

COMMUNIQUÉ

Fall 2022

Report of ULCC Past President Laura Pitcairn, Canada



My term as President of the Uniform Law Conference of Canada (ULCC) formally ended at the conclusion of our 2022 annual meeting held in August in Edmonton, Alberta, and it is hard to believe it is now already a couple months after that and winter is on the horizon. My year as President went by so quickly but the memories from attending our first in-person meeting in three years will last for a long time. As President, I represented the ULCC at the American Uniform Law Commission's (ULC) annual meeting in July in Philadelphia, Pennsylvania, where I had the opportunity to observe the inner workings of their organization. I was struck by not only the size of the ULC, but also by the passion and engagement of its commissioners. It was an opportunity for both organizations to get to know each other better and for me to learn about how the ULC operates. In many ways it is very different from the ULCC and so it was a learning experience for me.

The ULCC annual meeting provides the opportunity to meet new people and connect with old acquaintances from across the country, which has been difficult to do during the pandemic when we were forced to meet on our computer screens. The week in Edmonton was a combination of both hard work and fun, as we had our daily meetings filled with rigorous debate and our evenings filled with fun social events. The opening reception was held at the lovely Westin Edmonton Hotel and the delegates benefited from hearing from some terrific speakers, including the Deputy Minister of Justice and Deputy

Solicitor General of Alberta, Frank Bosscha, K.C.; the President-Elect of the Law Society of Alberta, Bill Hendsbee, K.C.; and the President of the Alberta Branch of the Canadian Bar Association, Bianca Kratt, K.C. The annual ball game was held in a beautiful riverfront park and, despite the fact that my team (the East team) didn't win, great fun was had by all involved and the score was fairly close. Our closing banquet was held in the very beautiful Alberta Government House, where everyone was treated to a delicious dinner and an inspirational keynote address from Assistant Chief Judge Josh Hawkes, a former ULCC delegate and president. On behalf of all the participants, guests and their families, I would like to take this opportunity to acknowledge the hard work of the Alberta Host Committee, led by Sue Stushnoff, K.C., Sarah Dafoe, Matthew Hinshaw, Nadine Nesbitt, Jinky Perez, and Brittney Harding. We had an excellent week at the various social events.

As the Chairs of the Sections and some Committees will be reporting on their activities on the following pages, I thought I would focus on some of the other work that was completed during the week in Edmonton. The newly reconstituted Roles Review Committee had a very productive meeting on the Sunday before the meetings started, and in particular spent many hours discussing the roles of the ULCC Project Coordinator and the Chair of the ACPDM. The review being undertaken by this committee, which started in 2022 and will continue into 2023, is quite comprehensive and includes studying the future of the job of ULCC Project Coordinator, developing a plan for the ACPDM including reviewing the role of the Chair, reviewing the jurisdictional representative (JR) role and responsibilities, as well as expectations of the role, and ultimately drafting a new job description for the ULCC Project Coordinator position. The objective of the review

is to plan for the future operations of the ULCC and keep it sustainable in the long run, while also preparing for the eventual retirement of two long serving and irreplaceable ULCC leaders, Clark Dalton, K.C., and Peter Lown, K.C.

At this year's Earl Fruchtmann Memorial Seminar, which was a joint session of the Criminal and Civil Sections, we had the privilege of hearing from an excellent panel of guest speakers on the subject of the Alberta Courts Restorative Justice Pilot Project. Our esteemed panelists for the seminar included Mr. Justice Leonard (Tony) Mandamin (retired), IPC, of the Federal Court; Madam Justice Anna Loparco from the Alberta Court of King's Bench; and Deputy Chief Judge Joanne Durant and Judge Michelle Christopher, both of the Provincial Court of Alberta. The panel was presided over by Matthew Hinshaw, Deputy Chief Prosecutor Policy, Alberta Crown Prosecution Service. The presentation was extremely interesting as well as being so very topical and relevant, such that we ended up going over the allotted time for the seminar.

Our international guests also each gave a very interesting presentation to the Civil Section during the International Law Session. Our guests included the ULC Past President, Carl Lisman; the current Chair of the ULC Executive Committee, Tim Berg; and the President of the European Law Institute, Pascal Pichonnaz. They spoke about the work of their organizations and provided valuable feedback on current and possible collaborative projects between our organizations.

In closing, I want to reiterate my appreciation to the following individuals, whose dedication, hard work, and guidance made my presidency in 2021-2022 such a successful year: Kathleen Cunningham, Interim Executive Director; Sarah Dafoe, Vice President; Valérie Simard, Chair of the Civil Section; Kevin Westell, Chair of the Criminal Section; Dorette Pollard, Secretary of the Criminal Section; Clark Dalton, K.C., Project Coordinator; and Peter Lown, K.C., Chair of the ACPDM and International Committee. Once again, I would also like to thank the members of the Executive Committee and the Budget and Finance Committee, all JRs, and the chairs and other members of committees and working groups for their hard work throughout the year. I look forward to continuing my work on a number of ULCC committees this coming year and to seeing everyone again in 2023, this time in beautiful Charlottetown, PEI!

The ULCC 2023 Annual Meeting: Plan to be there!

Join us in beautiful Charlottetown, Prince Edward Island, for the ULCC 2023 annual meeting, to be held from August 21 to 25.

Mark your calendars! More information to come in the spring 2023 *Communiqué*.





**2021-2022
Criminal Section
Chair**

**Kevin Westell,
British Columbia**

The Criminal Section debated and voted on 21 resolutions at the annual meeting and passed all but one of them. The resolutions related to a wide variety of criminal justice issues, including “sextortion”, the theft of service animals, the tertiary ground for bail, and the treatment of data seized within the context of a criminal investigation and prosecution. The Section also received status reports from several working groups, including the working group on section 672.26 of the *Criminal Code* involving juries and the determination of fitness to stand trial, the working

group on search warrant regime under section 487 of the *Criminal Code*, and the working group on technology in the courtroom. Additionally, the working group on the detention of seized property under section 490 of the *Criminal Code* was revitalized and reconstituted, and the Section is excited that this important work will continue.

A new working group was struck to explore the treatment of animals in the *Criminal Code of Canada*, with a view to making recommendations for amendments. The Criminal Section will also be bringing the issue of the treatment of animals in the civil and criminal law context to the Advisory Committee on Program Development and Management (ACPDM) for consideration of the establishment of a joint working group.

The Criminal Section is very happy that Anny Bernier, the jurisdictional representative from Quebec, is the new section Chair.



**2021-2022 Civil Section Chair
Valérie Simard, Canada**

The Civil Section concluded its 104th annual meeting in Edmonton this August. Participation in this meeting included delegates from provincial, territorial, and federal justice departments, law reform bodies, academia, the private sector, and bar associations. We were also pleased to welcome three international guests: Mr. Tim Berg, Executive Committee Chair, American Uniform Law Commission (ULC); Mr. Carl Lisman, ULC Past President; and Dr. Pascal Pichonnaz, European Law Institute (ELI) President.

After two years of meeting virtually, delegates welcomed the opportunity for dynamic in-person discussions on ongoing Civil Section projects. The setting also gave delegates the occasion to report and exchange on the study and enactment of ULCC uniform acts by their jurisdictions and to engage with the Advisory Committee on Program Development and Management (ACPDM) on possible future projects.

The Civil Section adopted the *Uniform Gratuitous Crowdfunding Act* (UGCA) in principle, subject to minor revisions requested by the Section. The revised *Act* will be circulated to jurisdictional representatives (JRs) this fall

and, if no objections are received by November 30, 2022, it will be adopted. The UGCA is the civil law version of the *Uniform Benevolent and Community Crowdfunding Act* (UBCCA). The UBCCA was adopted by the Section in 2020 following work led by Mr. Arthur Close, Q.C. The UGCA working group honoured Mr. Close, who passed away in 2021, by dedicating its work to his memory.

The Section heard about the status of several ongoing projects on: reform of general partnership law/joint-ventures, conventions on drafting, charitable organizations, and the review of the *Uniform Enforcement of Canadian Judgments and Decrees Act*. The Section expects to receive updates on these projects at the next ULCC annual meeting in August 2023.

The Section also received Justice Canada’s annual report on private international law initiatives, a preliminary pre-implementation report on the *Convention of 2 July 2019 on the Recognition and Enforcement of Foreign Judgments in Civil or Commercial Matters*, an update from the ULC on its recent projects, and a presentation by the ELI on its work.

Finally, the Section heard a report from the Steering Committee Sub-Committee on Rules of Procedure and

Policies of the Civil Section and adopted the *Policy on Adoption and Amendment of Civil Section Rules of Procedure or Policy*. The Section expects the Subcommittee to submit further policies for its consideration at the next annual meeting.

With their several ongoing projects, the year leading up to our next annual meeting will be a busy one for Civil Section working groups and committees. I take the opportunity to note that several working groups would be pleased to welcome additional members, and a few are also seeking legislative drafters. I invite you to contact the new Civil Section Chair, Christine Badcock, should you or someone from your jurisdiction wish to contribute to our working groups.

It has been a pleasure to serve as Chair of the Civil Section since August 2020. I would like to thank the members of the Executive Committee; the JRs; Mr. Clark Dalton, K.C., Project Coordinator; Mr. Peter Lown, K.C., ACPDM Chair; and Ms. Kathleen Cunningham, immediate past Civil Section Chair and past Interim Executive Director, for their help throughout the past two years and their continued commitment to the ULCC. It is my pleasure to hand over the responsibility for the office of the Civil Section Chair to Christine Badcock, JR for Yukon.

Valérie Simard is Counsel with the Constitutional, Administrative and International Law Section of Justice Canada. She earned her civil and common law degrees at McGill University and is a member of the Law Society of Ontario. Her work at the Department of Justice focusses on the negotiation of international private law instruments and their implementation in Canada. She has led delegations to the United Nations Commission on International Trade Law and the Hague Conference on Private International Law. Valérie has been participating in Civil Section meetings and projects since 2010.

2022 Annual Meeting Materials

Visit our [2022 annual meeting web page](#) for minutes, reports, and other documents stemming from the meeting in Edmonton this past August.



President's Report

**Sarah Dafoe,
Alberta**

It is a privilege for me to take on the role of President of the Uniform Law Conference of Canada (ULCC) for 2022-2023, and I would like to introduce my Executive Committee members: Matthew Hinshaw (Alberta, Vice President), Laura Pitcairn (Canada, Immediate Past President), Anny Bernier (Quebec, Criminal Section Chair), Christine Badcock (Yukon, Civil Section Chair), Peter Lown, K.C. (Alberta, Chair of ACPDM and International Committee), Manon Dostie (Canada), Maria Markatos (Saskatchewan), Dorette Pollard (Canada), Chloé Rousselle (Canada), and Lisa Stead (Newfoundland and Labrador). I am confident that the members of this Executive Committee will be able to guide our activities through the year with wisdom and open minds.

I am also delighted that the Executive Committee and the ULCC as a whole can continue to rely on the excellent support of Executive Director Michelle Lemieux and Project Coordinator Clark Dalton, K.C.

There is a lot of work ahead of us, but the excellent work that was accomplished at our annual meeting in August has positioned us well. The week in Edmonton was characterized by thought-provoking presentations, lively debates, and passionate interventions. We welcomed attendees from across the country, as well as international guests from Vermont, Arizona, and Switzerland. Delegates, presenters, and observers to the annual meeting this year voiced appreciation for the opportunity to meet face to face, after two successive years of virtual annual meetings. The progress we made in Edmonton on multiple projects is a great example of what the ULCC can accomplish when a diverse group of people is brought together to share ideas.

As I highlighted during the annual meeting, I have two main priorities for the upcoming year: first, to have further discussions about the format of future annual meetings; and second, to continue work on the roles review project.

Under the leadership of Immediate Past President Laura Pitcairn, last year's Executive Committee and Budget and Finance Committee had numerous in-depth conversations about the pros and cons of in-person meetings, virtual meetings, and hybrid meetings. Ultimately, the cost of holding a true hybrid meeting was determined to be very high, and there were additional concerns about the impact of hybrid meetings on inclusivity. As a result, the ULCC did not offer the option of participating virtually in this year's annual meeting in Edmonton.

Plans for the 2023 annual meeting in Charlottetown, PEI, are well underway, and the plan is to once again meet in person. However, the ULCC recognizes the need to consider the format of future annual meetings. While our experience confirms that we are able to hold annual meetings virtually, it is clear that they are not a perfect substitute for in-person meetings. We need to consider the pros and cons of in-person annual meetings versus virtual or hybrid annual meetings. What, if anything, could the ULCC do to ensure the most effective use of time at our annual meetings? In order to flesh out the options and views, we held a discussion with jurisdictional representatives (JRs) at the annual meeting, and there will be another virtual meeting this winter.

My second priority relates to the roles review project. I am grateful to Immediate Past President Laura Pitcairn for agreeing to co-chair the Roles Review Committee along with Valérie Simard, immediate past Civil Section Chair. Laura has detailed the plans and goals of this committee in her report, so I won't repeat it here. There is a lot of work to do, but I am confident in the creativity and dedication of the Committee's members and look forward to receiving the Committee's report and recommendations.

I believe that the strength of the ULCC is in its people and our ability to adapt to changing circumstances. As we work together to ensure that the ULCC continues to produce valuable, timely and relevant recommendations and products, I would like to express my thanks to everyone who is involved: whether you are a JR, a delegate to the annual meeting, or a member of a committee or working group, your ongoing support of this organization is greatly appreciated.

The ULCC introduces 2022-2023 Executive members



Matthew Hinshaw, Vice-President

Matthew Hinshaw has served as an Alberta delegate to the ULCC since 2015 and has been Alberta's jurisdictional representative to the Criminal Section since 2017. He was the Chair of the Criminal Section in 2018-2019 and is currently a member of numerous ULCC committees, including the Criminal Section Steering Committee and the Roles Review Committee, and is Chair of the Diversity and Inclusion Committee. Matthew has been a prosecutor with the Alberta Crown Prosecution Service since 2003 and is a regular participant at a number of national law reform tables.



Christine Badcock, Chair, Civil Section

Christine Badcock is Regulations Officer with the Legislative Counsel Office of Yukon's Department of Justice, a position she has held for a decade. Prior to that, Christine worked in the Territorial Prosecutions section of the Litigation Group with Yukon's Department of Justice. Before moving to the Yukon, Christine was Senior Legal Officer with the Association of Professional Engineers, Scientists and Managers, in Australia. Christine is a graduate of the University of Sydney, with an Honours degree in Economics and a Diploma in Law and was called to the bar in New South Wales, Australia, in 2007. She has served as Yukon's jurisdictional representative to the ULCC since 2016.



Anny Bernier, Chair, Criminal Section

At the last ULCC annual meeting, held in August 2022, Ms. Anny Bernier agreed to serve as Chair of the Criminal Section for the coming year.

Ms. Bernier began her career in 2001 as a prosecutor with the Public Prosecution Service of Canada in Montreal. Six years later, she was promoted to the Royal Canadian Mounted Police Legal Services in Ottawa.

She served as manager of the Municipal Courts of Quebec and Lévis for more than two years and then joined the Criminal Law Policy Section at Justice Canada in Ottawa in 2011 as a legal advisor. She then took on a management position as Team Leader of Criminal Proceedings. In addition to working on various bills to amend the *Criminal Code* to improve the justice system, she played various roles on several forums and working groups involving all federal, provincial, and territorial (FPT) partners, including the Uniform Law Conference of Canada.

In 2017, she joined the Directorate of Penal and Criminal Prosecutions (DPCP) in Quebec City as a prosecutor. She quickly became the provincial Aboriginal coordinator, responsible for relations with municipal prosecutors and for FPT matters.

In November 2020, she was appointed Chief Prosecutor. Her responsibilities included various institutional mandates such as addressing the legitimate interests of victims in sexual and domestic violence cases, Aboriginal coordination, alternative measures, FPT relations, and municipal prosecutor relations. She was also responsible for relations with the Office of the Minister of Justice, management of the Communications Branch, and relations with other prosecutors and partners.

On May 18, 2022, the Council of Ministers of Quebec appointed Ms. Bernier as Deputy Director of Penal and Criminal Prosecutions.