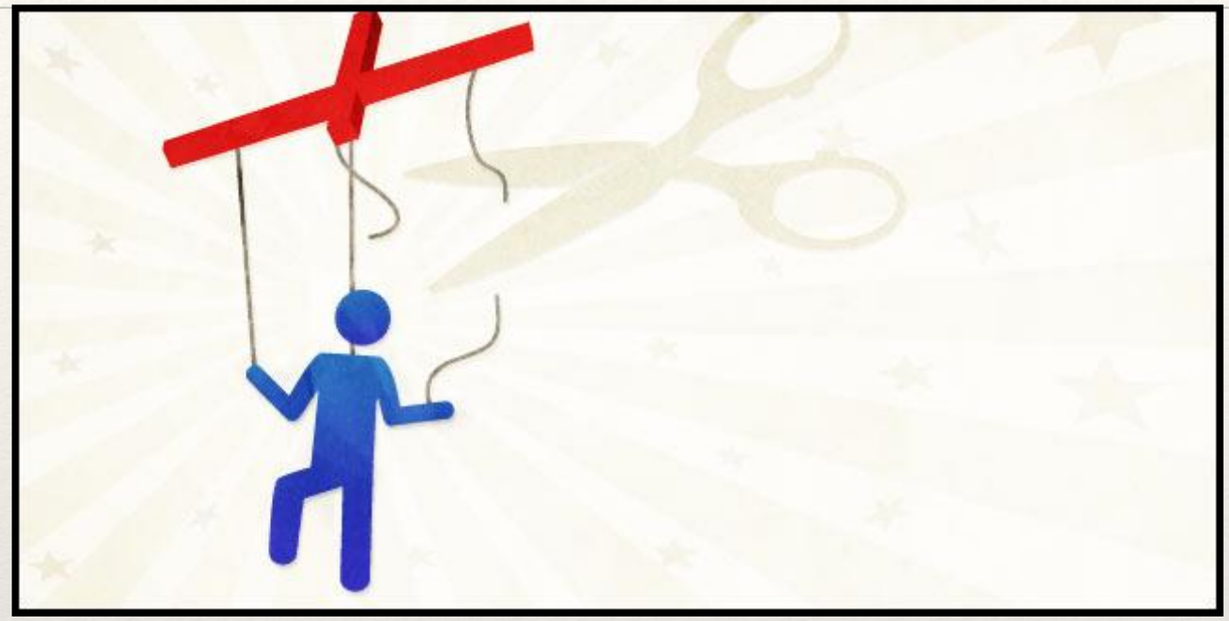
President Bérubé's Year

- **Judge Dubienski gathered and distributed PCJ decisions**
- **Secured Ontario Criminal Division Judges' commitment to join CAPCJ**
- **Executive approves Atlantic judges' seminar, Western Provinces' seminar and New Judges' training!**
- **Committee struck to consider PCJ sabbaticals**
- **CAPCJ recommends single criminal trial court to Minister of Justice and Solicitor-General**
- **Compensation committee struck July 1975**
- **By April 1976 nine member associations**

No unified trial court

Federal government studied proposal but would only do it with approval of s. 96 courts

Judicial Independence



- Same complaints across the country
- Part-time judges
- Interference
- Political appointments over merit

103 judges attend

Vancouver 1976

President Gordon Johnson

Be it resolved

- **Look into group insurance**
- **Look into tax deductibility for attending CAPCJ events**
- **Motion that Elections Act depriving judges of right to vote be amended was defeated**
- **New act for young offenders not necessary - find more resources for treatment!**

Highlights of 1976/77

- **First Journal published in August**
- **First New Judges' training November 1976 for 10 DAYS!**
- **Summaries of decisions to be circulated as no report series publishing PCJ decisions**
- **NB judges appealed Anti-Inflation Board ruling that they were civil servants. CAPCJ paid half of cost of legal opinion and contribution to court case**
- **Annual fees rose from $10 to $20**

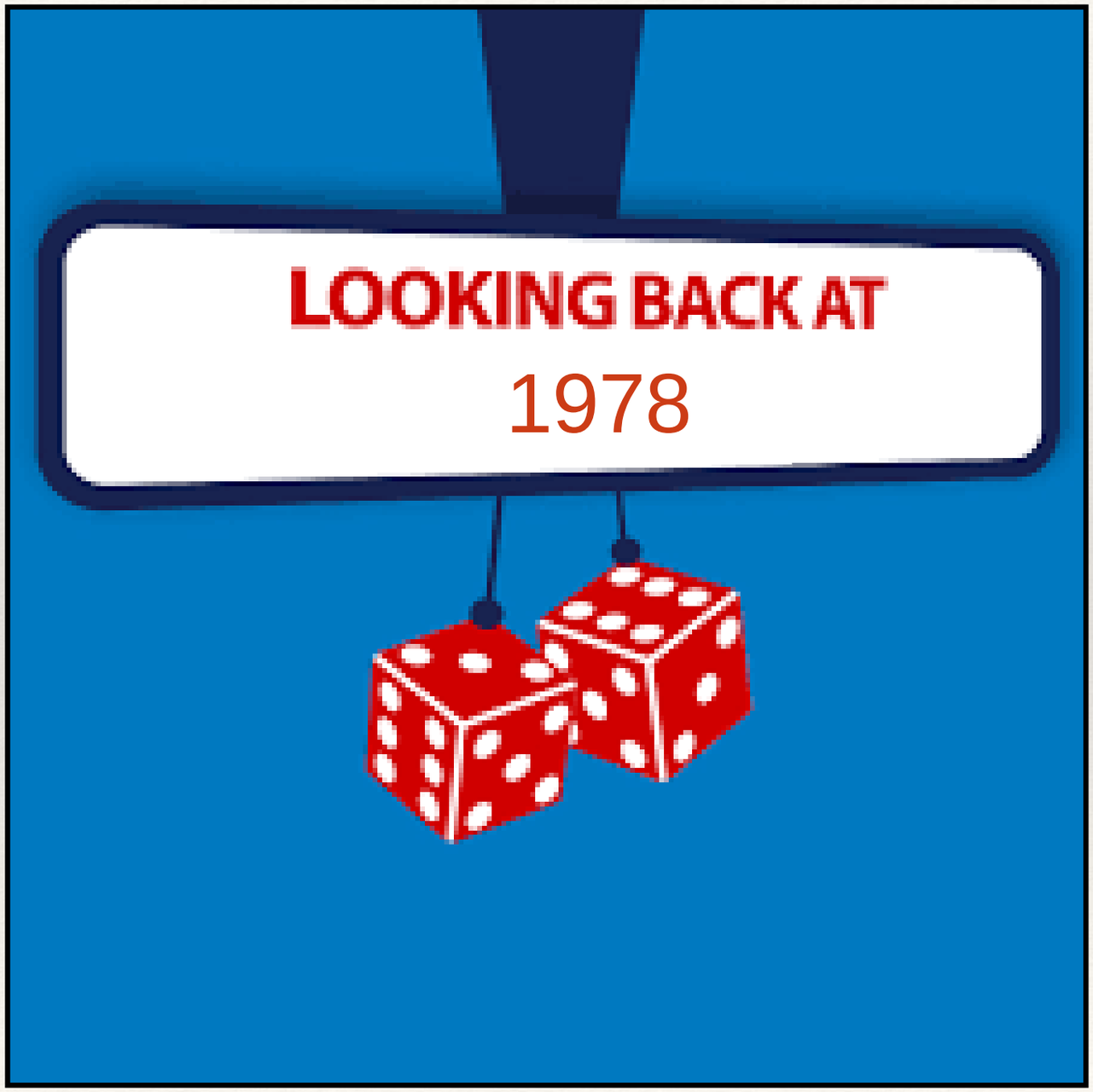
Theme: A Look at the Courtroom from the Inside

1977 AGM Halifax

President Sandra Oxner takes over - first female President

President Oxner's Year

- **Struck ten committees to encourage deeper involvement**
- **Secured permanent funding from Department of Justice for education - $50,000**
- **CAPCJ arranged study tour for commonwealth judges of Canadian judicial system**
- **Organized first CBA Judges' Conference**



complaints raised about continuing reference to "judges and their ladies"

“This is not for the sake of any mere courtesy, but rather recognition that the law profession is no longer an exclusive male club.”

–Judge Nancy Morrison

The Vegas Connection

President Oxner given $50,000 federal cheque to take to conference in Calgary. Air Canada strike forced stopover in Vegas - forgot cheque in hotel safe. Almost lost it all in Vegas!

165 judges and spouses

Calgary1978

President Gary Cioni of Alberta takes over

Theme: A Look at the Future

- **The judge, the spouse and stress**
- **Unified criminal court**
- **Treatment models for children**
- **AJA rep attended**

Resolutions

- **Support for unified criminal trial court**
- **Request "magistrate" be replaced with "provincial court judge" in Criminal Code**
- **Committee struck to study forms**
- **CAPCJ to protect independence of provincial bench and promote understanding PCJs are not civil servants**

By end of 1978/79 year...

- **New form of Journal developed**
- **New Judges' training permanent**
- **Presidents and CJs met together**
- **Membership over 500**
- **Minister of Justice expressed support for unified criminal court**
- **PCJ jurisdiction and workload expanded leading to backlogs and calls for change**

Dark Chapter

Court party crashes en route to circuit in Swan Hills, Alberta. Judge Bruce Patterson, Crown Jurisk Radze, Clerk Jim Taylor and Pilot Gary Collar died.

President Chester MacDonald takes the lead

Theme: The Court and the Community

Charlottetown hosts 1979 conference

Considered relationships between provincial associations and judges, CJs, judicial councils and governments

RESOLUTIONS

BE IT RESOLVED that the CAPCJ propose to the Federal Minister of Justice and the Provincial Attorneys General that the court of first instance in each Province and Territory become the only court of criminal jurisdiction in the said Province and Territory.

Looking back at President MacDonald's Year

- Ontario Corrections Minister urged judges to use alternatives to incarceration so prison population would decrease
- Study into disciplining of judges completed - recommend mirroring of s. 96
- Met with Minister of Justice to urge unified trial court
- Court structure issue on provincial AGs' agenda
- French course for non-Quebec judges instituted
- CIAJ offer administrative services for CAPCJ education

President Jacques Lessard begins his year

Theme: The Judge and Today's Society

Quebec City 1980

Reviewed image of justice, judge as modern citizen, judge and public authorities and judges and those before the courts

Speaker Energy Minister Marc Lalonde on the unified court proposal:

This may not be the only way in which these problems may be overcome. It may not even be the best way. It is a concrete proposal with the prospect of being workable. As such, it is a model from which the federal government and the provinces may be able to negotiate a more efficient criminal court structure and a more equitable criminal justice system for all Canadians.

Meeting with Minister of Justice Chretien

- **Viewed change as increasing power to Provinces and Territories**
- **FIRMLY OPPOSED!**
- **Meanwhile, in NB, constitutional reference to CA to determine if Feds had authority to assign j.d. to PTCJs at request of province**
- **Opposition brewing from various quarters**

Toronto Conference 1981 - 400 judges!

President Robert Hutton

President Hutton's Year -

- **Met with Director of Taxation re deduction limits for pension contributions**
- **Executive decided to collaborate with CIAJ to form Canadian Judicial College**
- **Condition: don't eliminate provincial programs meeting regional needs**
- **Charter signed into law April 17th, 1982**

The Role of the Judge in the 1980s

President Bob Conroy

Saskatoon 1982

Charter of Rights and Freedoms discussed

The Highlights of 1982/83

- **First time CJs asked to send seasoned judges to New Judges' to add their expertise**
- **CJ Barry Stuart suggested in Saskatoon something needed to be done about judicial independence. He became chair of the committee**
- **DOJ gave CAPCJ $60,500.00 for education**
- **Fees raised to $50**
- **CJ McEachern, on behalf of s. 96 judges, supportive of concurrent jurisdiction for all but murder and treason**

Judicial Independence Key Issue 1983

- **Is Judge beholden to government for salaries, staff and facilities subject to pressure from Crown?**
- **Thought dependence possibly perceived in administration**

CAPCJ co-sponsors world conference on independence of justice in Montreal

Judges and lawyers from 34 countries draft minimum standards for judicial independence to present at u.n.

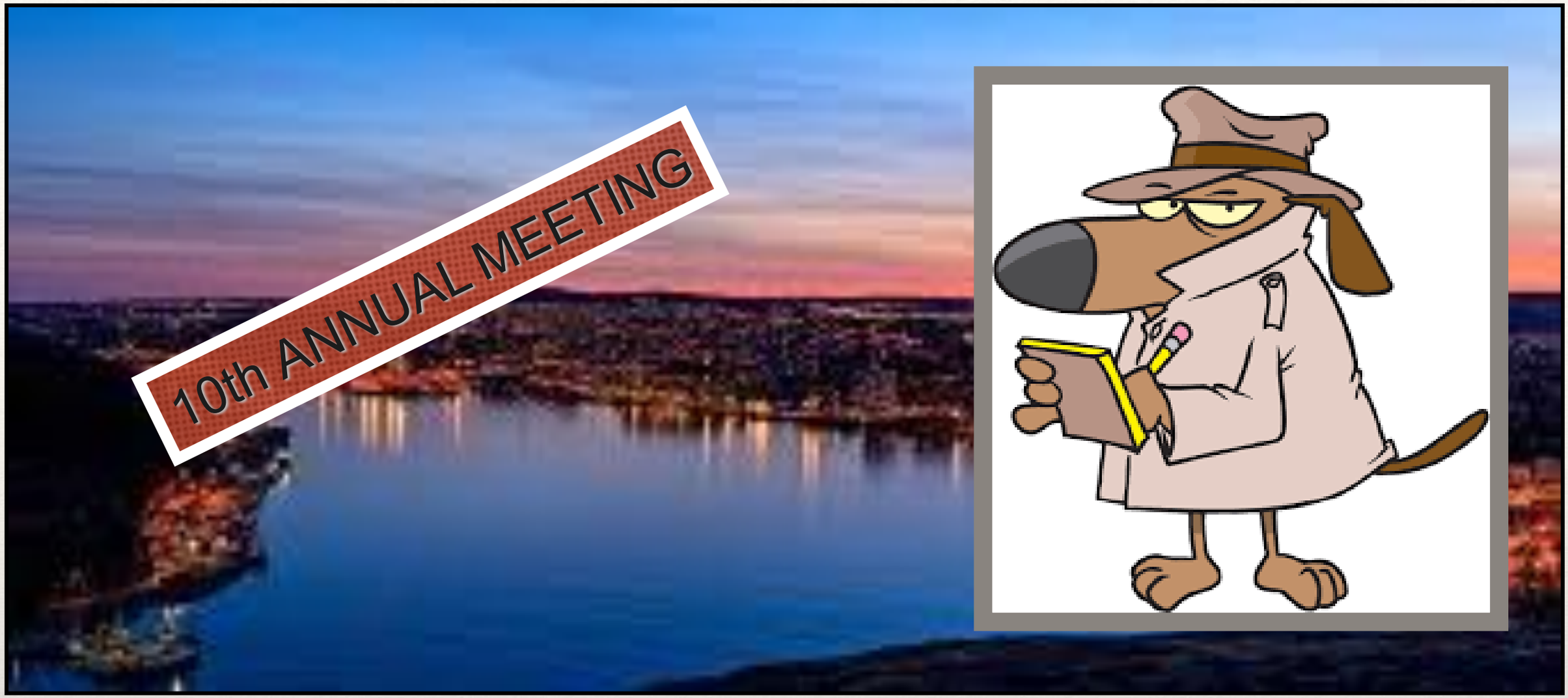
President James Slaven

Yellowknife 1983

alternate viewpoints on justice, fishing trips, caribou stew, chopper flights and gold mine tour

Developments

- **CAPCJ authorized leave to intervene in *Valente* at SCC "for sole purpose of addressing the issue of the limits and scope of judicial independence within the meaning of the Charter of Rights".**
- **Application dismissed without reasons October 17th, 1983**



PUBLICITY: The Soul of Justice

St. John's 1984

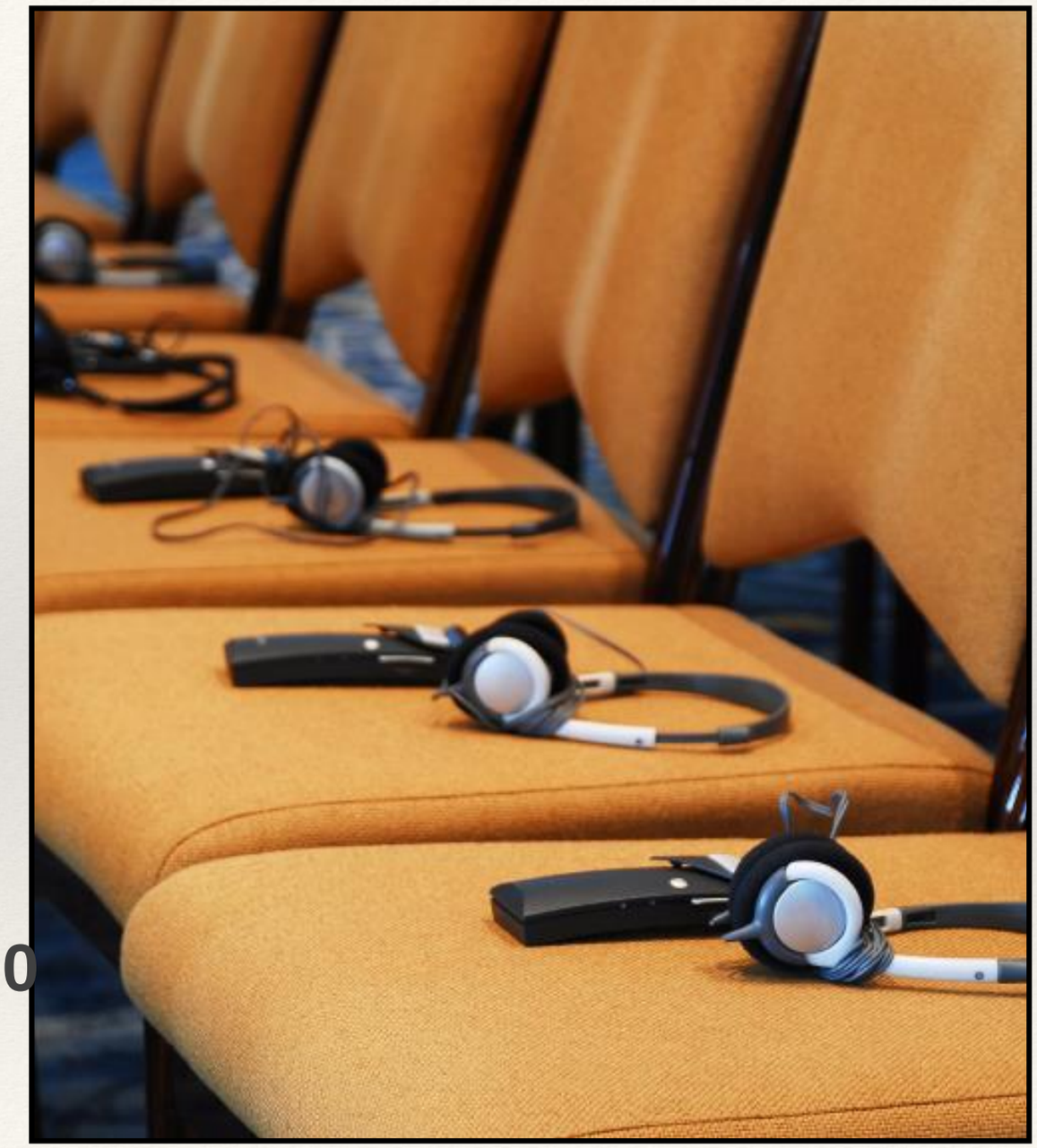
100 judges & 60 partners

Consensus that cameras in courtrooms inappropriate

President Edward Langdon

President Langdon's tenure:

- **Access to education for western judges issue. Should there be more than New Judges?**
- **Quebec judges sought simultaneous translation at New Judges' training**
- **Met with Minister of Justice John Crosbie**
- **Advised only interested in NJI as equal partner**
- **Highest salary in NWT - $73,690**
- **New Brunswick's unified criminal court proposal "down the drain forever."**



“So many things have fallen into place since 1973 that many of them are now taken for granted. ...new Judges training...regional seminars...annual conferences...in every province and the NWT...library of study papers...sentencing handbook...continual consultation with Ottawa concerning legislation and deepening rapport with ...judges in the federally appointed courts."

–Judge Bob Conroy, Journal, summer 1984

Justice is Truth in Action

Winnipeg 1985

PRESIDENT
IAN
DUBIENSKI

1985 Developments

- **Judges secure the right to vote in Ontario after legal action launched by PCJ**
- **BC Judge Davies refuses to sit as felt impartiality could be questioned as**
- **AG said he paid judges and prosecutors' salaries and as such was telling them to interpret the Charter in an orderly, sensible and moderate way**
- **AG clarified position in letter promising no interference**
- **President Dubienski concerned about disparity of pay and benefits between member jurisdictions and relative to s. 96 judges**
- **Established formal liaison with CBA**

Witnesses and Victims of Crime

Saint John, 1986

President Douglas Rice resigns as Executive Director to become President after designated incoming President refused acceptance by voting delegates

CAPCJ Executive unanimously expresses its concern respecting the lack of political will of Provincial and Territorial governments to respect the judicial independence of provincial and territorial court judges and to accord them fair treatment in accordance with that principle

Birth of the NJI

- CJ Dickson and Honourable John Crosbie announced creation of Canadian Judicial Centre Project
- Judge Oxner, when President, insisted federally appointed and provincially appointed judges alternate as Chairs
- To be operational January 1st, 1987 and stress "equality for all judges"
- Every law school in Canada offered to house NJI

5% reduction in funding from Feds and one province - no warning

1986/87 Developments

- **New record at New Judges' training - 60!**
- **Constitution amended to give equal status to French and English**
- **CBA resolves to support CAPCJ and their commitment to judicial independence**
- **Due to decreased funding fees raised to $75**
- **Compensation Committee formed**
- **Independence Committee drafts uniform *Provincial Court Act:* urges adoption**

CANADIAN
CHARTER OF RIGHTS
AND FREEDOMS

The Judge as Policy Maker

175 judges +
120 partners

Vancouver 1987

President Kenneth Page

The Charter spurs case law development

What went on in 1987/88?

- **Some suggestion that NJI Director always be a s. 96 judge**
- **CAPCJ passes resolution that at least one of Director/Associate be PCJ**
- **Judges urged to join CBA**
- **Four *Journal* editions published**

Looking to the 90s and Beyond

Halifax 1988

President Kenneth Crowell

court security, judicial conduct and Charter of Rights

News from 1988/89

- **Judge McDonald (AB) files first of 15 annual compensation reports**
- **Committee on the Law studies legality of AG interfering with admin of courts**
- **President Page notes establishment of Canadian Judicial Centre (NJI) most impt development along with comp committee and stronger ties with CBA**
- **Provincial and Territorial Court Judges entitled to use the title "Honourable"**
- **Work at increasing interest from civil /youth bench**

For first time - PTCJs enroll in 4 month French immersion program

Panel: Toward a Unified Criminal Court

Edmonton 1989

President Ron Jacobson

AB QB Judge presents paper in England at CBA annual meeting

Would single court be improvement?

AS SUGGESTED BY LAW REFORM COMMISSION

Linked difference between provincial and superior court as akin to difference between elementary school teacher and university professor

Remarks controversial

But when asked for apology he said not necessary as he meant no disrespect

1990 Difficult Year!

- Federal cap on pensions impact judges - sought exemption
- Struggles to free judicial Directors for NJI duties
- Ontario CBA strongly opposes court unification
- Manitoba Bar Association suggests judicial evaluation program - only for Provincial Court in Manitoba
- ON AG puts off unification suggesting PCJs prove competency by working with Law Society and Bar

Jacobson's Take on 90/91

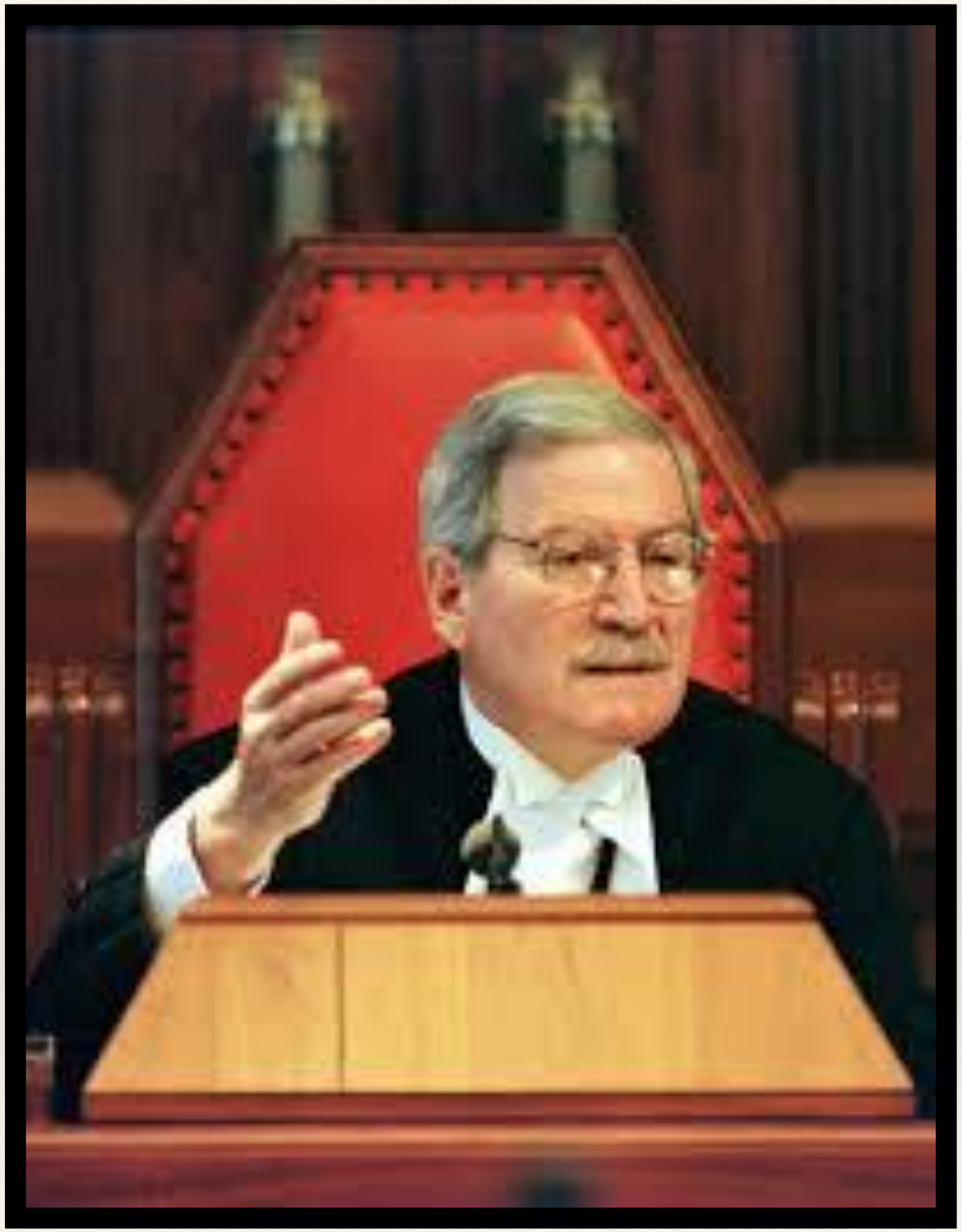
- **CAPCJ-supported education innovative**
- **Much work to be done to create effective relationship with Feds**
- **Strengthened relationships with CJs, CJC, and CBA among others**
- **Judicial evaluation trend should remind us to defend judicial independence**
- **Warned compensation and court resources issues far from resolved**

THE JUDGE IN THE 21st CENTURY

Quebec 1990

President Yvon Mercier

CJ Lamer lunch speaker

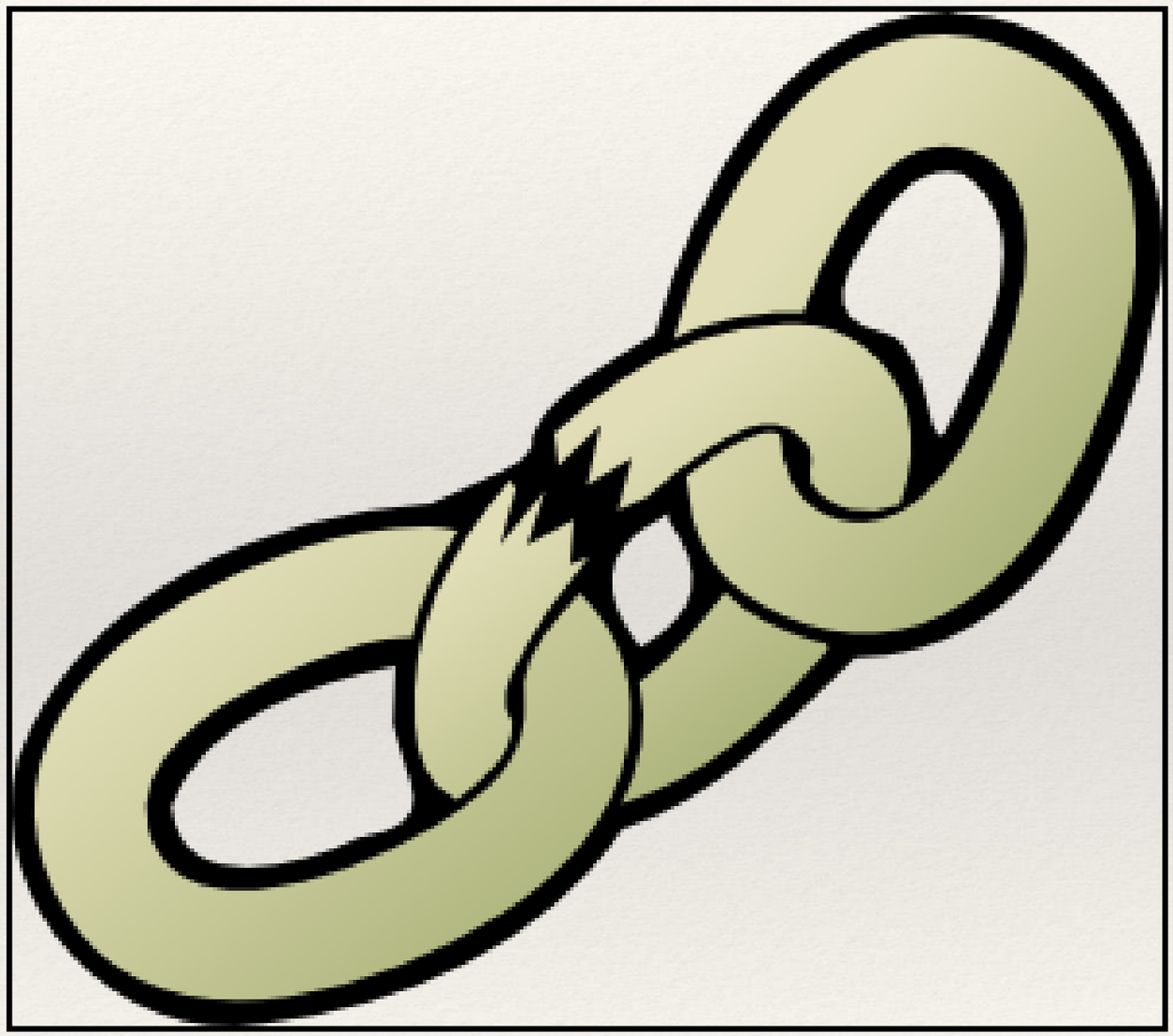


- **Recommended broader hearings on constitutional issues at trial**
- **Encouraged judicial/legal liaison committees**
- **CAPCJ proposed to work with CBA and provincial bar associations**

Made great efforts as chair of NJI to secure funding for PCJs' education

President Mercier cast doubt on future with NJI

- **might be better to have funding go to CJs for education**
- **No funding for travel; lack of participation = little for our money**
- **May come a day when CAPCJ no longer part of NJI**
- **Feds raised spectre of no grant - money to divert to NJI**



Western Judicial Education College hosts Aboriginal and Gender Workshop

- **Then PCJ ACJ Murray Sinclair speaker**
- **Said aboriginal incarceration rates would increase**
- **Spoke of loss of traditions, impact of residential schools**
- **Outlined view of justice system by First Nations as tools of oppression**

PCJs not attending programs due to funding issues

MOU between CJC (NJI) and CAPCJ

- **Both seek to offer high quality judicial education**
- **CAPCJ full partner**
- **Duplication of services to be addressed cooperatively**
- **CJC supports concept of CAPCJ and will support government assistance to it**
- **Clear communication channels to remain open**

NB - Post 1990 Askov Ontario appointed 18 additional PCJs

Judges Judges Everywhere!

Too many new judges for CAPCJ training. WJEC provided program for BC judges.

PAY DISPARITIES DEVELOP ACROSS COUNTRY

NJI tries TO HAVE CAPCJ EDUCATION FUNDS FLOW THROUGH THEM

A Judge is a Judge is a Judge

Toronto 1991

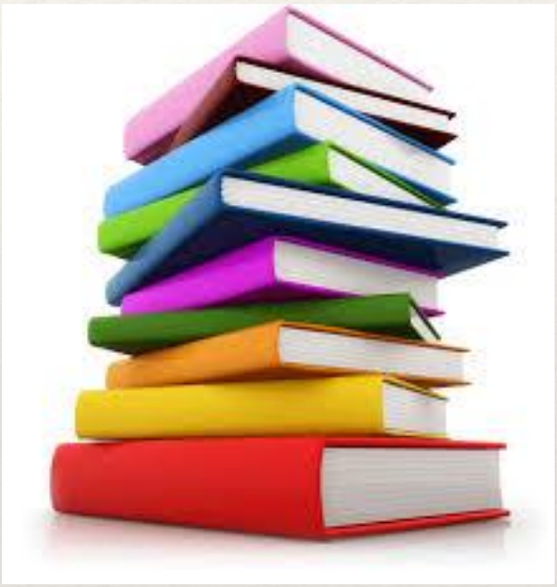
President
Charles
Scullion

Scullion's Year

- **Federal Grant likely to be reduced**
- **Busy education year**
- **Comparative Report on standards of independence and partiality filed**
- **NJI plans 2 week summer program for 40 PCJs and 40 s. 96 judges on criminal law, evidence and the constitution with no PCJs on proposed faculty**
- **CAPCJ firm - should include PCJs**

Manitoba and Quebec withdraw NJI $

- Concerns growing for years
- Large infrastructure
- Little benefit to PTCJs
- Traditional PCJ education restricted due to lack of funds



President Ernie Bobowski

REGINA 1992

Topics covered pretrial dispute resolution, credibility assessment and the child witness - excess funds turned over to CAPCJ

Troubling Times

- **Salary disparity with Feds grows**
- **NJI rejects CAPCJ nominee**
- **Salaries frozen in places rolled back in MB and Yukon**
- **Compensation Report suggested perhaps time (once again) to work on integration and unification of trial system**
- **Feds hint perhaps 10% funding cut coming - which later occurred reducing funding to $59,500.00**

Honourable

After first raising the issue of designating Provincial and Territorial Court Judges as "honourable" in 1983 the change takes effect in June. This had required the consent of every Attorney General in Canada and a series of formal addresses from the Secretary of State through to the Governor General. Minister of Justice Kim Campbell shepherded the amendments through.

President Gerald Barnable

Newfoundland 1993

20th Anniversary

Founder Lloyd Wicks attends

CCCJ Chill

- **After fall meeting between CJs and Executive CCCJ wrote and said only President, incoming President and Executive Director need attend generally**
- **Agenda items should be pre-set**
- **Midwinter meeting with the CAPCJ President thought too expensive to be worthwhile**

On plus side - relationship with CBA improved!

Our Season of Discontent

- **Salaries frozen or rolled back in 8 jurisdictions**
- **MB reduced number of judges, closed courts and appointed p.t. Judges with no security of tenure**
- **Threats to independence and pocketbook**
- **CAPCJ gives financial and moral support to litigation**

Fact-finding, time-management and stress

Winnipeg 1994

President
Wes Swail

"At times I have a sense at CAPCJ meetings that provincial and territorial court judges are not so much meeting as circling the wagons. At any rate, it is clear that the CAPCJ and its resources were never more important to provincial and territorial judges everywhere in Canada."

– *President Wes Swail, Manitoba*

Canadian Judicial Compensation Moment

Saskatchewan established independent salary tribunal

Tribunal's decision deemed too high by executive branch

Tribunal refused to change decision when asked

Executive Branch repealed law and dictated salary

CAPCJ funded $10,000 towards litigation

18 committee chairs from 5 in 1978

Storm Clouds Linger

- **CCCJ firm CAPCJ not invited to midwinter meeting**
- **Required agenda and clear expectations**
- **Viewed as "us vs them" mentality**
- **President Swail detailed issues of joint concern in letter**
- **PEI filed second reference, MB's pending, SK stripped judges of right to sue - resulting in legal action**

President James McNamee

Moncton 1995

Judges' role in the community, media comments and judicial independence and accountability all covered

The news of 1995/96

- **Joint committee struck with s. 96 re independent process for judicial compensation**
- **Expansion of hybrid matters expanded provincial court work**
- **Work progressed on model Code of Conduct - some CJs resistant**
- **CJs upset CAPCJ meeting with Justice officials without them**
- **CAPCJ seeking intervenor status at SCC CJs wanted info and input on factum first**
- **CAPCJ hoped to present unified court**
- **Some CJs amenable to working with CAPCJ others not**

Vancouver 1996

President Ann Rounthwaite

CAPCJ intervenes in PEI Reference at SCC in Dec 96

Roles and Responsibilities!

President Rounthwaite wrote to CJs setting out recommendation from Schmeiser and McConnell in their report <u>The Independence of Provincial Court Judges: A Public Trust</u> that:

The CAPCJ should take the leading role in developing a draft uniform statement of Chief Judges' duties and responsibilities, consistent with the principles of judicial independence.

CAPCJ invited to CJs' winter meeting - no time constraints & goodwill evident

BUT...

- many CJs strongly opposed to resolution to draft uniform statement of duties for CJs
- No CJs spoke in favour
- DMs approached by committee - CJs surprised and embarrassed NO COOPERATION for project
- President agreed to have resolution revisited and threatened to quit if CJs accommodations were not forthcoming
- Formal apology sent to CJs after April meeting

Simmering Issue

- Apology was re wording of original resolution
- Invitation to rewrite and have CJ as liaison on subcommittee
- Suggestion CCCJ appoint academic to study role of CJ
- CAPCJ concerned about deteriorating relationship between CJs and Judges Association particularly in MB, NFLD and AB

Other events included:

- **Commissioner for Judicial Affairs Goulard proved a staunch ally**
- **Judicom opened to CAPCJ members**
- **Supported idea of funnelling federal funding for PCJs through his office**
- **Goulard was accommodating and inclusive during some of darkest days in CAPCJ history**
- **CJs committed to sending set number to New Judges**
- **Judges' Forum created by CBA**

SCC releases Reference re Remuneration of Judges

Independent commissions required - not binding; rely on good faith

Halifax 1997

President Patrick Curran

Developments in 97/98

- **Internet based learning explored - email course on crim evidence huge success (lack of computer access issue)**
- **NJI rejects CAPCJ nominee citing need for Atlantic presence**
- **Goulard's office paid for translation in 97 but advised could not in 98! Panic!**
- **Rehearing at SCC re Reference**
- **Round Table held re Reference**
- **Executive meets with CCCJ - goodwill evident; allies not adversaries**

A Look Back and Forward - President Cheryl Daniel

Calgary 1998

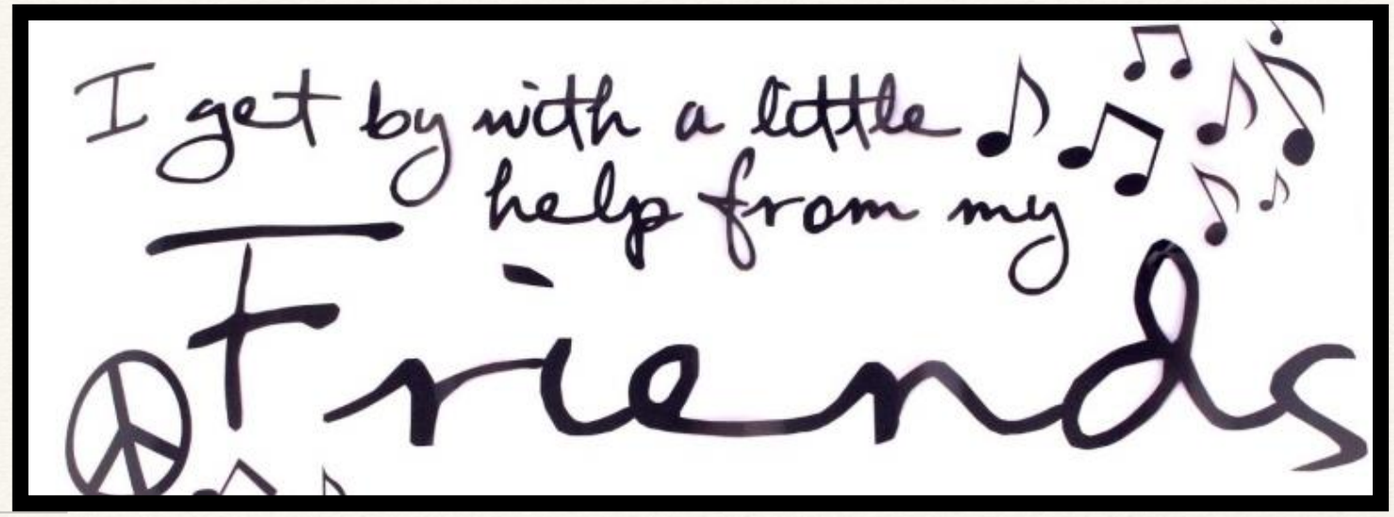
From lay police court to well-respected backbone of judicial system

207 judges and 127 partners

New Challenges for CAPCJ

- **Feds demand business case for funding**
- **50 page report prepared**
- **Goulard told no federal funding to PCJs!**
- **One crisis after another**
- **Judge bashing proliferated in the press**
- **Chairs of Quebec conference and Education Committee resigned when judicial council resisted needs of CAPCJ conference - sorted eventually!**

CBA GREAT SUPPORT



- **Helped prepare business case**
- **Defended judiciary in press**
- **Supported funding requests**
- **Liaised with other bodies**

"Provincial Court Judges did not have equal access to education programs notwithstanding that they were doing 90 to 98% of the criminal work in the country. This seemed to be a gross inequity and I took it as a personal affront on behalf of every Provincial Court Judge across the country... [w]e welcomed downloading of jurisdiction but..we needed the education to deal with the new jurisdictions and procedures. ... Our complaints...fell on deaf ears. "

–President Cheryl Daniel

The Role of the Chief Judge

Friction between some associations and their CJs

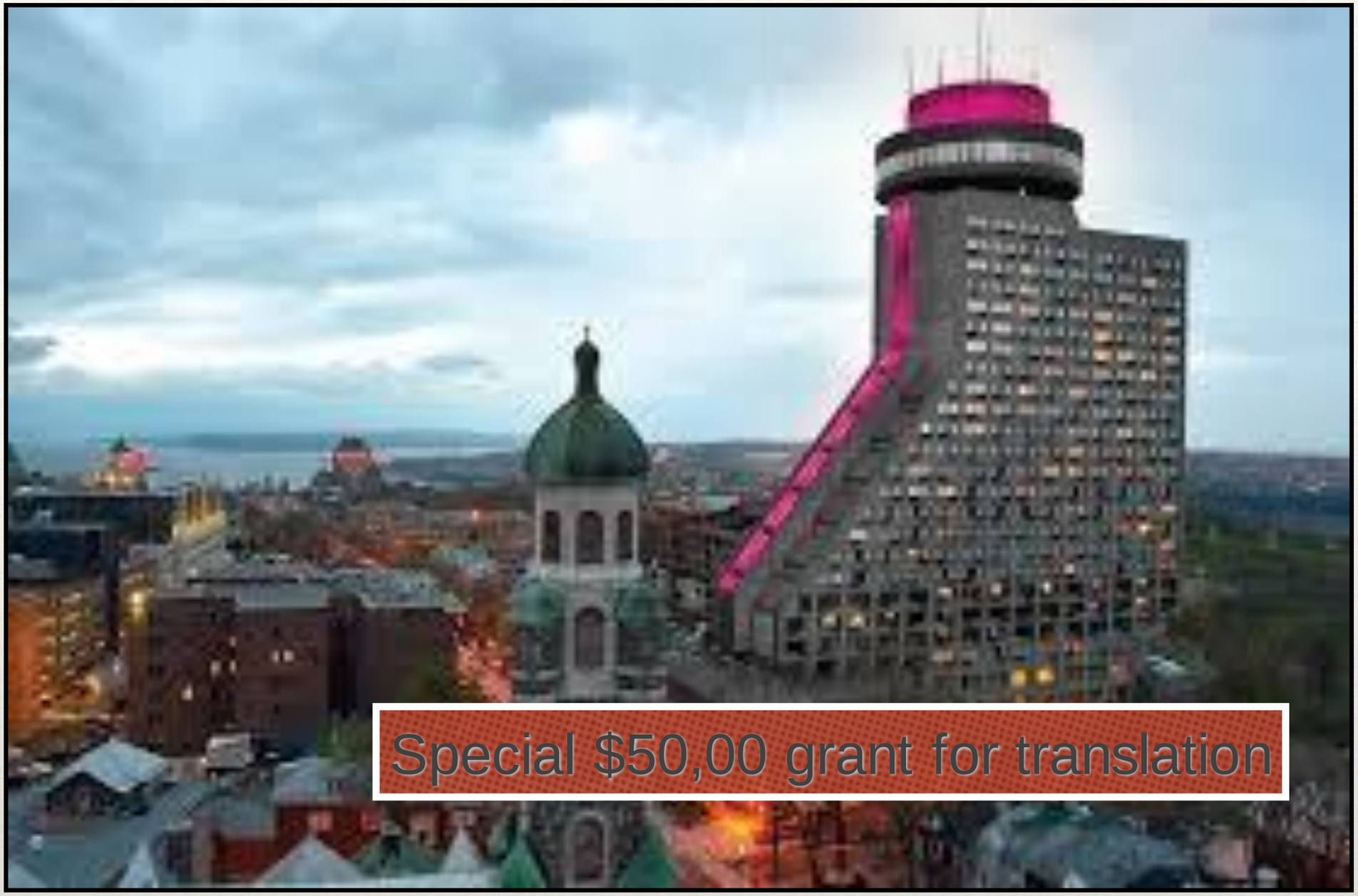
Committee studying roles of CJs obtained funding from law foundations

Professor Carl Baar recommended by CCCJ, agreed to by CAPCJ

New CJs at table bode well for ongoing relationship

Compensation Issues Dominate in '99

- **SCC denies leave to BC judges**
- **AB Justice finds no rational reasons to reject - gov't seeks stay in order to implement**
- **NB contemplates litigation after refusal to implement**
- **MB refuses to address recommendations or appoint 96 or 99 commissions as wanted to appoint 2 of 3 members**

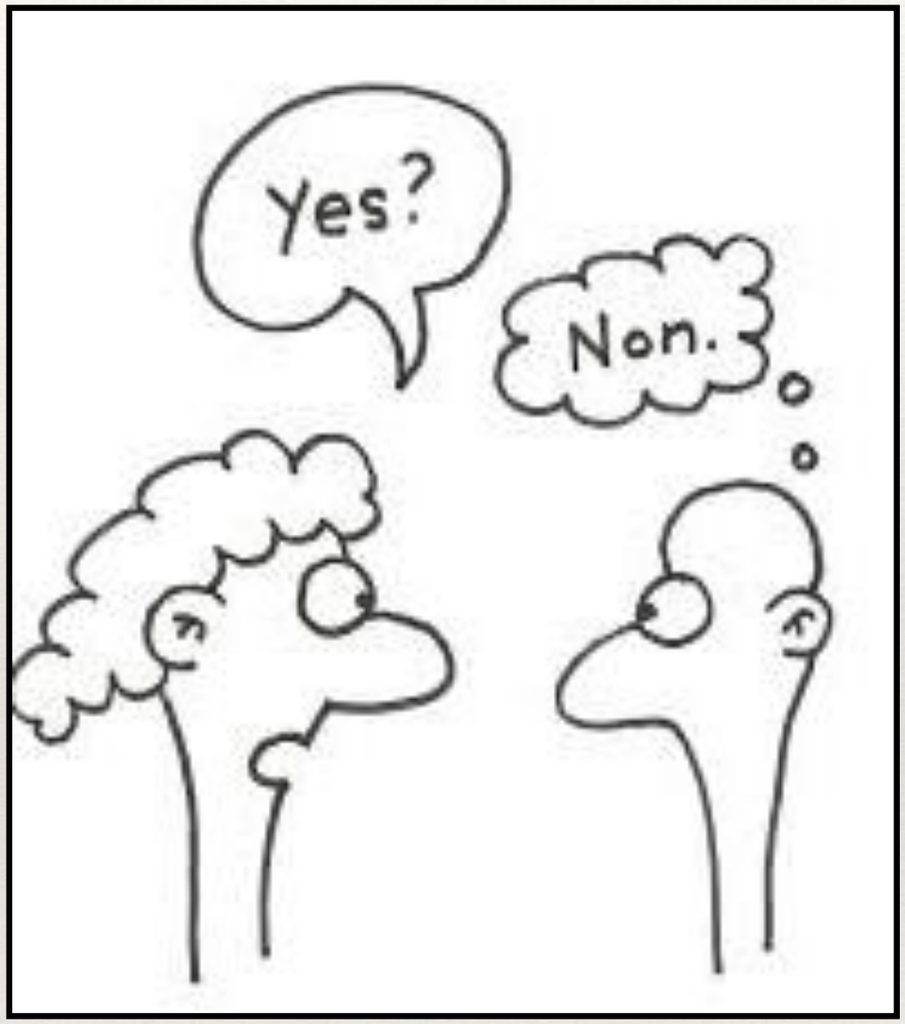


Quebec City 1999

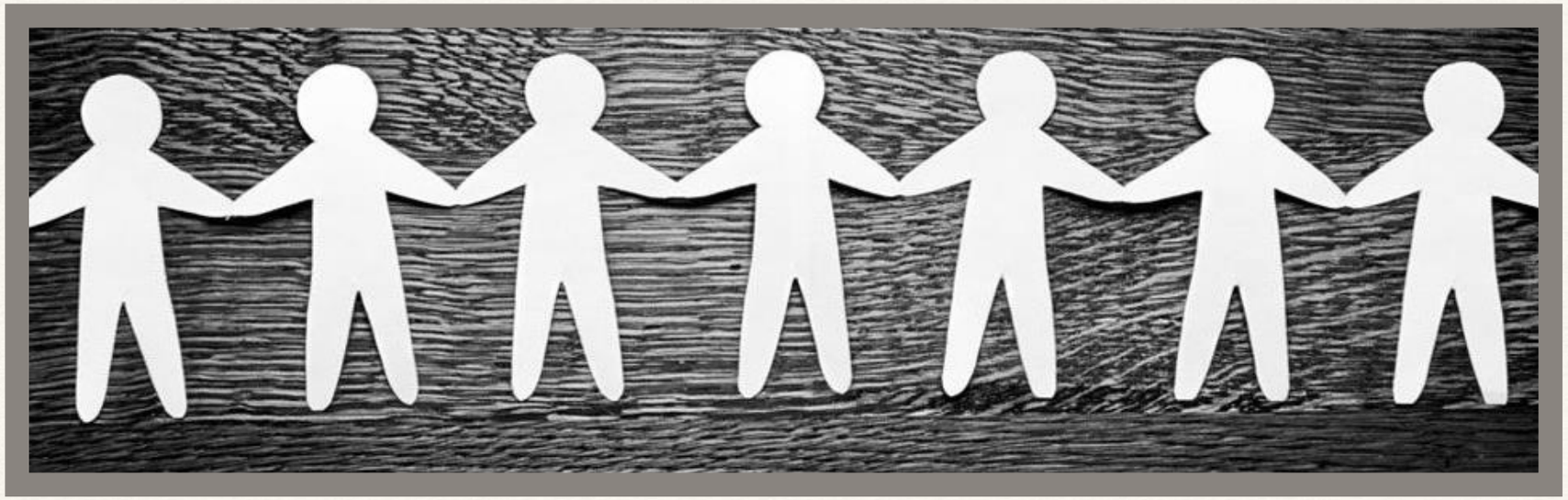
President Legault

What happened in 99/00?

- **Legault advocated for unified criminal court**
- **Raised concerns about uneven access to bilingual trials**
- **Urged members to remember needs of retired members**
- **New requirement CAPCJ gives CJ(SCC) 3 names to choose NJI board member**
- **Judge Lavoie nominated and accepted**
- **Quebec judges sue over lack of implementation**



Legault encouraged collaboration with CCCJ on joint projects where possible



“...our colleagues in Manitoba and Newfoundland still do not have the benefit of presenting their case within an efficient, objective and independent process. Their despair should be met by the solidarity of their colleagues across the country.”

–President Legault

President Katie McGowan

Ottawa 2000

Democracy at work: Tours of SCC and Parliament

2000/01 TROUBLES CONTINUE

- **Judges under assault by governments in different jurisdictions**
- **Disregard for compensation reports**
- **Situation tense across the country**
- **Tensions within CCCJ re roles and responsibilities of CJs - CCCJ did not want CAPCJ to proceed with Baar Report as Baar had not met timelines**

New Professor to be found to complete CJ project

Building Bridges with CCCJ

- President McGowan secured agreement to work on common projects
- Sense of trust and collegiality developed
- Turning point in CAPCJ/CCCJ relationship

“CAPCJ is the most prominent voice of the judiciary in Canada. Without it I am convinced that the advancements in judicial independence and judicial development of the last decade just would not have occurred.”

–President McGowan

September 11th, 2001 Board met. Terrorist attacks in USA. nference cancelled and small AGM held.

Trial Courts of the Future

Saskatoon 2001

President Bert Lavoie takes over. CAPCJ passed resolution condemning terrorist attacks against American people and their democratic institutions.

2001/02 YEAR

Justice Minister Cauchon facilitated doubling of Justice grant to CAPCJ to $100,000.00

CJ Project revived - Professor Peter McCormick retained

Compensation committee very active

CAPCJ player in Trial Courts of the Future Symposium

Website given overhaul

Joint meeting with Canadian Superior Court Judges' Association

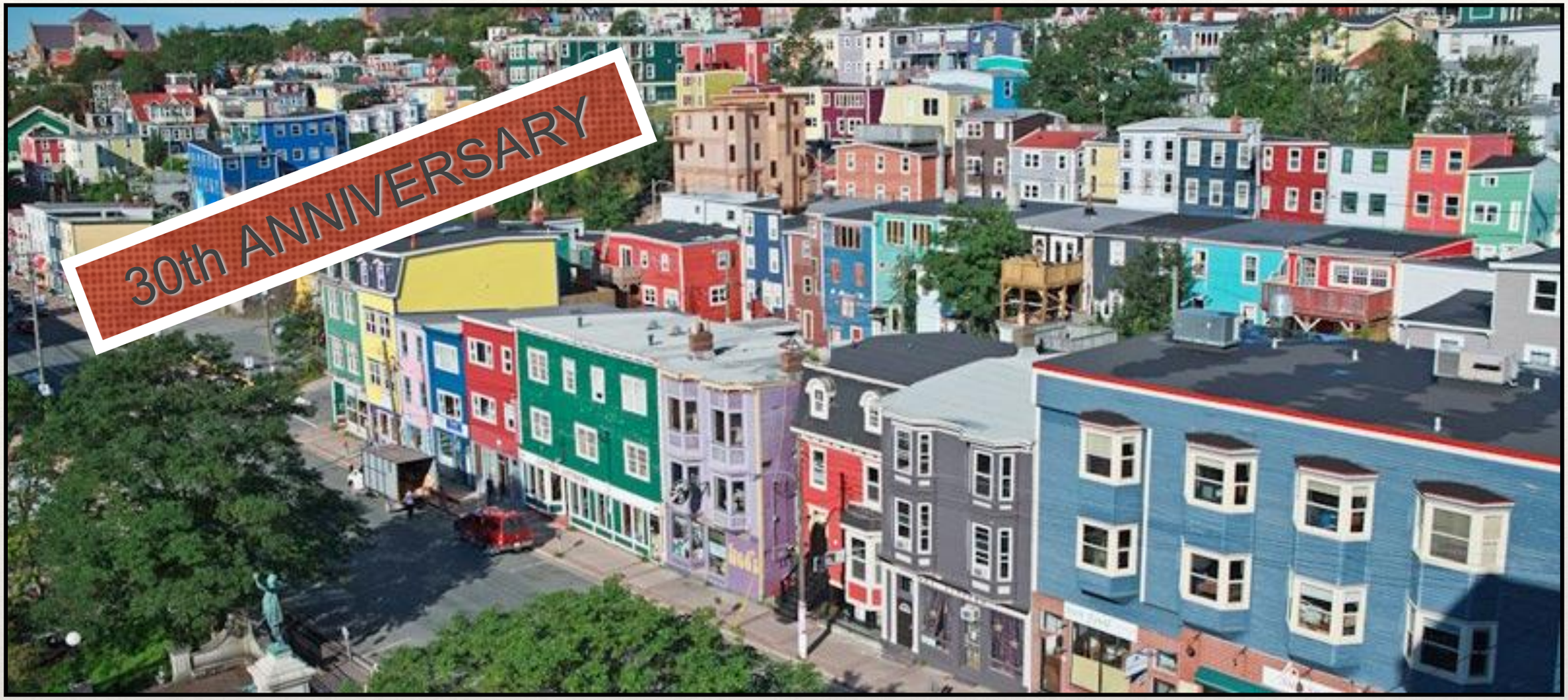
President Nancy Orr

Charlottetown 2002

Ensuring a Fair Trial

QUIET (but productive!) YEAR

- **Committee restructuring took place**
- **Focus on education as President Orr said "education being as essential to a judge as oxygen is to life."**
- **On litigation costs - Orr concerned about becoming a single issue organization**
- **200.00 surcharge to fund intervention in Bodner at SCC**



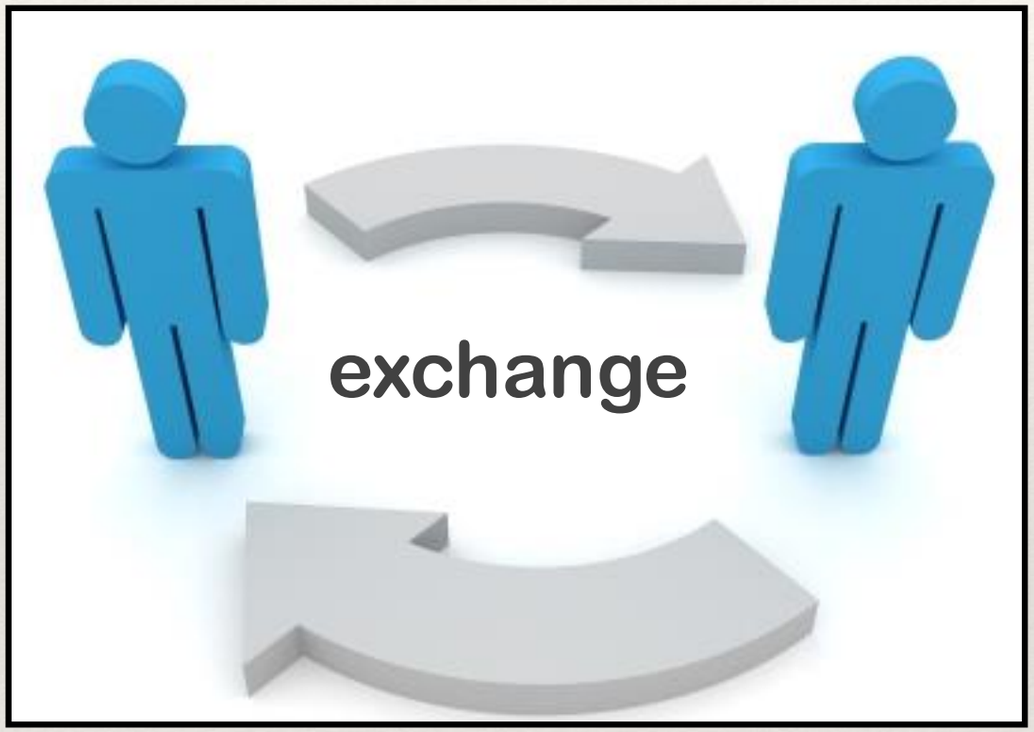
President Robert Hyslop

St. John's 2003

Judging in the New Millenium

First CAPCJ president Wicks luncheon speaker

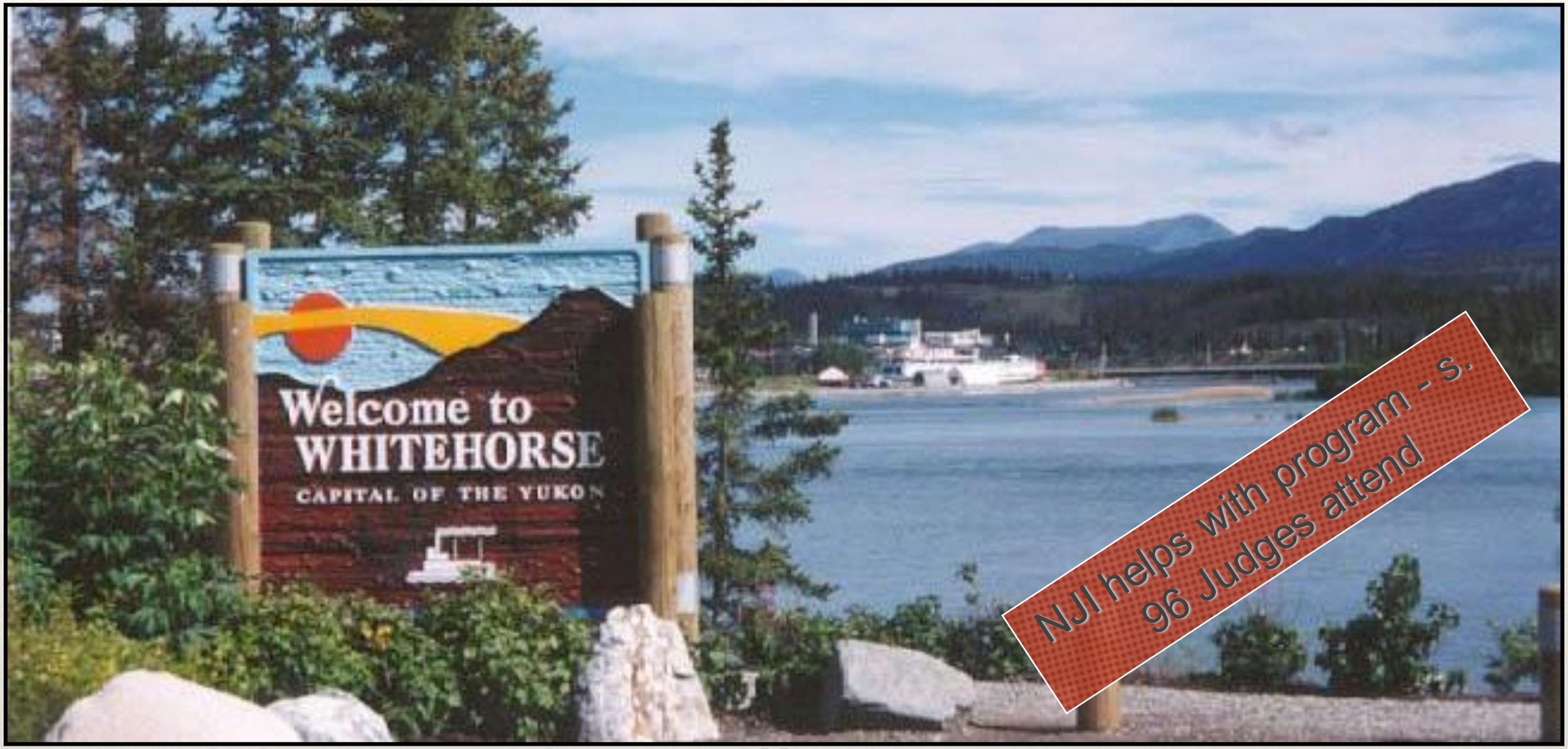
President Hyslop's Year



- **Preparations to intervene in Bodner**
- **Equality and Diversity became standing committee**
- **Minister of Justice reluctant on issue of continued use of title "Honourable" after retirement**
- **Draft legislation developed for judicial exchanges**

“I will never forget the generosity of spirit and money and the sense of unity that was displayed by judges all across Canada as we struggled to meet our financial obligations to our lawyers and to fight battles that should never have to be fought in order to safeguard judicial independence.”

–President Hyslop



President Heino Lilles

Whitehorse 2004

Enhancing Judicial Skills in DV and Abuse Cases

2004/05

- **Bodner heard at SCC November '04**
- **Litigation from Alberta, Quebec, Ontario and New Brunswick**
- **Result? Reports are consultative and test for rejection is triggered by low threshold of simple rationality**
- **Judges across country disappointed by outcome**
- **Prof. McCormick's paper "Judicial Independence and Judicial Governance in the Provincial Courts" released**
- **In forward President Lilles noted many issues described no longer of concern**

Strategic Plan

- **Some CAPCJ committees unnecessary or ineffective**
- **Time for reflection**
- **Done over 2 days in April 2005**
- **Roadmap put in place to reshape and update organization**

“The provincial and territorial courts of Canada are today quite different bodies from what they were thirty years ago when CAPCJ was created. Thirty years ago we had just crawled out of our magistrates' courts cocoon and started to spread our wings as provincial courts. Today, in terms of numbers and responsibilities, we have reached a different level of maturity. The demands and expectations on our national organization have changed dramatically. If CAPCJ is to remain an effective organization that is relevant to its members, it is imperative that we recognize and respond to these changes."”

–President Heino Lilles

Access to Justice in a Diverse Society

Winnipeg 2005

President John Guy's plan - to improve communication and implement strategic planning recommendations

CAPCJ, a bilingual national association, is committed to the maintenance and enhancement of an independent and informed judiciary and to the preservation of the integrity and continued development of the Canadian justice system for the benefit of all.

adopted September '05

President Guy

Year

2005/06

- **Military judges became members**
- **Committee chairs in transition**
- **Constitution reviewed and revised**
- **Much work done implementing strategic plan**

President Irwin Lampert

Moncton 2006

The True Colours of Judging

Recent Developments in Criminal Law: An Irreverant Look draws a big crowd - lobster feast appreciated!

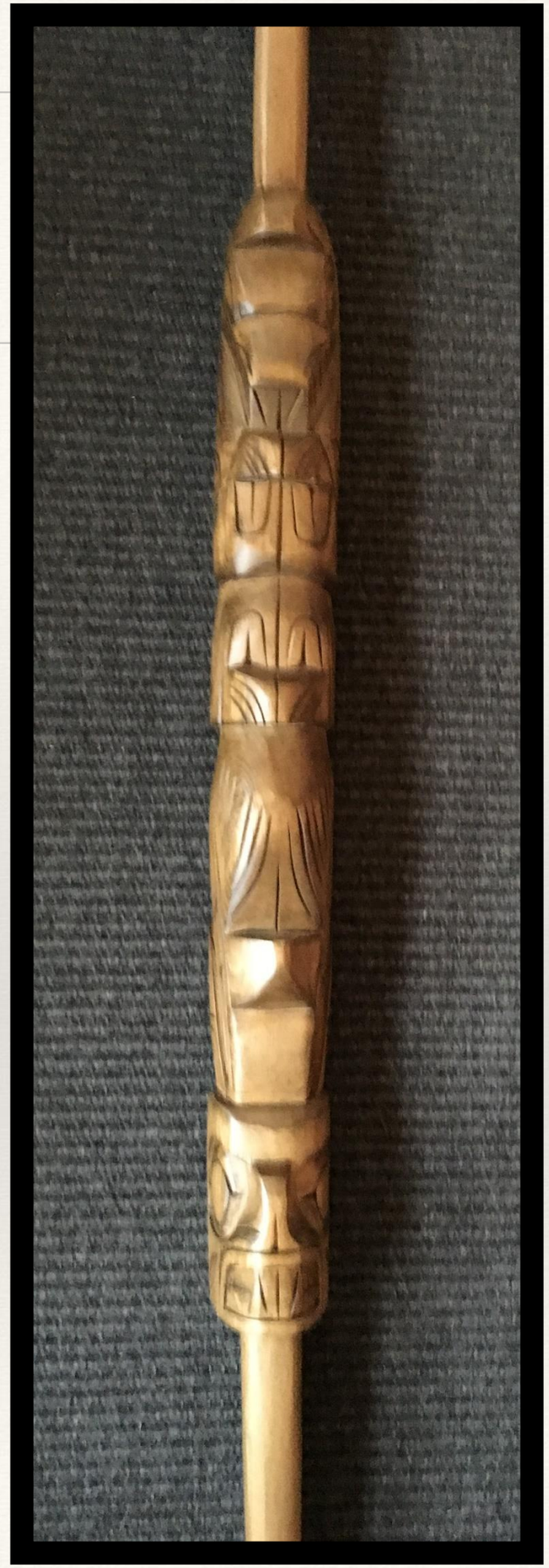
Vancouver 2007

JUDICIAL EXCELLENCE

Joint with American Judges Association

The Talking Stick

- **Presented to President Alexander by Hereditary Chief of Sto:lo Nation (and then PCJ) Judge Stephen Point**
- **To honour and reflect aboriginal heritage**
- **Talking Stick passes to incoming President annually**
- **"Whoever holds the Talking Stick has within his hands the power of words."**



The News from 2007/08

- CAPCJ participates in Access to Justice committee
- Work began on judicial trip to China
- Move to seek consultation with CJs on their ethics and access to justice projects
- Income splitting of pensions considered
- $20,000 to NB for QB appeal

President Jean-Paul decoste

Quebec City 2008

Which Judge for Which Society?

CJ McLachlin spoke on "The Future of Courts in a Changing World"

The News from 08/09

- **Joint conference considered with CBA - judges urged to join**
- **CBA urges gov'ts to respect judicial independence and respond to reports in timely way**
- **Decoste represents CAPCJ at Justice Cromwell's swearing-in**
- **China trip huge success!**
- **President Legault's legacy - QC fees would include CAPCJ dues so 100% Quebec enrolment in CAPCJ!**

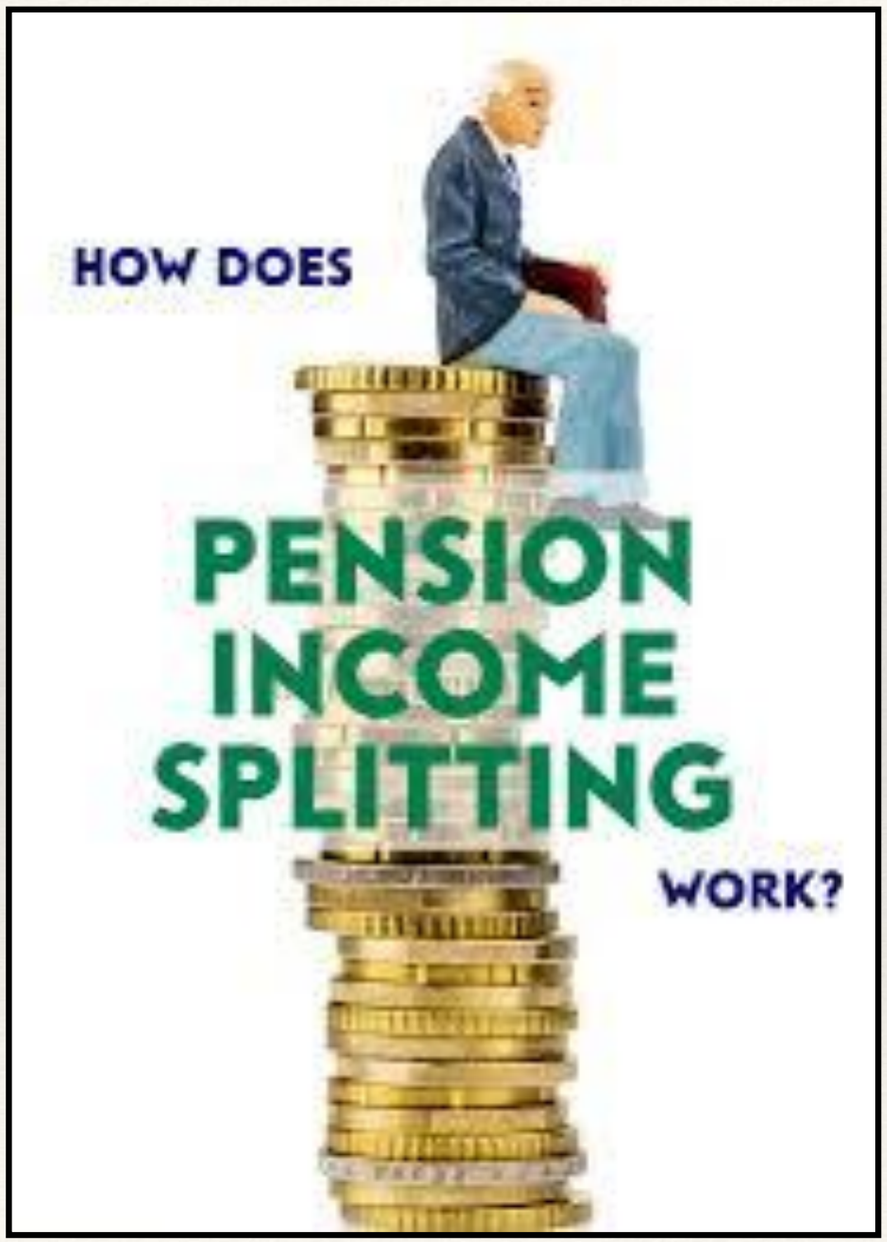
President Gerry Meagher

Calgary 2009

Access to Justice - The Unrepresented Litigant

President Meagher in a "shootout" at Heritage Park

The Year That Was 09/10



- CBA completes compensation database to assist provincial chapters with compensation
- Committee on the Law worked hard with Criminal Code changes!
- Pension splitting handled differently for s. 96 and PCJs – brought to Minister of Justice's attention
- Comparative pension study sought
- CAPCJ asked for members to CCCJ committee to develop ethical guidelines for PCJs
- Education committee meets with CCCJ and CAPCJ – new 5 day New Judges

New Judges' Training

At Spring meeting 2010 Cour du Quebec advised unable to release a judge for 6 weeks to manage program. Court had released judge to work with NJI for 6 months in lieu of fees. Suggestion that that judge could be assigned to New Judges' training.

French Language Training

- **French language training with s. 96 judges to attract 2000.00 weekly fee**
- **NB began to develop new program**
- **S. 96 judges unhappy - access to justice issue**
- **Committee struck to attempt to reverse decision**

President Robert Prince

Halifax 2010

Chart Your Course

163 judges & 75 partners

Highlights of 2010/11

- Judicial study trip to India
- Education chairs' forum website launched
- CAPCJ met with Minister Flaherty on pension splitting
- Constitution expanded to reflect mandate to comment on international issues
- First PCJ French language training held
- Federal CAPCJ funding reviewed - approved until 2012

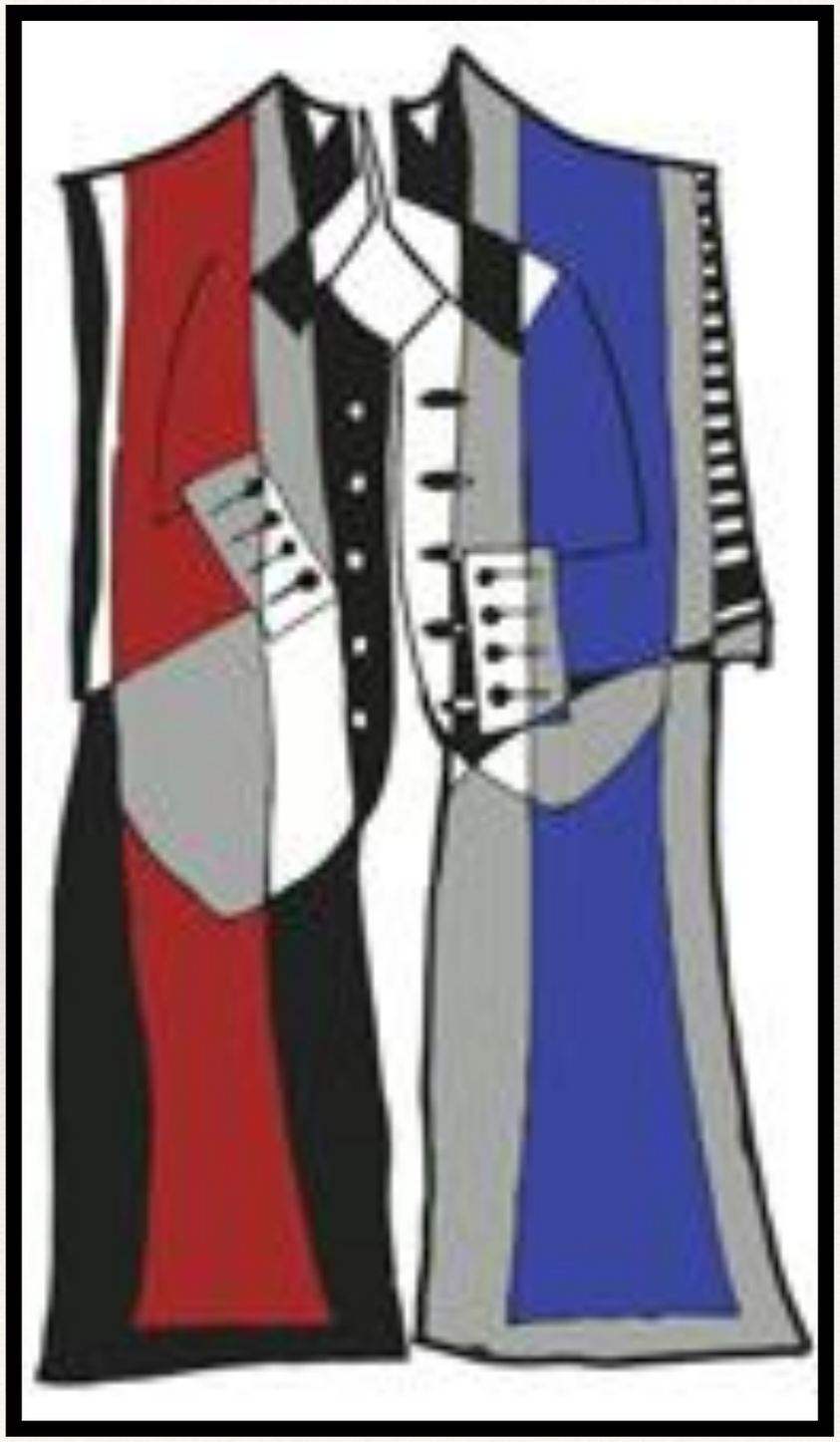
President Sheila Whelan

Regina 2011

Restorative Justice

President Whelan's Year

- **Committee on the Law continued heavy workload**
- **BC, MB in litigation - MB granted 15,000 to assist**
- **MB successful at QB**
- **New logo designed**
- **Different approaches taken on pension splitting - still problematic**
- **Vietnam trip - 18 judges**
- **CAPCJ handbook completed**
- **MB QB decision appealed**
- **Symposium on judicial independence and compensation**
- **Access to justice award proposed**



President David Stone

Toronto 2012

Judging in the 21st Century: Technology, Change and You

President Stone's Year

- **50,000 loan to MB to assist with litigation**
- **Niagara skills-based session and New Judges' training continue to be well-attended and valuable**
- **Pension splitting raised again - unresolved**
- **Federal core funding again granted**
- ***Bodner decision considered***
- ***40th anniversary year in 2013!!***

Judge Maria Lourdes Afiuni of the 31st Control Court of Caracas, Venezuala

- **Released a prisoner in December 2009 who had been held for 3 years contrary to max 2 years pretrial custody**
- **Arrested by government for corruption**
- **Imprisoned, sexually assaulted in custody**
- **CAPCJ sent letter to President Hugo Chavez protesting this attack on judicial independence**

Venezuelan state-controlled media's response?

- **CAPCJ is a "school of sharks...directly tied to the U.S. Empire."**
- **Canadian media applauded the letter and its message of judicial independence**

President Patrick Kennedy

St. John's 2013

Impact of Science in Courtroom

CAPCJ Justice Award

- **created to recognize individuals at national and international level who have improved functioning of administration of justice in court and community context**
- **2014 recipient Judge David Orr of Newfoundland and Labrador**
- **Unanimous vote to give award to Judge Afiuni in 2014**

Developments in 2013/14

- Pension study leads to projected deficit
- **Turnover - Executive Director Otter resigning and tasks to be split between Secretary and Treasurer**
- NB Court delivered 9th French Judicial Language Training
- Minister McKay wrote - pension splitting not proceeding
- **MB successful at CA - pays back grant and loan**
- **30,000 grant/loan to BC for litigation**
- Judicial Ethics Advisory Committee to be formed

President Lee Ann Martin

Winnipeg 2014

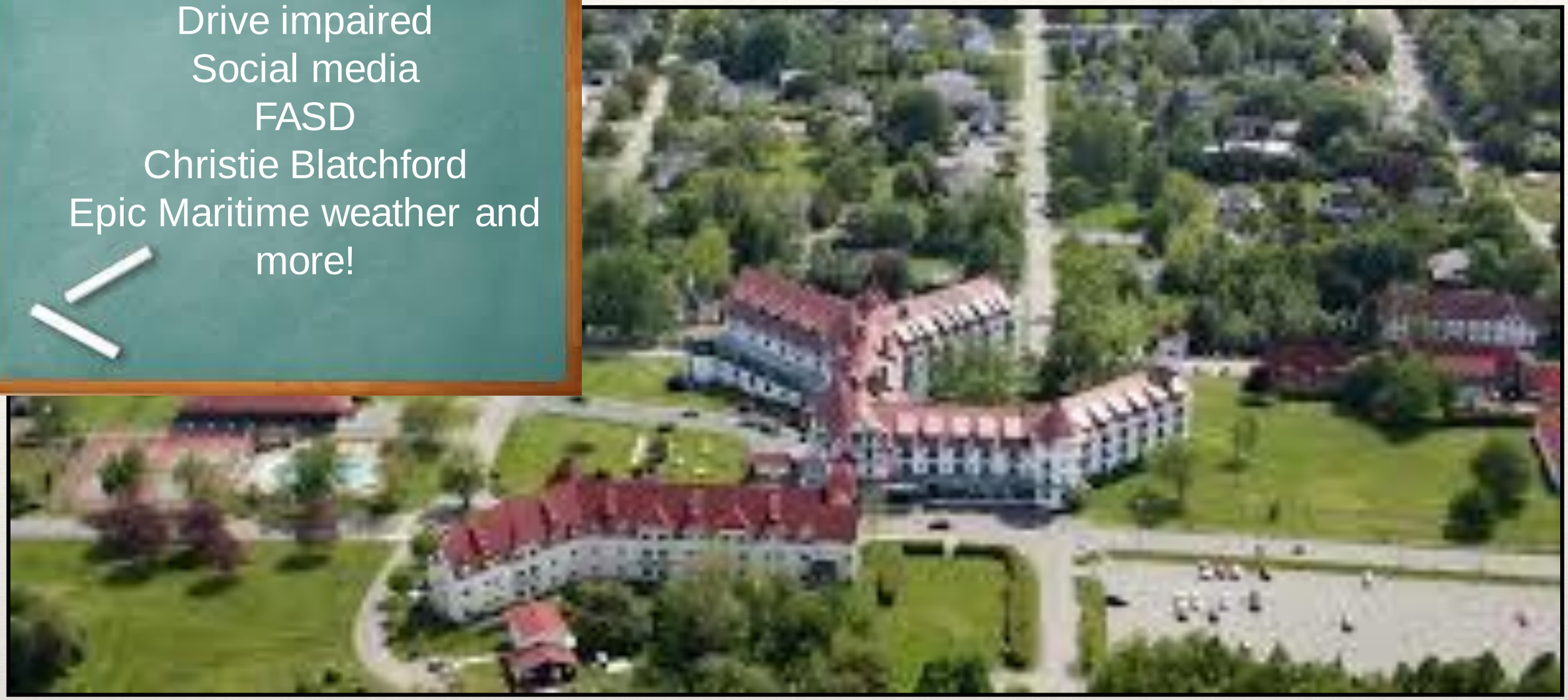
Criminalizing Social Issues: A Human Rights Crisis

Judge Afiuni accepted her CAPCJ Justice Award from the Canadian Embassy in Caracas via video link. She received a standing ovation from the Canadian Judges in a very moving and memorable presentation chaired by incoming President Lee Ann Martin

2014/15

- **CAPCJ intervenes in *Mainville* confirming PTCJs eligible for appointment to superior courts and courts of appeal**
- **Civil and Family Law added to conference as of 2016**
- **Website gets new look**
- **Access to Justice committee takes on criminal justice issues as well as family and civil**
- **Ontario in litigation over pension contributions**
- **BCCA orders implementation - appeal filed**
- **Journal Summer '14 "Judging in Rural and Northern Canada"**
- **Second expert retained for pension study after 4 year delay**

Drive impaired
Social media
FASD
Christie Blatchford
Epic Maritime weather and more!



President David Walker

St. Andrew's-By-The-Sea 2015

Catch the Tide

205 judges and 77 partners

Developments 2015-2016

- President Walker is present in many provincial assemblies
- He meets twice with federal Minister of Justice, Hon. Jody Wilson-Raybould
- Meeting with the Supreme Court Chief Justice, Hon. Beverly McLachlin, further to *Jordan*
- Creation of CAPCJ Medal of Honour
- Part-time municipal judges in Quebec ask to join CAPCJ; their demand is refused
- Nova Scotia's *Provincial Court Act* is modified to remove the binding aspect of their Judicial Compensation Tribunal process

Justice Odette Perron retires !

She has been involved with CAPCJ for 11 years !

President : Mayland McKimm

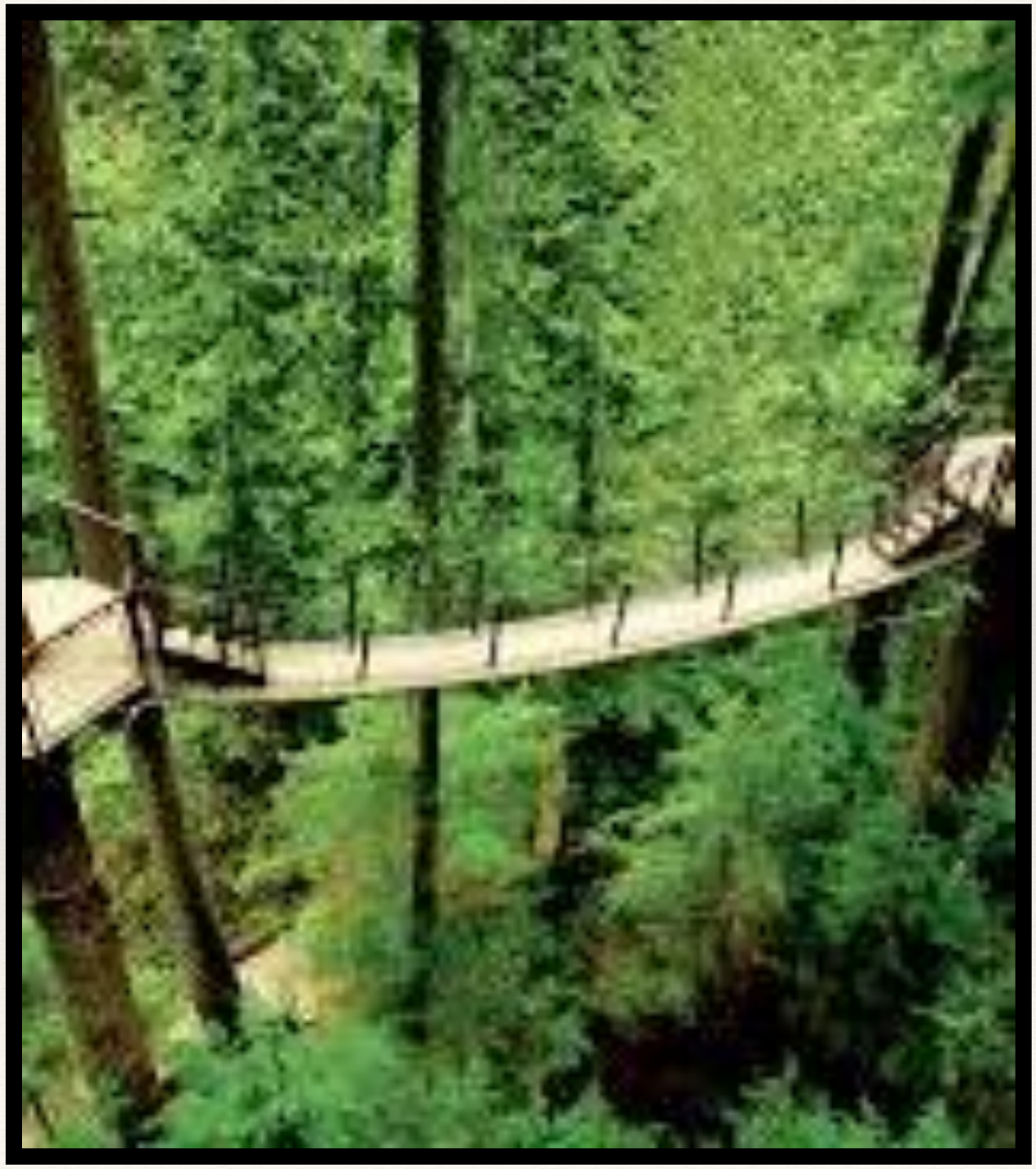
Vancouver 2016

(307 judges and 50 companions)

Judging in the extreme

Vancouver Annual Conference

- **Partners can take in whale watching, Capilano suspension bridge, cycling in Stanley Park and historic walking tours**
- **Gangs, guns, drugs, addiction and family violence**
- **Role of emotion in judging**
- **Mediation in Small Claims Court**
- **Freeman on the Land**
- **The challenging lay litigant**



Developments 2016-2017

- - Launch of the Ethics Advisory Council;
- - The Supreme Court rules in the file of Quebec Justices of the Peace on October 2016;
- The process for the nomination of S. 96 judges is changed; provincial and territory judges now have to apply by filing the detailed form;
- - Quebec Superior Court contests the civil jurisdiction of the Court of Quebec, regarding the $85 000 limit and the jurisdiction of the Administrative and Appeal Division;
- - Fee increase, from $200 to $300, in force in April 2019;

Judge Russ Otter, former Secretary and Treasurer of CAPCJ, becomes the first canadian to be President of the American Judges Association.
He is the first to receive CAPCJ's Medal.

President : Robert D. Gorin

Charlottetown 2017

150 years and Counting: The Changing Face of our Courts

Program for Charlottetown

- Judicial Independence - the battles that have been fought, the challenges ahead
- Getting High ....Legally - a look at the science, the impact on custodial and visitation arrangements
- Truth and Reconciliation recommendations- the role for provincial and territorial courts in the implementation process
- The threat from within - preparing for cases where Canadians are leaving home to join terrorist groups or plotting terrorist attacks in Canada
- Good faith in contract law - a new organizing principle

PROVINCIAL COURT

Developments 2017-2018

- - The litigation between the Quebec Superior Court and the Court of Quebec is moved to the Court of Appeal, by a Government Decree in October 2017;
- The Superior Court’s demand for a provision for costs is dismissed in April 2018;

President : Marco Labrie

Montreal 2018

Judicial Ethics

Program for Montreal

- What is ethics ?
- Judicial Ethics for everyone
- Self-represented litigants: legal and ethical duties on judges
- Ethics in mind
- Ethics and social medias
- Ethical decision making
- Resolving ethical problems

Developments 2018-2019

- - The litigation between the Quebec Superior Court and the Court of Quebec is heard by the Court of Appeal, in November 2018;
- - The Conference des juges du Québec contests the nomination of the President of the Compensation Committee, seeking judicial review;

President : Danielle Dalton

Banff 2019

Effective Judging in an Evolving Landscape

Plan for Banff

- Evolving Process of Canadian Reconciliation
- Evolving Strategies to Enhance Access to Justice
- Evolving Values and Impacts on Judicial Decision Making
- Evolving Challenges in Judicial Education

Developments 2019-2020

- The Quebec Court of Appeal signs the renvoi regarding the Court of Québec's jurisdiction on September 2020; all the parties go to the Supreme Court.
- The Court of Appeal establishes that the Court of Quebec's jurisdiction shall be fixed by the government between 55 000 $ and 70 000 $ and confirms that it can hear appeal from administrative tribunals.
- The Supreme Court renders its decision on July 31, 2020 in the BC and Nova Scotia litigations regarding the divulgation of Cabinet's documents regarding Government's decision not to follow the Judicial Compensation Committee recommendations.

Banff 2019

Montreal 2019

Why aren't there handles
on doors aymore?
Wesley, it's time
I tell you about the
year 2020...
boredpanda.com

President: Theodore K. Tax

Halifax 2020

Chart the course

Plan for Halifax

The Conference had to be cancelled due to the pandemic. It will be held in Fall 2022.

Developments 2020-2021

- The Supreme Court hears the case regarding the Court of Quebec's jurisdiction on September 24, 2020 and renders its decision on June 30, 2021.
- Article 35 para. 1 C.C.P. is unconstitutional. The monetary limit of the jurisdiction granted to the Court of Québec is too high when considered in its historical and institutional contexts.
- The question concerning the Court of Québec's application of the obligation of judicial deference when it hears an appeal from certain administrative decisions does not need to be answered, since it is now moot as a result of *Vavilov*, and the coming into force of s. 83.1 of the Quebec Courts of Justice Act.

President: Theodore K. Tax

Saskatoon 2021

Reported due to the pandemic…

Developments 2021-2022

Nova Scotia

COUR
DU QUÉBEC

:00

President: Theodore K. Tax

Halifax 2022

Chart the course

Developments 2022-2023

More details can be found in Judge Cheryl Daniel's written history - see http://judges-juges.ca

The End

(for now)

Prepared by Judge Christine Harapiak of Manitoba; translated and updated by Juge Céline Gervais of Quebec