

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

**Minutes of the Opening Plenary Session of the 102nd Annual Meeting
of the Uniform Law Conference of Canada
Via Zoom
on Monday, August 10, 2020 at 12:00 ET**

Opening Remarks

President John Lee welcomed the delegates to the ULCC's first ever virtual meeting and introduced the Executive Committee, which consists of himself, Laura Pitcairn, Vice President, Lee Kirkpatrick, Immediate Past President, Kathleen Cunningham, Civil Section Chair, Joanne Klineberg, Criminal Section Chair, Peter Lown, Advisory Committee on Project Development and Management Chair, and also International Committee Chair, and Members at Large, Manon Dostie and Caroline Quesnel. Marie Bordeleau, Executive Director, and Clark Dalton, Project Coordinator, were also introduced.

President's Report

The President presented the following report.

Last year, when we ended our meeting in St. John's, we left with plans to meet again in Nunavut, which was to be our very first Annual Meeting in that Territory. Little did we know that a set of events would unfold that would lead us to our meeting today. In the fall, several jurisdictions advised us that they were unlikely to attend our meeting in Nunavut, which made it difficult to justify the costs associated with that meeting. We then planned to hold the meeting in Ottawa, but the global pandemic put an end to those plans as well.

Rather than holding our first ever Annual Meeting in Nunavut this year, we are setting a new precedent in another way by holding our first ULCC Annual Meeting virtually. While we can't be together in person and we won't be spending as much time together as we have in the past, this year's meeting is our most accessible meeting ever. I am happy to announce that we have the largest number of registrants of any Annual Meeting in our history – 123 participants. We have of course government officials from thirteen jurisdictions in Canada including government policy lawyers, Crown prosecutors and legislative drafters. We also have delegates from law reform agencies in Canada, members of the private bar, notaries and representatives from the bar associations, as well as judges and law professors from several law schools.

We also have a record number of observers and this includes Professor Christiane Wendehorst, President of the European Law Institute joining us for the first time, and Carl Lisman, President of the Uniform Law Commission, who is returning for another year. Welcome.

This year's attendance is truly a testament to our resiliency as an organization and a reflection of the value of our work. No organization in this country is capable of doing the work that we do and doing it by bringing together the vast array of legal expertise that we can.

As an organization, we first met during another global pandemic – the 1918 Spanish flu pandemic – and we have met every year since except for one year during the Second World War when government travel

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restrictions made it impossible to meet. The planning of this year's Annual Meeting involved a lot of people and I want to recognize and thank them now. They are: Erin George and Benson Cowan our JRs for Nunavut, Lucie Angers and Kathryn Sabo our JRs for Canada and the committee that was struck to plan for this meeting which consisted of: Kathleen Cunningham from British Columbia, Valérie Simard, Joanne Klineberg and Caroline Quesnel from Canada and myself with support from Marie Bordeleau and Clark Dalton.

While the planning for this year's Annual Meeting consumed a significant amount of our time, we were also busy on a number of other important fronts. Our much-delayed website is now very close to being launched. This has literally been years in the making and has seen a revolving door of people working on it. Now, I want to commend the committee responsible for making our website a soon-to-be reality. The members of that committee are: Manon Dostie and Caroline Quesnel from Canada, Sarah Dafoe from Alberta and Laurence Bergeron from Quebec, with support from Clark Dalton and Marie Bordeleau. It was led by Elizabeth Strange from New Brunswick. I asked Elizabeth to organize and lead the committee last year when I was Acting President, knowing full well that if anyone could finally get our website launched, it would be her. Thank you, Elizabeth, and your team, for your commitment to the project and the ULCC. We will need to continue to build on the work that Elizabeth's team has put into the website and so going forward we will need to reconstitute our Communications Committee so that we can properly promote our work. I invite you to consider joining this committee in the upcoming year.

On the matter of promoting the ULCC, our new Implementation Committee has been working hard on designing a process for developing materials to support jurisdictions in their implementation of our uniform statutes. This committee, consisting of myself, Maria Markatos from Saskatchewan, Sarah Dafoe from Alberta, Laurence Bergeron from Québec and led by Russell Getz from British Columbia chose the Uniform Police Record Checks Act (2018) as its first statute to work with and prepared materials that could be used by jurisdictions to brief their governments on the importance and need for such a statute. The committee chose this statute back in the fall because of the importance of the subject matter and as a demonstration of what we can achieve when both the civil and criminal sections work together on a project.

I also want to note that the Uniform Police Record Checks Act is an example of the value the ULCC brings to law reform in this country. We started work on this Act in 2016. It is based on an Ontario statute, which was reviewed by a diverse ULCC working group, led by Tony Paisana from British Columbia, and whose members included representatives from the criminal defence bar, government officials from across the country and lawyers from law reform bodies - and this working group prepared a Uniform Act which improved upon the Ontario precedent and could be used across the country. We produced this statute at a time when systemic racism and calls for policing reform did not become such prominent topics in the mainstream media. Today, there is growing awareness of these issues and we, the members of the ULCC, can use this opportunity to say we are part of the solution.

I want to talk about a few more matters. As President, I had set out as a priority a renewed effort to engage the members of our organization. The members of the ULCC – you – are this organization's greatest asset. It is for this reason that in January, I invited over a dozen delegates from across the country to a two-day meeting in Ottawa to discuss strategies to improve engagement. As a result of this meeting,

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we are now providing mentorship for new Jurisdictional Representatives. We'll be establishing a formal recognition committee aimed at enhancing the ULCC's recognition of the valuable contributions that have been made, and will be made, by our members in furthering the ULCC's mission.

We have also recently established two new committees – one on diversity and inclusion and another on the environment – to address these two very timely and important issues. The committee on diversity and inclusion consists of myself, Sarah Dafoe and Matthew Hinshaw from Alberta, Kathleen Cunningham from British Columbia and Valérie Simard from Canada. The committee on the environment consists of myself, Maria Markatos from Saskatchewan and Chloé Rousselle from Canada. These two committees have put together draft resolutions that will be presented later and I look forward to that discussion.

Speaking of looking forward, our organization, like everyone, faces a world of uncertainty. We are funded exclusively by the federal, provincial and territorial governments of this country. While we have recently asked for more funding for the first time in many years, we will not be receiving everything that we've requested. In terms of this year's contributions to the ULCC, several jurisdictions, almost a third of our member jurisdictions, have not contributed or have only made a partial contribution. We can all guess what may happen next year. The ULCC does have reserves, but these reserves will only carry us so far. Holding a virtual meeting will result in some cost savings, but a significant cost of our Annual Meetings relates to interpretation services and we cannot avoid this expense.

I say all this because if we wish to continue to rely on the support of our governments, we will need to work that much harder to ensure that the work that we do is responsive to the current needs of all Canadians, that they offer practical solutions and is delivered in a timely manner. We will all need to be more creative, collaborative, flexible and accountable and I am confident we can do this.

Finally, seeing that I won't have another chance to do this, I want to highlight the support the members of the executive team have provided to me throughout the year. We accomplished a great deal during the year and had to address a significant number of unexpected events. I am very proud to have served with all of them and you, the members of the executive, should be proud of what we have achieved this year.

This Annual Meeting will also be the last for our Executive Director, Marie Bordeleau. Marie has been with us for a decade and has played a critical role in much of our work and is instrumental in the organization of our annual meetings – especially this one. Thank you, Marie, for your dedication to our organization and we wish you all the best in your future endeavours. I am pleased to announce that Kathleen Cunningham has agreed to take over Marie's duties after this Annual Meeting on a temporary basis until a permanent Executive Director is found.

I also want to thank all of you who are attending this year's meeting. Your contributions this week and ongoing support throughout the year, whether that is by participating in our projects or committees, identifying experts to work on our projects or identifying potential projects are critical to the success of our organization. So on that note, I would like to end my report here so we can move onto the work before us.

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Financial Resolutions

a. Approval of Audited Statements (Appendix)

MOVED by John Lee, seconded by Lee Kirkpatrick, **THAT** the Audited Statements for the fiscal period ending March 31, 2020 be received as presented. Motion carried.

b. Approval of the Auditors

MOVED by John Lee, seconded by Lee Kirkpatrick, **THAT** the firm Hendry Warren LLP Chartered Accountants be appointed as Auditors for the Uniform Law Conference of Canada for the fiscal period from April 1, 2020 to March 31, 2021. Motion carried.

c. Banking Resolution

MOVED by John Lee, seconded by Lee Kirkpatrick, **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.

Report of the Nominating Committee

Immediate Past President Lee Kirkpatrick said that she struck a committee comprised of Manon Dostie, Kathryn Sabo, Kathleen Cunningham, Chloé Rousselle and Carolyn Quesnel on August 4th. Ms Kirkpatrick said that the committee considered the issues of the global pandemic and the need for continuity in their deliberations for the selection of a President.

MOVED by Lee Kirkpatrick, seconded by Joanne Klineberg, **THAT** John Lee, currently President, and Laura Pitcairn, currently Vice-President, be nominated for President and Vice-President of the ULCC respectively. Motion carried.

J Lee said he will do his best in the coming year and that he hopes it will be easier than this year.

Outline of the Business of the Week

a. Criminal Section

Criminal Section Chair Joanne Klineberg presented the following report:

This week the Criminal Section will be receiving a final report from a working group on telewarrants, a very important issue given the impact of the pandemic on court procedures.

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We will also be hearing interim reports from Working Groups on section 487 of the CC which sets out the provisions in respect of basic search warrants, and on section 490 of the CC, which sets out the regime governing the detention and disposition of items seized by police.

We will also be hearing an interim report from Working Group that has been exploring the scope of our mandate and examining protocols for assessing whether resolutions can effectively be considered by the Criminal Section.

As is the case every year, we will be receiving a report from the Senior Federal Delegate, which outlines criminal-law related activities at the federal level over the past year. Our annual Earl Fruchtman Memorial Seminar will this year take the form of an open discussion on the impact of Covid-19 on the criminal justice system.

Finally, at the end of our meeting, Chloé Rousselle will become Chair for the next annual meeting. Chloé was with the Quebec Director of Criminal and Penal Prosecutions when named incoming chair last year but is now working with the Justice Canada.

b. Civil Section

Civil Section Chair Kathleen Cunningham thanked everyone involved in bringing this meeting together in these new times of COVID19. She noted that many of us were looking forward to visiting Nunavut and the hospitality that was being planned. Ms Cunningham said it has been an honour to be Chair of the Civil Section this past year and to learn more about ULCC through participation on various committees.

Ms Cunningham presented the following report:

I look forward to chairing this week's sessions, particularly so, because it is my last year as a member of the BC Delegation. It is extra special for me for 2 reasons:

1. The opportunity to personally recognize the contributions from the many volunteers and contributors to each project, and the leadership of the project chairs. Jurisdictional representatives, members of the bar, and academics are the backbone for our work. We can never thank them enough for the work they do for ULCC. If you are on a committee, and attending the meeting, I encourage you to turn on your video camera during your project's presentation so we can see who you are. It isn't quite the same as sitting at the head table, but it is the next best thing.
2. As a member of the BC Delegation, I am particularly proud to be able to acknowledge the contributions from the BC Delegation this year. Two working groups were chaired by members emeritus from the Board of Directors of the BCLI, our senior staff lawyer participated on one committee and a member emeritus participated on another. Two lawyers from the BC Ministry of Attorney General sat on a third committee along with an academic, and two of the draft Acts being presented this week were prepared by BC ministry lawyers.

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This week will begin with a presentation to our joint session proposing a draft Uniform Act on the non-disclosure of intimate images. While strictly speaking it is a project of the Civil Section, the Criminal Section's contributions are invaluable on this topic and we look forward to your comments.

On Tuesday we will receive an update from the Working Group on the Review of the Uniform Court Jurisdiction and Proceedings Transfer Act, and the Uniform Enforcement of Canadian Judgments and Decrees Act. The working group plans to bring forward its final report and recommendations at the 2021 meeting.

Later on Tuesday, and on Wednesday, we will also receive reports on two topics of particular interest to Canadians:

- The first is amendments to the *Uniform Wills Act (2015)* to recognize electronic wills
- The second, would withdraw the *Uniform Informal Public Appeals Act (2011)* and replace it with a new act, the *Uniform Benevolent and Community Crowdfunding Act, 2020*.

On Thursday, the section will engage in a discussion about future law reform projects, some which might be appropriate for a joint civil/criminal section project. Three topics will be recommended, and Jurisdictional Representatives will be asked to determine whether eight other topics should be considered. Delegates from both Sections, especially those who are part of a delegation but not within the jurisdiction ministry, are encouraged to consider attending this session and providing their own input on the topics.

Finally, as there will be no closing plenary, I would like to recognize Valérie Simard from the Canadian Delegation who will take over after Thursday as the chair of the Civil Section. She has participated in the ULCC for many years. The section will be in good hands.

ULCC Statements of Policy

John Lee presented the following statement of policy on diversity and inclusion.

Statement of Policy on Diversity and Inclusion

The Uniform Law Conference of Canada (ULCC) was created in 1918 recognizing that the participation of provincial governments was required to develop uniform legislation. Today, lawyers from across the country work on ULCC projects and criminal law reform. The ULCC is geographically diverse. It operates in both English and French and takes into account both the common law and civil law legal systems that are in place in Canada.

The ULCC is committed to cultivating an inclusive, respectful and welcoming environment. The ULCC believes diversity supports creativity and innovation, which are essential to the successful fulfillment of its law reform mandate and leads to products that are responsive to everyone. Accordingly, the ULCC promotes, encourages and nurtures diversity among its members and leaders. The ULCC actively reaches out to members of the legal profession to ensure diverse participation in its working groups. Working

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groups are encouraged to consider broad consultations in order to solicit a wide range of views and perspectives. The ULCC also encourages those responsible for the composition of delegations to consider diversity, among other factors, when choosing delegates.

MOVED by John Lee, seconded by Matthew Hinshaw, **THAT** the above Statement of Policy on Diversity and Inclusion be adopted as presented.

Discussion:

The following points were made:

- most organizations, including the ULC, have a policy on diversity and inclusion and it was time for the ULCC to also adopt such an important policy.
- A policy on diversity and inclusion reflects who we are and the values we share.
- We do our best work when we hear as many voices as possible and they have an opportunity to have their say.
- We need to develop better laws for everyone, and we cannot do that if we don’t have representation from as many communities as we can.
- How the ULCC will implement the policy will have to be considered by the diversity and inclusion committee.
It was acknowledged that the ULCC does not select the JRs, but the policy will inform the way the ULCC will approach diversity and inclusion going forward.
- The importance of the resolution is that the ULCC recognizes the need for an open door to everyone.

Motion carried.

John Lee presented the following statement of policy on the environment and climate crisis.

Statement of Policy on the Environment and Climate Crisis

The Uniform Law Conference of Canada (ULCC) was created in 1918 and is composed of lawyers from across the country. In order to carry out its law reform mandate effectively, its members meet in person annually. Working groups and committees may also meet in person between Annual Meetings.

The ULCC recognizes the harm posed by environmental degradation and the climate crisis. It also recognizes that its meetings, which are a necessary part of its operations, have an environmental impact. The ULCC encourages sustainable practices and takes active steps to mitigate the impact its activities have on the environment. This includes holding in person meetings only when necessary, reducing its use of paper and avoiding single-use plastics at its meetings. Although the ULCC recognizes that governmental and organizational employees must comply with various policies and directives, such as those established by their employer, they are strongly encouraged, whenever possible, to choose options that minimize the carbon footprint related to their ULCC participation, notably by making environmentally conscious travel arrangements and offsetting their carbon emissions.

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MOVED by Chloé Rousselle, seconded by Maria Markatos, **THAT** the above Statement of Policy on the Environment and Climate Crisis be adopted as presented.

Discussion:

It was noted that the ULCC's work has an environmental impact and if we continue to meet in person in the future, we should have a policy in place to mitigate those impacts. The environment and climate crisis will only become more important in the future and the committee on the environment will consider how best to implement the policy if it is adopted.

Motion carried.

Adjournment

J Lee noted that there will be no Closing Plenary given the virtual context of the Annual Meeting and the need to expedite our discussions on other topics in each Section. There being no further business, the meeting was adjourned at 12:50pm ET.