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**UNIFORM LAW CONFERENCE OF CANADA**

**MINUTES OF THE CIVIL SECTION, 2020**

**Prepared by  
Valérie Simard  
Justice Canada**

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For more information, please contact  
[ulccwebsite@gmail.com](mailto:ulccwebsite@gmail.com)

## MINUTES OF THE CIVIL SECTION, 2020

### **JOINT SESSION – NON-DISCLOSURE OF INTIMATE IMAGES Final Report and Uniform Act**

**Presenters:** Clark Dalton QC, ULCC  
Peter JM Lown QC, Alberta  
Candace Whitney, Ontario

Mr. Dalton, Mr. Lown and Ms. Whitney presented the report of the working group and the draft *Uniform Non-consensual Disclosure of Intimate Images Act (2020)* (UNCDIIA). The first report on this project was presented to the Civil Section at its annual meeting in 2018 and outlined the project’s proposed scope. In 2019, a Joint Session of the Criminal Section and the Civil Section received an interim report on this project which provided detailed policy recommendations. The Conference directed that a working group prepare uniform legislation and commentaries in accordance with its directions, and report back to the Conference at the 2020 meeting.

Mr. Lown outlined general policy goal in which the UNCDIIA fits: (1) removal of offending material quickly; (2) making the claimant whole; (3) protecting society from harmful conduct by sanctioning it and imposing penalties. He noted that the UNCDIIA addresses the first two goals as the third goal is addressed by the Criminal Code. The presenters then provided an overview of the UNCDIIA.

On the definition of court, it was noted that enacting jurisdictions would have to decide which tribunal is best suited to provide the fast-track remedy under section 3 and the more traditional tort remedy under section 4. A delegate asked whether it is intended that the court or tribunal at section 3 would be different from the court or tribunal at section 4. Mr. Lown responded that which court or tribunal should have jurisdiction under section 3 and section 4 is to be determined by enacting jurisdictions. A jurisdiction that decides that the court or tribunal under sections 3 and 4 are different would have to adjust the uniform Act.

On the definition of “internet intermediary” Mr. Lown indicated that the important element is that it captures the general hosting role of a commercial body dealing with 3<sup>rd</sup> party generated content and recognizes the crucial role of internet intermediaries in the effectiveness of any take down remedy. He noted that the UNCDIIA respects that intermediaries do not want to be drawn into every piece of litigation as parties but are amenable to court orders to take-down intimate images. He referred to section 6 which ensures that intermediaries are responsive to the take down process. A delegate asked whether the definition of “internet intermediary” would cover companies whose servers are not in the court’s jurisdiction. Mr. Lown indicated that court orders are enforceable against these companies if they have a presence in the court’s jurisdiction or are doing business there. Another delegate asked whether the intention in the definition was to capture only commercial bodies engaged in commercial activities and wondered if it

should also cover individuals who allow users to post on their personal websites. Mr. Lown indicated that the working group would examine whether the use of the word “commercial body” in the definition is unduly restrictive of individuals actually involved in distributing intimate images. A working group member recalled that the purpose of defining “internet intermediary” is to immunize them from being defendants in the underlying action but still be subject to resulting court orders. A narrow definition thus simply narrows the scope of immunity from litigation.

It was noted that the definition of “intimate images” is similar to existing definitions and is based on the desire to have a similar interpretation as has been given under existing provincial legislation and the Criminal Code. It focuses on nudity or sexual activity and is broad enough to cover altered images, involuntary exposure, up-skirting, toileting and cases where an individual is not identifiable. The word “engage” in the definition includes involuntary activities. The definition is more modern than that of the Criminal Code because it includes images altered by technology - so called “deep fakes”. Lack of consent in the distribution is presumed when the elements in the definition are present. Ms. Witney indicated, in response to a comment from a criminal prosecutor, that the definition of “intimate images” is adjusted by including “is or is depicted as” after “individual” before subparagraph (a). Furthermore “appears to be” is removed from subparagraph (a) and the first “is” is removed from subparagraph (b). She explained that “is or is depicted as” is consistent with the wording in the Criminal Code and is broader and interpreted by courts as not necessarily what happened but the message that is being sent. In addition, she noted that “area” is replaced by “region” in subparagraph (b) as the latter is given a broader interpretation.

Mr. Lown noted that sections, 2, 3 and 4 are a package. Section 2 creates a statutory tort of unlawful disclosure, which includes distribution and threatened distribution of intimate images, without proof of damages.

There is no need for a plaintiff to prove that they suffered injury or harm in order to establish either the fast-track tort under section 3 or the more traditional tort under section 4. An individual can file a section 3 application as well as a section 4 action. Both sections 3 and 4 allow the plaintiff to obtain a declaratory order that the image is unlawful and enable the plaintiff to seek removal of the image from online intermediaries, and/or an injunction against the defendant ordering the removal of the image. Whereas the applicant can be awarded nominal damages under section 3 such as out-of-pocket expenses incurred in bringing the application, the court can order a larger array of damages including general, special, aggravated and punitive damages to the claimant under section 4. A delegate wondered if this raised an issue of *res judicata*. The working group was of the view that the doctrine did not apply as sections 3 and 4 cover different torts. It was also noted that if a court found, pursuant to a section 3 application, that an image was not an “intimate image” or that it was not distributed, the defendant in a section 4 action with respect to the same image could raise an issue estoppel. A delegate asked if the fact that an individual can bring an application under section 3 and an action under section 4 could be made clearer and Mr. Lown indicated that the working group would examine this issue.

Mr. Lown explained that section 5 on publication bans sets out a rule on automatic publication ban that is clear, provides the fairest resolution in the context and does not distract from the remedy that is sought. Section 5 does not provide a list of criteria to apply to the ban as it was thought that this would be a distraction and might prolong the court process. A delegate noted that the last sentence of the third paragraph of the commentary indicates that the ban may not be minimally impairing and indicated that it would be helpful for enacting jurisdictions if the commentary included an analysis with regard to this risk. Mr. Lown indicated that the sentence must be read with the following paragraph and that the working group did not believe that there is a risk that the ban is not minimally impairing. He indicated that the commentary could be reviewed to make this clear. The delegate emphasized the usefulness for enacting jurisdictions of a commentary that would provide a Charter analysis on the issue of minimal impairment. Mr. Lown indicated that the working group could consider including a short analysis but did not think that there would be any appetite for an in-depth analysis and that including such an analysis in a uniform Act would be unusual.

Mr. Dalton provided an overview of sections 6,7,8,9 and 10 and responded to questions from delegates in relation to these sections. The discussions on sections 6,7,8 and 10 did not result in the need to amend the UNCDIIA. On section 9, it was noted that the working group would have to look into the interaction between the section which refers to the possibility to revoke consent to distribution and the definition of “intimate images” which refers to a reasonable expectation of privacy at the time the recording was made or distributed.

A delegate suggested that the report could make useful links and parallel references to the Criminal Code.

**RESOLVED:**

**THAT** the report of the working group be accepted;

**THAT** the definition of “intimate image” for the draft *Uniform Non-Consensual Disclosure of Intimate Images Act (2020)* be amended as set out at the meeting;

**THAT** the Civil and Criminal Sections direct the Working Group to consider the following:

- (a) references to Criminal Code provisions in the opening to the report;
- (b) whether the definition of “internet intermediary” is too restrictive;
- (c) adding a legislative note on the definition of “court”;
- (d) the provisions regarding revocation of consent;
- (e) whether the Commentary to sections 3, 4 and 5 can be clarified;
- (f) suggestions for edits to the French language text with consequent adjustments to the English language version, as well as any modifications

suggested to address Quebec law and generally to ensure that the French and English drafts are more compatible; and

- (g) any other matters that arise;

**AND THAT** the draft *Uniform Non-consensual Disclosure of Intimate Images Act (2020)* and commentaries be amended according to the decisions of the Working Group and that it be circulated to the Jurisdictional Representatives of the Civil and Criminal Sections. Unless two or more objections are received by the Projects Coordinator of the Conference by November 30, 2020, the draft Act should be taken as adopted as a uniform Act and recommended to the jurisdictions for enactment.

### **REPORT OF THE PAST CHAIR OF THE CIVIL SECTION Oral Report**

**Presenter: Maria Markatos, Saskatchewan**

Ms Markatos presented an oral report on business completed since the 2019 annual meeting of the ULCC and thanked all those involved in the projects adopted since 2019.

She noted that in 2019, the ULCC adopted the *Uniform Testamentary Additions to Trusts Act*, pursuant to the November 30 Rule.

Ms Markatos also indicated that the ULCC also adopted *Guidelines for Drafting Uniform Legislation Giving Force of Law to an International Convention*. She also noted that in addition, seven uniform acts to implement international conventions were adopted pursuant to the November 30 Rule, extended to January 30, 2020:

- (a) *Uniform Act to Implement the Convention on the Law Applicable to Trusts and on their Recognition (2019)*;
- (b) *Uniform Act to Implement Conventions on International Sales (2019)*;
- (c) *Uniform Act to Implement the Convention on Jurisdiction, Applicable Law, Recognition, Enforcement and Co-operation in Respect of Parental Responsibility and Measures for the Protection of Children (2019)*;
- (d) *Uniform Act to Implement the Convention on the International Protection of Adults (2019)*;
- (e) *Uniform Act to Implement the United Nations Convention on the Assignment of Receivables in International Trade (2019)*;
- (f) *Uniform Act to Implement the Convention on Choice of Court Agreements (2019)*; and
- (g) *Uniform Act to Implement the United Nations Convention on the Use of Electronic Communications in International Contracts (2019)*.

**RESOLVED:**

**THAT** the report of the past Chair of the Civil Section be accepted.

**UNIFORM COURT JURISDICTION AND PROCEEDINGS TRANSFER ACT  
and  
UNIFORM ENFORCEMENT OF CANADIAN JUDGMENTS AND DECREES  
ACT  
Interim Report**

**Presenters: Peter J M Lown QC, Alberta  
Joost Blom QC, University of British Columbia**

Mr. Lown and Professor Blom presented the interim report of the working group.

Mr. Lown introduced the project with a brief review of the ULCC's previous work. In the 1990s, the ULCC adopted a suite of uniform legislation on jurisdiction and recognition of judgments, including the *Uniform Court Jurisdiction and Proceedings Transfer Act* (CJPTA) and the *Uniform Enforcement of Canadian Judgments and Decrees Act* (ECJDA). Four jurisdictions implemented them. It is hoped that updating these acts will promote wider implementation. The working group will continue reviewing the CJPTA in 2020-2021 and will review the ECJDA in 2021-2022.

Professor Blom indicated the revised act will not substantially reform the common law but will clarify and codify it and apply existing principles in a more structured way. He noted that this approach is consistent with the approach used when the CJPTA was drafted. He also noted that the working group will consider how to deal with developments in the common law that depart with the CJPTA.

Professor Blom explained that the working group identified potential issues by surveying sources including judicial decision applying the CJPTA, judicial decisions in the non-CJPTA jurisdictions, and academic writing. The working group sorted the issues into three categories: Category 1 for issues that must be addressed; Category 2 divided in subcategories organized by priority for issues that might be addressed; Category 3 for issues that will not be addressed.

Professor Blom summarized the decisions of the working group as set out in the Interim Report. On the issue of forum selection clauses, the working group agreed that they should operate differently for contracts involving non-commercial parties such as employees and consumers but has not resolved yet how to proceed. A delegate asked whether the working group would consider protection for other parties such as small business owners or independent contractors that may also be subject contracts of adhesion which include a forum selection clause. The delegate also asked if the working

group is considering rules for small claims. Professor Blom replied that the working group is considering how forum selection clauses can be treated differently when there is an imbalance in bargaining power. He stated that there are different possibilities: the strong cause test can take bargaining power into account, or there could be a legislated exception. He noted that the issues are complicated because in many cases, there is a mix of contractual and conflicts of law principles.

It was noted that the working group decided the uniform Act should refer to the 2005 Convention on Choice of Court Agreements and implementing legislation, without restating the Convention.

A delegate emphasized the importance of including a note in the commentary inviting implementing jurisdictions to include a provision in their statute indicating how it overrides other legislation. Modern drafting conventions recommend indicating specifically over which other statute a statute prevails rather than a general statement that it prevails over all other statutes.

Professor Blom also provided an overview of issues identified in the Interim Report that remain to be addressed by the working group. A working group member suggested that the list of presumptions for real and substantial connections should not be closed while avoiding an act that is more liberal than the common law.

**RESOLVED:**

**THAT** the progress report of the working group on the *Uniform Court Jurisdiction and Proceedings Act* and *Uniform Enforcement of Judgments and Decrees Act* be accepted;

**AND THAT** the working group continue its work and report back at the 2021 Meeting.

**ELECTRONIC WILLS  
Report and Uniform Act**

**Presenter: Peter J M Lown QC Alberta**

Mr. Lown presented the final report of the working group. He began by acknowledging the working group. He also acknowledged the connections the working group has formed with STEP International, the Uniform Law Commission, the English Law Commission, and the New South Wales Law Commission, who are working on similar projects.

Mr. Lown noted that the project amends the 2015 Uniform Wills Act (UWA) to introduce equivalent provisions for electronic documents to those that currently exist for conventional documents and that the project does not deal with digital assets, digital vaults, or a complete digital identity. The project also cures an inadvertent omission to the UWA which did not contain a general provision on revocation of wills. He further

observed that the proportion of the population that has a will is not as high as it ought to be and that it is hoped that the amendments would help enable more individuals to prepare a will. Finally, he noted that the proposed amendments would not require wills and estate practitioners to change their practice, but would enable different ways of providing services.

In addition to preparing amendments to the UWA, the working group decided that the exceptions for wills should remain in the *Uniform Electronic Commerce Act* and prepared amendments to the commentary of that Act to alert readers that provisions related to electronic wills are in the UWA.

The working group proposed to apply the same concepts as applied in the amendments to the UWA to the *Uniform Enduring Powers of Attorney Act*.

Mr. Lown observed that several jurisdictions adopted emergency legislation in the areas of remote witnessing and electronic documents to address issues linked with COVID-19 restrictions. He also noted that British Columbia recently amended its legislation to allow electronic wills and remote witnessing of wills without linking this to emergency measures. It was also noted that Saskatchewan recently made its remote witnessing provisions permanent.

Mr. Lown then led the delegates through a review of the proposed amendments to the UWA. Highlights of the review and discussion included:

- a comprehensive section dealing with the revocation of wills including electronic wills other than revocation by marriage which is already included in the UWA;
- definitions of:
  - “communication” which provides that the essential elements of communication are that it has to be two-way and that each person must see, hear, and speak to each other. The definition also refers to assistive technology that enables individuals to do those things or the equivalent. It was noted that adjustments were needed to the French version to ensure concordance with the English version and appropriate civil law terminology;
  - “electronic” which is identical to the definition in the *Uniform Electronic Commerce Act*;
  - “electronic signature” which is also identical to the definition in the *Uniform Electronic Commerce Act*. The working group considered the definition in the UNCITRAL Model Law on E-signatures but decided that although it has some advantages, these do not outweigh the value in retaining the law already in use. Mr. Lown noted that an electronic signature can be one of a number of things such as an electronic recording of the actual signature (like a pdf) inserted electronically into a document or a mark that is adopted to show approval of the document, like stylized initials. There are also apps and technologies that have a two-step authentication process to validate the identity of the individual approving the document. In that case, there may not be a signature placed in the

document itself. Rather, there is something associated with the document to show that approval has occurred. The working group used the words “in, attached to, or associated with the document” to contemplate all these possibilities and to ensure that the Act is open to new technology and is technology neutral;

- “Electronic form” to distinguish between conventional will and wills in electronic form. The essential elements are that the electronic will must be stored or recorded, capable of retrieval for future reference, and accessible for future reference and “readable as text”. It was noted that the definition thus precludes a will made by video but that this issue could be revised in the future. It was also noted by a delegate that the definition could eventually be expanded to include machine-readable wills;
- “Electronic presence” which incorporates the definition of “communication” and specifies that individuals should be able to communicate to an extent similar to communication in physical presence. The working group considered speculative concerns about risks of duress and undue influence if individuals are not in physical presence of each other but did not address them in the amendments because practitioners already have procedures to guard against these risks.
- new section 3.1 on the electronic format of the will, electronic signatures, and other formalities similar to those set out in section 3, which deals with traditional wills;
- new section 3.1(5.1) on signatories in counterpart which is a practice that developed over the past six months in response to situations when parties couldn’t be in the same location because of COVID-19 related restrictions. It involves each party signing their own document, so that the assembled documents would satisfy the formal requirements of the Act. The working group questioned whether the practice might be temporary in response to the pandemic or will become common practice. The working group added it to the draft amendments because British Columbia already adopted the process. It was noted that signing in counterpart is different from signing in electronic presence because in the latter case, all the parties are sharing the document so they are signing the same version rather than counterparts. It was suggested that adjustments may be needed to the French translation of “counterpart” and that « copie” and “exemplaire” may be more appropriate;
- new section 3.1(6) on the place of execution of the will which is that of the location of the testator;
- the draft amendments do not allow for electronic holograph wills but these wills may be permitted under dispensing powers;
- no amendments were made to military wills;
- a delegate suggested that the project should address the issue of safeguards to ensure that an electronic will submitted for probate is authentic in that it was not altered after having been signed and witnessed. The delegate suggested that the act could allow for regulations setting standards to ensure security, reliability and authenticity of an electronic will. It was explained that the project did not address

probate requirements and that authenticity could easily be addressed through an examination of the electronic will's metadata;

- section 9.2 on revocation of electronic wills. It was agreed that the drafter would ensure that an electronic revocation of a paper will would be valid and vice versa. It was also noted that section 9.2 may need to be amended to add a provision for electronic wills parallel to section 9.1(2) on conventional wills;
- in response to question as to whether a requirement of mandatory professional involvement should be included, it was noted that this has never been required by the common law and that moving in this direction would be an important change from present practice and would reduce access to justice. A delegate pointed out that under a COVID-19 related emergency order in a jurisdiction, lawyers are required for remote witnessing. Mr. Lown responded that the emergency context is quite different from the general electronic will context. The Conference did not provide any directions to the working group to consider this issue.
- a delegate emphasized that a review of the French language version was needed to allow for better harmonization with the concepts contained in the *Civil Code of Québec*, the *Code of Civil Procedure* and the *Notarial Act* of Québec. Another delegate noted that, as this was an act amending an existing uniform act, the French version was drafted to harmonize with the terminology of the existing uniform act and that this should be born in mind in the French language review.

**RESOLVED:**

**THAT** the report of the working group be accepted;

**THAT** the *Draft Amendments to the Uniform Wills Act (2015) Regarding Electronic Wills (2020 Amendments)* and commentaries be amended in accordance with the directions of the Civil Section as recorded in the minutes, and any commentaries made on the French language version with consequent adjustments to the English language version, and circulated to the Jurisdictional Representatives. Unless two or more objections are received by the Projects Coordinator of the Conference by November 30, 2020, the draft Act should be taken as adopted as a uniform Act and recommended to the jurisdictions for enactment;

**THAT** the commentary to the Uniform Electronic Commerce Act section 2 is modified by adding the following after the first paragraph:

As a result, the Uniform Wills Act and the Uniform Powers of Attorney Act provide for wills and powers of attorney in electronic form and provide detailed rules for the creation, alteration or revocation of such documents. The exception in s. 2 is maintained specifically to ensure that the rules relating to wills and powers of attorney are exclusively and comprehensively set out in Wills or Powers of Attorney legislation;

**AND THAT** the working group continue its work and prepare amendments to the *Uniform Enduring Powers of Attorney Act (2015)* and circulate the proposed Act and Commentaries to the Jurisdictional Representatives by October 31, 2020. Unless two or

more objections are received by the Projects Coordinator of the Conference by November 30, 2020, the draft Act amending the *Uniform Enduring Powers of Attorney Act (2015)* should be taken as adopted as a uniform Act and recommended to the jurisdictions for enactment.

## **UNIFORM BENEVOLENT AND COMMUNITY CROWDFUNDING ACT Final Report and Uniform Act**

**Presenter: Arthur L. Close, QC, British Columbia**

Mr. Close, presented the report of the working group on a *Uniform Benevolent and Community Crowdfunding Act* (UBCCA). The project updates the *Uniform Informal Public Appeals Act (2011)* (UIPAA) to take account of the growth of internet crowdfunding. It was placed on the Conference's agenda in 2018 and subject to an interim report in 2019. The UIPAA exists in two versions, one recommended for the common law provinces and territories, and the other intended to work in harmony with the Civil Code of Québec. The current project updates the common law version of the UIPAA. An updated version of the UIPAA for Québec will be drafted in 2020-2021.

Mr. Close indicated that the working group issued a consultation paper in 2019 following the ULCC Annual Meeting and prepared English and French versions of a draft Act. The consultation paper and draft Act were distributed in both official languages, including by means of a website created for the purpose. The response, while not large, was helpful in sharpening the working group's views on a variety of issues. It included a submission by the Canadian Bar Association Charity Law Section. The working group held a meeting with GoFundMe representatives. Mr. Close indicated that his impression was that GoFundMe's goals were aligned with those of the working group, namely protection of donors and maintenance of a high level of trust that donations will be used for the purposes of the public appeal.

Mr. Close summarized the working group's final report by describing the problem addressed by the UIPAA, the changes since the UIPAA was adopted in 2011, and the proposed revisions to the UIPAA. He noted that the structure of the UBCCA was dictated by the working group's mandate, which was to update the UIPAA rather than to create an entirely new uniform statute. Section numbering of the UIPAA was preserved as much as possible in the UBCCA.

The most difficult questions facing the working group concerned appeals that are geographically diffuse. The object of the appeal, the organizer(s), and the donors may all be located in different jurisdictions. The conventional common law rule is that a trust is located at the ordinary residence of the trustee. The rule is preserved in the draft UBCCA, but with modification. Where there is more than one trustee and they reside in different jurisdictions, the residence of one trustee in the enacting jurisdiction would be sufficient under the UBCCA to trigger the application of the Act. The rules in the *Uniform Court Jurisdiction and Proceedings Transfer Act* (UCJPTA) are adopted for the

purpose of determining the ordinary residence of an appeal organizer-trustee that is an entity rather than an individual. A delegate suggested that s. 3(6) of the UBCCA might need to be amended if the UCJPTA is revised. Mr. Close acknowledged this might be the case in the future.

The working group concluded, that the ordinary residence of a trustee should not be the sole basis for application of the Act. In the Humboldt Broncos case, the Saskatchewan IPAA would not have applied if the appeal organizer had been resident elsewhere, yet it is obvious that there was an overriding interest in having the Saskatchewan statute apply to the fund. It was clearly the jurisdiction with the closest connection to the objects of the appeal, namely the players' families and the surviving players. The working group concluded that the primary ground for application of the UBCCA should be the closest connection to the object of the appeal. This is reflected in ss. 2(1)(b) and 3(7)(a) of the UBCCA.

A delegate commented on the benefits of amendments dealing with the current reality of fundraising. He noted that in the Humboldt case, there had been a clear jurisdictional nexus with Saskatchewan, but if some factors had been different, the Saskatchewan version of the UIPAA might not have been usable.

The UBCCA provides that if an appeal has been launched without the consent of an identifiable individual or a qualified donee who is the intended beneficiary, the individual or qualified donee may require the appeal to be halted. The intermediary and organizer would have to comply with this request, and funds raised up to that point would constitute surplus that is subject to the Act.

Mr. Close concluded his presentation by quoting from an article in the *Estates, Trusts and Pensions Journal* commending the usefulness of Saskatchewan's *Informal Public Appeals Act* in the Humboldt case.

A delegate commented on the need for revisions to the French version of the UBCCA.

Mr. Carl Lisman, president of the U.S. Uniform Law Commission (ULC) provided an update on the status of the counterpart ULC project. Mr. Lisman said that the ULC project focused on default rules for dealing with unneeded or unused funds rather than on pursuing a solution based on a trust. As it was discovered that all crowdfunding platforms now require appeal organizers to specify how they propose to deal with surplus funds, the project has been placed on hold to await further developments.

**RESOLVED:**

**THAT** the report of the working group on a *Uniform Benevolent and Community Crowdfunding Act* (formerly a *Revised Uniform Informal Public Appeals Act*) be accepted;

**THAT** subject to any commentaries made on the French language version of the draft *Uniform Benevolent and Community Crowdfunding Act, 2020*, and the commentaries with consequent adjustments to the English language version, the Act is adopted and recommended to the jurisdictions for enactment;

**THAT** upon adoption, the *Uniform Informal Public Appeals Act (2011)* is withdrawn; and

**AND THAT** the working group prepare a Quebec specific statute drafted in a style that is more closely aligned with civil law concepts and the *Civil Code of Québec* to be presented at the 2021 Meeting.

**Advisory Committee on Program Development and Management  
Report on Project Selection 2020  
Report of the Implementation Committee**

**Presenters: Peter J M Lown QC Alberta  
Russell Getz British Columbia**

Mr. Lown, the Chair of the Advisory Committee on Program Development and Management (ACPDM) presented the Committee's report on project selection for the ULCC. The report is divided in three parts: projects recommended by the ACPDM; potential projects for which the ACPDM requires an indication of interest; ACPDM selection criteria and sample documents.

The three projects recommended by the ACPDM are: work on a uniform charity act; work on reforming general partnership law and on joint ventures; and work on defamation law in the internet age. On the first project, work on a uniform charity act, there was support from delegates for adding the project to the Civil Section's program. In addition, it was agreed that it should be determined whether the Canadian Bar Association is interested in pursuing the project jointly with the ULCC and that the Canada Revenue Agency's position on this work should be ascertained. On the second project, work on reforming general partnership law and on joint ventures, jurisdictional representatives were requested to inquire on their respective jurisdiction's interest in this project. It was agreed that proceeding on this project would be conditional on recruiting subject-matter expertise. On the third project, work on defamation in the internet age, reference was made to the report of the Law Commission of Ontario (LCO) which demonstrates a need for reform in this area. It was suggested that the ULCC could inquire with the LCO about the possibility of working jointly on this project.

Mr. Lown sought an indication of interest from delegates for seven potential projects on: a uniform legislation act / uniform regulations act; law and aboriginal jurisdictions; oaths and affirmations; prepaid gift cards; pre-judgment interest and interest on foreign money claims; crown liability; and a uniform franchises act. Results from polls conducted via Zoom during the meeting suggest that there is some interest for work to be pursued on

these potential projects but that jurisdictional representatives would need to inquire on their respective jurisdiction's interest in the potential projects and report back to the ACPDM before a decision can be taken on proceeding with any of them.

On the ACPDM's project selection process, it was suggested that project proposals for consideration at an annual ULCC meeting should be communicated to the ACPDM by December of the year preceding the meeting to allow jurisdictional representatives time to consult on their jurisdiction's interest in the proposals before the annual meeting. A delegate also stressed the importance of ascertaining, before embarking on a project, whether another organization has conducted or is conducting similar work to avoid duplication of work. It was also noted that legislation from the United States of America and also from Europe can be sources of inspiration. Finally, it was emphasized that the civil law should be considered in the ULCC's reform program.

Mr. Getz delivered the report of the Implementation Committee. He noted that Table 5 has been updated. He also indicated that the Committee decided to promote enactment of the *Uniform Police Records Checks Act* (UPRCA) and to examine what it might learn from promotional activities. It was felt that the UPRCA was a good candidate for this as it was a joint project of the Civil and Criminal Sections and the private bar was also involved in it. The Committee prepared an information note on the UPRCA. The materials on the UPRCA will be given prominence on the renewed ULCC website. Jurisdictional representatives were invited to engage with the Committee to indicate what would help assist them in promoting the UPRCA.

**RESOLVED:**

**THAT** the reports of the Advisory Committee on Program Development and Management and of the Implementation Committee are accepted;

**THAT** subject to confirming availability of subject-matter expertise and jurisdiction interest by September 30, 2020, the Advisory Committee on Program Development and Management should initiate work on the following projects:

- Uniform Charity Act;
- Defamation Law in the Internet Age; and
- Reform of General Partnership Law/Joint Ventures;

**AND THAT** the Jurisdictional Representatives should report back to the Advisory Committee on Program Development and Management no later than September 30, 2020, and advise of their jurisdiction's interest on the following potential project topics:

- Uniform Legislation Act/Uniform Regulations Act;
- Law and Aboriginal Jurisdictions;
- Oaths and Affirmations/Evidence Act;
- Prepaid Gift Cards;

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- Pre-Judgment Interest;
- Interest on Foreign Money Claims;
- Crown Liability; and
- Uniform Franchises Act.