

# Minutes -- 2004

Annual Meeting of the Society on October 23, 2004

**MINUTES  
of the  
Annual Meeting of the Board of Directors  
of the American Society of Comparative Law, Inc.  
Held on Saturday, October 23, 2004, at 10:50 a.m.  
at the University of Michigan Law School  
120 Hutchins Hall, 625 South State Street  
Ann Arbor, Michigan**

The meeting of the Board of Directors of the American Society of Comparative Law, Inc., was called to order by the president, David S. Clark, immediately following the adjournment of the meeting of the Society's Sponsor Members.

## **1. Secretary's Roll Call**

The following 41 directors were present, listed following the name of their institution:

1. American University, Washington College of Law: Teemu Ruskola
2. University of Baltimore School of Law: James Maxeiner
3. Bucerius Law School: Hein Koetz
4. University of California at Berkeley School of Law, Boalt Hall: James Russell Gordley
5. University of California at Davis School of Law: Diane Marie Amann
6. University of California at Hastings College of the Law : Ugo A. Mattei
7. University of Colorado School of Law: Courtland H. Peterson
8. University of Connecticut: Richard Steven Kay
9. Cornell Law School: Mitchell Lasser
10. De Paul University College of Law: Brian F. Havel
11. University of Detroit Mercy School of Law: Antonio Gidi
12. Duke University School of Law: Francesca Bignami
13. George Mason University School of Law: Francesco Parisi
14. Harvard University Law School: Arthur Taylor von Mehren
15. University of Hawaii, William S. Richardson School of Law: Alison W. Conner

17. Hofstra University School of Law: Nora V. Demleitner
18. University of Iowa College of Law: John C. Reitz
19. Loyola Law School, Los Angeles: Edith Z. Friedler
20. McGill University, Institute of Comparative Law: H. Patrick Glenn
21. University of Miami School of Law: Keith S. Rosenn
22. The University of Michigan Law School: Mathias W. Reimann
23. University of Missouri–Columbia School of Law: William B. Fisch
24. William Mitchell College of Law: Kenneth L. Port
25. Ohio State University, Moritz College of Law: Ellen Deason
26. Oklahoma City University School of Law: Richard E. Coulson
27. The Pennsylvania State University, Dickinson College of Law: Louis F. Del

Duca

28. University of Pittsburgh School of Law: Vivian Grosswald Curran
29. University of Puerto Rico School of Law: Luis Muniz–Arguelles
30. Roger Williams University School of Law: Louise E. Teitz
31. St. Louis University School of Law: Stepehn C. Thaman
32. University of San Diego School of Law: Joseph Darby
33. Southern Methodist University School of Law: Peter Winship
34. Stanford university School of Law: Amalia D. Kessler
35. Stetson University College of Law: Peter Lanston Fitzgerald
36. Texas Wesleyan University School of Law: James paul George
37. Tulane University School of Law: A.N. Yiannopolous
38. Washington University School of Law: Frances H. Foster
39. Wayne State University Law School: William Burnham
40. Western New England College School of Law: Peter W. Schroth
41. Willamette University College of Law: James A.R. Nafziger

The following 16 individuals were present and represented the Director from their institution:

1. W. Cole Durham, Jr. (Brigham Young University, J. Reuben Clark Law School)
2. Samuel K. Murumba (Brooklym Law School)
3. Maximo Langer (University of California at Los Angeles School of Law)
4. George A. Bermann (Columbia University School of Law, Parker School)
5. Roger J. Goebel (Fordham University School of Law)
6. Sampong Sucharitikul (Golden Gate University School of Law)
7. Harry D. Krause, Jacqueline Ross (University of Illinois College of Lw)
8. Alain A. Levasseur (Louisiana State University Law Center)
9. Franklin Gevurtz (McGeorge University School of Law, University of the Pacific)
10. Peter E. Quint (University of Maryland School of Law)
11. Colin Benjamin Picker (University of Missouri, Kansas City, School of Law)
12. Paul R. Dubinsky (New York Law School)

13. Paolo G. Carozza (Notre Dame Law School)
14. Peter B. Kutner (University of Oklahoma Law Center)
15. Richard T. Stith III (Valaraiso University School of Law)
16. Julia Ya Qin (Wayne State University School of Law)

The following 7 Directors were represented by proxy:

1. Thomas C. Kohler (Boston College Law School)
2. William Aceves (California Western School of Law)
3. Brian F. Havel (De Paul University College of Law)
4. Hannah Luise Buxbaum (Indiana University at Bloomington School of Law)
5. Richard Hyland (Rutgers, State University of New Jersey School of Law, Camden)
6. Hilary K. Josephs (Syracuse University College of Law)
7. James Q. Whitman (proxy signed by Mirjan Damaska) (Yale Law School)

## **2. Approval of Minutes of the 2003 Meeting of the Board of Directors**

The Minutes of the 2003 Meeting of the Board of Directors of the Society had been mailed to the Directors in advance. Following a motion to that effect, the Board approved the 2003 Minutes with the suggestion that the Secretary make certain modifications that the Executive Committee had suggested. [These changes have been made to the Web version of the 2003 minutes.]

## **3. Treasurer's Report**

Treasurer James A. R. Nafziger reported that the Society's reserves have increased by 21.5% in the past year, reflecting unexpectedly high returns on mutual fund and stock investments.

He reported that a number of Sponsor Members are in arrears in their payment of Society dues, and reminded the Directors and Editors that expenses cannot be reimbursed if their Sponsor Member has not paid its dues.

He made the following ten recommendations:

1. That Directors and Editors ensure that their institution pay its annual dues in a timely manner;
2. That the dues for Sponsor Members for 2005 remain at \$700;
3. That the subsidy to the University of Hawaii for dinner and other expenses related to the 2005 annual meeting be set at \$4,000;
4. That the subsidy for the Journal be set at \$25,000 for 2005;
5. That the reimbursement to the law schools for the President, Secretary, and Treasurer for mailing and other costs be continued in 2005 at \$500 per officer;
6. That the Society's 2005 dues to the International Association of Legal Science of \$500 be paid;

7. That the Society's 2005 dues to the American Council of Learned Societies of \$440 be paid;
8. That the maximum reimbursement for each Sponsor Member represented at the 2005 annual meeting be set at \$800;
9. That the members of the approved delegation from the ASCL to the November 12-13, 2004 conference in St. Louis to commemorate the Centennial of American Comparative Law be reimbursed for their expenses up to a total for the delegation of \$5,000;
10. That the Society pay a maximum of \$600 each for up to two delegates of the Society to the University of Illinois meeting on Undercover Policing and Emerging Enforcement Powers on March 11-12, 2005.

Upon a motion to that effect, the Treasurer's report and ten recommendations were approved.

#### **4. Editors-in-Chief's Report**

James Gordley, the "Responsible Editor," reported on behalf of the Editors-in-Chief of the Journal. He noted a diminution of funds in the Journal's bank account, and suggested a likely proposal next year of a \$10 increase in the subscription price.

The Responsible Editor noted that the Journal will be on schedule starting with issue three in volume 52, and that the tables of contents for the following three issues were available. He also noted that the Journal would be devoting more attention to the developing world in forthcoming issues.

The Responsible Editor described the working process of the three Editors-in-Chief; the decision to having a book review editor; and the institution of a virtual desk to facilitate communication. He noted that the turn-around time for articles is approximately three weeks, making the Journal comparable to student edited law reviews for untenured faculty's purposes of receiving speedy publication responses. Editor-in-Chief Matthias Reimann added that authors also receive detailed commentary about their manuscripts. All of the Editors-in-Chief commented on the extremely high quality of the manuscripts the Journal is publishing.

Editor-in-Chief George Bermann noted that the Journal's eight-member Executive Editorial Board signifies that the Journal is refereed, a fact that should enhance publication in it for faculty members seeking tenure. He also identified the Journal's three editorial assistants: Baiba Hicks at Michigan; Darlene Corrigan at Columbia; and Nancy Kato at Berkeley.

President Clark noted that the Executive Committee had discussed posting information relevant to prospective Journal authors on the Web site the Editors propose to create for the Journal. The Society's Web site would link to this. He reported that the Society also is hoping that the Journal provides links to papers that Journal authors post on their personal Web sites. He also noted that the Journal had not yet submitted a final financial report, and that when it did, he would submit it for approval to the Executive Committee, and then to the Society at the 2005 annual meeting in Hawaii. [The Executive Committee approved the Journal's 2003–2004 fiscal year financial report in December 2004.]

Ugo Mattei encouraged the Editors-in-Chief to grant advance permission to Journal authors to post their articles on Global Jurist, and noted that this should not be a matter of hesitation, since generally most scholars cite to the paper version of articles. He also noted that anything written in the field of comparative law can be submitted to Global Jurist, and that its readership is not the same as that of the Journal.

President Clark noted that Francesco Parisi runs another electronic journal, the Social Science Research Network (SSRN) eLibrary: Comparative Law Abstracts, to which the Society has a Web link.

Following a motion to that effect, the Board approved the Editors-in-Chief's Report, subject to the exception of a financial report.

## **5. Nominating Committee's Report and Election of Officers and Executive Committee Members**

The President turned the meeting over to Vice President Symeonides, and the President and all other candidates left the room.

The Committee's nominations had been sent to everyone in advance. There was discussion about whether in the future every nominated candidate should run opposed, even though under the present system an opponent may be nominated from the floor where the Nominating Committee has not nominated an opponent. It was noted that the Society's practice has been to have officers run unopposed until their term limit has expired.

The Committee nominated Richard M. Buxbaum for Honorary President and David S. Clark for President, both to run unopposed; Edward J. Eberle and Leila Nadya Sadat for Secretary; Courtland H. Peterson for Parliamentarian, to run unopposed; and John Owen Haley, Francesco Parisi, Colin Benjamin Picker, and Annelise Riles for Executive Committee Members.

There were no nominations from the floor.

The results were as follows:

Honorary President: Richard M. Buxbaum (2004–06);

President: David S. Clark (2004–06);

Parliamentarian: Courtland H. Peterson (2004–06);

Secretary: Leila Nadya Sadat (2004–06);

Executive Committee: John Owen Haley and Annelise Riles (2004–06).

After the candidates returned to the room, President Clark presided over the meeting and suggested that the Board should consider the issue of voting at international meetings. A suggestion was made that, since the By-Laws can not easily be changed until the following year's meeting, the Board should urge the Nominating Committee to nominate multiple candidates, even though this would not be a requirement. A member of the Nominating Committee noted the difficulty the Committee experiences in finding candidates, explaining this as her basis for opposing a future requirement that all positions be contested.

President Clark asked for a vote as to how many favored contested elections for all candidates every two years. A majority of the Board voted affirmatively, and President Clark stated that the matter would be referred to the Nominating Committee for study and recommendation.

## **6. Prizes Committee's Report**

Patrick Glenn reported that only one prize was being awarded this year: the Hessel Yntema Prize of \$1,500 for the best article published by an author under the age of 40, and that it was being awarded to Mark D. West and Emily M. Morris for their co-authored article, "The Tragedy of the Condominiums: Legal Responses to Collective Action Problems After the Kobe Earthquake," 51 Am. J. Comp. L. 903–40 (2003).

President Clark announced the presentation at the Society's annual dinner of a Resolution of Honor for Hein Kötz and the Society's Lifetime Achievement Awards to Arthur Taylor von Mehren, John Henry Merryman, and Eric Stein.

## **7. Annual Meeting Program Committee's Report**

William Fisch reported that the following two annual meetings will be in Hawaii (2005) and Utrecht (2006).

Alison Conner mentioned the topic of comparative federalism as the focus of the 2005 meeting, and described some of the hotel and meeting accommodations, all of which will be posted on the Society's Web site once available.

John Reitz announced that a list of topics for the 2006 Utrecht meeting had been distributed at the meeting, and requested that Society members send him by e-mail their preferred topic choices. He noted that more than one person can report in Utrecht on a single topic. The deadline for papers to be submitted is expected to be September 2005.

Concern was expressed about the high cost of attending the international meetings.

#### **8. Joint Meetings Committee's Report**

Stephen Thaman reported in the absence of Committee chair John Haley. He encouraged attendance at the St. Louis meeting on the Centennial of United States Comparative Law and reviewed the schedule, which is available on the Society's Web site.

President Clark announced that Jacqueline E. Ross had asked the Society to co-sponsor a meeting on Undercover Policing and Emerging Enforcement Powers: Perspectives From Two Sides of the Atlantic, on 11-12 March 2005 at the University of Illinois College of Law. The Executive Committee recommended approval.

Upon a motion to that effect, the Board approved the recommendation. Details of the meeting will be posted on the Society's Web site.

#### **9. Finance Committee's Report**

Richard Kay reported that the Proposed Audit and Investment Guidelines, which had been distributed to everyone in advance, were meant to assist the Treasurer and to establish audit guidelines that potential donors would expect. They were not a response to problems, since the Society's investments have done well.

President Clark noted the need for transparency guidelines in keeping with the rise of the Society's assets to over \$250,000. Roger Goebbels expressed the opinion that the Society should not have more than 10% of its capital in any one asset.

Upon a motion to that effect, the Board approved the Audit and Investment Guidelines. [These Guidelines are available on the Society's Web page describing the Finance Committee.]

#### **10. Younger Comparatists Committee's Report**

Colin Picker reported that the Committee was exploring the possibilities of identifying younger academics interested in comparative law and the Society; educating younger academics about comparative law; and encouraging law students to explore and consider the field. The Committee considers activities that would further these purposes to include targeted outreach; compiling bibliographies of basic books and a guide to grant and research opportunities; panels, seminars and workshops; and the creation of student competitions.

### **11. Research and Service Committee's Report**

Sompong Sucharitkul reported on the usefulness of data on Society members' interests and the Committee's intention to distribute a questionnaire to that end.

### **12. Adjournment**

There being no further business, President Clark adjourned the meeting at 12:45 p.m.

Respectfully submitted,

Vivian Grosswald Curran  
Secretary  
American Society of Comparative Law, Inc.