



THE CANADIAN BAR ASSOCIATION
L'ASSOCIATION DU BARREAU CANADIEN

December 5, 2007

The Honourable Senator Joan Fraser
Chair
Senate Committee on Legal and Constitutional Affairs
The Senate of Canada
Ottawa, Ontario K1A 0A4

Dear Senator Fraser:

Re: Bill C-13 – *Criminal Code* amendments (criminal procedure, language of the accused, sentencing and other amendments)

The Canadian Bar Association's National Criminal Justice Section (CBA Section) appreciates this opportunity to comment upon Bill C-13, *Criminal Code* amendments (criminal procedure, language of the accused, sentencing and other amendments). The CBA is a national association representing 37,000 jurists, including lawyers, notaries, law teachers and students across Canada and among the Association's primary objectives are seeking improvement in the law and in the administration of justice. The CBA Section is balanced between prosecutors and defence counsel from every part of the country.

We believe that many of the proposals in Bill C-13 would address persistent practical difficulties with the *Criminal Code*. In particular, Bill C-13 would respond to issues that have been of longstanding concern to the Uniform Law Conference of Canada (ULCC). We appreciate the law reform initiatives of the ULCC, which represents a wide spectrum of views on criminal law policy issues, including those of the CBA Section. In fact, some sections of the Bill, for example section 26(2.1) providing for the exclusion of a juror upon application during a challenge for cause, would legislate a ULCC resolution initially proposed by the CBA.

Other aspects of the Bill's proposed changes to the *Criminal Code* would enhance the effectiveness and fairness of criminal proceedings in Canada. These include provisions that would provide a right of appeal from an order regarding the disposition of seized property (section 14), a right of re-election as to mode of trial in the case of a direct indictment in certain circumstances (section 23), a mechanism for equalizing the number of peremptory challenges where a juror has been excused prior to evidence being called (section 25), and that an appellate court may consider compliance with conditions imposed on a recognizance or undertaking together with the duration of those conditions in determining whether to vary a sentence (section 28).

In conclusion, the CBA Section was pleased to participate in advancing and debating many of the various proposals found in this Bill through our involvement with the ULCC. We believe the Bill would generally improve the administration of justice and should receive prompt passage.

Sincerely,

(original signed by Gaylene Schellenberg for Greg DelBigio)

Greg DelBigio
Chair, National Criminal Justice Section