

UNIFORM LAW CONFERENCE OF CANADA

COMMUNIQUE

FALL 2014



Report from
Lynn Romeo,
Immediate
Past President

The Uniform Law Conference of Canada capped off another productive year with a successful annual meeting in Toronto, Ontario from August 10 to 14, 2014. Details of our continuing work and achievements are described in the reports of the Criminal and Civil Sections Chairs.

Over 75 delegates attended our annual meeting and I am pleased to report that for the first time in several years, representatives from all of our federal, provincial and territorial jurisdictions were in attendance.

Our Ontario hosts did an excellent job of welcoming us and entertaining us with many social activities. We enjoyed a lovely opening reception hosted by the Ontario Bar Association, complete an impressive sangria bar. The traditional East – West baseball extravaganza was held at Trinity Bellwoods Park which provided non-baseball fans with an opportunity to explore the Beaches area in Toronto. The East was able to celebrate (and the West was able to mope) in style back at the post game barbeque. We enjoyed a very relaxed and collegial closing banquet where we celebrated the contributions of many long serving delegates.

On behalf of all attendees, I would like to acknowledge the hard work of the Ontario organizing committee chaired by John Lee. I extend our sincere thanks to each of the committee members as well as to the Ontario Ministry of the Attorney General for its generous support of the Conference.

We heard from many interesting guest speakers and presenters during our annual meeting and were pleased to welcome 5 representatives of the Uniform Law Commission of the United States: President Harriet Lansing, Immediate Past President Michael Houghton,

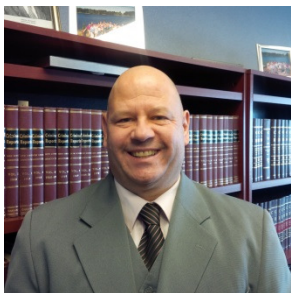
Past President and Chair of the International Legal Developments Committee, Robert Stein, Chair of the Executive Committee, Rich Cassidy and Commissioner David English. We had many opportunities to network and explore possibilities for mutually beneficial collaboration. We are grateful for their valuable contributions to the discussions at our annual meeting.

The strength of this relationship, built on a joint commitment to the value of fostering uniformity between our nations, was also evidenced in July when I had the privilege of attending and addressing the general meeting of the American Uniform Law Commission in Seattle. Peter Lown, Chair of our International Committee and I participated in several meetings, including Scope and Program Committee meetings and discussed opportunities for future collaboration and partnership. The degree of cooperation and sharing of knowledge as well as the exceptional hospitality of our American colleagues were highlights of the Seattle meeting for me. I am so pleased that we were able to reciprocate on each of those fronts in Toronto.

In addressing our annual meeting, I spoke of some of the challenges facing our organization. In my view, the culture of dedication and cooperation that defines the ULCC will enable us to address these challenges head on. I would like to thank all of the “members” of our organization - our Executive, jurisdictional representatives, delegates and other participants - all contribute their time, expertise and ingenuity not only in delivering the valuable work of ULCC but also in finding new ways to deliver that work in times of change.

Serving as President of ULCC has been a great honour and I am grateful for having been entrusted with this important role.





Report from Luc Labonté, President

I am honoured and humbled to serve as President of the Conference this year. Our Annual Meeting in Toronto was a great success as clearly reflected in the reports from our Immediate Past President, and the Past Chairs of the Criminal Law and Civil Sections. Congratulations to each of you and thank you for your excellent work throughout the year. It has been a pleasure working with you.

Our thanks also go to our hosts in Ontario for an impressive week of meetings and social activities. Of course one of the high points of the week was the spectacular win by the East in our annual softball game. Hopefully the dominance by the East in the last few years will continue in 2015 when we meet in Yellowknife. As you can all appreciate, I am somewhat biased in this area...



Over the last number of years much progress has been made in building strong relationships with our colleagues in the United States and Mexico. We were pleased to welcome and enjoy the participation of Harriet Lansing, President of the Uniform Law Commission, Michael Houghton, Past President and Robert Stein, Chair of the International Committee. Unfortunately Dr Jorge Sánchez Cordero Dávila, President of the Mexican Uniform Law Centre, was again unable to join us this year but we appreciated receiving his report and look forward to his attendance at our next Annual Meeting. We continue to work

closely with our colleagues to identify appropriate projects for collaboration and to advance our joint work on ongoing projects.

I am pleased to report that the Steering Committee of the Civil Section is working on a number of interesting projects including renewal of two of our Uniform Acts – the Uniform Interpretation Act and the Uniform Vital Statistics Act – as well as continuing work on Uniform Commercial Tenancies legislation, Drafting Conventions for Implementation of International Conventions, Missing Persons, and legislation re: the Hague Convention on Service Abroad and Extrajudicial Documents in Civil and Commercial Matters. In addition, several topics are being explored as potential projects including Unclaimed Intangible Property, Access to Digital Information, Domestic Arbitration and Charitable Trusts.

I am also pleased to report that a joint Civil-Criminal Law working group was struck in 2013-2014 to work on a project on enforcement of extra-provincial search warrants.

As you know, our new website is no longer so new. However, it is the official ULCC site and our thanks go to Dean Sinclair and the members of the Publications Committee for their continuing work on setting up and improving the new website. Without their efforts it would not be possible to maintain such a professional website.

The coming year promises to be an interesting and challenging one. In facing those challenges I am grateful to be able to rely on a strong executive team consisting of Lynn Romeo (Manitoba), Immediate Past President; Elizabeth Strange (NB), Vice-President; Genevieve Harvey (Nova Scotia), Chair, Civil Section; Kusham Sharma (Manitoba), Chair, Criminal Law Section; Peter Lown, Q.C., Chair, Advisory Committee on Project Development & Management; Clark Dalton, Q.C., ULCC Projects Coordinator and Marie Bordeleau, ULCC Executive Director.

As a follow-up to my comments at the Closing Plenary in Toronto, I have struck a committee to develop a Strategic Plan. It is my intent that this Plan will assist the ULCC in continuing its outstanding work for the next 100 years by ensuring it remains viable, sustainable, and to ensure the relevancy of the Conference is not lost to some bureaucratic fiscally motivated decision.

Please remember that the ULCC will be celebrating its 100th anniversary in Québec City in 2018.

I also wish to acknowledge and thank each of the Jurisdictional Representatives, the individual delegates and working group members for their dedication and contributions to ULCC. I ask for your continued support as we continue to build on ULCC's success. I look forward to seeing you all in Yellowknife in 2015.



Report from
Cathy Cooper,
Past Chair,
Criminal Law
Section

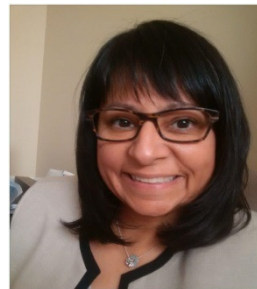
It was my great honour and pleasure to chair the 2014 annual meeting of the Criminal Section held August 10 – 14 in Toronto, Ontario, also my home jurisdiction. The meeting was attended by 32 delegates from nine jurisdictions. Delegates debated 23 resolutions, 16 of which were carried, either as introduced or as amended. Many of those resolutions were aimed at enhancing efficiencies in the justice system, including the ability to correct errors. Some recommended that the federal government undertake a review of broader policy areas, such as the law of infanticide and the DNA Data Bank regime. That eleven of the successful resolutions were carried without opposition, by a body that included delegates from both sides of the bar as well as federal policy officials, is an indication of the strength of the resolutions. It is hoped that this bodes well for those resolutions recommending legislative reform receiving favourable consideration from the federal Minister of Justice for inclusion in legislation.

The Criminal Section voted to create two new working groups. One will study the development of a legislative framework for the litigation of informer privilege issues that arise in the course of a criminal trial. That group is being co-chaired by Justice Canada and the Public Prosecution Service of Canada. The second new working group will study the endorsement of inter-provincial warrants, orders and authorizations. It is chaired by Justice Canada. The Criminal Section also received a status report from the Working Group on the Modernization of Notice Provisions, which was established in 2012. Given that the Working Group had

lost its two co-chairs shortly after last year's meeting, and given the current context of limited resources and competing priorities, the Section voted to suspend the work of that group indefinitely.

The meeting served as an opportunity for a fruitful discussion on the impact of the recent Supreme Court of Canada decision in *Regina v. Spencer*, in which the Court held that prior judicial authorization was required for police to obtain basic subscriber information from internet service providers. And the Open Forum segment of the agenda this year was a very well-received panel on Forensic Pathology in Ontario's Criminal Justice System, which included Ontario's Chief Forensic Pathologist, Dr. Michael Pollanen.

The meeting concluded with the election of the Section's new Chair, Kusham Sharma. I am sure she will find this opportunity a rewarding and enjoyable one. I very much look forward to next year's meeting. In closing, I wish to express my gratitude to the Criminal Section Secretary Dorette Pollard for her invaluable assistance and her ever-positive spirit.



Report from
Kusham Sharma,
Chair,
Criminal Law
Section

It is truly an honour and a privilege to serve as Chair of the Criminal Section of the ULCC in 2015. I hope that I will be able to live up to the high standard set by our past Chairs. The Criminal Section brings together a diverse group of policy makers, prosecutors, defence counsel and judges to discuss important reform of the criminal law. We may not always agree, but differing views can lead to very lively, highly informative and always respectful discussions on the issues. The section is accustomed to having a high caliber of interventions on difficult subjects and we look forward to that tradition continuing at our annual meeting in Yellowknife in August 2015. Preparations for this meeting are already underway.

The section has two working groups this year. The first working group will develop options on how to address

the endorsement of warrants, authorizations and orders. This working group arose from past resolutions and followed a presentation and discussion by Justice Canada at the 2014 meeting in Toronto. This working group is chaired by Lucie Angers, Director and General Counsel, Justice Canada. The second working group will study the development of a legislative framework for the litigation of informer privilege issues that arise in the course of a criminal trial. This group is co-chaired by Ursula Hendel, Senior Counsel and the National Terrorism Prosecutions Coordinator on behalf of the Public Prosecution Service of Canada and Matthew Taylor, Counsel, Criminal Law Policy Section, Justice Canada. We look forward to receiving reports from both working groups at our 2015 meeting.

I look forward to working with the members of our steering committee and will be relying on their great assistance during the upcoming months. I have already sought the guidance of our Criminal Section Secretary, Dorette Pollard and past chair, Cathy Cooper to carry out my duties so far. I thank them for their good advice and look forward to receiving much more!

I would also like to take this opportunity to remind all jurisdictional representatives that the deadline to submit resolutions in both official languages for the Criminal Section meeting is April 30, 2015. The deadline for reports is June 1, 2015. I encourage everyone to get an early start on your resolutions so that you can meet the deadline as this ensures timely distribution of materials to all delegates.

I know you are as excited as I am about our upcoming meeting. Not only will we be debating important issues of substantive and procedural criminal law but we will be doing it in the beautiful setting of Yellowknife in the North West Territories. If you have any questions or concerns in the meantime, please don't hesitate to contact me at Kusham.Sharma@leg.gov.mb.ca or 204-945-0153. I hope to see you all in August.



Report from Manon Dostie, Past Chair, Civil Section

It was a great pleasure for me to act as Chair of the Civil Section Steering Committee this past year and during the annual meeting held in Toronto, Ontario from August 10 to 14, 2014. The success of this meeting is a reflection of the hard work and dedication of the organizing committee, Lynn Romeo – President, Marie Bordeleau – Executive Director, Peter Lown – Chair of the Advisory Committee on Program Development and Management (ACPDM) and International Committee, the members of the Civil Section Steering Committee and jurisdictional representatives, and most notably, Clark Dalton – Project Coordinator as well as the chairs and members of working groups.

I am very pleased to report that the *Uniform Missing Persons Act* and commentaries, a joint project with the Criminal Section, was adopted during the annual meeting. Furthermore, the following three projects are expected to be adopted this year pursuant to the November 30th Rule:

- Principles for Drafting Uniform Legislation Giving Force of Law to an International Convention;
- *Uniform Wills Act* Renewal, and
- Uniform Act on Interjurisdictional Recognition of Substitute Decision-Making Documents.

The Civil Section had an opportunity to consider a wide array of ongoing projects, including:

- uniform commercial tenancies act;
- new uniform domestic arbitration act project;
- uniform rules on Service in other Contracting States under the *Hague Convention on the Service Abroad of Judicial and Extrajudicial Documents in Civil or Commercial Matters*;
- a report on elder financial abuse in powers of attorney legislation;
- the renewal of the *Uniform Vital Statistics Act*;
- the renewal of the *Uniform Interpretation Act*, and
- a project on the enforcement of extra-provincial search warrants, also a joint project with the Criminal Law Section.

It was also a great pleasure to welcome our colleagues from the American Uniform Law Commission to our meeting. Harriet Lansing, President; Michael Houghton, Immediate Past President; Professor Robert A. Stein, Chair of the International Committee and Rich Cassidy – Chair of the Executive Committee presented a status report of the ULC's current and upcoming projects. As always, the importance of collaboration between our organisations was underlined.

Peter Lown reported on the four-year work plan of the ACPDM which includes work on access to digital assets - a topic which John Gregory had an opportunity to present to the Civil Section in greater detail during the week. Kathryn Sabo reported on the Department of Justice Canada's international private law activities.

I thank you for your continued support this year. I look forward to continuing working with you in the future.



Report from Genevieve Harvey Chair, Civil Section

2014-15 promises to be a busy and productive year for the Civil Section.

Working Groups are hard at work on a number of projects and the Civil Section Steering Committee has commenced monthly conference calls to discuss progress.

Current Civil Section projects include:

- a renewed *Uniform Interpretation Act*
- a *Uniform Commercial Tenancies Act*
- uniform rules to implement the *Hague Convention on the Service Abroad of Judicial and Extrajudicial Documents in Civil and Commercial Matters*
- uniform legislation on domestic arbitration
- a *Uniform Vital Statistics Act*
- uniform legislation on access to digital information
- uniform legislation on extra-jurisdictional search warrants (a joint project with the Criminal Section)

Clearly this is an ambitious and diverse slate of projects. These projects have huge potential impact and several

relate directly to the rapid demographic, technological and social changes occurring in our world. I expect lively discussions at our 2015 Annual Meeting in Yellowknife.

In addition to the current projects noted above, a number of items presented at the 2014 Annual Meeting are in the process of being finalized. Directions arising from the Annual Meeting are being incorporated into the *Uniform Wills Act*, the *Uniform Act on Interjurisdictional Recognition of Substitute Decision-making Documents* and the *Principles for Drafting Uniform Legislation giving force of law to an International Convention*. It is anticipated that these Uniform Acts and Principles will be officially adopted November 30th or, if additional time is needed, early in 2015.

On a personal note, I am honoured to be the Chair of the Civil Section for 2014-2015. I am a relative newcomer to the ULCC, having become involved in 2011-2012. Since that time, I have been enormously impressed by the dedication, generosity and wisdom of the many people involved in the operation of this organization. I feel I have a lot to learn, but I cannot better people to work with and learn from.



Report from Peter Lown, QC Chair, International Committee and Chair, Advisory Committee on Program

Development & Management

It is an honour to report on behalf of the Advisory Committee and the International Committee. The Advisory Committee meets by monthly conference call (and occasionally face-to-face) to manage the medium and long-term activity of the Conference. Project suggestions are received from a wide variety of sources and are measured against an established set of project

selection criteria. The Committee has also developed a template for project proposals which allows members to make an informed decision about whether a project should or should not proceed. (The latter is always a difficult decision, if an interesting proposal nevertheless does not clearly meet the criteria.)

The Conference is fortunate in the quality of people it attracts to serve on its working groups. Since most of our project work is done on a volunteer basis, we value the hard work and dedication of those who contribute so much time and value to the conference. The work of the Arbitration, Interpretation and Reviewable Transactions Working Groups is typical of the enormous contribution.

This year we will embark on several major projects. The project on Elder Financial Abuse, assisted by Employment and Skills Development Canada, will move from policy work to drafting legislative provisions. The Arbitration group, under the amazing leadership of Gerry Ghikas, will shift its focus from International Commercial Arbitration to Domestic Arbitration provisions. Donna Molzan of Alberta Justice will lead the group examining Fiduciary Access to Digital Assets, with the assistance of STEP Canada members. Jim Emmerton of the British Columbia Law Institute is leading the group updating Vital Statistics legislation. As you can see, there is some very interesting work on the go, and the challenge is to have the legislation implemented in a timely manner.

Our relationship with the Uniform Law Commission in the United States is both collegial and productive. This year we completed a truly joint project on Recognition of Substitute Decision-Making Documents, and continued our collaborative work on Protection Orders. The US project on Asset Preservation Orders (Mareva Injunctions in Canadian speak) built on our experience, and we will benefit similarly in the area of Digital Assets. We have begun to centralize our joint planning activities around the Commission's mid-year meetings in January. The progress from previous meetings in Minneapolis and Phoenix should continue into Austin, Texas at the end of this January.

As I mentioned at the August meeting in Toronto, the glue that holds all of these activities together, is the work of our National Coordinator, Clark Dalton, and a special thanks is due to him. Many thanks in addition to all the committee members for their support and

contribution. It is an honour to serve in my capacity as Chair and to report to you.



The ULCC recognizes its long-time Contributors

This past August the Uniform Law Conference of Canada had the pleasure of showing its gratitude to long-time contributors who have volunteered countless hours to make the organization what it is today. Receiving acknowledgement for dedicated service at the annual banquet were Clark Dalton, QC, (30 years); Susan Amrud, Earl Fruchtman, Russell Getz, John Gregory and Peter Lown, QC, (over 25 years); and Gail Mildren and Lynn Romeo (15 years).



Mark Your Calendars!!!!



Stay tuned for registration information in the Spring Communiqué. Yellowknife 2015 is going to be an Annual Meeting to remember...



The 2015 Annual Meeting will be held in Yellowknife, Northwest Territories from 9 - 13 August 2015.

Organizing continues and we are finalizing the contract with a local hotel, the Yellowknife Explorer. This is probably the best hotel in Yellowknife (the Duke and Duchess of Cambridge stayed there when they visited). The local ball diamond has been reserved and we have equipment available. Discounts on some airlines are still being sought out and we already have a discount with Canadian North (that comes into effect in February).



There will be opportunities for delegates and their families to explore the local sites. There is an A.Y. Jackson collection of paintings in the Legislative Assembly well worth viewing (he painted here). Check out the *aurora borealis*. Explore the richness of the aboriginal cultures locally (Tlicho, Akaitcho etc.). Check out the local museums or the rich geological diversity. Yellowknife may seem remote, but it is easy to get here by airplane or car (watch out for bison though). While it may be a frontier town it is also a capital city. Consider taking some time off before or after the Annual Meeting to visit and explore the rich diversity of the Northwest Territories. Visit Nahanni National Park. Try out some of the local wilderness lodges. Go on the hunt for more mushrooms. Why not go hunting or fishing? Or take a tour in an airplane? Or visit Buffalo Airways, the scene of Ice Pilots. Maybe you might want to explore the mighty Mackenzie River or the Barren Lands.



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