



**UNIFORM LAW CONFERENCE OF CANADA  
CONFÉRENCE POUR L'HARMONISATION DES LOIS AU CANADA**

**Minutes of the Opening Plenary Session of the 100<sup>th</sup> Annual Meeting  
of the Uniform Law Conference of Canada  
Held at the Hôtel Delta Québec  
in Québec City, QC  
on Sunday August 12, 2018 at 1pm ET**

**Opening Remarks**

The meeting was called to order at 1pm on Sunday August 12, 2018 at the Hôtel Delta Québec in Québec City, QC, with President Manon Dostie as Chair and Executive Director Marie Bordeleau as Secretary. The President welcomed the delegates and guests to beautiful Québec City for the 100<sup>th</sup> Annual Meeting of the Uniform Law Conference of Canada and said that she was very happy to see all her colleagues.

Ms Dostie read greetings from Governor General Julie Payette, as well as from Prime Minister Justin Trudeau. Frédérique Sabourin read greetings from Québec Minister of Justice Stéphanie Vallée.

**Introduction of the Executive Committee**

Ms Dostie introduced the members of the Executive Committee: Lee Kirkpatrick, Incoming President; Elizabeth Strange, Immediate Past President for the last two years; Samantha Hulme, Chair of the Criminal Section; Maria Markatos, Chair of the Civil Section; Caroline Quesnel, the new Secretary of the Criminal Section, replacing Dorette Pollard and Jean-François Noël successively; Peter Lown, QC, Chair of the International Committee and the Advisory Committee on Program Development & Management; and our Program Coordinator, Clark Dalton, QC, as well as Marie Bordeleau, our Executive Director. This year we had two guest members on the Committee: Kathryn Sabo, who chaired the 100<sup>th</sup> Anniversary Committee, and Genevieve Harvey (absent), Chair of the Communications Committee and who played a big role in modernizing our communications in general and the new website in particular.

**Introduction of Commissioners**

Ms Dostie invited the Senior Commissioner from each jurisdiction to introduce the members of his or her respective delegation and especially welcomed all delegates who are joining the meeting for the first time.

Ms Dostie noted that unfortunately, Dr Jorge Sánchez Cordero Dávila, President of the Mexican Uniform Law Centre, is unable to attend this year. However, we are joined by former President of the Uniform Law Commission of the United States and retired judge Harriet Lansing, President Anita Ramasastry, Chair of the Executive Committee and incoming President Carl Lisman, Chair of the Foundation Howard Swibel, and past presidents Michael Houghton and Bob Stein. Ms Lansing said that this is the largest delegation from the US in a number of years and that they are here for inspiration and collegiality, and



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to celebrate this wonderful 100<sup>th</sup> anniversary in this beautiful city and thanked the ULCC for their warm welcome.

**100<sup>th</sup> Anniversary Celebrations**

Ms Dostie noted that Kerry Simmons, QC, President of the Canadian Bar Association, is with us today and that the CBA has not only been a long-time supporter of the ULCC, but it was at the heart of the creation of the organization. The CBA's contributions include attending Annual Meetings regularly as well as participating on working groups and a variety of projects over the years. Ms Simmons received her BA from the University of Victoria and her LLB from the University of Calgary. She was appointed Queen's Council in 2013. She has a rich life as a lawyer and has held many posts at the CBA, such as Chair for the Governance Transition Task Force and Executive member of the CBA. She has represented the legal profession nationally and internationally to improve the justice system, to link lawyers to each other and give them the necessary tools to perform their job.

Ms Simmons thanked the ULCC for the invitation and noted that she remembers fondly the opportunity to speak at our 2013 Annual Meeting in Victoria, BC as a representative of the BC Branch of the CBA. Ms Simmons said it was wonderful to see so many familiar faces in the room and be able to share in the celebration of the 100<sup>th</sup> anniversary of the ULCC. If you recall what the world was like 100 years ago, in 1918 we were just coming to the end of the First World War and the Person's case had made its way through the courts and James Aikins, then President of the CBA for 13 years, was the driving force toward creating the Uniform Law Conference of Canada, bringing together representatives from the federal government, the provinces and the territories to bring uniformity to our lives in Canada. At the first joint meeting of the CBA and the ULCC in 1918 in Montréal, James Aikins said it was expected that the representatives of the CBA and the provinces would cooperate with the Commissioners in each jurisdiction and work together toward the unification of laws across the country to facilitate commerce, to the benefit of the citizens of all the provinces, and of the nation generally.

A hundred years have passed, and that still holds true today. The CBA has just gone through a transformation and the re-evaluation of what it does and how it does it, but some things remain the same. The CBA continues to advocate for law reform, good policies to improve the administration of justice, the connection of people in each of the Sections, and it continues to provide professional development opportunities to its members, fostering an atmosphere of collaboration and exchange between colleagues. These principles are what the CBA has in common with delegates of the ULCC. Going forward with the CBA and the ULCC in the next 100 years, Ms Simmons expressed the hope that the relationship between the two organizations can be further strengthened. There are people in the room who have served on CBA Sections at the provincial and territorial levels, who are or have been presidents of CBA branches, and who are long-time members of the CBA.

In 2019 there will be a federal election and one of the things that the CBA has been developing over the last few years in the provinces is to forward a platform of things that would improve our society from a legal and justice perspective, called "An Agenda for Justice". The point is to get justice issues on the



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table, and not just at the criminal law level, but also from the civil side of things. Policy ideas are outlined ahead of elections with the hope that the government, whoever it is, will consider these issues for their policy platforms. The CBA also suggests items due for law reform, things that may have been waiting for some time and need a push to get to the top of the agenda. This has been done twice in BC and one in Alberta, and the CBA hopes to do it for the upcoming federal election. Ms Simmons said that the work of the ULCC is where the CBA looks to determine what issues need the most attention and would benefit from such a push. ULCC delegates all work extremely hard to provide that uniformity and to share ideas; for many of them, this work is done off the corner of their desk as it is extra work. Delegates do it because they love it, because they're smart and because they care, and the CBA wants to ensure that their work gets the profile it deserves. This is true even when we think about the business pieces of what we do in this country.

The CBA is setting as its two goals this year to focus its advocacy on the protection of solicitor-client privilege, and access to justice. Typical things considered when thinking of access to justice are access to the courts, the number of judges we have and whether the administration of justice is properly funded, but it also means how business laws operate across jurisdictions and considering whether they're too complicated, if they're separate, and if they don't coordinate with one another. This is another aspect of the CBA's work that is connected to the work of the ULCC. Going back to James Aikins, he said "Business law is conventional, and the convention agreed upon is supposed to contain the fairest and easiest rules for conduct in trade of all people, wherever living. If one jurisdiction declines to accept conventions agreed upon by others, necessarily it will, in time, be out of the smooth trade current and its people will be hampered." Again, today, if we want our businesses to invest in Canada, to set up their shops here, to be in a different province, they need to know that there is a degree of uniformity in our laws across the country. This is valuable work that you all do.

One of the things Ms Simmons said she thinks about when she is in Québec City is part of the story of how this country came together, and how fortunate we are all to come from different places in Canada. To be able to hear each other and listen to the different points of view whether you are in policy and government or as a private practitioner, and to be able to share, civilly, with great passion, different ways of doing things for the benefit of the greater good, is something Ms Simmons noted makes her very proud to be part of the Canadian Bar Association and to meet colleagues like the ULCC delegates from across the country.

James Aikins' son, who became president of the CBA in his own right, spoke of the need for harmonization during an address to the CBA Council in 1943, saying: "Our provinces are not entirely homogenized. Our population is widely distributed geographically. We are intensely human and there must therefore of necessity be differences and jealousies, provincial or otherwise, and for Canada the pathway to peace and happiness is that in which we walk together, protected by our mutual understanding and faith, our bond not a scrap of paper, but one of fair and honourable dealing." Ms Simmons thanked the ULCC and wished the delegates the best for a wonderful Annual Meeting.



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Ms Dostie thanked Ms Simmons for making the trip to Québec City and her inspiring words, and echoed her wish that the two organizations will continue to collaborate in a collegial atmosphere. The ULCC is a unique organization whose work is generated by all sorts of points of view provided by prosecutors, the defence bar, government lawyers, academics, law institutes, judges, etc. It is a unique forum and Ms Dostie says she believes in our very strong and well thought out products.

Arthur Close, QC, has been with the ULCC for forty years, and as such, Ms Dostie asked him to say a few words on how the Law Reform Institutes worked with the ULCC over the years. The first such organization was launched in 1967 in Ontario and the movement grew until all jurisdictions had one by the end of the 1970s. Some were creatures of their governments but others opted for a different way of doing things. There was a 50-year overlap between the work of Canada's law reform bodies and the ULCC. At first, the ULCC was cautious of these new organizations, given that the ULCC had done a fair amount of work in law reform already. It caused something of an existential crisis, especially when considering that the law reform bodies were well-funded compared to the ULCC – there was concern that their appearance might erode some of the financial support the ULCC was receiving. However the relationship between the ULCC and the law reform bodies quickly grew into a supportive and productive one in an atmosphere of mutual respect and cooperation.

The joint work of the ULCC with Law Reform bodies can be outlined into two threads: the people and the projects. The law reform organizations members and staff frequently attending ULCC Annual Meetings, contributing their wisdom to the ULCC's deliberations; others have participated in our projects as working group members and frequently as working group leaders; others have been part of the ULCC leadership, either chairing the Civil Section or serving as ULCC Presidents, which seven law reform representatives have done over the years. It is of note that people who join the ULCC never quite leave it; most individuals continue to participate in the work of the ULCC even though their formal links are discontinued.

There is a long history of relying on each other's work to form the basis of Uniform Acts; the second report of the BC Law Reform Institute, issued almost 50 years ago, looked at the Uniform Frustrated Contract Act and recommended its adoption in BC. In return, reports from law reform bodies are often the departure point for uniform legislation; BC law reform documents formed the basis for the Uniform Trustee Act, the work of the Alberta Law Reform Institute informed the creation of the Uniform Limitations Act, and a report by the former Ontario Law Reform Commission was the basis for the Uniform Class Proceedings Act, to name a few. These things are not always a one-way street, however, reality is often richer and more complex than that. For example, a report from the Alberta Law Reform Institute recommending a new and innovative way to enforce money judgments was adopted in Alberta and Newfoundland, prompting the ULCC to undertake the drafting of the Uniform Enforcement of Money Judgments Act. Six members of the working group that was struck to work on this project were from law reform bodies and once the Act was promulgated other jurisdictions adopted it. Such is the rich tapestry of collaboration between the ULCC and law reform bodies.



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Ms Dostie noted that the slide show of past ULCC events will cycle throughout the week on the screen in the Joint Sessions.

Kathryn Sabo thanked the 100<sup>th</sup> Anniversary Committee and the Host Committee, Isabelle Doray, Frédérique Sabourin, Chloë Rousselle, Caroline Vachon, Laurence Bergeron, Rochard Fowler, Darcy McGovern, Sherry Gillis, Peter Lown, Charlaïne Bouchard, Nicola LeGrand Alary, Clark Dalton, and Marie Bordeleau, who is responsible for a lot of the goodies we have received this week. The committee worked with many good ideas and despite some time and budgetary constraints all that work is coming to fruition this week.

The Barreau du Québec sent a lot of historical documents and pictures to add to the archives we have on display. Ms Sabo said that in the 100<sup>th</sup> year of ULCC, all attendees are participants in the history of the organization. We have the opportunity to reacquaint ourselves with that history this week and reflect on the number of the Uniform Acts were produced and enacted; how many resolutions were debated in the Criminal Section and are now reflected in the Criminal Code or elsewhere in the justice system, how many Annual Meeting were held and so on. Ms Sabo noted that it may be important for the delegates to think on these questions as there may be trivia later in the week. Ms Sabo noted that Clark Dalton, QC has written a history of the ULCC which will eventually be published, and thanked him for the phenomenal amount of work he has done to collect archival material.

Clark Dalton said that his first Annual Meeting was in 1984. He began his archival research last August by reviewing the website and all our Annual Proceedings, sometimes as often as six times. Early in its history the ULCC focused on redrafting existing laws as a means of improving the commercial trade between provinces, something James Aikins was passionate about. Mr Dalton said that his compendium is intended to show the work and evolution of the ULCC over the years, and is more than 150 pages long at this time. Its purpose is to emphasize the process rather than the product of the ULCC and Mr Dalton said that a professional editor has been retained to ensure the document is presented in a useful fashion.

The book will include such details as the fact that the first meeting was held in Montréal, QC and one participant from that original meeting stayed on as Jurisdictional Representative for Québec to undertake a concerted effort to look at both civil law and common law. In 1925, the ULCC started to look at potential international conventions. The 40s brought many innovations, including a joint session with the ULC in Detroit, the development of our Criminal Section, and an invitation to Newfoundland & Labrador to participate in the ULCC. In 1944 the Annual Meeting was held partially in Niagara Falls and in Toronto. The first use of the November 30<sup>th</sup> rule was in 1945. By 1961, the first female member, hailing from Ontario, joined the ULCC in the Criminal Section, and in 1963 the Yukon and the Northwest Territories joined the ULCC. Nine Attorney Generals attended the Annual Meeting in 1967. The Uniform Law Commission held its 100<sup>th</sup> anniversary in 1992 and the only foreign body allowed in attendance at the time was the Province of Nova Scotia. In 1977 it became the rule to conduct all ULCC business in both official languages. In 1978 a French-only version of the Proceedings was published. The first guest



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came from outside North American visited from Australia in 1983, and the annual soft ball game was launched in 1984 but it was only mentioned in the Proceedings when the West won. At one point the ULCC got involved in Model administrative procedure code. Our first entry in cyberspace went up in 1995, and we're now working on the third generation of our website.

John Gregory noted that under his presidency in 1996 the French name of the organization was changed from la Conférence pour l'unification des lois au Canada to la Conférence pour l'harmonisation des lois au Canada.

### **Welcome from Host Government & Overview of the Week to Come**

Frédérique Sabourin noted that a program of the social events has been inserted in the delegates' kits. The Welcome Reception will be held at the Morrin Centre, the oldest English language centre of higher learning in Canada. A former jail, it's now it's an English language library. The Morrin Centre is walking distance from the hotel but a bus is available to get there and guided tours of the premises will be given. Monday is free but former ULCC delegate Fabienne Bouchard is now an accredited tour guide and is offering to take guests on a walking tour from 5:30pm to 7:30pm for \$25/pp. Delegates wishing to participate should email her directly. The CANAC Stadium, where Québec City's minor league team the Capitals play, is the home of our traditional softball game and BBQ on Tuesday; bus transfers will be available for players and fans first, and later for BBQ attendees only. The closing banquet will be held on Wednesday night at Le Parlementaire restaurant. Delegates who are bringing guests are asked to drop by the Secretariat to pay for their guests.

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

#### **a. Criminal Section**

Section Chair Samantha Hulme introduces the new Secretary for the Criminal Section, Caroline Quesnel, who joined the ULCC this year and has already been of considerable help. Ms Hulme said that it is a very special opportunity to be in Québec City for the ULCC's 100<sup>th</sup> anniversary and to have so many jurisdictions represented. In the Criminal Section, there are 35 delegates from 11 administrations.

As usual among the delegates, we have representatives from many areas of criminal justice, including prosecutors, lawyers working in the field of criminal policy, defence lawyers and academics, and three members of the judiciary - our good friends Judge Danielle Côté, and Judge Josh Hawkes, and a new delegate, Judge Faith Finnestead. This week, the Criminal Section will hold discussions on 29 resolutions, most of which recommend reforms specific to the Criminal Code and the Youth Criminal Justice Act. Also, we will receive the reports of the working group on telewarrants, Section 490 of the Criminal Code on Detention of Things Seized, Comparison of Witnesses, and Section 9 of the Canada Evidence Act. Also, during the Earl Fruchtmann Memorial Seminar, we will welcome guest speakers Joanne Marceau, Chief Prosecutor of the Director's Office and Patrick Michel, Chief Prosecutor of the





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Legal Services Office in Québec, who will talk about the quest for a balance between independence, accountability, discretion and professional autonomy.

Ms Hulme welcomed all guests, especially our American friends, to join the Criminal Section for all the sessions that may be of interest to them and thanked our Québec hosts.

**b. Civil Section**

Civil Section Chair Maria Markatos said it was fitting that the 100<sup>th</sup> Annual Meeting of the ULCC should return to the province that hosted the very first meeting in 1918 and thanked Frédérique Sabourin and the members of her organizing committee who spared no effort in organizing this week. They have arranged an exciting agenda of activities that will balance nicely against the intense work the civil section will undertake this week.

After several years of continuous work by a very committed working group, this week the civil Section will be asked to adopt the *Uniform Commercial Tenancies Act* and will have an all-day presentation by the working group, including their drafter. Ms Markatos thanked them for their commitment to this project. The Civil Section will also be asked to adopt *Uniform Electronic Documents Rules* and the report of that working group, as well as receive reports on the non-consensual distribution of intimate images and a review of selected uniform acts implementing international conventions.

The joint work with the Criminal Section continues and on Wednesday, the two Sections will be asked to adopt the *Uniform Police Record Checks Act* and receive an update on *Charter* costs awards and civil *Charter* damages against the Crown.

Ms Markatos said she was delighted to welcome several representatives from the American Uniform Law Commission including President Anita Ramasastry, who will be providing an update on her organization and the potential for continued cross-border projects and cooperation.

Wednesday afternoon will conclude with the always valuable annual report from Justice Canada on Private International Law and the week will close on Thursday with a discussion of potential new projects, and the report of the Advisory Committee on Project Development and Management and the Report of the International Committee.

All of the reports, draft Acts, and commentaries to be received this week would not be possible without the commitment of the working groups under the leadership of their Chairs. The Civil Section could not operate effectively without the year-long participation of Jurisdictional Representatives in the Civil Section Steering Committee, the foundational work on projects provided by the Advisory Committee on Program Development and Management, and the unparalleled support of our Projects Coordinator, Clark Dalton. These are all critical to the continued success of the work of the Civil Section.



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Ms Markatos said she was pleased to have been able to work as Chair of the Civil Section over the past year, and that her term can end in a week that promises to be full of interesting, constructive and lively debates.

**Report from the ACPDM & International Committee**

Peter Lown said that he was delighted to be back in Québec City, where he completed the last year of his presidency in 1995. He thanked the members of the ACPDM for their continued volunteer work, meeting by phone on a monthly basis and contributing their wisdom and experience to the work of the ULCC. They identify projects, sit on working groups or chair them, and it is an immense task that all committee members devote significant time to. Mr Lown noted that the four major points of focus for the ACPDM are: increasing the involvement of the JRs in the selection of projects and liaising more effectively with the Civil Steering Committee; increasing the outreach to other groups for project suggestions and assessment; engaging and interacting with the Sections to get their input in scoping and issue identification for the projects; and looking at the mandate of the ACPDM and what its role should be in implementation, which ultimately was suggested as a topic for discussion at the Executive Committee level.

The International Committee continues its joint work with the ULC on the Enforcement of Canadian Judgments and the working group is progressing extremely well. Additional joint projects are being considered.

**Adoption of the Constitution & By-Laws**

Ms Dostie reported that the Constitution and By-laws were reviewed through extensive consultations over the past two years as part of a broader strategic exercise undertaken by the ULCC under the leadership of Past President, the Honourable Josh Hawkes. Work continued on the Constitution and By-laws continued with regular phone calls, both formal and informal consultations with the membership. Ms recognized the contributions of those who worked on this consultation process and provided necessary, detailed input to the Committee, including the Steering Committees of both Sections, the ACPDM, the Finance Committee and ad hoc members of the ULCC. Ms Dostie also thanked everyone who provided comments and suggestions during the more formal consultation process, including delegates at last year's Annual Meeting, where we had fulsome discussions on the issue in the many in-person meetings during that week, and by email in the fall of 2017 as well as the midyear JRs' conference call. All comments and suggestions were carefully considered by the Committee and modifications were made to the document to reflect some of that input. Ms Dostie said it would be impossible to tabulate the number of volunteer hours that went into the project over the past two years and thanked Dorette Pollard, Lucie Angers, Cathy Cooper, Stéphanie O'Connor, Russell Getz, Clark Dalton, Peter Lown and Elizabeth Strange, who also chaired some of those meetings and ensure good liaison with the drafters from New Brunswick, Holleen Anson and Diane McInnis.





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The Committee hopes they have reached the right balance between efficiency, modernity and tradition, and said that members of the Committee will present certain aspects of the document. There will be amendments or changes, especially in the French version, as the French text will have to be revised to correct some mistakes and typos; if more are found please email Ms Dostie directly. Ms Dostie said this is not the end of the exercise, however: all the policy and operations documents that support the Constitution and By-laws will be reviewed and updated over the coming months to modernize them and ensure they reflect current practice.

Russell Getz said the changes in the Statement of Purpose are 1) in the second paragraph that refers to the legal community so as to include prosecution services and the Chambre des notaires du Québec; 2) the addition of paragraph 5 to address the criminal justice; and 3) a provision for amendments to the Constitution and By-laws.

Elizabeth Strange said that the main changes in the Definitions and Interpretations section are 1) the introduction of the concept of Incoming Chairs so that they are selected earlier and given a role on the Executive Committee; and 2) the renaming of the Nominations Committee to the Selection Committee.

Cathy Cooper said each Section is addressed separately in the By-laws and noted that Criminal Section is addressed in Part III. As noted above the Nominations Committee has been changed to a Selection Committee to reflect current practice. It is now stipulated in Section 11 that the Incoming Chair a member of the Steering Committee. A part of the By-laws now addresses the Joint Sessions and specifies that they will be jointly chaired by the Civil and Criminal Section Chairs. The role of the Jurisdictional Representatives was described in more detail in Section 13 to reflect actual practice.

Manon Dostie noted that there are few changes in Part V and Part VI; the definitions mostly go into further detail than they used to. Article 17 clearly establishes a Nominations Committee for the President and Vice President and outlines the terms for each. The duties of the Executive Director were removed from the By-laws as they are outlined in their contract, which will come under review this fall. The cycle for the draft budget approval will be reset to an approval by email early in April, allowing feedback and an adoption at the beginning of the fiscal year rather than midway through the fiscal year. Part VII establishes standing committees and article 28 establishes the Communications Committee as a standing committee to reflect its importance to the ULCC.

Lucie Angers said articles 29 to 32, which cover the Annual Meeting, were amended to reflect the current usage, allowing observers and noting that presenters can only take part in the sessions they are presenting. Confidentiality was addressed to ensure that our materials remain private while still being shared with our colleagues in the legal community, and determine how documents are published after the Annual Meeting, as well as ensure that delegates can speak freely during discussions and debates. Regarding the issue of voting, the verbiage has been clarified further



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Stéphanie O'Connor said that Article 9, which covers rules of procedures and policies, has been rewritten to be clearer. Criminal Section rules of procedures were already in existence and have been added to the By-laws. This does not change the current practices of the Criminal Section. M Dostie said that the Civil Section will review its own set of rules of procedures in the coming months.

The discussion on the Constitution and By-laws will resume on Wednesday morning.

**Adjournment**

The meeting was adjourned at 4:15pm and a number of items on the agenda were postponed to the closing session on Thursday morning.