

UNIFORM LAW CONFERENCE OF CANADA

COMMUNIQUE

FALL 2013

Report from
Nancy Irving,
Immediate
Past President



As I write this report, I am winding down my long career as Crown counsel with the Government of Canada. By the middle of January 2014, I will be a retiree. From my earliest days as a prosecutor in the Yukon to my concluding role with the Public Prosecution Service of Canada in Ottawa, it's been a wonderful, challenging and fulfilling ride.

To my great good fortune, I have had the opportunity throughout my career to work on some very interesting files and with some truly outstanding people. That certainly describes my seventeen-year involvement with the ULCC. I have said it many times before but it bears repeating yet again: I believe wholeheartedly in the value of the organization's mission, and I have always been greatly impressed by the calibre of the delegates and the quality of their work. It's been a pleasure to be part of this remarkable group for so many years.

I was also fortunate to serve as ULCC President during such a productive and successful year for the organization. The proof is presented in the reports from the chairs of the Criminal and Civil Sections. Their reports detail the substantial progress we achieved leading up to, and during, the ULCC annual meeting in Victoria. I think we can all be proud of the accomplishments.

The Chairs have done an excellent job of reporting on the substance of our work, which frees me to reminisce about other aspects our annual gathering, held in the BC capital from August 11 to 15, 2013. (I won't mention the score of the baseball game — so Westerners, it's safe to keep reading.) For the record, the hospitality extended by our hosts throughout the week was as warm and welcome as the unremitting (and unexpected) West Coast sunshine. Social activities included:

- an opening reception at the Maritime Museum, hosted by the government of BC, the BC Branch of the Canadian Bar Association and the Victoria Bar Association;
- an evening visit to the world famous Butchart Gardens;
- a thrilling East versus West ball game (won by you-know-who) and barbeque;
- a fabulous closing banquet with guest speakers the Honourable Susan Anton, BC's Attorney General and Minister of Justice, and the Honourable Steven Point, former Lieutenant-Governor of BC; and
- a few evenings of conversation and camaraderie in the Presidential quarters.



On behalf of all participants and accompanying family members, I would like to acknowledge the hard work of the entire BC conference team led by Russell Getz, Richard de Boer, and Samantha Hulme. I extend sincere thanks as well to the BC Ministry of Justice for its very generous support of the Conference.

The sixty delegates and guest speakers to our annual Conference were joined this year by three representatives of the Uniform Law Commission of the United States: President, Harriet Lansing; Immediate Past President, Michael Houghton; and Past President, Robert Stein. They used the opportunity to network with our members and to discuss issues of mutual interest and concern. Both organizations recognize the value of our existing relationship and are keen to explore new opportunities for mutually-beneficial collaboration and exchange.

That's certainly the message received and delivered in July of this year when — accompanied by Peter Lown, Chair of the ULCC International Committee — I had the pleasure of attending and addressing the general meeting of the American Uniform Law Commission in Boston. I used the opportunity to inform their Commissioners about the workings of the ULCC; to bring them up to date on our domestic and bi-national projects; and to offer

congratulations for their current work (especially on human trafficking) and long record of success. Peter took part in their Scope and Program Committee and discussed opportunities for future collaboration. Our American colleagues were exceptionally hospitable and I am pleased that we were able to return the favour in Victoria.

In closing, I would like to express my appreciation for the excellent work done by project leaders and working group participants this past year. I would also like to acknowledge the contributions of all jurisdictional representatives for the considerable time and expertise that you provide to the Conference on an ongoing basis.

There is tremendous strength and value in the ULCC and we should be very proud of our history, our accomplishments over the past year and our ongoing contributions to the Canadian legal system. It has been a great honour to serve as your President.



Report from Lynn Romeo, President

I am honoured to serve as President of the Conference this year. Our annual meeting in Victoria was a great success as clearly reflected in the reports from our Immediate Past President, Nancy Irving and the Past Chairs of the Criminal and Civil Sections, Lane Wiegiers and Ian Rennie. Congratulations to each of you and thank you for your excellent work throughout the year. It has been a pleasure working with you.

Our thanks also go to our B.C. hosts for a simply stellar week of meetings and social activities. It was very thoughtful of Russ Getz and the hard working members of the organizing committee to ensure that we had perfect weather to frame our beautiful surroundings. It certainly helped delegates from the West cope with the outcome of the baseball game.

Over the last number of years much progress has been made in building strong relationships with our colleagues in the United States and Mexico. We were pleased to welcome and enjoy the participation of Harriet Lansing, President of the Uniform Law Commission, Michael Houghton, Past President and Robert Stein, Chair of the

International Committee. Unfortunately Dr Jorge Sánchez Cordero Dávila, President of the Mexican Uniform Law Centre, was unable to join us this year but we appreciated receiving his report and look forward to his attendance at our next annual meeting. We continue to work closely with our colleagues to identify appropriate projects for collaboration and to advance our joint work on ongoing projects.

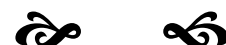
Building on the success of our Victoria meeting, I am pleased to report that the Steering Committee of the Civil Section is working on a number of interesting projects including renewal of three of our Uniform Acts – Interpretation, Wills and Vital Statistics – as well as continuing work on Uniform Commercial Tenancies legislation, Drafting Conventions for Implementation of International Conventions, Missing Persons, and legislation re: Hague Convention on Service Abroad and Extra-Judicial Documents in Civil and Commercial Matters. In addition, the several topics are being explored as potential projects including Unclaimed Intangible Property, Access to Digital Information, Domestic Arbitration and Charitable Trusts.

The Criminal Section expects to receive a report from the Working Group on the Modernization of Notice Provisions (in the *Criminal Code* and the *Canada Evidence Act*). I am also pleased to report that a joint Civil-Criminal working group will be struck to work on a project on enforcement of extra-provincial search warrants.

Finally, our new website is now the official ULCC site and our thanks go to Dean Sinclair and the members of the Publications Committee for their continuing work on setting up and improving the new website.

The coming year promises to be an interesting and challenging one. In facing those challenges I am grateful to be able to rely on a strong executive team consisting of Nancy Irving (Justice Canada), Immediate Past President; Luc Labonté (NB), Vice-President; Manon Dostie (Justice Canada), Chair, Civil Section; Cathy Cooper (ON), Chair, Criminal Section; Peter Lown, Q.C. Chair, Advisory Committee on Project Development & Management; Clark Dalton, Q.C., ULCC Projects Co-ordinator and Marie Bordeleau, ULCC Executive Director.

I also wish to acknowledge and thank each of the Jurisdictional Representatives, the individual delegates and working group members for their dedication and contributions to ULCC. I ask for your continued support as we continue to build on ULCC's success. I look forward to seeing you all in Toronto in 2014.





Report from
Lane Wieggers
Past Chair,
Criminal Section

I am pleased to report that the Criminal Section held a successful meeting from August 11-16, 2013, at Victoria, British Columbia. On behalf of the

Criminal Section, I thank our hosts for their excellent work in organizing the conference.

This year, 31 delegates from 11 jurisdictions debated 26 resolutions. In general, the resolutions were aimed at improving the criminal law's fairness, effectiveness and efficiency and included proposed changes to the *Criminal Code*, *Youth Criminal Justice Act*, and *Corrections and Conditional Release Act*. Twenty-one of the resolutions were carried as submitted or in amended form. Given the diversity of perspectives around the Criminal Section table, this level of consensus was impressive.

The Criminal Section received final reports from four working groups. The subjects of these working groups were: statutory exemptions to mandatory minimum penalties; enforcement of extra-provincial search warrants; potential offences for recanting evidence; and, reform of the Criminal Section's rules of procedure. The Criminal Section hopes to continue the work on enforcement of extra-provincial search warrants through the formation of a joint working group with the Conference's Civil Section. The report on statutory exemptions to mandatory minimum penalties drew strong interest and resulted not only in the passage of the working group's resolution but passage of a floor resolution submitted by the Canadian Bar Association as well.

A fifth working group that is studying the subject of modernization of statutory notice provisions will report to the Criminal Section at the 2014 meeting.

As part of its "open forum" segment, the Criminal Section received a presentation regarding the Victoria Integrated Court initiative. This "alternative" court integrates the community's Health, Social, and Justice Services to attempt to reduce the criminal activity of individuals who frequently find themselves homeless and struggle with substance abuse and/or mental health issues. This presentation was very well received.

The Federal Department of Justice led an information session on the proposed *Victims Bill of Rights*. The topic

was strongly debated and a floor resolution based on the discussion was carried.

I am grateful to have had the opportunity to Chair this meeting and I look forward to working with our in-coming Chair, Catherine Cooper during the months ahead. I thank all of the delegates for their valuable contributions to the Criminal Section as well as Section Secretary Anny Bernier, who was always helpful and a pleasure to work with.



Report from
Cathy Cooper
Chair,
Criminal Section

I am very honoured to serve as Chair of the Criminal Section this year. I hope that I can meet the high standard set by last year's Chair Lane Wieggers.

The Steering Committee for the Section will have its first teleconference in November. Unfortunately, Anny Bernier, the Section's Secretary last year, will not be able to continue due to other commitments. Her replacement is still to be determined. Many, many thanks to Anny for her excellent contribution to the Section last year.

The Criminal Section has only one working group of its own this year – the Modernization of Notice Provisions Working Group, which is continuing the work it started last year looking at the evidentiary notice provisions in the *Criminal Code* and the applicable provisions in the *Canada Evidence Act* with a view to modernization in light of current common law disclosure obligations. Susan Kennedy from Alberta is the provincial co-chair of that Working Group. The federal co-chair has yet to be appointed. That Working Group is set to report to the Criminal Section in August 2014.

As Lane suggested in his Report, the Criminal Section is engaged in discussions with the Civil Section about continuing the work on the Enforcement of Extra-Provincial Search Warrants in a joint working group.

With fewer working groups set to report at the annual meeting of the Criminal Section next year, there may be room on our agenda to include some additional presentations, discussions or possibly even a field trip. I welcome any suggestions delegates may have. You can send me your thoughts at catherine.cooper@ontario.ca.

Most of the agenda for the Section's meeting will, as usual, be devoted to debate on resolutions. The deadline for Jurisdictional Representatives to submit resolutions, set by our Rules of Procedure, is **Wednesday, April 30, 2014**. Compliance with the deadline allows for the translation of the resolutions, where necessary, and their distribution to delegates well enough in advance of the annual meeting to enable meaningful consultation. I will be sending periodic friendly reminders to Jurisdictional Representatives in an effort to assist with compliance. I look forward to seeing you all in Toronto next August.



Report from Ian Rennie Past Chair, Civil Section

The annual meeting of the ULCC in Victoria, British Columbia from August 11 to 16, 2013 was a great success. Thank you to our Victoria hosts and to the British Columbia Ministry of the Attorney General for making it such a memorable event. The work done over the past year by the Civil Section Steering Committee and Chairs and members of the various Civil Section Working Groups set the tone for a week of excellent and interesting reports and discussions in a wide variety of subjects.

The Civil Section adopted the following:

- *Model Election Amendment Act* and Commentaries;
Draft Inter-jurisdictional Subpoena Act and Commentaries, subject to the November 30th Rule; and
- The draft Uniform International Commercial Arbitration Act and Commentaries, subject to the November 30th Rule.

Reports and papers were presented on other projects including the following:

- The Uniform Commercial Tenancies Act;
- The UN Convention on Independent Guarantees and Stand-by Letters of Credit;
- The *Uniform Wills Act* Renewal;
- The *Uniform Vital Statistics Act* Renewal;
- Uniform Drafting Conventions for the Implementation of International Conventions;

- Hague Convention on Service Abroad of Judicial and Extra-judicial Documents in Civil and Commercial Matters;
- Convention on the Law Applicable to Certain Rights in Respect of Securities Held with an Intermediary;
- Uniform Interpretation Act; and
- Inter-provincial Subpoena Act Renewal.

The report by the Joint Civil and Criminal Sections was interesting and included an interesting discussion of anti-bullying legislation. A report on the new website was also interesting and revealed that it is a work in progress but is a significant improvement over the previously existing website.

The delegation from the Uniform Law Commission (Harriet Lansing, Michael Houghton and Professor Robert Stein) provided some interesting commentary. A box of books was delivered to the Conference with a history of the last 100 years of the Uniform Law Commission.

It is unfortunate that Dr. Jorge Antonio Sánchez Cordero Dávila, Director of the Mexican Center for Uniform Law, could not attend but he did provide a very interesting written report about developments in Mexico.

The Advisory Committee on Program Development and Management provided an interesting presentation and report to the attendees including a trawl for new ideas. To this end a number of processes of the ULCC were explored in order to think about the lifecycle of projects.

Many thanks to the Organising Committee and BC Ministry of the Attorney General, the Chairs, members and drafters of the project working groups, the members of the Civil Section Steering Committee, the Advisory Committee, Past-President Nancy Irving, Past Section President Gail Mildren, Executive Director Marie Bordeleau, Manon Dostie for her translation of the Civil Section Minutes and the ULCC jurisdictional representatives and delegates for making this year very successful.

Also, many thanks to Clark Dalton, Projects Coordinator, for his dedication and assistance throughout the year.



Report from Manon Dostie Chair, Civil Section

It is a great pleasure for me to act as Chair of the Civil Section for 2013-2014 and to be returning to Toronto next August for the annual meeting as it is the place of the first ULCC meeting I attended. I would like to convey a special thanks to Ian Rennie for his work this past year as Chair of the Civil Section and to Russell Getz and his team for organizing a very successful meeting in Victoria.

The Civil Section Steering Committee resumed its monthly conference calls in October with a full agenda. I am expecting a very busy year for the Civil Section and an equally busy annual meeting in 2014. Two uniform acts - the Interprovincial Subpoena Act Amendments and the Uniform International Commercial Arbitration Act - are expected to be adopted pursuant to the November 30th rule or later if additional time is required.

Current projects include the Uniform Wills Act renewal; the drafting of a uniform commercial tenancies act; the Uniform Interpretation Act renewal; the drafting of uniform rules to implement the *Hague Convention on the Service Abroad of Judicial and Extrajudicial Documents in Civil and Commercial Matters*; a uniform act to implement the *United Nations Convention on Independent Guarantees and Stand-by Letters of Credit*; and preparing principles for drafting uniform legislation for the implementation of international conventions.

In addition to the foregoing, a working group is being set up to look at the modernization of the Uniform Vital Statistics Act.

Joint projects with our colleagues in the Criminal Law Section on a uniform missing persons act, and with the Uniform Law Commission in the United States on the recognition of life planning documents are also well underway. Both are on track to conclude next year.

It is thanks to the dedication of our colleagues Clark, Peter and Marie and the many others who have taken various roles within the Civil Section (as members of the Steering Committee, or participating in working groups etc.) that the Civil Section's project are advancing. I thank you for your commitment and look forward to working with you this year.



Report from Peter Lown, QC Chair, International Committee and Chair, Advisory Committee on Program

Development & Management

I have the pleasure of chairing both the Advisory Committee on Program Development and Management and the International Committee. The Advisory Committee has been honing its procedures in order to produce a manual of how projects are selected and managed. So far, we have developed a rolling four-year plan, confirmed project selection criteria, and developed a template for project descriptions. The work on project process and management was initially described by Manon Dostie and Nolan Steed at our annual meeting in August and further work is being carried out to refine both checklists and the descriptions.

I want to thank all the members of the Advisory Committee for their attention to these issues and for the volunteer work that they put in. It is important for other agencies and bodies to know about how the Conference operates, and it is crucial to understand how much work goes on between annual conferences.

On the international front, we have also developed a much better and clearer understanding of our roles in joint or cooperative projects. At present we have only one truly joint project, Recognition of Substitute Decision-Making, with the Uniform Law Commission, which we expect to wrap up in 2014 in both conferences. But we have other levels of cooperation, either providing mutual input to each other's projects or sharing information for purposes of project selection. We have observed on two recent projects. The US project on Fiduciary Access to Digital Assets wrapped up in July but our observer role will provide us with information about whether to adopt such a project and what the scope of the project should be. In reverse, we provided input to the US project on Asset Freezing Orders (Mareva Injunctions). Currently, through the involvement of Darcy McGovern, we are assisting the US project on Child Protection Orders.

On an institutional basis, sharing information about project proposals has helped us better plan a number of initiatives, and as a result we enjoy an excellent constructive and informative relationship with the Uniform Law Commission, which we think mutually benefits the work of both conferences.



The ULCC recognizes long-time Contributor

By Arthur Close, QC

The 2013 meeting provided an appropriate occasion to reflect on Greg Steele's contribution to the Uniform Law Conference and to Canadian law reform generally. Greg's credentials as a law reformer, quite apart from his role with the Conference, are impressive. He has been a presence provincially, nationally and internationally, and his colleagues at the ULCC may not be fully aware of the range of his law reform activities. The Uniform Law Conference of Canada has been one, but not the only, focal point for Greg's activities.

He became a member of the BC delegation 20 years ago – the first BC private bar member in the civil law section in over a decade. Greg served in a number of executive positions within the ULCC, including a term as its president in 2003/04. He continues as a member of its Advisory Committee on Program Development and Management, and he has been active in the project work of the ULCC including membership in and leadership of various working groups.

Greg has also been an active participant in the work of FOLRAC - the Federation of Law Reform Agencies of Canada, serving for an number of years as its Chair and assisting in the organization of various workshops meetings and other FOLRAC activities. He has also served as member of the Canadian delegation to the Hague Conference on Private International Law, where he participated in the development of an international convention on judgment enforcement.

Greg's greatest contribution has been at the provincial level. In the 1990s Greg was chair of the Canadian Bar Association (BC) Committee on Legislation and Law Reform. In that context Greg became more directly involved in the machinery of law reform, providing assistance and advice to the former BC Law Reform Commission on a variety of matters in relation to program and projects. Greg's enthusiasm for law reform was evident and he was an obvious person to approach when law reform was in jeopardy.

He was one of the founding members of the British Columbia Law Institute (BCLI), which was created to carry on the work of law reform in BC when the Law Reform Commission was discontinued as a government program. He served BCLI in a number of leadership positions over its first 15 years including its presidency over its first critical years. Under Greg's dynamic leadership BCLI became a major player on the law reform scene in Canada and a national leader in relation to elder law. Greg's dedication to the improvement of law in Canada and his accomplishments cannot be overstated. Throughout, Greg has maintained a low key no-nonsense style – always conciliatory and persuasive – never confrontational. The Uniform Law Conference of Canada have benefitted greatly from his participation.



And as for the Softball Game...

By Jacques Ladouceur



Once again this year, the softball game was quite eventful! The Team West wanted to win back its title which it had lost the previous year

in an unequivocal victory for Team East in Whitehorse. Team West quickly took the lead by scoring in the first inning and appeared to be heading to an easy win. On their last time at bat Team East trailed 7-5 with two outs. Then a miracle happened. Two runs were scored forcing an extension after which Team East won 9-8, thus keeping their title for a second year. If I was elected MVP, it must not be forgotten that this victory resulted from a team effort and that Team West provided the victors with a strong opposition. Bravo to everybody and we'll meet in Toronto in 2014!

Did You Hear?

The Federal/Provincial/Territorial Heads of Prosecution Committee has recognized the accomplishments and contributions of four prosecutors, who were honoured at an awards ceremony. The National Prosecution Awards for Top Prosecutors, instituted in 2006, honours professional excellence, exemplary service, and outstanding achievements in the legal community. Prosecutors may be recognized in the following categories: Commitment to Justice Award, Courage and Perseverance Award and Humanitarian Award.



It is with great pleasure that we announce that long-time ULCC contributor **Samantha Hulme**, Crown counsel at the Criminal Justice Branch of the British Columbia Ministry of Justice, was awarded the 2013 Humanitarian Award. Samantha's contributions to stakeholder relations and multi-agency projects and partnerships coupled with her longstanding commitment to

international development made her stand out as a dedicated, principled legal professional. Congratulations Samantha!!!



Mark Your Calendars!!!!

The 96th Annual Meeting of the ULCC will be held from Sunday, August 10 to Thursday, August 14, 2014 in Toronto, Ontario. A block of deluxe rooms at the Eaton Chelsea Hotel has been set aside for delegates at the special group rate of \$139.00 (based on single or double occupancy, before taxes). Reservations may be made by calling 1-800-CHELSEA (243-5732) and using the booking code: GAGULCC14. Please visit the hotel's website at: <http://chelsea.eatonhotels.com/> for more information about the hotel. Further details regarding our week together will be communicated in the New Year. We look forward to welcoming you to Canada's largest city!



Nunavut Joins the Annual Meeting Hosting Rotation!

Nunavut is very happy to announce it is joining the ULCC Annual Meeting rotation. Our Territory may be far away, but it is well worth the trip.

Our landscape and our unique culture are like nothing else in Canada and we are very excited that ULCC members will have an opportunity to see, and experience, what our great Territory has to offer.

While we are in the Arctic, Nunavut's capital, Iqaluit, has many of the facilities and amenities our southern guests are accustomed to.

There are two daily flights from Ottawa to Iqaluit and the Capital has some first class hotels and restaurants.

Large conferences and meetings are nothing new for Nunavut. In the past three years, Iqaluit has played host to Deputy Ministers of Justice and Ministers of Environment FPT conferences, and the Canadian Bar Association will be holding its National Aboriginal Law conference in Iqaluit in Spring 2014.

Also, in the next few years, a new conference centre, and a new airport will be constructed in Iqaluit. We are very excited about these projects and are confident they will contribute to making ULCC a success in Nunavut in 2020.

We look forward to seeing everyone soon!



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