

Transportation Law Section Report 2011-2012

Because the practice of air and transportation law in Manitoba has diminished significantly since the economic de-regulation of most modes of transport, the Transportation Law Section of the Manitoba Bar Association has been largely dormant. However, the Chair remains available as a resource in the event that issues or opportunities arise that the MBA wants to consider becoming involved in.

One example is the adoption by Manitoba of legislation to bring the Cape Town Convention into force in our province. Cape Town provides an International Registry to record leases and security interests in certain aircraft and aircraft engines. Canada and most other provinces have passed the needed legislation, but Manitoba has lagged behind - to the possible prejudice of aircraft operators in Manitoba and the customers they service. MBA has repeatedly voiced its support to get Cape Town passed here. Those efforts bore fruit this year with the introduction of Bill 26 in the legislature.

As Provincial Chair, I also sit on the National Executive of the Canadian Bar Association Air and Space Law Section.

At the National level, the Air & Space Law Section meets annually with Justice/Transport Canada/regulatory agency legal counsel, provides submissions on relevant Federal Legislation, provides materials for the CBA Section Web pages and corroborates with ABA Forum on Air & Space Law on its conferences held in conjunction with the McGill Institute of Air and Space Law.

At a Federal Court reception held for the Manitoba Bar Association Executive in March, 2012, I raised with The Honourable Chief Justice Paul Crampton the issue of the Crown arbitrarily denying consent to access the Court under paragraph 17(3)(b) of the *Federal Court Act*. That section allows questions of law, fact and mixed law and fact involving the Crown to be referred to the Court. In appropriate circumstances, it can avoid significant administrative tribunal proceedings where a thin issue can determine them. We discussed if the section should be changed to allow either party to apply.

The National Air and Space law Section of the CBA referred the issue to the Federal Court Bench and Bar Liaison Committee. It will determine the Court's view of the situation and decide how to proceed.

Respectively submitted,
Joe Barnsley, Chair