

# UNIFORM LAW CONFERENCE OF CANADA

QUEBEC CITY,  
AUGUST 10-14, 2008

## CLOSING PLENARY SESSION

### MINUTES

#### Opening of Meeting

The President, Kathryn Sabo, called the meeting to order.

#### Report from the Criminal Section

The Chair, Nancy Irving reported that this year the Criminal dealt with 37 resolutions relating to a wide variety of amendments aimed at improving the criminal law. Approximately 25 resolutions were carried either as submitted or as amended following discussion, 7 were withdrawn after discussion or due to the passage of similar Resolutions and five resolutions were defeated.

One of the resolutions called for the creation of a new working group of the Criminal Section to study *Pre-sentencing Custody* and its impact on certain sentencing measures including probation orders, conditional sentences, delay of parole and long term offenders.

Another resolution that received overwhelming support was a recommendation to create a joint working group with the Civil Section to examine the issue of *Mailing Provincial Offence Notices to Effect Service of Accused Persons in Other Jurisdictions* with a view to developing a consistent statutory approach for consideration by all other jurisdictions.

The Criminal Section also studied two working group documents. The first on *Fine in Lieu of Forfeiture for Money Spent on Legal Fees*. The second relates to *Criminal Interest Rates*. The Section recommended that the Department of Justice in consultation with the provinces and territories proceed immediately with a review of s. 347 of the Criminal Code with a view to reform and present the results of its review on an expeditious basis.

She was pleased to announce that the Chair of the Criminal Section for 2008-2009 is Marvin Bloos, Q.C. from Alberta and that the Nominated Chair for 2009-2010 is Luc Labonté from New Brunswick.

She thanked Quebec on behalf of all of the Commissioners in the Criminal Section for its hospitality and the organization of what has been a truly exceptional conference this year.

In this Olympic year she thought this was a gold medal performance by Quebec with Sabin Ouellet as the Michael Phelps of the games.

### **Report from the Civil Section**

The Chair, Darcy McGovern, reported that the Civil Section had just completed another week of hard work. They were lucky to have participation from the provincial, territorial and federal justice departments, law reform bodies and members of the practising bar and academia join their group. They were also privileged to be joined by guests from the United States, Mexico and Australia.

The Civil Section adopted two new Uniform Acts. The first, the *Unincorporated Not for Profit Associations Act* capped several years of work in cooperation with our American and Mexican counterparts. The second is the *Uniform Income Trusts Act and Commentaries*, an ambitious project respecting forms of business associations that was most ably led by Wayne Gray of Ontario. The Section also considered the *United Nations Convention on Independent Guarantees and Stand-by Letters of Credit* which will be considered again at next year's annual conference following the finalization of this Uniform Act.

Work will continue on a number of excellent projects including the *Implementation of the Convention on the Choice of Court Agreements*, the review of the *Interest Act*, issues relating to *Fraudulent Conveyances and Preferences*, *Personal Property Security* issues, *Assisted Human Reproduction*, the development of the *Uniform Trusts Act*, *Anti-SLAPP Legislation* and *Conflict of Law Rules Regarding Wills and Successions*.

The joint session projects will also be continuing namely the *Collateral Use of Crown Brief Disclosure*, *Identity Theft* and *Malicious Prosecutions* and this may be expanded to pick up the *Provincial Offences Project* that Nancy Irving mentioned, depending upon the decision of the Steering Committee.

He thanked Nancy Irving and Stéphanie O'Connor for their work in facilitating the joint projects saying that he thinks that this has been enjoyable work for all of them and very fruitful work for the ULCC as a whole.

Based on the discussion of potential new projects which was lively and wide ranging, he believes that we can look forward to a busy and interesting up-coming year.

He was pleased to announce that the new Chair of the Civil Section will be Elizabeth Strange of New Brunswick and that the Nominating Committee had chosen Nolan Steed, Q.C. from Alberta to be the Nominated Chair for 2009-2010.

He thanked all of the Commissioners in the Civil Section for their good will and hard work and for making considerable progress on this wide variety of topics. He commented that we consistently challenge this group to be expert on an ever wider array of topics and they continue to meet this challenge admirably.

Once again he expressed his appreciation to our super hosts, our Olympic host, Sabin Ouellet, Guylaine Pelletier, Daniel Grégoire and all of the members of the Organizing Committee for their hard work in preparing for this fantastic annual conference.

### **Report from the Nominating Committee**

Before submitting the report of the Nominating Committee John Twohig wanted to acknowledge and thank all of the members of the ULCC for allowing him to serve on the Executive Committee. This marked the end of a five year tenure working his way through as Chair of the Civil Section up to President and Past President. In particular he wanted to thank Susan Amrud who many years ago headed a Nominating Committee that made him Vice-Chair of the Civil Section and later Greg Steele who headed a Nominating Committee that asked him to be Vice-President of the ULCC. He stated that this had been a wonderful experience. He echoed what Darcy McGovern said in the Civil Section that having been given an opportunity of being on a working group and to serve on the Executive Committee he wouldn't hesitate to recommend it to anyone. It is a fantastic experience. In his particular situation he had the unprecedented opportunity to travel to the United States three times: To Pittsburgh, to Hilton Head and to Pasadena, California to attend the Uniform Law Commission conferences. In addition he had the unique opportunity to welcome for the first time representatives from SCAG when they attended our conference last year.

As to the business of the Nominating Committee he was fortunate this year to have a power packed committee of Past Presidents. The Nominating Committee composed of Peter Lown, Arthur Close, Greg Steele, Earl Fruchtmann, John Gregory and Kathryn Sabo considered the issue of Presidency and Vice Presidency of the ULCC. The Committee was unanimous in its conclusions and was very enthusiastic about the choices it wished to put before the delegates.

For the Presidency the Committee had no hesitation in putting forward the name of W. Dean Sinclair whose deep knowledge of the criminal law and his dedication to the ULCC is well known.

For the Vice Presidency, the Committee endorsed the name of Russell Getz of British Columbia.

The Nominating Committee's recommendation was adopted unanimously.

The Chair welcomed W. Dean Sinclair as the new President and congratulated Russell Getz on his appointment as Vice President.

### **Comments from the Outgoing President**

Kathryn Sabo commented that most of her comments would be to thank those who have helped her throughout the year and since she had done this in her President's report on

Sunday she decided not to repeat the comments. She wanted however to thank all of the Commissioners in the Civil and Criminal Sections. They have worked very hard this week and the ULCC is the beneficiary of all that work. She thanked Nancy Irving and Darcy McGovern who have managed their work so well, not only of their respective sections during the week, but also the joint sessions. Once again she thanked the members of the Executive Committee for their work during the year as well as during the annual conference.

She commented that, as John Twohig said, this was his last year on the Executive Committee. The ULCC has benefited greatly from his work, his efforts and his assistance, from his ideas and so much more over the last five years. The only thing that can console us is that John will continue to participate in the ULCC, we can have access to him and we can pick his brain when we need to. We are very grateful for all that John has done over the past five years.

She thanked all of the invited speakers for their presentations and for their participation in the work of the ULCC. She also thanked those who were not present at our meetings but who were researchers, participants in Working Groups, the drafters, and the many that we do not see at our annual conferences but who make our work possible.

On behalf of all of the participants she expressed deep appreciation to the Organizing Committee and others who assisted everyone during the week and this she presented as a resolution to the Conference.

**RESOLVED** that the ULCC express its appreciation by way of letters from the Executive Director to:

The Province of Quebec represented by M. Jacques Dupuis, Minister of Justice and Attorney General, M. Michel Bouchard, Deputy Minister of Justice and Deputy Attorney General and M. Louis Dionne, Director of Criminal and Penal Prosecutions.

The judges of the Quebec Court represented by the Honourable Chief Judge Guy Gagnon, who hosted the welcoming reception that was very well received by the delegates.

The Barreau du Quebec for its financial contribution towards the organization of the annual conference.

The Organizing Committee, M. Sabin Ouellet, M. Daniel Grégoire, Mme. Francine Lachance, Mme Guylaine Pelletier, and Mme Anna Jenson.

The secretariat personnel, Mme Lise Pleau and Mme Anna Jenson who provided excellent services during the conference. A round of applause followed.

The umpire of the softball game, the Hon. Judge Jean-François Dionne.

The staff at the Chateau Laurier Hotel for the exceptional service throughout the week. The interpreters, M. Louis Casgrain, J. John Duff, Mme Caroline Schutze, Mme Dorothy Charbonneau, Mme Renée Cosgrove and M. Marc Morisset and the technicians in both meeting rooms.

And last, but not least, someone who has been of incredible support to her during the year and who helps this meeting run very well and without whose presence and efforts we would never be able to accomplish what we do, Mme Claudette Racette. On behalf of the ULCC, the Chair presented a beautiful floral arrangement to Claudette Racette. A round of applause followed.

The Resolution was approved by W. Dean Sinclair, and seconded by John Gregory. The Resolution was passed.

In closing, she again thanked our Quebec hosts and stated that this year had been a great honour for her personally as well as a pleasure. She had the opportunity of working with some wonderful people and as Immediate Past President she looks forward to working with the new members of the Executive Committee. She looks forward to welcoming the delegates to next year's annual conference in Ottawa.

### **Comments from the Incoming President**

W. Dean Sinclair stated that he is honoured to have been elected the President of the Uniform Law Conference of Canada. He has been coming to the annual conferences for 10 or 11 years. He has always loved the meetings of the ULCC. He agreed with Nancy Irving's comments about the hard work the Criminal Section delegates put in at the annual conference and throughout the year producing something of value for all of Canada. He stated this is also true of the work done by the Civil Section. He can't begin to express his gratitude for the confidence in having him represent the Uniform Law Conference of Canada.

At the same time he is a little terrified at the prospect of being the President of the ULCC because his knowledge of the laws considered by the Civil Section is limited. He expects that it will be a relatively steep learning curve for him in the course of the next 12 months. He wants to become familiar with what the Civil Section is working on even if he may not understand the technical aspects of the laws that they are discussing. With that in mind, he looks forward to meeting and talking with many of the people in the Civil Section over the next 12 months.

He again thanked the delegates for the honour of being President of the ULCC. He will do everything in his power to make sure that that trust is rewarded. He will work hard for the benefit of the ULCC.

He did not wish to repeat the many thanks that have gone to the Quebec Organizing Committee. They are his as well. He did want to thank Kathryn Sabo for her leadership as President of the ULCC in 2007-2008. She has done a remarkable job as President. Her

hard work has made this conference another resounding success. A round of applause followed.

### **Report from the Host Jurisdiction for the 2009 Annual Conference**

Catherine Kane stated that the Department of Justice of Canada will be very pleased to host the 2009 annual conference in Ottawa, at the Westin Hotel. The Westin Hotel is located in down town, next to the canal, the Byward Market, Parliament Hill and various other locations that delegates may want to see while in Ottawa.

This week while enjoying the hospitality of Quebec, members of the Organizing Committee had been thinking “what will we do to match this”. Quebec has certainly inspired them to do their very best to make sure that everyone enjoys Ottawa. Ottawa is a lovely city in the summer. It is not just Ottawa but the whole National Capital Region. There is lots to see and do and Justice Canada will be pleased to host the welcoming reception, the baseball game and the banquet.

The Organizing Committee will shortly be sending around the reservation form for hotel accommodations so that you can book your rooms early.

The Committee is looking forward to seeing everyone in Ottawa next year and to coming close to the fantastic week we have had in Quebec City this week.

### **Report from the Host Jurisdiction for the 2010 Annual Conference**

Kathryn Pentz commented that Nova Scotia is very pleased to be hosting the 2010 annual conference. It will be held in the capital city of Halifax. The date is to be confirmed. They are looking at different hotels. Some very historical hotels in Halifax have recently been renovated. They believe that the hotel accommodations will be to everyone’s satisfaction. There are plenty of baseball fields where the defeat of the West can be staged. The Committee is hoping to have the closing banquet at Pier 21 which is actually the Canadian equivalent of Ellis Island.

She referred to the pamphlets on Nova Scotia that was circulated to the delegates. They realize that this is a bit early to plan 2010 vacations but she urged everyone to look on the Website that they provided. Nova Scotia is a wonderful province to visit. There is something for everyone and no trip to Nova Scotia is complete without a trip to Cape Breton Island. This year Cape Breton Island won an award from a New York magazine as the number one Island in North America. It has also ranked 2<sup>nd</sup> in the world with the National Geographic reader survey. They would certainly love delegates to visit their Island. The French delegates may be interested to know that the fortress at Louisburg is still under French rule and they will be greeted as such if they do go there.

They are looking forward to seeing everyone in 2010.

The Chair thanked Kathryn and the Province of Nova Scotia for starting to plan for hosting the 2010 annual conference. He reminded everyone that Nova Scotia was not scheduled to host the annual conference until 2011. The ULCC very much appreciates Nova Scotia's willingness to host the annual conference one year earlier.

## **Other Business**

### **a. Acknowledgements**

Sabin Ouellet expressed his gratitude for the enthusiasm and energy that the delegates gave them. He stated that he had an extraordinary group of people working with him in the planning process. All of this would not have been possible without the generous contributions received from the Executive Committee. He thanked Claudette Racette for the work she did with them throughout the year. He also thanked Kathryn Sabo for the links that she created between them and the Executive Committee. He wanted to tell the two Section Chairs that their effort to speak in French in their presentations was much appreciated. He thanked Darcy McGovern for his opening remarks in French saying that the Quebec delegation is always sensitive to the efforts that people make to address the delegates in French. These efforts were much appreciated by the entire Quebec delegation.

In closing, he stated that it was an honour to have the delegates in Quebec City. He is thrilled with the way things evolved during the week.

Amanda Davies stated that she would not let the conference end without passing her personal thanks and the thanks of the Standing Committee of Attorneys General for the invitation to attend and more particularly for the extraordinarily generous way in which she had been welcomed and the generosity with which everyone shared their knowledge and expertise. She knows that she was also speaking for the Standing Committee in saying that they really do see the relationship with the ULCC as something that is a source of very valuable information and hopefully for the future very valuable opportunities to work cooperatively on projects.

The Chair stated that it had been a pleasure to have Amanda Davies as our guest all week.

## **Adjournment**

There being no further business, the Chair declared the meeting adjourned.