



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

Minutes of the Opening Plenary Session
Held in Victoria, BC
On Sunday August 11, 2013 at 1:30pm

Opening Remarks

The meeting was called to order at 1:40pm on Sunday August 11, 2013 at the Inn at Laurel Point in Victoria, BC with President Nancy Irving as Chair and Marie Bordeleau as Secretary. The President welcomed the delegates and guests to the 95th Annual Meeting of the Uniform Law Conference of Canada, particularly those attending for the first time.

Introduction of the Executive Committee

ULCC President Nancy Irving introduced herself and the members of the Executive Committee: Darcy McGovern, Immediate Past President; Lynn Romeo, Vice-President; Lane Wiegers, Chair of the Criminal Section; Ian Rennie, Chair of the Civil Section; Peter Lown, QC, Chair of the International Committee and Advisory Committee on Program Development & Management; our Program Director, Clark Dalton, QC; and Marie Bordeleau, Executive Director. N Irving also recognized Criminal Section Secretary, Anny Bernier.

Introduction of Commissioners

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

N Irving noted that we will not be joined this year by Dr Jorge Sánchez Cordero Dávila, President of the Mexican Centre of Uniform Law, as his government has called a special session beginning August 15th. Michael Houghton, Immediate President of the Uniform Law Commission of the United States, Harriet Lansing, President of the ULC and Robert Stein, Past President of the Uniform Law Commission of the United States will join us in session as of Tuesday morning. N Irving said that she looks forward to their participation in our deliberations, and invited all delegates to get to know our foreign delegates better, noting that she and Peter Lown were extended a warm welcome at the ULC's annual meeting in Boston last month.

Welcome from Host Government & Overview of the Week to Come

Russell Getz said it was his pleasure on behalf of the host committee to welcome the delegates back to British Columbia. Richard de Boer, Samantha Hulme, Treena Watters and Ed Wright were recognized as the other members of the host committee. Mr Getz noted that the welcome reception will be held at the Maritime Museum this evening and said that government officials will be in attendance to welcome

the delegates. A trip to Butchart Gardens has been arranged for Monday night; the softball game will be held at a nearby park, followed by a BBQ at the hotel's outside terrace, and on Wednesday the gala dinner will be held at the hotel, with Steven Point, former Lt. Governor of British Columbia, as our speaker.

Joint, plenary and Civil Section sessions will all be held in the Spirit Room and the Criminal Section meetings will be held in the Merino Room. Luncheon meetings will be held in the Harbour Room. N Iriving noted that she is delighted to be back after 13 years at this lovely hotel on the Harbour and invited delegates to join her in her suite for an informal reception in her suite at room 650 after the welcome reception tonight and after the BBQ on Tuesday night.

President's Report

This is the 95th Annual Meeting of the ULCC and I have many people to thank for their support of my Presidency, particularly the members of the Executive Committee for their tremendous support in the last year. I am eternally grateful to Lynn Romeo, Darcy McGovern, Peter Lown, Lane Wiegers and Ian Rennie for their ongoing support and advice, which they provided in addition to their other responsibilities. I can't thank them enough for their wise counsel and dedication to the Conference... and their friendship.

We will hear from Ian and Lane in a few minutes on the work of their sections. During the past year they have worked hard to keep our efforts focussed and on track. I also want to express my appreciation for the excellent work done by project leaders, the Chairs of the working groups and the working group participants in the last twelve months for their active involvement in conference calls, meeting minutes and the production of a final report to this Conference, most of which they did off the corner of their desks.

Darcy McGovern, as our Immediate Past President, has been an invaluable source of wisdom and advice during my tenure as President. Thank you, Darcy, for your guiding hand over the past year and in the coming days.

I would also like to thank Clark Dalton, our Program Director who toils away, often in the background, working assiduously on research projects and other matters. I have found Clark's advice and corporate memory of tremendous assistance. And when he's felt the need to steer my thinking, he has always done so in a wonderfully calm and considered manner. I have really benefited from his participation in this Conference. Thank you, Clark.

The new Criminal Section Secretary, Anny Bernier, also deserves special mention. As you know, Anny assumed this responsibility last year at the end of our meeting in Whitehorse. I have had the chance to attend meetings that she has organized at the Department of Justice in recent months, and I am very pleased to say that she is doing an excellent job.

I have also benefited enormously from the support I received on a day to day basis from Marie Bordeleau, our Executive Director. As many of you know, Marie joined the Uniform Law Conference of Canada family in 2010, replacing the venerable Claudette Racette who retired that year. Marie had some big shoes to fill, but she now wears them comfortably. Thank you, Marie, for all you do for the Conference and for doing it all so well.

Finally, I cannot emphasize enough how much the Executive Committee values the efforts of Jurisdictional Representatives. We appreciate the considerable time and expertise that you contribute to the Conference, and the role that you play as the key contact person for the ULCC within your jurisdictions. I would also like to thank your governments for enabling your participation and for their ongoing financial support of the Conference.

I would now like to mention a few of the accomplishments and activities of the past year.

The Executive Committee has started planning the ULCC centennial meeting, which will be held in August 2018 (just five years from now). Last fall, Past President Michel Breton had suggested that the 100th ULCC annual meeting be held in Quebec City—the province’s capital where the organization had its first meeting in 1918. I am pleased to announce that this idea will become a reality. The representatives from Newfoundland and Labrador have agreed to let Quebec City take that spot in our annual meeting schedule for the historic event. We thank them.

Another significant accomplishment was the development of a four-year plan by the Advisory Committee on Program Development and Management. The plan will help guide the work of the Conference in the coming years. It was one of several outcomes of the committee’s meeting in June in Ottawa. I had the pleasure of attending most of those meetings and found them very productive. You’ll hear more about the results later this week.

With respect to the work performed by the Jurisdictional Representatives, I am pleased with the number of uniform laws that were adopted this year. At the meeting in June, the Committee discussed a number of strategies for implementing more of our work products in the provinces and territories. That requires carefully selecting projects so that the topics chosen meet the needs expressed by the jurisdictions. This week, we will ask for your suggestions, and in the next few months, we will look at ways of improving the implementation status.

Work on the new Uniform Law Conference of Canada website is ongoing and we will be hearing a brief report this afternoon from Dean Sinclair who has taken on the role of information management as Chair of the Publications Committee. Dean has undertaken a lot of work. I thank Dean, Ian Rennie and John Gregory, who many of you know but who isn’t here, for their work on this very important project. The new website went live last fall, and we’re now asking for your feedback. Dean will be encouraging you to step up and share your experience with the new website with him over the next few days, as do I. We all want the site to be as helpful and as user-friendly as possible, and we’ll only achieve that goal if you visit the site and let us know what you think. Your comments and suggestions will be greatly appreciated. Dean will have more to say about the website in a few minutes.

On the international front, Peter Lown and I had the pleasure of attending part of the annual meeting of the Uniform Law Commission of the United States in Boston last month. I had the pleasure of addressing their general meeting, or Committee of the whole”, on the nature of our organization and our current work. I also sat in on some of their working sessions, including those concerning an Act on Prevention of and Remedies for Human Trafficking. It was quite fascinating.

Peter took part in their Scope and Program Committee, which is equivalent to the Advisory Committee on Project Development and Management in our organization, and we both attended a special international meeting where we discussed current and potential joint projects. They include the current Joint Drafting Committee on Inter-jurisdictional Recognition of Substitute Decision-making Documents,

Fiduciary Access to Digital Assets, and Foreign Recognition and Enforcement of Domestic Violence Protection Orders. I look forward to continuing these discussions with our American colleagues later this week.

I came home from Boston with the certainty that our relationship with the Americans and that organization is very collegial, productive and mutually beneficial. It is so thanks in large part to Peter's success as our unofficial Ambassador to the United States.

On the financial front, we continue to face some challenges. A few jurisdictions are perennially late in making their annual contributions. And for the second year in a row, one jurisdiction has failed to contribute its annual share to the research fund. These issues will be discussed with the Jurisdictional Representatives at our working lunch on Tuesday. While we were disappointed to hear that Prince Edward Island was not in a position to send delegates to this meeting, I am very pleased that Newfoundland and Labrador is represented this year, at least on the civil side. I urge all Jurisdictional Representatives to continue to underscore the very good value their governments receive for their relationship with the Conference and their relatively modest contributions to our work.

In February this year our auditor, Stephen Saslove, merged his practice with the firm of McCay Duff LLP, and then went into semi-retirement. The Executive Committee, on the recommendation of Stephen, approved McCay Duff for the purposes of our 2012-2013 year-end audit. The firm is well-regarded in its field and the Executive Committee is recommending that we continue to work with McCay Duff as our incoming auditors.

Just before closing, I wanted to share with you this message I received from a former colleague who used to attend these meetings for many years, Daniel Grégoire, who many of you will remember fondly both on and off the ball field, as well as in the Criminal Section. He left me a voice mail in late July Irving to congratulate his colleagues and wish them well at the Annual Meeting in Victoria. I'm paraphrasing here as his message was en français, but he thinks about the Conference every year and that part of him will be with us this week. Those who know him know what that means and will be pleased to hear those warm sentiments from him.

In closing, I would like to say how wonderful it is to see so many friends and colleagues around the table. I am looking forward to rolling up my sleeves and getting things accomplished over the coming days and I hope you are as well. At the same time I am looking forward to enjoying the social activities that our host government has in store for us as outlined by Russell and the beautiful surroundings of our location on the harbour. Russell, you've given us much to look forward to in your overview of the week to come and I want to thank you so much for the countless hours that and your organizing team, Sam, Richard and others, have put in to this effort this week.

And now the moment that we have all been waiting for, let's turn to our financial resolutions.

Financial Resolutions

a. Approval of Audited Statements

MOVED by Peter Lown, seconded by Kathryn Sabo, **THAT** the Audited Statements for the fiscal period ending March 31, 2013 be approved as presented. Motion carried.

b. Approval of the Auditors

MOVED by Ian Rennie, seconded by Dean Sinclair, **THAT** the firm McCay Duff LLP Chartered Accountants, be appointed as Auditors for the Uniform Law Conference of Canada for the fiscal period from April 1, 2013 to March 31, 2014. Motion carried.

c. Banking Resolution

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

d. Approval of the Budget for the Fiscal Period 2013-2014

MOVED by Lynn Romeo, seconded by Elizabeth Strange, **THAT** the budget for the fiscal period 2013-2014 be approved, subject to amendments if deemed necessary, following the meeting of the Executive Committee in November 2013. Motion carried.

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

Confirmation of the Nominating Committee

N Irving noted that the Immediate Past President chairs the Nominating Committee for the purpose of nominating the next President and Vice-President, and asked D McGovern to constitute a committee of past presidents of the ULCC and long-term delegates to the Conference and report on their discussions at the Closing Session. D McGovern noted that pursuant to section 11 of the Constitution, he will strike a committee of past presidents who are in attendance and meet with them to discuss the naming of the next Vice-president, and that he will report to the group at Thursday's Closing Plenary session.

Outline of the Business of the Week

a. Criminal Section

It is a pleasure and an honour to serve as Chair of the Criminal Section proceedings this year in Victoria. This year, the Criminal Section consists of 31 delegates from 11 jurisdictions. Our delegates include prosecutors, policy analysts, members of the defence bar, and members of the judiciary. Based on our agenda, I think we have an interesting and enjoyable week ahead of us.

Here are a few highlights: Later this afternoon, we will hear from the Senior Federal Delegate to the Criminal Section as she tables her report outlining present Criminal Law initiatives including new legislation that has roots in past resolutions of the Uniform Law Conference's Criminal Section. Throughout the week, the Criminal Section will debate 24 resolutions that have been recommended by 8 jurisdictions. Generally, Criminal Section resolutions are aimed at improving the fairness, efficiency, and effectiveness of our Criminal Law. We see examples of these elements throughout this year's

resolutions. For example, the Criminal Section will debate resolutions recommending the offence of Human Trafficking carry the same parole eligibility limitations as many serious criminal offences do; another resolution calls for a streamlining of the procedure that determines whether a Conditional Sentence Order has been breached; and a third resolution argues in favour of a modernizing amendment to a *Criminal Code* harassment provision that would recognize the many different forms through which harassment can occur.

The Criminal Section has five working groups that will report at this meeting. Working group subjects include the creation of a potential exemption provision to Mandatory Minimum Penalties of Imprisonment and legislative change that could enable enforcement of extra-provincial warrants for the purpose of provincial offence investigations. I thank the working group Chairs and working group members for their effort and skill in moving these projects forward.

In recent times, we have seen an increasing number of specialized Courts in Canadian Communities that apply new approaches to old problems. The Criminal Section will receive a presentation regarding the Victoria Integrated Court which falls into this category. The presentation will be led by the Judge who presides over the Court, Provincial Court Judge Ernie Quantz.

Finally, I thank Anny Bernier, the Criminal Section secretary who has been so good to work with this year and so helpful to me. My thanks also go to the members of the ULCC Executive; it has been a pleasure to work with members of the executive throughout the year; I've enjoyed my time very much. I hope everyone enjoys the week ahead.

b. Civil Section

Welcome returning delegates and new attendees to the Conference and to this Annual Meeting. Thank you to Russell Getz and the organizing committee and to Marie Bordeleau, the Executive Director, for will no doubt be a very memorable meeting. It must be remembered that the majority of the work of the Civil Section is carried on throughout the year and that at the Annual Meeting, this is the opportunity to report on its work.

A special thanks to Manon Dostie and her colleagues at Justice Canada for their work in translating conference call minutes of the Civil Section. Also special thanks to President Nancy Irving and Project Manager Clark Dalton for their assistance behind the scenes. I also wish to thank Valérie Simard for taking the minutes of the Civil Section this week. Thank you to the former Chair, Gail Mildren for her assistance and guidance.

The agenda for this meeting looks quite busy. After the Opening Plenary, the Civil Section and Criminal Section will convene independently and then reconvene on the last day of the Meeting and jointly attend the Closing Plenary. The materials presented at this Meeting represent only a fraction of the work that was carried on throughout the year since the last Meeting. Working group meetings, telephone conferences, meetings tête-à-tête, drafting, translation etc. have all been undertaken. All of this has been on a volunteer basis. This week's presentations represent the culmination of all that work. For the Civil Section, there will be on model statute introduced:

- a. Model Election Amendment and Commentaries, presented by Darcy McGovern. This will be the culmination of several years of work on this project, previously known as "Voter Residency and Identification Requirements and Absentee Military Voting".

- b. Approximately 11 reports will be presented. These include:
- i. The Uniform Commercial Tenancies Act;
 - ii. The UN Convention on Independent Guarantees and Stand-by Letters of Credit;
 - iii. The Uniform Wills Act Renewal;
 - iv. The Uniform Drafting Conventions for the Implementation of International Conventions;
 - v. The Hague Convention on Service Abroad of Judicial and Extra-judicial Documents in Civil and Commercial Matters;
 - vi. Missing Persons Legislation, which is part of a joint project with the Civil Section;
 - vii. The Uniform Interpretation Act Renewal;
 - viii. The Convention on the Law Applicable to Certain Rights in Respect of Securities held with an Intermediary;
 - ix. The Uniform Vital Statistics Act Renewal;
 - x. The Interprovincial Subpoena Act Renewal; and
 - xi. The Uniform International Commercial Arbitration Act Renewal.

A number of special reports will also be presented; I won't go through them as they are listed on the time table.

Report from the Chair of the Publications Committee

Dean Sinclair reported that the entire contents of the old website are now on the new website. The new website has been augmented by reports and documents from other sources to make it as complete as possible. Mr Sinclair recognized Ian Rennie and John Gregory for the phenomenal amount they have put in to update our online presence by posting hundreds of documents and making them searchable by neophytes. The old website will be decommissioned at the end of this month. Now that the site is fully populated, the publications committee will set its sights on improving the appearance of the website, and will meet on a monthly basis to create a new look. D Sinclair noted that the search function will be amended to allow for more than 26 characters and invited all delegates to visit the website and give their comments before the end of the week. More than 40 documents were never translated; a prioritized list will be drawn up to determine when and by whom the translations will be done so that the website is identical in both languages.

Other Business

N Irving reminded all delegates to bring their name badges to the welcome reception tonight.

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