

HISTORICAL NOTE

[1] Over ninety years ago, the Canadian Bar Association recommended that each provincial government provide for the appointment of commissioners to attend conferences organized for the purpose of promoting uniformity of legislation among the provinces.

[2] The recommendation of the Canadian Bar Association was based upon, first, the realization that it was not organized in a way that it could prepare proposals in a legislative form that would be attractive to provincial governments, and second, observation of the National Conference of Commissioners on Uniform State Laws, which had met annually in the United States since 1892 (and still does) to prepare model and uniform statutes. The subsequent adoption by many of the state legislatures of these Acts has resulted in a substantial degree of uniformity of legislation throughout the United States, particularly in the field of commercial law.

[3] The Canadian Bar Association's idea was soon implemented by most provincial governments and later by the others. The first meeting of commissioners appointed under the authority of provincial statutes, or by executive action in those provinces where no provision was made by statute, took place in Montreal on September 2nd, 1918, and there the Conference of Commissioners on Uniformity of Laws throughout Canada was organized. In the following year the Conference changed its name to the Conference of Commissioners on Uniformity of Legislation in Canada and, in 1974, to the Uniform Law Conference of Canada.

[4] Although work was done on the preparation of a constitution for the Conference in 1918-19 and in 1944 and was discussed in 1960-61, 1974 and 1990, the decision on each occasion was to carry on without the strictures and limitations that would have resulted from the adoption of a formal written constitution.

[5] Since the organizational meeting in 1918 the Conference has met, with a few exceptions, shortly before or shortly after the annual meeting of the Canadian Bar Association. The following is a list of the dates and places of the meetings of the Conference:

1918. Sept. 2-4, Montreal.	1926. Aug. 27, 28, 30, 31, Saint John.
1919. Aug. 26-29, Winnipeg.	1927. Aug. 19, 20, 22, 23, Toronto.
1920. Aug. 30, 31, Sept. 1-3, Ottawa.	1928. Aug. 23-25, 27, 28, Regina.
1921. Sept. 2, 3, 5-8, Ottawa.	1929. Aug. 30, 31, Sept. 2-4, Quebec.
1922. Aug. 11, 12, 14-16, Vancouver.	1930. Aug. 11-14, Toronto.
1923. Aug. 30, 31, Sept. 1, 3-5, Montreal.	1931. Aug. 27-29, 31, Sept. 1, Murray Bay.
1924. July 2-5, Quebec.	1932. Aug. 25-27, 29, Calgary.
1925. Aug. 21, 22, 24, 25, Winnipeg.	1933. Aug. 24-26, 28, 29, Ottawa.

UNIFORM LAW CONFERENCE OF CANADA

1934. Aug. 30, 31, Sept. 1-4, Montreal. 1972. Aug. 21-25, Lac Beauport.
1935. Aug. 22-24, 26, 27, Winnipeg. 1973. Aug. 20-24, Victoria.
1936. Aug. 13-15, 17, 18, Halifax. 1974. Aug. 19-23, Minaki.
1937. Aug. 12-14, 16, 17, Toronto. 1975. Aug. 18-22, Halifax.
1938. Aug. 11-13, 15, 16, Vancouver. 1976. Aug. 19-27, Yellowknife.
1939. Aug. 10-12, 14, 15, Quebec. 1977. Aug. 18-27, St. Andrews.
1941. Sept. 5, 6, 8-10, Toronto. 1978. Aug. 17-26, St. John's.
1942. Aug. 18-22, Windsor. 1979. Aug. 16-25, Saskatoon.
1943. Aug. 19-21, 23, 24, Winnipeg. 1980. Aug. 14-23, Charlottetown.
1944. Aug. 24-26, 28, 29, Niagara Falls. 1981. Aug. 20-29, Whitehorse.
1945. Aug. 23-25, 27, 28, Montreal. 1982. Aug. 19-28, Montebello.
1946. Aug. 22-24, 26, 27, Winnipeg. 1983. Aug. 18-27, Quebec.
1947. Aug. 28-30, Sept. 1, 2, Ottawa. 1984. Aug. 18-24, Calgary.
1948. Aug. 24-28, Montreal. 1985. Aug. 9-16, Halifax.
1949. Aug. 23-27, Calgary. 1986. Aug. 8-15, Winnipeg.
1950. Sept. 12-16, Washington, D.C. 1987. Aug. 8-14, Victoria.
1951. Sept. 4-8, Toronto. 1988. Aug. 6-12, Toronto.
1952. Aug. 26-30, Victoria. 1989. Aug. 13-18, Yellowknife.
1953. Sept. 1-5, Quebec. 1990. Aug. 12-17, Saint John.
1954. Aug. 24-28, Winnipeg. 1991. Aug. 11-16, Regina.
1955. Aug. 23-27, Ottawa. 1992. Aug. 9-14, Corner Brook.
1956. Aug. 28-Sept. 1, Montreal. 1993. Aug. 15-19, Edmonton.
1957. Aug. 27-31, Calgary. 1994. Aug. 7-11, Charlottetown.
1958. Sept. 2-6, Niagara Falls. 1995. Aug. 6-10, Quebec.
1959. Aug. 25-29, Victoria. 1996. Aug. 11-15, Ottawa.
1960. Aug. 30-Sept. 3, Quebec. 1997. Aug. 17-21, Whitehorse.
1961. Aug. 21-25, Regina. 1998. Aug. 16-20, Halifax.
1962. Aug. 20-24, Saint John. 1999. Aug. 15-19, Winnipeg.
1963. Aug. 26-29, Edmonton. 2000. Aug. 13-17, Victoria.
1964. Aug. 24-28, Montreal. 2001. Aug. 19-23, Toronto.
1965. Aug. 23-27, Niagara Falls. 2002. Aug. 18-22, Yellowknife.
1966. Aug. 22-26, Minaki. 2003. Aug. 10-14, Fredericton.
1967. Aug. 28-Sept. 1, St. John's. 2004. Aug. 22-26, Regina.
1968. Aug. 26-30, Vancouver. 2005. Aug. 21-25, St. John's.
1969. Aug. 25-29, Ottawa. 2006. Aug. 20-24, Edmonton.
1970. Aug. 24-28, Charlottetown. 2007. Sept. 9-13, Charlottetown.
1971. Aug. 23-27, Jasper. 2008. Aug. 10-14, Quebec.

[6] Because of wartime travel and hotel restrictions, the annual meeting of the Canadian Bar Association scheduled to be held in Ottawa in 1940 was cancelled, and for the same reasons no meeting of the Conference was held in that year. In 1941 both the Canadian Bar Association and the Conference held meetings, but in 1942 the Canadian Bar Association cancelled its meeting which was scheduled to be held in Windsor. The Conference, however, proceeded with its meeting. This meeting was significant in that the National Conference of Commissioners on Uniform State Laws in the United States was holding its annual meeting at the same time in Detroit, which permitted several joint sessions to be held with the members of both conferences.

[7] While the Conference is an independent organization that is directly responsible to no government or other authority, it does recognize and in fact fosters its kinship with the Canadian Bar Association. For example, one of the ways of getting a subject on the Conference's agenda is a request from the Association. Second, the Association usually sends observers to one or both of the Civil and Criminal Sections. Third, provincial branches of the Association often arrange to have their members as part of provincial or territorial delegations to the Conference. In addition, the Association is a primary target for consultation when Conference projects seek views of interested parties in developing uniform legislation.

[8] Since 1935 the Government of Canada has sent representatives annually to the meetings of the Conference. Although the Province of Quebec was represented at the organizational meeting in 1918, representation from that province was spasmodic until 1942. Since then, however, representatives of the Bar of Quebec have attended each year; from 1946 to 1990 and from 1993, one or more delegates appointed by the Government of Quebec have also been present.

[9] In 1950 the newly-formed Province of Newfoundland joined the Conference and named delegates to take part in its work.

[10] Since 1963 the meetings have been further enlarged by representatives of the Northwest Territories and the Yukon Territory. In 1999 the Conference expanded to include a representative of Nunavut, following the creation of that territory on 1 April of that year.

[11] In most provinces statutes provide for grants towards the general expenses of the Conference and the expenses of the delegates. In jurisdictions where no legislative action has been taken, representatives are appointed and expenses provided for by order of the executive. The members of the Conference do not receive remuneration for their services. Generally speaking, the appointees to the Conference come from the bench, governmental law departments, faculties of law, the practising profession and, in recent years, law reform commissions and similar bodies.

[12] The appointment of delegates by a government does not of course have any binding effect upon the government, which may or may not choose to act on any of the recommendations of the Conference.

[13] The primary object of the Conference historically, and one of its main objects still, is to promote uniformity of legislation among Canada's provinces and territories on subjects on which uniformity may be found to be possible and advantageous. At the annual meetings of the Conference consideration is given to those branches of the law in which it is desirable and practicable to secure uniformity. Between meetings, the work of the Conference is carried on by correspondence among the members of the Executive, the Jurisdictional Representatives, the Executive Director and the Projects Coordinator, and among the members of the *ad hoc* committees. Matters for the consideration of the Conference may be brought forward by the delegates from any jurisdiction or by the Canadian Bar Association.

[14] In the past, the Conference considered its chief work to be to try to achieve uniformity in subjects covered by existing legislation. The Conference has nevertheless gone beyond this aim on occasion and has prepared uniform laws on subjects not yet covered by legislation in Canada. Examples of this practice are the *Uniform Survivorship Act*, section 39 of the *Uniform Evidence Act* dealing with photographic records and section 5 of the same Act, the effect of which is to abrogate the rule in *Russell v. Russell*, the *Uniform Regulations Act*, the *Uniform Frustrated Contracts Act*, the *Uniform Proceedings Against the Crown Act*, the *Uniform International Commercial Arbitration Act*, *Uniform Human Tissue Donation Act* and the *Uniform Electronic Commerce Act*. In these instances the Conference felt it better to establish and recommend a uniform statute before any legislature dealt with the subject rather than wait until the subject had been legislated upon and then attempt the more difficult task of recommending changes to effect uniformity. More recently, the Conference has shown no preference for harmonizing existing legislation rather than developing entirely new law.

[15] Another large step in the development of the Conference's role was the establishment of a section on criminal law and procedure, following a recommendation of the Criminal Law Section of the Canadian Bar Association in 1943. It was pointed out that no body existed in Canada with the proper personnel to study and prepare in legislative form recommendations for amendments to the *Criminal Code* and relevant statutes for submission to the Minister of Justice of Canada. At the 1944 meeting of the Conference a criminal law section was constituted, to which all provinces and Canada appointed representatives. The existing body was renamed the Uniform Law Section, and was later to be renamed the Civil Section.

[16] In 1950, the Canadian Bar Association held a joint annual meeting with the American Bar Association in Washington, D.C. The Conference also met in Washington, giving the members a second opportunity of observing the proceedings of the National Conference of Commissioners on Uniform State Laws, which was meeting in Washington at the time. It also gave the Americans an opportunity to attend sessions of the Canadian Conference.

[17] The interest of the Canadians in the work of the Americans and *vice versa* has since been manifested on several occasions, notably in 1965 when the president of the Canadian Conference attended the annual meeting of the United States Conference, in 1975 when the Americans held their annual meeting in Quebec, and in subsequent years when the presidents of the two Conferences or other representatives have exchanged visits to their respective annual meetings.

[18] The most concrete example of sustained collaboration between the American and Canadian conferences is the *Transboundary Pollution Reciprocal Access Act*. This Act was drafted by a joint American-Canadian Committee and recommended by both Conferences in 1982. It is now in force in several provinces and states. That was the first time that the two groups joined in this sort of bilateral lawmaking.

[19] An event of singular importance in the life of this Conference occurred in 1968. In that year Canada became a member of The Hague Conference on Private International Law, whose purpose is to work for the unification of private international law, notably in the fields of commercial law and family law. It is particularly known for its work in determining the law applicable to international cases, what lawyers call the conflicts of laws. In short, The Hague Conference has the same general objectives at the international level as this Conference has within Canada.

[20] The Government of Canada honoured this Conference by asking it to propose one of its members for the Canadian delegation to the 1968 meeting at The Hague. This pattern was followed for the 1972 and several subsequent meetings of The Hague Conference. Since 1968 the Conference has adopted several uniform statutes to facilitate the implementation of Hague conventions in Canada, as well as other important conventions.

[21] The Drafting Section of the Conference was organized in 1968 (as the Legislative Drafting Workshop). The section concerns itself with matters of general interest in the field of parliamentary draftsmanship. For example, it has prepared Uniform Drafting Conventions to harmonize drafting across the country. The section also deals with drafting matters that are referred to it by the Civil Section or by the Criminal Section.

[22] One of the handicaps under which the Conference has laboured since its inception has been the lack of funds for legal research, the delegates often being too busy with their regular work to undertake research in depth. The government of Canada has provided most welcome grants in 1974 and succeeding years, yet it remains a challenge for the Conference to fund its research activities.

[23] At the 1978 annual meeting the Canadian Intergovernmental Conference Secretariat brought in from Ottawa its first team of interpreters, translators and other specialists and provided its complete line of services, including instantaneous French to English and English to French interpretation, at every sectional and plenary session throughout the sittings of the Conference. These services, with the exception of interpreters for the annual conference, were discontinued in 1995 and the Conference assumed responsibility for producing its work in two languages.

[24] For several years the Conference has made progress towards adopting all its uniform acts in both official languages. In principle this has been done for all uniform statutes since 1990. The Uniform Drafting Conventions are bilingual.

[25] In 1989 a report entitled “Renewing Consensus for Harmonization of Laws in Canada” was prepared by the Executive. After modifications had been made to reflect written and oral submissions from across the country, the report was adopted at the annual meeting in Saint John in 1990. The operation of the sections and the composition of the Executive were clarified and made more sensitive to the demands of the constituent jurisdictions.

[26] After the 1992 meeting Melbourne Hoyt, Q.C., retired after many years of valuable service as Executive Secretary. He was replaced by Claudette Racette, who assumed the new title of Executive Director. The administration of the Conference, still conducted on a part-time basis, was moved to Ottawa when the change was made.

[27] In 1995 the Conference adopted a new name in French, *la Conférence pour l’harmonisation des lois au Canada*, to reflect more accurately the nature of the process of harmonization in a country with two legal systems. In 1996 the sections became the Civil Section, the Criminal Section and the Drafting Section.

[28] In late 1995 the Conference established its site on the World Wide Web, thanks to the Alberta Law Reform Institute. It published many of its documents on that site, for consultation, for permanent record, and as overflow from the printed proceedings.

[29] In 2001 steps were taken to create a new Conference website independent of the Alberta Law Reform Institute. This was made possible through a grant from the Federal Department of Justice. The website is bilingual and can be accessed through any one of four domain names:

www.ulcc.ca

www.uniformlaw.ca

www.chlc.ca

www.harmonisationlois.ca

The new website provides access not only to the substantive work of the Conference but also to an array of institutional and contact information.

[30] In 1998 the Conference adopted its Commercial Law Strategy, a project to modernize and harmonize key elements of commercial law in Canada. The Commercial Law Strategy was subsequently adopted by Deputy Ministers of Justice and was approved by all Ministers of Justice in December 1999 with a commitment to provide funding to permit it to move forward. In May 2000 Hélène Yaremko-Jarvis assumed the newly-created position of National Coordinator of the Strategy. Tony Hoffman succeeded her in 2003. The Strategy was established as a special project

under the auspices of the Conference, with a steering committee that included both delegates to the Conference and non-delegates. The Strategy was restructured in 2005, when the substantial financial support that the federal government had initially provided was renewed at a lower level. The Strategy continued as a discrete project within the Civil Section, with Clark Dalton assuming the part-time role of Project Coordinator.

[31] Phase I of the Strategy was devoted to building alliances and garnering stakeholder support. Phase II, completed in March 2005, saw the preparation of modernized draft Uniform Acts and other policy guidelines that form the essential building blocks of the infrastructure Canadian businesses need to keep competitive. Phase III of the Strategy will be devoted to completing the work of Phase II and working with constituent jurisdictions to implement the draft legislation and policies.

[32] In 2007, it was decided that the Commercial Law Strategy would be rolled in as part of the Civil Section. In November 2007, the Commercial Law Supervisory Committee reviewed the progress of the Strategy since 1999, and the members felt that the key elements at that time were product development, evergreening existing Uniform Acts and responding to issues as they arose. Phase III of the Strategy would then become part of this process. Also with the Strategy now part of the Civil Section, it was recognized that some reorganization of responsibilities was needed. The members agreed that the Chair of the Civil Section should focus on the current research projects and the annual Conference and that the Advisory Committee should focus on funding and medium and long term planning in both commercial and non-commercial projects.

[33] The Executive Committee subsequently resolved that the Steering Committee formed to oversee the Commercial Law Strategy continue for the purposes of preparing and managing medium and long term plans for the Civil Section; that the name of the Committee be the Advisory Committee on Program Development and Management, reporting to the Chair of the Civil section; and with membership appointed by the Executive Committee with a view to ensuring the continuity and expertise of the Committee. The Project Coordinator for the Strategy then became coordinator for the newly formed Committee.

[34] A new chapter in the Conference's international relationships began in 2004. The newly created Mexican Uniform Law Centre initiated contact with both the Conference and the National Conference of Commissioners of Uniform State Laws. Representatives of each of the three organizations attended the annual meetings of the others, so our Conference welcomed a delegate from Mexico for the first time.

[35] The same year, the Conference declined NCCUSL's invitation to seek NGO status jointly with them at UNCITRAL. Though the Conference was honoured by the offer, it considered that seeking the status of an NGO at an international organization would be too great a step beyond its primary mandate of making legislative recommendations to the federal, provincial and territorial governments in Canada.

[36] In 2005 the Conference began a more formal process of co-operation with the American and Mexican Conferences with a view to developing some Acts that could be harmonized across North America. Much of this work will centre on initiatives involving the commercial legal infrastructure. The conference received reports on two co-operative projects in 2006 and two further projects reports were expected in 2007. At the 2007 annual meeting, representatives of the Standing Committee of Attorneys General of Australia and New Zealand also attended for the first time.