

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

**Minutes of the Opening Plenary Session of the 103rd Annual Meeting
of the Uniform Law Conference of Canada
Via Zoom
on Monday, August 23, 2021 at 12:00 ET**

Welcome Remarks

ULCC President, John Lee, welcomed the participants to the 103rd Annual Meeting. As this was a virtual meeting, he noted that he was in Toronto and acknowledged that Toronto is the traditional territory of many nations including the Mississaugas of the Credit, the Anishinaabeg, the Chippewa, the Haudenosaunee and the Wendat peoples and is now home to many diverse First Nations, Inuit and Métis peoples. Toronto is also covered by Treaty 13 signed with the Mississaugas of the Credit, and the Williams Treaties signed with multiple Mississaugas and Chippewa bands.

Introduction of the Executive Committee

The President introduced the Executive Committee, which consists of himself, Lee Kirkpatrick, Immediate Past President; Laura Pitcairn, Vice President; Chloé Rousselle, Chair - Criminal Section; Valérie Simard, Chair – Civil Section; Peter Lown, QC, Chair - Advisory Committee on Project Development & Management & Chair - International Committee; and Members at Large Manon Dostie, Joanne Klineberg, Dorette Pollard, Caroline Quesnel, Sarah Dafoe, and Matthew Hinshaw. Kathleen Cunningham, Past Executive Director; Clark W. Dalton, QC, Project Coordinator; and Christian Delaquis, Executive Director, were also introduced.

President's Report

The President presented the following report.

Just over a year ago, the ULCC held its first virtual annual meeting as a result of the Covid-19 pandemic, a pandemic that unfortunately continues to be with us today. We were all a little nervous back then and although we had put in a lot of planning, we really didn't know what to expect. However, we ended proving that we could hold an annual meeting and do a significant amount of our work virtually. A virtual meeting also allowed us to attract more participants than we have had in recent memory.

I'm happy to announce that this year's meeting has allowed us to attract an even higher turnout. We have more than 125 delegates and observers including Professor Christiane Wendehorst, President of the European Law Institute and a delegation from the Uniform Law Commission led by Carl Lisman, Immediate Past President of the ULC, who is joining us again.

I want to mention before I go further that I recently attended the Uniform Law Commission's annual meeting for the third time. Thank you, Carl, for your invitation. I have learned a great deal from those three years of attendance. The Commission has long been an inspiration to the ULCC and I hope you see a reflection of some of the ULC's initiatives in our meeting this week. I also want to express my thanks to both Christiane and Carl for their generosity in taking time to speak to the civil section later this week.

While the carrying out of our meeting virtually last year is itself a triumph and the significant attendance a major benefit of the meeting's format, we unfortunately need to recognize the shortcomings of last year's meeting.

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Notably, the criminal section was unable to address the resolutions that it normally considers at our annual meetings. The civil section also identified procedural challenges impacting the timely distribution, review and adoption of at least one of its uniform acts.

For the past year, the executive committee, the annual meeting planning committee and the steering committees have worked hard to improve upon the virtual meeting format. You will have noticed that, if you are in the criminal section, you will be meeting until Friday and will have received a variety of resolutions to consider. And if you are in the civil section, please bear with us as the civil section steering committee works to revise its procedures.

While it was inevitable that we would be meeting again in a virtual environment for this year and that planning for the annual meeting would again consume much of our work as an executive, the executive and some of our members have also been busy on other significant matters.

As announced last year, our long-serving executive director left us after the last annual meeting. A committee, led by Laura Pitcairn, and composed of Lucie Angers, Laurence Bergeron, Kathleen Cunningham, Sarah Dafoe, Manon Dostie, Valérie Simard, Elizabeth Strange and myself, was responsible for the search for a replacement and I'm pleased to use this opportunity to formally introduce everyone to Christian Delaquis, our new executive director. I want to thank Laura and her committee for all their hard work on this initiative. In addition, I want to take this opportunity to thank Kathleen Cunningham for agreeing to act as our executive director in the interim during what has been an incredibly busy and challenging year.

I also want to highlight that our much-delayed website was finally launched earlier this year. This has been the result of work by a tremendous number of people and I can't thank them enough. I want to specifically mention the extraordinary effort that both Kathleen Cunningham and Clark Dalton had put into the website this past year.

Our previous website unfortunately suffered from a distinct lack of attention for an extended period of time. And while we have managed to now significantly modernize the website, we need to ensure that it continues to be maintained and improved upon. Our website is not only a key method for us to communicate to the world about who we are and what we do, but it represents the only complete repository of our work. The continued improvement and maintenance of our website is essential to the public interest and to recognizing the time and effort all of you put into our projects and your commitment to our organization.

At the end of this week, I will be handing over leadership of the ULCC to my successor. When I assumed leadership of the ULCC, the world was a much different place than it is today. The pandemic has transformed us individually and collectively and we continue to all face a very unpredictable future. It has also revealed truths - truths related to gross inequity and systemic failures – some of which we, as a society, have previously found all too easy to ignore or have been too busy to see. All of this should give us pause to remind ourselves of the privilege of our position, to consider the mandate and values of our organization and to determine what we should do this week at our annual meeting and in the future as members of this organization.

Since I have been President, the ULCC has created several new and important committees. I want to just briefly mention two of them, the Diversity and Inclusion Committee and the Environment and Climate Crisis Committee. These two committees were created in response to the resolutions adopted last year and for those who were with us last year, I just want to thank again everyone who supported the resolutions, as they

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demonstrate an awareness that, in order for us to continue to carry out our work effectively and responsibly, we cannot afford to be blind to the larger world around us.

While no ULCC President at the end of their term can boast of finding a city of bricks and leaving it a city of marble, I hope that when I leave on Friday, after more than two years in this position - a position that I very reluctantly accepted - I am leaving an organization that is more open to new ideas, more accessible to different voices and more collaborative so that we can all continue together to seek out the common good and build a future of laws that better reflects our shared sense of justice.

At this week's meeting, whether you are attending for the first time or the twenty-first time, an expert in the particular field or not, work in the common law or the civil law system, I encourage you to scrutinize the work before you, ask questions, challenge the proposals -- engage in reasoned and respectful deliberation. If you are confused by something, bring your concerns forward. If you disagree, let us know.

It has been a privilege to lead the ULCC and an honour to support the work that you do.

Thank you.

Financial Resolutions

The President reported on the work of the Budget and Finance Committee. This past year, in addition to its regular duties, the Committee established a reserve fund for the ULCC. The establishment of the reserve fund should allow the committee to more effectively fulfill its mandate going forward.

The pandemic has very unexpectedly put the ULCC in a very strong financial position. The ULCC will need to consider carefully its annual budget and assessments to ensure it continues to deliver value to its funders.

a. Receipt of Audited Statements (Appendix)

MOVED by Sarah Dafoe, seconded by Peter Lown, **THAT** the Audited Statements for the fiscal period ending March 31, 2021 be received as presented. Motion carried.

b. Approval of the Auditors

MOVED by Sarah Dafoe, seconded by Peter Lown, **THAT** the firm of Hendry Warren LLP be appointed as Auditors for the Uniform Law Conference of Canada for the fiscal period starting April 1, 2021 and ending March 31, 2022. Motion carried.

c. Banking Resolution

MOVED by Sarah Dafoe, seconded by Peter Lown, **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 for all banking matters of the Conference AND THAT for amounts up to \$5,000, and for the purpose of purchasing G.I.Cs and term deposits, and for the purposes 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.

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Resolution to Correct the Long Form of ACPDM in Bylaws

MOVED by Sarah Dafoe, seconded by Mathew Hinshaw, **THAT** Sections 15(f) and 27 of the English Bylaws be amended so that the name of the ACPDM be changed from *Advisory Committee on Project Development and Management* to *Advisory Committee on Program Development and Management*; and that Section 15(1) of the French Bylaws be amended so that the name of the CCGÉP be changed from *comité consultatif sur le développement et la gestion de projet* to *comité consultatif sur l'élaboration et la gestion des programmes*. Motion carried

Diversity and Inclusion Committee Report

The Chair of the Committee, Matthew Hinshaw, provided an update on the activities of the committee over the last year.

The Diversity and Inclusion Committee is composed of the following members: Donna Ballard – Newfoundland and Labrador (now retired – her input over the last year was invaluable and we will miss her on the committee), Valérie Simard – Justice Canada, Nadia Thomas – Ontario, John Lee – Ontario, Lee Kirkpatrick – Yukon, Matthew Hinshaw – Alberta

The Chair noted that in early 2020, the ULCC struck a committee to consider what steps could be taken to identify and address any opportunities to improve the work of the ULCC in relation to diversity and inclusion. As part of its work, the committee drafted a proposed Statement of Policy on Diversity and Inclusion, which was adopted by the Conference at the 2020 annual meeting of the ULCC.

For the past year, the Diversity and Inclusion Committee has held regular meetings to discuss the implementation of the Statement of Policy. As an important first step to implement the Policy, the Committee concluded that it was necessary to determine how diverse and inclusive the ULCC currently is. As a result, the Committee created a survey that will be used to acquire a better understanding of the ULCC's diversity.

In developing the survey, the Committee was extraordinarily fortunate to receive input from Justice Canada's Human Rights Law Section and the Newfoundland Statistics Agency. In particular, Darryl Madigan and Joseph Joy of the Newfoundland Statistics Agency provided extensive advice and support in the creation of the survey. Although they are not present at the meeting, the Chair expressed the committee's gratitude for their invaluable assistance.

Following this year's annual meeting, all participants will receive a survey link. The Newfoundland Statistics Agency has generously agreed to assist the ULCC with administering the survey, and all information submitted will be collected and protected under the authority of the Access to Information and Protection of Privacy Act of the Province of Newfoundland and Labrador. All responses will be kept strictly confidential and will be published in aggregate form only. No individuals will be identified in the survey's results. Although participation is voluntary, the Chair encouraged everyone to participate to ensure that the information collected is as accurate and as comprehensive as possible.

The Diversity and Inclusion Committee will continue to work toward implementation of the Statement of Policy in the coming year. The Chair asked that if anyone is interested in joining the Diversity and Inclusion Committee going forward, they should contact him or another member of the Executive Committee.

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In Memoriam to Arthur Close, QC

The President announced the recent death of Mr. Arthur Close QC, ULCC President from 2001 – 2002. Mr. Lee recognized Mr. Close's many contributions to the ULCC. Mr. Close was an active member of the ULCC for 43 years – its longest serving member. He will be greatly missed.

Mr. Close's death will be noted in the proceedings as an in memoriam.

Outline of the Business of the Week

a. Criminal Section

Criminal Section Chair, Chloé Rousselle, noted that the traditional debate on resolutions in the Criminal Section did not take place last year. However, it was decided that the usual consideration of resolutions would resume this year, given that most delegates are now familiar with virtual meetings. Deliberating on resolutions is core to the Criminal Section's activities and every year it gives rise to constructive exchanges concerning complex criminal law issues. The Criminal Section received 24 resolutions relating to a wide variety of criminal justice issues, including juries, the temporal application of criminal law reforms, publication bans and punishment for certain offences.

In addition to the resolutions, the Criminal Section will also receive reports from working groups, namely a final report on the scope of the Criminal Section's mandate, a status report on the detention of seized property and a status report on search warrants.

The Criminal Section is also looking forward to joining its Civil Section colleagues at the social event on Wednesday to renew the East West baseball rivalry with a virtual twist.

On Thursday, Kathleen Roussel, Director of Public Prosecutions and Deputy Attorney General of Canada will be the guest speaker for the Earl Fruchtmann Memorial Seminar. She will be talking about racism and systemic discrimination in the criminal justice system, an important and timely issue. The Civil Section has also been invited to attend what promises to be a very interesting session.

The annual report of the federal jurisdictional representative, will be presented later in the day by Lucie Angers. This annual meeting will be the last for her and Joanne Klineberg. Their respective contributions to the ULCC have been significant and while the Chair noted that they will be sorely missed, she also looked forward to getting to know the new delegates that are joining the ULCC for the first time.

The Criminal Section has a very busy meeting schedule this week. This is a testament to everyone's commitment to the ULCC, which represents a unique opportunity for delegates from diverse backgrounds and with varied expertise to discuss very important issues.

b. Civil Section

Civil Section Chair, Valérie Simard, noted that she had the honour of working with the ULCC in adopting new methods to help the ULCC carry out its work, despite not being able to meet in person. Her participation in the ULCC's Recognition Committee gave her the opportunity to reflect on the important contributions of many individuals to the ULCC's work and she continued to be impressed by the commitment of its volunteers. She

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was particularly impressed when she learned more about the contributions of one of its longest serving members, Mr. Arthur Close, and noted that it was only fitting that the Civil Section start its meeting with a tribute to Mr. Close.

Ms. Simard then gave a brief summary of the Civil Section's agenda for the week. The tribute to Mr. Close would be followed by a report from the Implementation Committee and then a brief update by Professor Maya Cachecho of the Université de Montréal on the Reform of General Partnership Law project which she chairs.

She then indicated that on Tuesday and Wednesday, the Section would receive the final report on the Uniform Court Jurisdiction and Proceedings Transfer project and a proposed uniform act from professors Peter Lown, chair of the working group, and Joost Blom, the group's principal researcher. She noted that the draft uniform act amends the act by the same name adopted by the Conference almost 30 years ago. The Civil Section would also learn about the next steps on the Canadian Judgments and Decrees project from Mr. Lown and Mr. Blom.

Mr. Clark Dalton, the ULCC's project coordinator would then give an oral report on a possible project to review uniform acts adopted by the ULCC, and Peter Lown would report on the Charitable Organizations project.

On Wednesday, the Civil Section could expect a report from Mr. Carl Lisman, immediate past president of the Uniform Law Commission about his organization's projects and a report from Ms. Christiane Wendehorst, president of the European Law Institute, about her organization's digital assets project. Also on Wednesday, Peter Lown would provide the Civil Section with a progress report on the defamation law in the internet age project.

Ms. Simard noted that on Thursday, the Civil Section would first join the Criminal Section for the Earl Fruchtmann Memorial Seminar. Ms. Kathryn Sabo would then present a report by Justice Canada and on private international law projects and Mr. Lown would present the Advisory Committee on Program Development and Management Committee's report.

Report of the Nominating Committee

Immediate Past President Lee Kirkpatrick said that the committee comprised of Catherine Cooper, Manon Dostie, Darcy McGovern QC, Carolyn Quesnel, Chloé Rousselle Kathryn Sabo met in May and June. While the committee unanimously recommends Laura Pitcairn be nominated President, and Sarah Dafoe Vice-President, Ms Kirkpatrick asked for nominations from the floor. Hearing none, it was

MOVED by Lee Kirkpatrick, seconded by Matthew Hinshaw, **THAT** Laura Pitcairn, currently President, and Sarah Dafoe, currently Member at Large, be nominated for President and Vice-President of the ULCC respectively. Motion carried.

Incoming President's Comments

I am honoured to have been selected as the next President of the Uniform Law Conference of Canada and am looking forward to the challenge.

This past year (actually I have spent two years as VP), I have been a member of a number of committees, many of which I will now be taking over the leadership role, but there are a number of other committees that will be continuing their work throughout the year.

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A few of the priorities that I see for next year include continuing the work of getting the website fully up to date, which is also an ongoing job, and planning ahead for next year's meeting.

Looking ahead to 2022, I am still very hopeful that we will be able to meet in person next summer, as we have found, at least in the criminal section, of which I am a member, that it has been very challenging to do our work properly in a virtual format. This week will be a good test of that.

So, as noted, one of my first priorities will be looking at the possibility of meeting in person next year and where that might be if we are able. Not an easy task I suspect but I am up for the challenge!

Aside from that, I am looking forward to what the year ahead will bring and to working closely with many of you on various committees. I expect I will lean very heavily on the past presidents, particularly John, for advice as I go along. And I may be reaching out to many of you to ask for your assistance or participation on a committee as things get going again in September.

And speaking of John, I would like to thank him for the 2 plus years he has put in as president of the ULCC. John has left me with big shoes to fill, given his many initiatives that he undertook, particularly since January 2020 when a number of us met in person in Ottawa to discuss the leadership and transformation of the ULCC. John exhibited enormous commitment to the continuing success of the ULCC, and as noted, I intend to rely on him a great deal to steer me in the right direction this coming year.

In closing, I thank you all again for your support in nominating me as incoming president and please feel free to reach out to me if you have any questions or would like to volunteer on any one of the ULCC committees!

Other Business

There was no other business.

Adjournment

The meeting was adjourned at 12:52 ET.