

**Uniform Law Conference of Canada  
Minutes of the Opening Plenary Session  
Held in Whitehorse, YT  
On Sunday August 12, 2012 at 1:30pm**

**Opening Remarks**

The meeting was called to order at 1:45pm on Sunday August 12, 2012 at the Kwanlin Dün Cultural Centre in Whitehorse, YT with President Darcy McGovern as Chair and Marie Bordeleau as Secretary. The President welcomed the delegates and guests to the 94<sup>th</sup> Annual Meeting of the Uniform Law Conference of Canada, particularly those attending for the first time.

**Introduction of the Executive Committee**

ULCC President Darcy McGovern introduced himself and the members of the Executive Committee: Michel Breton, Immediate Past President; Nancy Irving, Vice-President; Anouk Desaulniers, Chair of the Criminal Section; Gail Mildren, Chair of the Civil Section; Executive Director, Marie Bordeleau. D McGovern also introduced the Chair of the International Committee and Advisory Committee on Program Development & Management, Peter Lown, QC, and our Program Director, Clark Dalton, QC as well as the Criminal Section Secretary, Joanne Dompierre.

**Introduction of Commissioners**

The Senior Commissioner from each jurisdiction introduced the members of his or her respective delegation.

D McGovern noted that we are joined by Dr Jorge Sánchez Cordero Dávila, President of the Mexican Centre of Uniform Law, Michael Houghton, President of the Uniform Law Commission of the United States, Harriet Lansing, Chair of the Executive Committee of the ULC and Robert Stein, Past President of the Uniform Law Commission of the United States. D McGovern said that he looks forward to their participation in our deliberations, and invited all delegates to get to know our foreign delegates better.

**Welcome from Host Government**

Lee Kirkpatrick welcomed the delegates to Whitehorse on behalf of the Government of the Yukon, noting that the beautiful building we will occupy all week for our meetings is a brand new facility, and gave an overview of the coming social events throughout the week. The welcome reception will be held at the McBride Museum a few blocks from the KDCC. Buses will pick delegates up from the conference hotels. A river cruise has been organized for Monday night; delegates who wish to sign up may do so at the Secretariat. Space is limited aboard the MV Schwatka and early reservations are recommended. The annual softball game will be held at the new Pepsi Softball Complex, followed by a BBQ at the Shipyards Park near the KDCC. Again, transportation will be offered from each of the Conference hotels. The Wednesday night banquet will be held in the Longhouse Room of the KDCC. In lieu of a speaker, L Kirkpatrick noted that the Carcross-Tagish Dancers will perform for us.

## President's Report

Bonjour et bienvenue à notre réunion annuelle de 2012. It has been an honour and a privilege to serve as President of the Uniform Law Conference of Canada this past year.

I have had the pleasure of working closely with members of the Executive Committee, the Steering Committee of the jurisdictional representatives and the Advisory Committee on Program Development and Management. While I have always been impressed by the levels of commitment and the willingness of Commissioners to undertake complex projects, as President I have truly come to appreciate all that is done and all that has to be done to ensure the continuing success of the Conference.

I would start by reminding delegates to this annual meeting that this organization has met annually since 1918 for the purpose of promoting uniformity of legislation amongst the provinces and territories and to provide recommendations for amendments to the *Criminal Code* and relevant statutes by the Federal government. This original mandate continues to be the central purpose for this Conference and I commend all delegates for their commitment to this ongoing purpose.

Over the course of the last year, members of the Executive have worked to keep you and other interested persons throughout Canada and around the world informed about the ongoing activities of our Conference. The Conference distributed *Communiqués* in the fall and in spring to update interested parties on the current activities of the Conference. The Conference also continues its practice of mailing out updates to the commercial law strategy binder to ensure that changes in this field were brought to the immediate attention of interested parties. These binders have been a tremendous resource in the promotion of the commercial products of our conference and continue to be highly subscribed in Canada and beyond.

Obviously, just doing good work is not enough. We must continue get the products of our work before the Canadian legal community in order to garner support for uniform bills and the amendments that our criminal and civil sections promote. Key to this effort are the publication of our annual Proceedings as well as the website – both of which have been undergoing improvements under the leadership of Ian Rennie, Clark Dalton and Dean Sinclair as Chair of the Publications Committee.

As in most years in our almost 95-year history, the Conference also had significant challenges to meet. Holding a conference in the Yukon, while exciting, also represents a financial challenge particularly with respect to interpretation costs. Accordingly, we have made special efforts to meet this challenge. I note with regret that Newfoundland is not represented to the degree that it has been in the past, nor is Prince Edward Island. I note with pleasure, however, that British Columbia and Nova Scotia have returned to the fold on both the criminal and civil sides and that we are well represented by the Territories. In difficult times it will continue to be a challenge to maintain support from the provincial jurisdictions both in terms of financial support and attendance at the conference itself.

On that very important note, I want to express my thanks to the Federal, Provincial and Territorial governments for their continued financial support and the services they provide in addition to the people support that they provide. I would particularly like to acknowledge the continuation of the annual grant from the federal Government – this is critical funding that we will seek to ensure is a good investment in the Canadian legal system.

In terms of our ongoing financial challenges, it is remarkable that the ULCC can achieve so much with so little in terms of human and financial resources. Without the tremendous level of support from volunteers who contribute both time and expertise there is no way that the ULCC could have survived for almost a century. It is critical that all governments be assisted in appreciating that every jurisdiction in Canada benefits from the work of the Conference but that this can only continue to the extent that all jurisdictions continue to support its work, not only financially, but by active participation. We will need to work hard to continue to secure sufficient funding and contributions in kind to maintain and hopefully increase the excellent work of the ULCC that we have been able to do over the past number of years.

I am very happy to see that more relatively new people are getting involved in the work of the Uniform Law Conference of Canada. The strength of the ULCC lies in the commitment and enthusiasm all of us bring to the table, so it's wonderful to see the pool of talent expanding. You will have received the excellent Orientation Document prepared by our BC Commissioners. I thank Lisa Peters and Jim Emmerton in particular for their work in this regard and I commend it to you for study. I also encourage you to develop mentors in this room – distinguished past presidents like Greg Steele from BC were invaluable mentors and friends to me in learning how to work effectively within the Conference and I thank them for that.

Of course, the most tangible way to demonstrate our value is through implementation of the uniform Acts and amendments to the *Criminal Code* that are recommended by our criminal and civil sections. I have been pleased to note that this has been an active year for implementation at the provincial level as well as particularly active at the federal level with respect to the *Criminal Code*. The products of this Conference continue to receive active consideration and positive judicial notice by our judiciary and, in my experience, to be well received at the legislative level when bills are introduced. It is a great benefit to those of us who present legislative lists to the politicians for consideration to be able to indicate that the Uniform Law Conference of Canada has recommended a particular product. It depoliticizes the bill and indicates that it has already received a high level of scrutiny and expertise in a way that has earned respect both from the governing and opposition parties.

It has been an active year, as well, for the ACPDM. Peter Lown has shown tremendous leadership in continuing to ensure that the ULCC project list is both relevant and evergreen. The Conference has a strong list of proposed amendments and uniform bills and it now falls to the delegates and particularly to the JRs to promote implementation in their own jurisdictions. I will be re-visiting this issue with the JRs at our meeting later in the week.

I would also like to note the ongoing dialogue and cooperation which we have enjoyed with our international friends. The US Uniform Law Commission and the Mexican Uniform Law Center continue to enrich our process. Peter Lown and I had the pleasure of attending the annual meeting of the US Uniform Law Commission a few weeks ago. We were very warmly received in Tennessee and Peter and I had the opportunity to observe the US Commission and participate in certain of its meetings with our US and Mexican colleagues. We were able to have very productive discussions about the lessons learned from joint work previously done and to exchange preliminary ideas for future joint projects.

Indeed, our relationship with the American Commission and its commissioners has never been better. By ensuring that our communications are initiated at early and ongoing stages, we are able to make more nuanced and informed decisions about which joint projects should proceed and how they should be pursued. In addition to the potential for joint projects, it is also without question a fertile field for

sharing ideas. I would invite all delegates to provide a warm welcome to our foreign delegates and take the opportunity to learn from their vast experience in their own jurisdictions.

You will recall from my initial comments at the end of our session in Winnipeg that I stated that I intended to take a team approach to serving as your President. This has indeed been the case. I have enjoyed serving as your President this year because of the help and assistance of all the team members that make up the Uniform Law Conference. The Executive Committee, with Past President Michel Breton and our Vice-President Nancy Irving, provided excellent support. I would like to particularly thank Nancy Irving for her representations to her criminal colleagues to promote ongoing participation in our Conference and for stepping in to assist with a variety of issues either in my absence or in collaboration with me. I would also like to thank Gail Mildren and Anouk Desaulniers, the current Chairs of the civil and criminal sections for the enormous amount of work they have done in organizing this year's annual meeting. I have already mentioned the invaluable service that Peter Lown provides with the ACPDM and also in his role as Chair of our International Committee. I would also like to thank Jake Harms for reenergizing the leadership of our drafting section. We also owe a huge debt of gratitude to Ian Rennie for managing the publication of our Proceedings, and to the Publication Committee for its work on the website.

Our working groups, the chairs of those groups and the JRs remain the backbone of this organization – without their work we don't have a Conference and I thank you all for your efforts throughout the year. I would also gratefully acknowledge the ongoing support of the Saskatchewan team including the Office of the Queen's Printer in Saskatchewan.

Clark Dalton, Project Coordinator for the Civil Section continues to deserve our thanks for providing invaluable leadership in the operations of the working groups and ensuring that they deliver the goods. If we did not have Clark, his legal expertise and his corporate memory, we would certainly have to invent a few people to replace him. On the criminal side, the Criminal Section Secretary, Joanne Dompierre, works throughout the year to set the table for the criminal section this week – merci beaucoup.

I would of course like to thank Marie Bordeleau for her efforts as the Executive Director for our Conference. Marie has worked diligently to promote the interests of the Uniform Law Conference of Canada and we all benefit from her enthusiasm and energy in this regard. I would also like to thank the Yukon Commissioners and their organizing committee for their hard work in organizing what I am sure will be a terrific Conference.

Finally, I would like to acknowledge specifically our loss, to the Judiciary, of Catherine Kane, long-time senior delegate for the Federal Commissioners. Her professionalism and diligence in promoting the good work of the ULCC at the Federal level has resulted in an enviable legacy of positive changes to the criminal law in Canada, and her contributions will be sorely missed by the Conference as a whole.

**MOVED** by Darcy McGovern, seconded by Michel Breton, THAT the Uniform Law Conference of Canada thank Catherine Kane for her long and distinguished service to this Conference. Motion carried.

D McGovern asked the Federal Commissioners to convey the ULCC's gratitude to Ms Kane.

## **Financial Resolutions**

### **a. Approval of Audited Statements**

**MOVED** by Nancy Irving, seconded by Lynn Romeo, **THAT** the Audited Statements for the fiscal period ending March 31, 2012 be approved as presented. Motion carried.

### **b. Approval of the Auditors**

**MOVED** by Gail Mildren, seconded by Kathryn Sabo, **THAT** the firm Stephen H. Saslove, be appointed as Auditors for the Uniform Law Conference of Canada for the fiscal period from April 1, 2012 to March 31, 2013. Motion carried.

### **c. Banking Resolution**

**MOVED** by Michel Breton, seconded by Kathryn Sabo, **THAT** for amounts over \$5,000, two members of the Executive Committee or a member of the Executive Committee and the Executive Director be given signing authority as officers for all banking matters of the ULCC, **AND THAT** for amounts up to \$5,000 and for the purpose of purchasing GICs and term deposits, and for the purpose of transferring funds from the research account to the general account and vice versa, the signature of the Executive Director alone will suffice. Motion carried.

### **d. Approval of the Budget for the Fiscal Period 2012-2013**

**MOVED** by Anouk Desaulniers, seconded by Josh Hawkes, **THAT** the budget for the fiscal period 2012-2013 be approved, subject to modification if necessary following the meeting of the Executive Committee in November 2012. Motion carried.

D McGovern thanked the Executive for their work with regard to the financial matters of the Uniform Law Conference of Canada.

## **Confirmation of the Nominating Committee**

D McGovern noted that the Immediate Past President chairs the Nominating Committee for the purpose of nominating the next President and Vice-President, and asked M Breton to constitute a committee of past presidents of the ULCC and long-term delegates to the Conference and report on their discussions at the Closing Session. M Breton noted that over the course of the week he will seek the opinion of long term delegates, past presidents, and wise members of the conference such as D McGovern, Dean Sinclair, Russell Getz, Gregory Steele, Earl Fruchtmann and Peter Lown.

## **Outline of the Business of the Week**

### **a. Criminal Section**

Anouk Desaulniers noted that she is happy to report that the Criminal Section this year will bring together delegates from 11 jurisdictions and that we are very happy to welcome back representatives from BC, who were so sorely missed last year. We are also thrilled to have a representative from Nunavut. Although they regularly send a representative on the civil side, as it's been a number of years

since Nunavut has sent a representative to the Criminal Section – the last time was 2003, so we are thrilled to have them back with us this year. This is not to say that the other delegations aren't appreciated and taken for granted. We are so grateful for the support of all the jurisdictions, for their sustained participation in the ULCC.

The Criminal Section this year will be comprised of 28 delegates from federal, provincial and territorial departments of Justice or prosecution services, as well as the defence bar and the bench.

The agenda is interesting and engaging; the criminal session will begin with a report from the senior federal delegate, Lucie Angers, with respect to recent legislative initiatives from the federal government and outline briefly some of the follow-up that has been done with respect to past resolutions.

Nous discuterons également de vingt-quatre résolutions préparées par les délégations. Ces résolutions proposent des modifications au Code Criminel, principalement, mais également à la loi sur la preuve, à la loi sur le système de justice pénale pour les adolescents, à la loi sur les drogues et autres substances. Nous recevrons les rapports de trois groupes de travail créés par la Section en 2011, à savoir les Groupes de travail sur les témoignages contradictoires, sur les exemptions aux peines obligatoires, et sur l'exécution des mandats de perquisition extra-provinciaux, respectivement. A Desaulniers a aussi indiqué que le rapport du Groupe de travail sur les exemptions aux peines minimales comprendra une présentation par Me Yvon Dandurand, de l'Université de la Vallée du Fraser, sur la recherche comparative qu'il a effectuée à l'égard de dispositions de ce type en vigueur dans d'autres pays.

L'ordre du jour comporte aussi le Forum libre, qui se penchera cette année sur le Tribunal yukonais du mieux-être, lequel offre une approche judiciaire novatrice pour s'attaquer aux dépendances qui sous-tendent souvent les comportements criminels et la violence conjugale. La Section pénale se penchera aussi sur certaines modifications proposées à ses règles de procédures.

A Desaulniers a remercié tous ceux qui ont contribué à la préparation de la conférence de la Section pénale, dont les membres du comité exécutif de la CHLC, les présidents des groupes de travail ainsi que tous les délégués et autres experts qui y ont pris part, la secrétaire de la Section pénale, Me Joanne Dompierre, ainsi que Me Lee Kirkpatrick, déléguée du Yukon au sein de la Section et organisatrice hors pair. Me Desaulniers a souhaité une très bonne conférence à tous les délégués de la CHLC.

A Desaulniers noted that the nominated Chair for the Criminal Section, Andy Rady, was not able to attend the annual meeting, as he is no longer serving on Ontario Criminal Lawyers' Association Board and cannot represent the OCLA at this forum. As a result, the Nominations Committee met this afternoon and has selected Lane Wiegiers of Saskatchewan to be the 2012-2013 Chair of the Criminal Section.

## **b. Civil Section**

Gail Mildren welcomed returning delegates and new attendees to the proceedings. G Mildren thanked Lee Kirkpatrick and Marie Bordeleau as well as the organizing committee for what promises to be a spectacularly fun week in terms of social events and for arranging the meetings in this wonderful building, the wonderful welcome packages and for all the work they've done throughout the year. G Mildren thanked the team she has been working with all year. The work of the Conference simply could not take place without these dedicated volunteers sharing their expertise. G Mildren thanked the Civil Section Steering Committee, Manon Dostie and her colleagues at Federal Justice for translating the

conference call minutes, Valérie Simard, who will take the minutes of the Civil Section sessions this week, the chairs and members of the working groups, Jake Harms and the Drafting Section, Peter Lown for his expertise and guidance, and Darcy McGovern for his help and support throughout the year. G Mildren also thanked Clark Dalton, our Project Coordinator and said that everything that works well this week will be due to his hard work behind the scenes.

G Mildren stated that no changes are planned for the existing agenda of the section's meetings. Three pieces of uniform legislation will be proposed for discussion and adoption this week: the *Uniform Reviewable Transactions Act* and the *Uniform Trustee Act*, both of which are significant pieces of legislation, and the unique version of the *Uniform Informal Public Appeals Act* intended for the civil law in Québec. This is a classic example of how a working group can create a statute that may not be identical between common law provinces and civil law in Québec, but that is harmonious and that will work together. It's a perfect example of what the ULCC is all about and we should be very proud of this particular piece of legislation. In addition to these Acts, there will be study reports and progress reports on a wide range of topics, from the commercial tenancies project and the renewal of our *Uniform Wills Act*, to the *United Nations Convention on Independent Guarantees and Stand-by Letters of Credit*, the *Interprovincial Subpoena Act*, the *Voter Residency and Identification Requirements and Absentee Military Voting* project, the *Interpretation Act*, the *Uniform Drafting Conventions for the Implementation of International Conventions*, and the *International Commercial Arbitration* project. The latter was the subject of an article in the International Law Organization Newsletter in July giving a ULCC project international attention.

G Mildren said the Civil Section will also receive the annual report from Justice Canada on private international law, and a joint session will be held with the Criminal Section to review and discuss the chart of complementary provincial and territorial legislation. This is a very valuable document for the Deputy Ministers of Justice in particular, as it outlines the various projects that are underway across the country and will help identify potential opportunities for harmonization.

G Mildren expressed delight at welcoming the US and Mexican delegations and noted that the international collaboration and cooperation between the three organizations have given a great spurt of life to a number of projects that the Civil Section has either been working on or considering.

### **Report from the Chair of the Publications Committee**

Dean Sinclair reported that the 2011 Proceedings are almost ready for publication; D Sinclair thanked Ian Rennie for the phenomenal amount of work he has done in editing and redesigning the Proceedings to a by-jural format, as well as updating and detailing the table of contents, the indices and the tables of Acts enacted by the various jurisdictions. The size of the Proceedings will thereby be reduced, achieving a substantial cost savings for the ULCC in printing and mailing expenses. Because of the redesign and the more rigorous editing in both French and English, the printing has been somewhat delayed but a final proof should be on I Rennie's desk when he returns to his office after the annual meeting. D Sinclair asked delegates to share their comments about the new format with him or I Rennie.

With regard to the website, work continues and D Sinclair noted that he has given a detailed status report to the Executive. D Sinclair said the committee would like to take the new website "live" by October 1<sup>st</sup>, but there is still a fair amount of work to do to upload documents in a searchable format. M Bordeleau emailed a link to the prototype of the new website to all delegates and D Sinclair requested that everyone visit the site to determine how well it works and how it can be improved, and email their

feedback to I Rennie or himself. D McGovern thanked D Sinclair for his report and encouraged all delegates to visit the new website.

#### **Other Business**

There being no other business, the meeting was adjourned at 2:40pm.