

**Uniform Law Conference of Canada  
Minutes of the Closing Plenary Session  
Held in Whitehorse, YT  
On Thursday August 16, 2012 at 11:30am**

**Opening Remarks**

The meeting was called to order at 11:30am with President Darcy McGovern as Chair and Marie Bordeleau as Secretary. D McGovern expressed the hope that all delegates enjoyed the warm welcome we received from our Yukon hosts as well as the lively debates during our sessions.

**Report from the Criminal Section**

Anouk Desaulniers reported that Lucie Angers, the senior federal delegate, kicked off the Criminal Section session with an outline of the recent government bills that have been passed as well as bills that are still before Parliament, including some bills that were not sponsored by the Justice Minister but are of interest to the delegates. Me Angers also spoke to Private Members' bills as well as initiatives underway in federal/provincial/territorial fora to examine various criminal law issues.

Of the 27 resolutions before the Criminal Section, 11 were adopted as presented, 10 were adopted as amended following debates, two were withdrawn after discussion, three were withdrawn without discussion because very similar resolutions had already been tabled by other jurisdictions, and one was defeated.

There were interesting discussions following the reports from three working groups. The working group on contradictory evidence outlined the work it did over the course of the year, including consulting prosecutors and the police community. This group has examined the issue of a witness giving a sworn statement to the police (known as a "KGB" statement), and giving a different testimony at trial and studied modifications to the Criminal Code, as sections relating to perjury do not specifically address this situation. The delegates provided feedback to the group and mandated it to work on developing an offense that will encompass the issue.

The working group on exceptions to mandatory penalties also presented its report. Professeur Yvon Dandurand's, who was mandated by the ULCC to complete a comparative analysis of existing exemption provisions in other jurisdictions, presented his report to the Section. Discussions were also informed by the observations provided US delegates who attending this portion of the meeting and shared their experience with mandatory minimum penalties in various American States. The Section thanked Professor Dandurand for his important contribution to the work in this area and tasked the working group to continue its work and report at the 2013 meeting of the Criminal Section.

La Section a aussi reçu le rapport du groupe de travail sur l'exécution interprovinciale des mandats de perquisition émis en vertu de lois provinciales ou territoriales. Un sondage tenu auprès des administrations au cours de l'année a confirmé leur intérêt pour ce sujet et leur désir de participer au groupe de travail. Leur mandat pour l'an prochain est d'explorer les options pour résoudre le problème de l'application de mandats extra-provinciaux et de faire rapport de leurs travaux, déterminer s'il est opportun d'inviter la Section civile à y participer conjointement et faire rapport en 2013.

La Section a aussi discuté des modifications potentielles à ses règles de pratique; une version amendée sera envoyée aux représentants d'administration avant le 30 novembre pour qu'ils puissent l'évaluer et faire leurs commentaires. La question du vote juridictionnel a été remise à l'an prochain.

A Desaulniers rappelle que Lane Wieggers a été nommé président de la Section pour 2012 – 2013 et que Cathy Cooper a été choisie pour lui succéder en 2013 – 2014.

A Desaulniers thanked Joanne Dompierre for assisting her as Secretary of the Section again this year and thanked Lee Kirkpatrick and the organizing committee for their wonderful hosting of the conference all week long. A Desaulniers said it was an honour to serve as Chair of the Criminal Section.

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

Gail Mildren thanked the delegates and presenters for all their hard work over the past week. Some of the highlights of the week include the adoption of the *Uniform Trustee Act*. G Mildren thanked working group Chair Russell Getz for his leadership as well as Rodney Fehr for drafting such a fine piece of legislation. A proposed civil law version of the *Uniform Public Appeals Act* was adopted. This project was an excellent opportunity to promote collaboration and cooperation between the common law provinces and the civil law in Québec. G Mildren thanked Arthur Close and Michelle Cumyn for their work. The *Reviewable Transactions Act* was adopted in principle and is expected to be fully adopted by November 30<sup>th</sup> of this year. G Mildren thanked Tamara Buckwold for her spearheading this working group and Ian Ground who drafted the document.

A number of paper and reports were considered, including Justice Canada's international law report. Work will continue on a number of excellent projects including commercial tenancies, the renewal of the *Uniform Wills Act*, the *UN Convention on Independent Guarantees and Stand-by Letters of Credit*, the *Interprovincial Subpoena Act*, voter residency, voter identification and absentee voting by members of the Canadian Forces, the *Interpretation Act*, international commercial arbitration, and uniform legislation for the implementation of international conventions.

The joint Criminal and Civil Sections project respecting the complementary provincial and territorial legislation will continue and the Advisory group is already working toward identifying uniform law projects from the chart's list.

G Mildren noted that Dr Dávila Cordero Sánchez of the Mexican Centre of Uniform Law was only able to attend for a short period but that his participation was very helpful. G Mildren thanked the US guests, 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, for their contributions as well. G Mildren also thanked Valérie Simard for taking the minutes of the Section's sessions and Manon Dostie, who has been translating the Section's resolutions to French all week long, as well as Peter Lown and the Advisory Committee, President Darcy McGovern, Criminal Section Chair Anouk Desaulniers, and Clark Dalton, our Project Coordinator, without whom the civil sessions could not have run so smoothly.

G Mildren said that Whitehorse has been a splendid and inspiring setting to work in and thanked Lee Kirkpatrick and the organizing committee for welcoming everyone to the Yukon so warmly.

G Mildren announced that Ian Rennie has been named Chair of the Civil Section for 2012 – 2013, and that Manon Dostie will succeed him for 2013 – 2014.

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

Committee Chair Michel Breton reported that he struck a committee comprised of long-time delegates and past presidents, including: Peter Lown, Darcy McGovern, Earl Fruchtman, Dean Sinclair, Russell Getz, Gregory Steele and Kathryn Sabo. The result of their deliberations being unanimous, M Breton presented the following motion on behalf of the committee:

**THAT** Nancy Irving, currently Vice-President, be nominated for President of the ULCC, and **THAT** Lynn Romeo, a distinguished former Chair of the Civil Section, be nominated for Vice-President of the ULCC. The motion carried unanimously.

M Breton noted that chairing the Nominating Committee is an Executive Committee member's last task before stepping down. After a year as Vice-President, a year as President and a year as Immediate Past President, M Breton said he owed thanks in particular to Marie Bordeleau for her assistance, Russell Getz and Darcy McGovern as well as Peter Lown and Clark Dalton. M Breton said that all these individuals made his life much easier over the last three years and that he was most grateful for their support.

### **Outgoing President's Report**

D McGovern said he was pleased to propose the following Resolution:

**BE IT RESOLVED THAT** the Uniform Law Conference of Canada (ULCC) express its appreciation by way of letters from the Executive Director to:

1. The Government of the Yukon Territory, which hosted the 94<sup>th</sup> annual meeting of the ULCC and the Honourable Mike Nixon, Minister of Justice for graciously receiving us at the welcoming reception;
2. Yukon Justice for hosting the welcoming reception at the amazing McBride Museum which was so appreciated by the delegates;
3. His Honour, Commissioner Doug Philips and Madame Angélique Bernard for their kind welcoming remarks at the reception
4. The Honourable Tom Ulyett, Assistant Deputy Minister of Justice, for attending our gala dinner;
5. The Organizing Committee that worked so hard and so efficiently, Lee Kirkpatrick, Michel Gélinas, Nancy Cole and Tracy McPhee;
6. Our very competent secretariat staff: Joanne Flinn, Doris Leblond, Lisa Patterson, Catherine Simpson, Christine Babcock and Deb Sher.
7. Our esteemed colleagues from the US Uniform Law Commission, Robert Stein, Michael Houghton and Harriet Lansing;
8. Our esteemed colleague from the Mexican Centre for Uniform Law, Dr. Jorge Antonio Sánchez Cordero Dávila;
9. Immediate Past President Michel Breton, now leaving the Executive Committee;
10. Anouk Desaulniers, Chair of the Criminal Section and Joanne Dompierre, Secretary to the Criminal Section for the exemplary work accomplished in chairing that Section's debates;

11. Gail Mildren, Chair of the Civil Section for the work done and the smooth running of our sessions;
12. Our presenters, Tamara Buckwold, Jean-Paul Chapdelaine, Michelle Cumyn, Yvon Dandurand, Gerald Ghikas, Peter Burke and Marc Lacoursière;
13. Valérie Simard, for preparing the minutes of the Civil Section;
14. Peter Lown, QC, Chair of the Advisory Committee on Program Development and Management and Chair of the International Committee for all the work he accomplishes every year;
15. Clark Dalton, QC, our Projects Coordinator who works so hard for the conference;
16. Our Executive Director, Marie Bordeleau for so much and efficient work in conducting this conference;
17. The Kwanlin Dün Cultural Centre staff;
18. The interpreters in each Section: Jacques Audet, Peter Douglas, Chantal Hamel, Jean-Pierre Lessard, Gillian Misener and Hélène Regimbald for their competence and commitment;
19. The audio-visual technicians, Tyler McAlear and Jakh Heutte, for ensuring the smooth running of the meetings; and
20. Our intrepid and fair umpire, Mr Bill Curtis.

The resolution was approved unanimously.

The President presented baskets of plants and flowers to the above-named members of the secretariat staff for their excellent work in the secretariat office throughout the week. Lee Kirkpatrick thanked Nancy Cole for her efforts in coordinating the social events of the annual meeting from the outset, as well as Tracy McPhee, who coordinated the onsite logistics for all the meals and social events.

#### **Closing Comments Outgoing President**

Being President has been a rich professional experience and a delightful personal one. I've had an unparalleled opportunity to see and experience the energy and generosity of all the individuals who compose, and truly are, the ULCC. I want to congratulate the members on their excellent choice of Nancy Irving as President for 2012 – 2013. I know that the Conference will be immensely well served with Nancy at the helm. Congratulations Nancy.

This year, Michel Breton brings to a successful conclusion his outstanding service on the Executive. Michel has been an unfailing source of friendly and knowledgeable advice and support to the executive and the conference over the past several years. I trust that he will continue to provide leadership in many ways and not just on the Ball Field for the East. Merci beaucoup Michel pour ton excellent travail.

A final thank-you then to all the members of the Executive, and to Clark Dalton and Marie Bordeleau for their dedication and assistance, of which I have been the fortunate beneficiary throughout the year. I want to acknowledge and recognize the achievement and contributions of all of you as Commissioners and particularly the Chairs of the Criminal and Civil Sections, Anouk Desaulniers and Gail Mildren, for their successful work on a truly remarkable array of subjects this week. Also, of course, our Yukon hosts for their wonderful northern hospitality.

I would be remiss in the extreme if I did not end my acknowledgments with a huge thank-you to my Saskatchewan Team over the years – both here and at home including Susan Amrud, Maria Markatos, Cindy MacNaughton, Glenna Hamilton, Lane Wieggers and Dean Sinclair – they have made my service both possible and very enjoyable.

With that, it is my distinct pleasure to pass the gavel as Chair and President to my friend and your new President, Nancy Irving.

### **Incoming President's Remarks**

It is an honour to be elected President of the Uniform Law Conference of Canada, and I thank the Commissioners for conferring that honour on me, as a representative of the Public Prosecution Service of Canada. I certainly appreciate the vote of confidence, and I look forward to the coming year with enthusiasm.

Darcy McGovern and his predecessors have set the bar very high, but I'm confident there's still enough spring in my step to get reasonably close. And I won't be shy about asking for the occasional leg-up from Darcy and past Presidents Michel Breton (until he retires later this year), Russell Getz and Dean Sinclair. In fact, I'm greatly comforted by the knowledge that I'll be able to seek their sage advice. I also intend to add Lynn Romeo's phone number to my speed dial list. Congratulations, Lynn, for your election.

The big challenge for me will come on the Civil Section side. My knowledge of the laws and issues being addressed in that Section is, to be frank, relatively limited, so I expect to be on a rather steep learning curve for the next 12 months. I now know that the Civil Section does things a little differently on that side of the Conference. But I also know that your essential goal is the same as on the Criminal side: you try to resolve often thorny issues in a spirit of collegiality and for the benefit of all jurisdictions represented here.

J'ai hâte de travailler de façon plus étroite cette année avec la Section civile, de travailler avec tous les membres du Comité exécutif des deux Sections ainsi qu'avec Marie Bordeleau et Clark Dalton, bien entendu. Darcy et les autres anciens présidents ont fait un excellent travail afin de développer une coopération et une collaboration avec nos collègues des États-Unis et du Mexique. Je veux maintenir cette tradition et continuer d'en garantir son succès. Surtout, j'espère être une ambassadrice efficace de la Conférence pour l'harmonisation des lois au Canada. J'attache beaucoup d'importance à la CHLC et à ce qu'elle représente comme force pratique d'unité et de coopération dans ce pays.

As I travelled to Whitehorse from Ottawa last week, I was reminded yet again of the wondrous size and diversity of this country. We flew over the Great Lakes, the Canadian Shield, the prairies, the mountains and the endless tracts of boreal forest. And every once in while, we passed over a city or town—a small dot on the landscape far below. It all brought to mind the description of Canada as “a land of scattered people.” That's why it's so crucial that we have a national forum like the Uniform Law Conference of Canada. It is a truly unique opportunity for delegates from all jurisdictions to get together to discuss and resolve legal issues of mutual concern that impact Canadian society. It is, in my view, a necessary forum for improving Canada's criminal law, and developing uniform legislation in the civil law. I sincerely believe that our legal system would be sorely diminished without the ULCC, and the efforts of every one of you around this table. So thanks again for your support and congratulations to all of you. Merci au Yukon et à Lee Kirkpatrick. I declare these Games to have been truly exceptional!

### **Host Jurisdiction's Report – Victoria, BC 2013**

Russell Getz noted that as he contemplates the tremendous hospitality the delegates have been shown this week, he knows there is an enormous amount of work to do to meet the standard Lee Kirkpatrick, Michel Gélinas and their colleagues set. On behalf of the BC Ministry of Justice and the BC delegation, he expressed pride in extending an invitation to all delegates to come to Victoria for the 2013 annual meeting August 11<sup>th</sup> to the 15<sup>th</sup> at the Laurel Point Inn.

The opening reception will be held at the Maritime Museum, which once acted as the first courthouse in the city and perhaps even the province.

### **Host Jurisdiction's Report – Toronto 2014**

Abiodun Lewis noted that the 2014 annual meeting is already being planned and that Ontario will continue in the tradition in offering the ULCC delegates warm hospitality.

### **Other Business**

There being no further business, the meeting was adjourned at 12:20pm.