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Welcoming Remarks

Daniel Ujczó

Robert Rawson

Robert Noble

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WELCOMING REMARKS

Speaker – Daniel Ujczó
United States Speaker – Robert Rawson
Canadian Speaker – Robert Noble

INTRODUCTION

Daniel Ujczó

MR. UJCZO: Good evening. I am Dan Ujczó, the managing director of the Canada-United States Law Institute. On behalf of the Institute, I welcome you to this, our twenty-seventh Annual Conference. I extend a warm welcome to the representatives of our respective founding institutions. Case Western University School of Law, represented this evening by Dean Bob Rawson,¹ whom you will be meeting in just a moment, and The University of Western Ontario Faculty of Law represented by Dean Ian Holloway,² who you will be meeting tomorrow evening.

I also extend a warm welcome to our national directors, Professor Chi Carmody³ from The University of Western Ontario and Jon Groetzing⁴ from Case Western Reserve University.

I would likewise extend a very special welcome to the members of our Executive Committee that are here in attendance from Canada, and Toronto in particular, Selma Lussenburg,⁵ Larry Herman of Cassels Brock,⁶ Jim McIlroy of McIlroy & McIlroy,⁷ and Michael Robinson of Fasken Martineau.⁸ From the United States, and Washington, D.C. in particular, I also

¹ *Robert Rawson*, JONES DAY, <http://www.jonesday.com/rrawson/> (last visited Sept. 25, 2010).

² *Ian Holloway*, U. W. ONT., <https://www.law.uwo.ca/lawsys/pages/contents.asp?contentName=Instructors&contentFileName=ihollowa> (last visited Sept. 25, 2010).

³ *Chi Carmody*, U. W. ONT., <https://www.law.uwo.ca/lawsys/pages/contents.asp?contentName=Instructors&contentFileName=ccarmody> (last visited Sept. 26, 2010).

⁴ *Jon Groetzing*, CASE W. RES. U. SCH. L., <http://law.case.edu/faculty/cv/groetzing.pdf> (last visited Sept. 26, 2010).

⁵ *Selma Lussenburg*, LINKEDIN, <http://ca.linkedin.com/pub/selma-lussenburg/b/379/428> (last visited Sept. 26, 2010).

⁶ *Lawrence Herman*, CASSELS BROCK, http://www.casselsbrock.com/People/Lawrence_Herman (last visited Sept. 26, 2010).

⁷ *James McIlroy*, MCLROY & MCLROY, <http://www.mcilroy.com/Expertise.htm> (last visited Sept. 26, 2010).

⁸ *Michael Robinson*, CANADIAN CHAMBER COM., <http://www.chamber.ca/images/uploads/>

would like to welcome Dick Cunningham of Steptoe & Johnson⁹ and Rick Newcomb of DLA Piper, United States.¹⁰ We do have a third Executive Committee member from the United States, Don Cameron of Troutman Sanders,¹¹ who will be joining us tomorrow. Don is back in Washington D.C. paying the bills, so to speak, on an unexpected client matter. And, as I stated earlier, for those of you keeping score, that is four Canadian Executive Committee members and three United States members. I assure you that the Institute is inherently bilateral and we appreciate the quality and equivalency in our relationship. We have a vacancy on the United States side right now that we will be remedying in short order.

I extend a welcome, as well, and our heartfelt appreciation to the members of our Advisory Board that are here in attendance, too numerous to name individually. But, one of the most treasured assets of our Institute beyond our two founding institutions at Case Western University School of Law and The University of Western Ontario is that third vital organ of our Institute, which is our public and private sector Advisory Board. For presentation purposes, we often break those three organs into distinct tracts. But, to be quite clear, everything we do in the Institute is inextricably intertwined between those three vital organs. Things that appear to be restricted to the classroom, within the ivy-covered walls so to speak, do involve our practitioners, many of whom teach our classes and are engaged with our students on an everyday basis. And, similarly, as you will see throughout this weekend, our events that are “for the outside world,” the public sector and private sector, always include members of our faculty and staff.

With that, I think many of us this weekend have mixed emotions. As you know, this is the first time that we have convened at this annual conference since the passing of our chairman, Henry King.¹² I think many of us woke up this morning waiting to see Henry and his phone calls and his ringing of the bell. Henry passed away on May 9, 2009. We at Case Western Reserve as well as his family have celebrated his life with several memorial services. The one that you will see tomorrow includes some footage from September; many of you participated in and attended that event. We honored Henry in a number of ways, and you will be hearing about that throughout the weekend. Also, you will see the tribute tomorrow, not the least of which being that we

Arbitrator-Profiles/JRobinson.pdf (last visited Sept. 27, 2010).

⁹ Dick Cunningham, STEPTOE & JOHNSON LLP, <http://www.steptoec.com/professionals-168.html> (last visited Sept. 26, 2010).

¹⁰ Rick Newcomb, DLA PIPER, http://www.dlapiper.com/richard_newcomb/ (last visited Sept. 26, 2010).

¹¹ Don Cameron, TROUTMAN SANDERS LLP, http://www.troutmansanders.com/donald_cameron/ (last visited Sept. 26, 2010).

¹² Dennis Hevesi, *Henry T. King Jr., Prosecutor at Nuremberg, Dies at 89*, N.Y. TIMES, May 12, 2009, at A25.

renamed this conference, dedicating it in his name. This is now the Henry T. King, Jr. Conference on Canada-United States Relations, which really is not much of a change. We all called it Henry's conference anyway. It is just formalizing what had always been the case.

We will also be honoring Henry and preserving his legacy by launching our Henry T. King International Law Studies Fund,¹³ which you will be hearing about tomorrow evening as part of the overall tribute. You will note that there is not a shortage of programs at this law school named after Henry. I encourage you to look at some of those during your stay here over the next few days.

As I said, it is with mixed emotions, because this has been one of the most exciting and dynamic years for our Institute, marked today by the appointments and announcement of our co-chairs, Minister James Peterson¹⁴ and Governor Jim Blanchard.¹⁵ And, while we spent a great deal of time working on our co-chairs, we were excited as we met with the Governor and the Minister in talking about this and their ideas. One of the practical consequences is that they are both named Jim. For the past several months, we started referring to them as the "Gov" for the Governor, and for those of you familiar with Canadian speak, the Minister as "Mint." You put them together, it is "Gov-Mint," and the jokes just write themselves at that point.

We at the Institute again recognize that not only do we have the benefit of our public and private sector Advisory Board, but also our home or our roots, which rests in our two academic institutions. The support of the administration, faculty, and staff at each of those institutions continues to move this Institute forward. With that, it is my great privilege and pleasure to introduce the dean of Case Western Reserve University School of Law and our co-president, Bob Rawson.

¹³ *The Henry T. King, Jr., International Law Studies Fund*, CASE W. RES. U. SCH. L., <http://law.case.edu/Support/OtherWaystoGive/MakeaMemorialorTributeGift/tabid/299/itemid/279/Default.aspx> (last visited Dec. 23, 2010).

¹⁴ *James Peterson*, FASKEN MARTINEAU, <http://www.fasken.com/en/jim-peterson/> (last visited Sept. 26, 2010).

¹⁵ *Jim Blanchard*, DLA PIPER, http://www.dlapiper.com/james_blanchard/ (last visited Sept. 26, 2010).

UNITED STATES SPEAKER

*Robert Rawson**

MR. RAWSON: Thank you, Dan. Good evening, everyone. It is my pleasure to also extend a warm welcome to each and every one of you. I want to add a special welcome to our colleagues from Western Ontario, members of the Executive Committee of the Institute, and the Advisory Board, without whom we could not function as the Institute that we all relish so much. Our faculty and our students are very much looking forward to participating with you in this exciting conference.

A bit of history. Some of you may have been around from the beginning, but we trace our roots with the Canada-United States Law Institute back to 1976 when it was formed jointly in partnership with The University of Western Ontario.¹⁶ And, since its inception, the Institute has had a very broad mandate to expose successive generations of students on both sides of the border to the importance of the special relationship between the United States and Canada.

If you take a snapshot of Case Western Reserve University and our law school, you would find that we have by count 110 faculty and students who participate in one way or another in the activities of the Canada-United States Law Institute and Canada-United States activities. These include work in the

* Robert Rawson counsels and litigates issues concerning antitrust and trade regulation. He has handled cases involving mergers and acquisitions, price discrimination, monopolization and attempted monopolization, price-fixing, class actions, intellectual property cases raising antitrust issues, and takeovers. In addition, he has significant experience in general commercial litigation. In his most recent trial he led a team for R.J. Reynolds Tobacco to a defense jury verdict on a price discrimination claim in which a tobacco retailer sought several billion dollars in damages allegedly caused by differences in prices offered to it as opposed to those offered to competitors (N.D. Ill. October 15, 2004).

For twenty years, Dean Rawson served his alma mater Princeton as a member of its Board of Trustees, during the last thirteen of which he served as chairman of the Executive Committee of the Board. He is currently chairman of the National Civic League, which assists communities and local governments to operate more successfully and efficiently, and chairman of the Northeast Ohio Council on Higher Education, a consortium of twenty-six educational institutions working to enlarge their impact in the region. He has been a member of the Board of the Lawyers Committee for Civil Rights and is past chairman of the Cleveland Initiative for Education, which marshals private resources in aid of the Cleveland Public Schools. Dean Rawson is a member of the ABA (Antitrust Law, Litigation, and Law Practice Management Sections), the Ohio State Bar Association (Antitrust Section), the Cleveland Metropolitan Bar Association, and the Bar Association of the District of Columbia.

¹⁶ *History: General Introduction*, CAN.-U.S. L. INST., <http://cusli.org/about/history.html> (last visited Sept. 26, 2010).

classrooms such as more than two dozen curricular and research opportunities that are available.¹⁷ It includes exchange opportunities with both Western Ontario and the University of Ottawa Faculty.¹⁸ It includes both the Canada-United States Law Journal¹⁹ and the Niagara Moot Court Competition.²⁰ And if you will permit me a parochial aside, I cannot desist from mentioning that in the most recent round of the Canada-United States Law Institute's Niagara Competition, the Case Western Reserve team finished second and placed several oralists and writers, and was one of the top competitors.²¹ In addition to all of that, of course, we have the tradition of hosting a number of conferences, including this one.

Dan already alluded to the fact that we have lost Henry, and there is not a day that goes by around here that one or another of us does not experience some vision of Henry walking these halls. Because there was not a day that he missed, really, up to the final days of his long life. In addition to the ways in which Henry has been recognized, I hope that if you have a minute you will go up to the third floor of our library, where you will find a new and improved display that honors Henry and his work. It is fitting that his portrait rests beside the portrait of Justice Robert Jackson, who of course we know was one of Henry's mentors.

As we look forward to the future, I also want to add my thanks and recognition to "Gov-Mint" and their willingness to take on the leadership of the Institute as we move forward. It is terrific, and we look forward here at Case Western Reserve to continue to work with you and to support the Institute in whatever way we can.

We are fortunate at the Canada-United States Law Institute and Case Western Reserve School of Law to have a strong partner in our work, and that is the Canadian Consulate General in Detroit. Throughout its history our Institute has received considerable support from that source. Particularly, not only from the Consulate General itself, but also from individuals, such as the Consul General George Costaris, who are with us at this conference. I offer deep appreciation to them and to the Consulate, and in that spirit it is my

¹⁷ *Curriculum and Exchange Programs*, CAN.-U.S. L. INST., <http://cusli.org/curriculum/index.html> (last visited Sept. 26, 2010).

¹⁸ *Id.*

¹⁹ *Law Journal and Publications*, CAN.-U.S. L. INST., <http://cusli.org/lawjournals/lawjournal.html> (last visited Sept. 26, 2010).

²⁰ *Niagara International Moot Court Competition*, CAN.-U.S. L. INST., <http://cusli.org/niagara/index.html> (last visited Sept. 26, 2010).

²¹ *Niagara International Moot Court Competition 2009-2010 Awards List*, CAN.-U.S. L. INST., http://cusli.org/niagara/documents/2009_2010docs/niagara_results.html (last visited Sept. 26, 2010).

great pleasure now to introduce a friend of our Institute and the University, Consul General Robert Noble.²²

CANADIAN SPEAKER

*Robert Noble**

MR. NOBLE: Good Evening. As the Consul General of Canada in Detroit, it is my high privilege to work on behalf of my fellow Canadian citizens and represent their interests in the States of Ohio, Michigan, and Indiana, as well as the Commonwealth of Kentucky. Since arriving here in September of 2006, I have had the great pleasure to come to know so many of you as we have continued our efforts to strengthen the key relationships between our two countries.

Our two peoples interact in a myriad of ways, such as through trade and travel,²³ continental security on our borders and beyond,²⁴ militarily in places such as Afghanistan,²⁵ and by foreign diplomacy and assistance as evidenced by our robust cooperation in the wake of the tragic events in Haiti.²⁶

Our countries are working on the combined challenges of energy, environment, and the economy. Canada is the number one supplier of all foreign

²² *Robert Noble*, GOV'T CAN., http://www.canadainternational.gc.ca/detroit/offices-bureaux/bio.aspx?lang=eng&menu_id=260&menu=L (last updated Oct. 21, 2010).

* Robert Noble assumed his duties as Canada's consul general, in Detroit, on September 5, 2006. As the consul general of Canada based in Detroit, Robert Noble represents Canada in the States of Michigan, Indiana, Ohio, and Kentucky. The Canadian Consulate General which he heads, promotes Canadian interests—trade, investment, the environment, culture, and academic relations being among the principal ones. The office also provides consular, passport, visa, and immigration services.

Mr. Noble served previously at the Canadian Consulates General in New York City and Boston. Mr. Noble began his career in the Canadian Foreign Service in 1974. He has served in a variety of trade and commercial advisory and policy positions in Ottawa, and his foreign assignments include postings as commercial minister/counselor at the Canadian Embassies in Madrid, Spain, and in Mexico City. He was Canada's ambassador to Gabon from 1997 to 2000. In addition to his public service, he spent four years as director of Government Liaison at the Canadian Exporters Association.

²³ See IAN F. FERGUSSON, CONG. RESEARCH SERV., RL 33087, UNITED STATES-CANADA TRADE AND ECONOMIC RELATIONSHIP: PROSPECTS AND CHALLENGES 3-11, 16-17 (2008), available at <http://www.nationalaglawcenter.org/assets/crs/RL33087.pdf>.

²⁴ See *Canada-U.S. Border Security*, PUB. SAFETY CAN., <http://www.publicsafety.gc.ca/prg/lc/bs/index-eng.aspx> (last updated Sept. 24, 2009).

²⁵ See Bureau of W. Hemisphere Aff., *Background Note: Canada*, U.S. DEP'T ST. (Sept. 1, 2010), <http://www.state.gov/r/pa/ei/bgn/2089.htm> [hereinafter *Background Note*].

²⁶ See *Canada's Humanitarian and Diplomatic Response to the Earthquake in Haiti*, FOREIGN AFF. AND INT'L TRADE CAN., http://www.international.gc.ca/humanitarian-humanitaire/earthquake_seisme_haiti_efforts.aspx (last updated Sept. 24, 2010).

energy to the United States²⁷ and, more importantly, it is a friendly supplier. With Canada as a strong and willing partner on environmental issues and energy security, both our countries have an extraordinary opportunity to work together to deal with the common challenges we face in a low-carbon future.²⁸

Canadian jurisdictions have made great strides in the development of energy efficiency measures. Some of these efficiencies have been achieved in our oil sector. Canada currently exports some 2.5 million barrels of crude oil and petroleum products to the United States per day,²⁹ which is almost twenty percent of total United States imports.³⁰ We are the number one supplier of United States imported oil and have been for sixteen years running.³¹ Together, we want to make investments to ensure that we retain this supply capacity for years to come. We have worked hard to bring the environmental impact of that production down, and progress continues. The Government of Canada has made a commitment to reduce Canada's 2006 levels of Green House Gas (GHG) emissions by twenty percent before 2020.³² Oil sands facilities currently account for approximately five percent of Canada's GHG emissions³³ and, under this commitment, these facilities will reduce their emissions. Canada currently supplies an overwhelming eighty-five percent of all United States natural gas imports³⁴—or eighteen percent of total consumption—and we are the number one source of United States uranium imports.³⁵

We are also the number one exporter of electricity to the United States.³⁶ Canada has considerable scope to expand hydroelectric generation, and we are on track to meet our government's commitment of ninety percent non-

²⁷ Gary Doer, Can. Ambassador, Keynote Address at the Pacific Northwest Economic Region (PNWER) Economic Leadership Forum: Canada and the United States: Economic Partners, Economic Leaders (Nov. 6, 2009), *available at* <http://www.canadainternational.gc.ca/washington/offices-bureaux/amb/20091106>; *see Background Note, supra* note 25.

²⁸ Doer, *supra* note 27.

²⁹ *Id.*; *see also* *Canada-U.S. Energy Relations*, GOV'T CAN., http://www.canadainternational.gc.ca/washington/bilat_can/energy-energie.aspx?lang=eng (last updated Apr. 14, 2009).

³⁰ Doer, *supra* note 27.

³¹ *Id.*

³² Press Release, Env't Can., Government of Canada to Reduce Greenhouse Gas Emissions from Vehicles (Apr. 1, 2009), *available at* <http://www.ec.gc.ca/default.asp?lang=En&n=714D9AAE-1&news=29FDD9F6-489A-4C5C-9115-193686D1C2B5>.

³³ *Oil Sands*, NAT. RESOURCES CAN., <http://nrccan.gc.ca/eneene/os-sb-eng.php> (last updated Sep. 10, 2010).

³⁴ Doer, *supra* note 27.

³⁵ *Id.*

³⁶ *Id.*

emitting electricity production by 2020.³⁷ In addition, we are a leader in terms of investing in carbon capture and sequestration.³⁸

Regarding the economy, particularly here in Ohio, we make things together. Approximately one-third of our trade is intra-firm, with companies and subsidiaries on each side of the border dealing with each other.³⁹ I note for example that Frank Gehry designed the Peter B. Lewis building right next door, which includes steel beams made here in Cleveland and refined through several processes in Hamilton, Ontario.

It follows that our countries think and act in a like-minded manner. As with any friendship, we have differences at times; however, we attempt to manage these differences through dialogue and understanding.

The Henry T. King Jr. Annual Conference on Canada-United States Relations exemplifies that spirit of cooperation and dialogue. I compliment our hosts, Case Western Reserve University School of Law, The University of Western Ontario Faculty of Law, and the organizers at the Canada-United States Law Institute for the excellent job they have done in coordinating this event. For nearly three and a half decades, the Canada-United States Law Institute has fostered Canada-United States Relations, and we at the Consulate General of Canada in Detroit are grateful for this highly valued partnership. I also extend our great appreciation to Deans Rawson and Holloway, as well as to the Institute's Executive Committee and Advisory Board. I note that today we experience some sadness as Canada's Honorary Consul here in Northeast Ohio, and our dear friend, Henry King is not with us in person. But, as I see Henry's bell is present, he is with us in spirit. We express great joy and optimism that the Institute will carry forward under the leadership of Governor James Blanchard and the Honorable James Peterson. We look forward to building on our excellent relationships, as well as establishing new friendships and partnerships with so many of you.

You undoubtedly will be receiving a great deal of figures and numbers over the next day regarding the size and scope of the Canada-United States relationship. To put those into context, keep in mind that last year United States-Canada two-way trade was worth well over half a trillion United States dollars, approaching 600 billion dollars.⁴⁰ Two-way trade in goods crosses the Canada-United States border at the rate of 1.7 billion dollars per day, nearly two million dollars a minute.⁴¹ Canada is the biggest export mar-

³⁷ *Id.*

³⁸ *Id.*

³⁹ See generally *Ohio*, GOV'T CAN., http://www.canadainternational.gc.ca/washington/commerce_can/2008/oh.aspx?lang=eng (last updated Dec. 19, 2008).

⁴⁰ See *U.S.-Canada Trade Facts*, OFF. U.S. TRADE REPRESENTATIVE, <http://www.ustr.gov/countries-regions/americas/canada> (last visited Oct. 17, 2010).

⁴¹ See *Background Note*, *supra* note 25.

ket for United States products, more than China, Japan, the United Kingdom, and Germany combined.⁴² To put it another way, Canada buys four times what China buys from the United States.⁴³

Canada is a larger market for United States goods than all twenty-seven countries of the European Union combined, which has more than fifteen times the population of Canada.⁴⁴ And that does not include services, which make up a very large proportion of our economy.⁴⁵

United States-Canada trade benefits every state in the Union. Using the most complete figures for 2008, Canada ranked number one in thirty-five states, including Ohio, as the leading export market for your goods.⁴⁶ Specifically, bilateral Ohio-Canada trade is worth 34.5 billion dollars a year.⁴⁷ This trade supports over a quarter of a million jobs right here in Ohio.⁴⁸

To summarize, the scope and strength of our relationship is the envy of countries around the world. We also know first-hand how relationships between American states and Canadian provinces and territories, premiers and governors, and state and provincial legislators and officials are key facets of our impressive bilateral relationship. Ohio is home to momentum, innovation, and dynamism in the face of the biggest economic policy challenges and opportunities of our day. And the highly-integrated nature of our economies is a fundamental driver for economic prosperity on both sides of the border. This is a high-performing, high-yield relationship that is ours to shape as the best next-door neighbors on the planet.

There are, however, times where our regulatory systems are not in sync. The disparities create costs for our businesses and prevent us from reaching an optimal state of economic competitiveness. Our North American leaders recognized this in Guadalajara this past fall, and this conference is yet another example of our willingness to work together on complex issues.

Ladies and gentlemen, your kind attention is much appreciated. Thank you.

⁴² Gary Doer, Can. Ambassador, Keynote Address to the World Affairs Council of Charlotte: Canada and the United States: Partners in a Changing Global Economy (April 9, 2009), available at <http://www.canadainternational.gc.ca/washington/offices-bureaux/amb/20090409.aspx?lang=eng>.

⁴³ See, e.g., *U.S.-Canada Trade Facts*, *supra* note 40; see also *U.S.-China Trade Facts*, OFF. U.S. TRADE REPRESENTATIVE, <http://www.ustr.gov/countries-regions/china> (last visited Oct. 18, 2010).

⁴⁴ See *Background Note*, *supra* note 25.

⁴⁵ See *U.S.-Canada Trade Facts*, *supra* note 40.

⁴⁶ *Ohio*, *supra* note 39; see also *U.S.-Canada Trade Facts*, *supra* note 40.

⁴⁷ *Ohio*, *supra* note 39.

⁴⁸ *Id.*

