

# COMMUNIQUÉ

Fall 2017



## Report of 2017 – 2018 ULCC President Manon Dostie, Canada

I had the honour of beginning my term as President of the ULCC in May 2017 following Josh Hawkes' well-deserved appointment as judge of the Provincial Criminal Court of Alberta (Criminal) this spring.

As President, I represented the ULCC at the Uniform Law Commission's (ULC) Annual Meeting in July in San Diego, CA, where I had the opportunity to observe the inner workings of their organization. I was struck by the passion and engagement of the Commissioners. It was an opportunity for both organizations to exchange on projects of shared interest – from civil remedies for unauthorized disclosure of intimate images to electronic wills and registry systems for the enforcement of judgments.

The ULCC concluded another productive year with a successful meeting in Regina, SK from August 13 to 17, 2017. As the Chairs of the Sections and some Committees will be reporting on their activities in the following pages, I thought I would focus on other work reviewed during the week.

The Strategic Planning Oversight Committee (SPOC) and its working groups had an opportunity to present progress on the strategic review and get concrete feedback on priority areas of renewal identified in 2016. The review is quite comprehensive and includes updating the Constitution and By-laws; modernizing the publications and communications strategy including the launch of a new website; taking a critical look at the structure of the ULCC; examining how the ULCC is financed and making adjustments to ensure relevancy

and viability; and looking at the ULCC's partnerships with federal-provincial-territorial governments, the Canadian Bar Association and law reform institutes as well as our international partners like the ULC. The objective of the strategic review is clear – to make the ULCC relevant for the next 100 years!

Our international guest, Harriet Lansing, a Past President of the Uniform Law Commission and member of the International Committee, presented on the work of the ULC and provided valuable feedback on current and possible collaborative projects between the two organizations.

We also had the privilege of hearing from two guests speakers: Senator Denise Batters presented the Senate Report entitled: *"Delaying Justice is Denying Justice: An Urgent Need to Address Lengthy Court Delays in Canada"* and Mr. Marco Mendicino, Parliamentary Secretary to the federal Minister of Justice, delivered the inaugural address of the first Earl Fruchtmann Memorial Seminar, presenting on the Criminal Justice System Review.

I want to reiterate my appreciation to the following individuals, whose dedication and hard work made 2016-2017 a successful year: Clark Dalton – National Project Coordinator, Marie Bordeleau - Executive Director, Sarah Dafoe - Chair of the Civil Section, Laura Pitcairn – Chair of the Criminal Section, Dorette Pollard - Secretary of the Criminal Section, all the Jurisdictional Representatives, members of Steering Committees, Chairs and members of working groups, Chairs and members of the many committees including the Advisory Committee on Project Development and

Management, Strategic Planning Oversight Committee, Chair of the International Committee, Publications and Communication Committee, 100<sup>th</sup> Anniversary Committee, the Finance Committee, and the outgoing Executive Committee.

On behalf of all the participants, guests and their families, I would also like to acknowledge the hard work of the Host Committee led by Darcy McGovern, Susan Amrud, Dean Sinclair, Maria Markatos and Kelly Winn, and recognize the excellent social events organized by the Host Committee during the week including:

- an opening reception at the historic Hotel Saskatchewan with special guests in attendance – followed by an spirited Saskatchewan Roughriders v. BC Lions football game;
- a tour of the RCMP museum, a thrilling and successful baseball game (Go East Go!) followed by a BBQ at the RCMP Officers' Mess;
- an evening at Government House and their grounds; and
- an informal gathering in the President's suite.

I applaud your strong participation – some more than others - you know who you are!

It is a great honour to continue to serve as President for 2017-2018. It is the opportune moment to focus our time and energy on completing the strategic review in time for the centennial meeting in Québec City in August 2018 – a return to the Province where the ULCC held its very first meeting in 1918.



## 2016 – 2017 Criminal Section Chair Report Laura Pitcairn, Canada

It was a privilege to Chair the Criminal Section meeting this past summer in Regina. We had a full agenda this year and some very interesting presentations in our open forum which I would like to highlight for everyone.

At this year's meeting we had an excellent turnout of 31 delegates participating in the deliberations of the Criminal Section, coming from 10 provincial, territorial and federal governments. Of note, there were 13 new delegates this year who were participating for the first

## Don't miss the 2018 Annual Meeting!

The Host Committee is pleased to invite you to the 100<sup>th</sup> Annual Meeting of the Uniform Law Conference of Canada, to be held from Sunday August 12<sup>th</sup> to Thursday August 16<sup>th</sup> in Québec City, QC. All sessions will take place at the Delta Québec, and the hotel has set aside a block of rooms at the special group rate of \$179/night. The deadline to book a room at this preferential rate is July 27, 2018. We encourage you to book early, as Québec City is very busy at that time of year. To reserve, either call 1-888-884-7777 or 1-418-647-1717, or book online at: <http://www.marriott.com/hotels/hotel-photos/yqbd-delta-hotels-quebec>. When making your reservation, please indicate that you are with the ULCC.

We are working to organize the traditional Sunday night welcome reception, the softball game and BBQ on Tuesday and the closing dinner on Wednesday night. Watch the Spring *Communiqué* for details on the centennial celebrations and other activities for the week.

Moreover, we encourage you to extend your stay with us and to bring your family. With its historic walled city, cultural events, and easy access to nature, Québec City has something to please everyone, both old and young. You can plan your stay and find tourist information at: <https://www.quebecregion.com/fr/> and <https://www.quebecregion.com/en/>

We look forward to welcome you and celebrate this 100<sup>th</sup> anniversary in your company!

result of two resolutions, including a working group on the reform of s. 490 of the Code, and a working group to examine s. 9 of the *Canada Evidence Act* for possible reform of the law of evidence relating to the ability of a party to confront and lead its own witnesses. We look forward to hearing the results of their work next year!

In addition, there were reports from four working groups presented this year, three of which were joint reports and one criminal section report. In the Criminal Section, the Working Group on Telewarrants tabled an interim report seeking to continue their study of the telewarrant regime in the Code and report to the Criminal Section in 2018. Three joint Civil and Criminal Section working groups tabled progress reports in the joint sessions on the following topics:

- Charter costs awards and civil Charter damages against the Crown;
- Criminal records checks; and
- Provincial/territorial legislation that is complementary to the criminal law.

Delegates in the Criminal Section also participated in five presentations during the course of our meetings, four of which were consultative in nature.

Of note, the inaugural Earl Fruchtmann Memorial Seminar was a presentation on “Criminal Justice System Review” by Marco Mendicino, Parliamentary Secretary to the Minister of Justice and the Attorney General of Canada. The other consultations included Marco Mendicino on “Mandatory Minimum Penalties”, and the Department of Justice on “Addressing Delays in the Criminal Justice System” and on “Lowering Blood Alcohol Concentration”. Last but certainly not least, Senator Denise Batters presented the Senate report entitled “Delaying Justice is Denying Justice: An Urgent Need to Address Lengthy Court Delays in Canada” to the Criminal Section, joined by many members of the Civil Section, at the opening of the Criminal Section meeting on the Sunday afternoon.

I would like to thank all the delegates for their commitment and hard work throughout the week and the time spent leading up to the ULCC meetings. I would also like to thank the Criminal Section Secretary, Dorette Pollard, for all her hard working keeping me in line and keeping our meetings running smoothly! I look forward to working with my successor, Samantha Hulme, in the months ahead as we prepare for the 100<sup>th</sup> anniversary meeting next summer in Québec City!

## 2016 - 2017 Civil Section Chair Report

### Sarah Dafoe, Alberta



I'm delighted to provide a report for this Fall Communique, about the work accomplished at the 2017 meetings in Regina. The Civil

Law Section welcomed presentations on a number of thought-provoking topics, and I'd like to take the opportunity to highlight some of them.

The Civil Law Section adopted the *Uniform Vital Statistics Act* in principle, subject to some modifications requested by delegates. The Act would replace the existing uniform Act, and is aimed at responding to recent legal developments such as the recent human rights decisions on transgendered persons. Another fundamental goal of this project is to encourage consistency between Canadian jurisdictions, in order to minimize challenges for vital statistics registries.

Discussions were energetic, and delegates asked the working group to consider a few matters when modifying the final Act and commentary.

For example, delegates suggested the working group clarify the legal effect of delayed registration, flag for jurisdictions the need to examine local access and privacy legislation to ensure confidentiality in certain areas, and provide more information regarding the considerations taken into account by the working group in reaching some of its policy recommendations. Further, delegates asked the working group to confirm that there are no unintended conflicts as between the provisions of this uniform Act and other uniform Acts such as the *Uniform Change of Name Act*.

The necessary revisions have since been completed by the working group and reviewed by the jurisdictional representatives. The finalized Uniform Vital Statistics Act (2017) is now adopted and recommended to jurisdictions for enactment.

The section also received reports on a number of its ongoing projects. We received an interim report regarding commercial tenancies, and are looking forward to seeing a draft *Uniform Commercial*

*Tenancies Act* at next year's conference. This year, delegates were asked to consider issues such as the statutory right of re-entry, apportionment and acceleration clauses, and what the purpose of a summary dispute resolution process should be. We also heard from the working group that is developing proposed new harmonized rules that would govern the production of electronic documents in civil and administrative proceedings, as well as from the working group that is examining how to enforce tax judgments amongst Canadian provinces and territories.

In addition, the Civil Law Section delegates received a report from the federal government on private international law initiatives, a report from the American Uniform Law Commission highlighting its work over the past year, and a proposal from representatives of the Canadian Franchising Association to undertake a review and update of the current *Uniform Franchises Act*.

New projects for future years are currently being assessed by the Civil Law Section Steering Committee, and delegates were asked whether they would support the development of projects related to the unauthorized disclosure of intimate images (revenge porn), electronic wills, and an update of the existing *Uniform Court Jurisdiction and Proceedings Transfer Act*.

It was a real pleasure serving as the Chair of the Civil Section for 2016-17, and I'm grateful to everyone who worked so hard to prepare reports and presentations, as well as to those who added such value to the work underway by way of their participation on working groups and at the meetings in Regina. I am certain that the Section will be in excellent hands for the upcoming year, under the leadership of Maria Markatos.

## ULCC Introduces 2017-2018 Executive Members

### Lee Kirkpatrick Vice-President

Lee is senior counsel with the Justice department of the Government of Yukon where she conducts and coordinates prosecutions, acts as Coroner's Counsel, and provides advice to the government on areas related to regulatory offences and criminal law. She is also the co-chair of the Sentencing Working Group of the F/P/T Coordinating Committee of Senior Officials (CCSO) Criminal. Lee has attended ULCC since the early 1990s and has participated in both the criminal and the civil sections. She is a past chair of the Criminal Section.



### Maria Markatos Chair, Civil Section

Maria is a Senior Crown Counsel with the Innovation and Legislation Division of the Ministry of Justice. She articulated with the Ministry of Justice in 2004 and was called to the Saskatchewan Bar in 2005. Prior to joining the Legislative Services Branch full time in 2010, Maria shared her time with the Civil Law Division as counsel to the Maintenance Enforcement Office. She obtained her BA from the University of Regina and her LLB from the University of Saskatchewan. Maria has been participating in ULCC activities since 2011.



### Samantha Hulme Chair, Criminal Section

Samantha Hulme is a 25 year Crown Counsel with the BC Prosecution Service, Ministry of Attorney General based in Victoria. She has a BA in History/PoliSci from Carleton in Ottawa, and her LLB from Western in London. After 20 years in the trenches in the lower mainland as a trial and Administrative Crown Counsel, Samantha has been doing FPT criminal law reform and ULCC criminal section work for the past 7 years. She has taught Criminal Procedure at the University of Victoria Faculty of Law for the past 5 years.