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PURPOSE OF THE CANADA-U.S. LAW INSTITUTE

Sidney Picker, Jr.
Introduction

MR. KING: I want to present Sidney Picker, who is the founder of the Canada-U.S. Law Institute. It is his vision that brings us here today, and his vision some 27 years ago. Therefore, Sidney, the floor is yours.

MR. PICKER: This is a standard routine. I am Sidney Picker. I am the Emeritus Professor of this law school. That is the first time I used that expression, Emeritus Professor, now fully retired.

I am Chair of the Canada-U.S. Law Institute, its Advisory Board; and I was its initial U.S. Director, as well as its founder, back in 1976. And, as such, it’s one of my pleasant tasks to welcome you to this, what is the 28th year, of the Canada-U.S. Law Institute to its annual conference on multiple actors in Canada-U.S. relations.

And Henry's has, as he has done for only the past 30 years, asked me to bore you with a very brief review of the history and the background of the Canada-U.S. Law Institute. While I am at it, since I have done this almost continuously for 28 years, I apologize to Henry for having missed last year. I think he has yet to forgive me for doing so.

Many of you are already familiar with the Institute’s origins, but for those who are not, let me just sketch that kind of background for you. The Institute was established in 1976. It was, at the time, conceived as the binational creation of two law schools, Case Western Reserve University here in Cleveland, and the University of Western Ontario, in London, Ontario. I can explain what it is by explaining with some negatives, it was not to be an American law school’s Canadian studies program, nor was it to be a Canadian law school’s American studies program. It was supposed to be an equal program, and in its conception, that is what it is.

As a result, for example, it does not even have separate legal personality, because to do so would have given it some sense of root in whichever of the two countries it took that legal personality, and lest we have an appearance of dominance, that was avoided.

Instead, it was the joint creation or program of the two participating universities acting by agreement. That is also the reason why, among other things, the Institute has not one, but two Directors, a Canadian Director, Professor Chios Carmody, and a U.S. Director, Professor Henry King.

The Institute’s first organization, an academic organization in either country, was designed with the following two missions in mind: One was to ex-
plore the legal relationship issues affecting the special Canada-U.S. states relationship. The second was to examine each other's legal structures and processes in order to provide comparative law opportunities for the students and the faculties of both participating law schools, as well as for the broader public and private bar in both countries. With respect to the first of these missions, it is interesting to note that at the time of the establishment in 1976, there were virtually no organizational structures, other than the Great Lakes Commission and the Ottawa Pact that affected the Canada-U.S. relationship.

Certainly, in the succeeding 28 years, we have seen that change and it gave the Institute a lot of work in order to examine the more formalized institutions that have been established since that time.

With respect to the second mission, the two countries provide an ideal foundation for maximizing comparative law opportunities. On the one hand, they have a great deal in common. They have a history, a substantially shared history, geography, cultural background, political heritage, language and economy. Thus, students in either of the two countries have ready access to and little difficulty understanding the relative literature and other materials that relate to the societal issues under examination. On the other hand, Canada and the United States are sufficiently different as to maximize the benefits of comparative analysis. Both countries have Constitutions and Federal structures, yet they are not alike.

By examining each countries' structures, and seeing how and why it arrived at its own unique legal solutions to what are common problem, each side's country gains insight into its own system, as well as to the other countries' system.

In order to accomplish those two basic purposes, the Institute developed six separate programs that were established.

Each has operated over the past 28 years with varying degrees of regularity and issues.

First was an exchange of law students between the two participating law schools. Students from each of the two law schools are able to spend one semester in residence at the other law school. That has worked with remarkable success over the 28 years.

Second, there was an exchange of faculty members. Particularly, in the early years, the Institute had established two concepts for faculty exchanges. There was a semester long exchange whereby Case Western Reserve and University of Western Ontario would swap faculty members for a semester to offer courses at the others' law school.

There were very brief guest lecture visits by faculty from one law school to come to the campus of the other law school in order to provide foreign or comparative law input into whatever the subject might happen to be, labor law, constitutional law, securities regulations, it did not make any difference.
Third, there was the publication of the first scholarly journal, the Canada-United States Law Journal, which had published articles, both scholarly articles - and I see some of the authors here in room today - and published the proceedings of various conferences and symposiums that the Institute sponsored. In fact, I suspect that the Canada-U.S. Law Journal will publish the proceedings of this conference by Sunday morning, if Henry has anything to do with it.

Fourth, there was the sponsorship of the International Moot Court Competition, the so-called Niagara Competition, which you are all; I am sure, familiar with.

The Niagara Competition, while named Niagara, and originally conceived by American and Canadian law schools around the Great Lakes, now extends from one coast to the other and participating law schools come from far away as California and Washington.

The moot court problems that are chosen always deal with the Canada-U.S. relationship. They are hypothetical problems. They are set before the World Court, but they involve Canada and the United States. They deal with issues usually on the fringe of reality.

Fifth, is the sponsorship of scholarly research and comparative law of international issues affecting the countries. From time to time, the Institute has supported faculty members at each of the two law schools beginning with the establishment and support of Professor Lewis Katz, at this law school, who did a comparison, for example, of the study of police practices in Canada and the United States with and without an exclusionary rule of evidence. Periodically, the Institute has done similar activities subsequent to that time.

Sixth was the organization of conferences and symposiums on subjects of common interest to both countries. Initially, those conferences, which began in 1976, dealt with narrow subjects and were confined to one-day activities. They proved very interesting and successful. They were held both at Western Ontario and at Case Western and, indeed, at third cities, including Toronto. The notion of an annual conference developed when Henry King joined the Institute in his role as succeeding me as U.S. Director in 1983. The notion was to establish a new kind of a conference, a more intensive and more extensive conference that would go on for two to two and a half days, in order to explore special issues affecting the economic relationship between the two countries. It was to allow more time and more preparation in order to more successfully explore the issues and less superficially explore the issues under examination.

That has been the principal format since 1983 and has proved remarkably successful. The Institute is now 28 years old. The Co-Directors are currently, together with the Advisory Board, examining and reviewing the policies of the Institute in order to shape the future, where it should go, what
programs it should review, continue, expand, and modify. In addition, you will be seeing and hearing about that in succeeding months and years.

We look forward to the new generation of the Institute’s activities that will come from this.

The Institute owes a debt of gratitude to a number of institutions and organizations who support it over the years. During those years, we have especially had financial support, as well as support psychologically and in a comfort zone to encourage the activities of the programs we have been doing and I wanted to acknowledge those because they have been critical, especially in the opening years, including the Canadian Embassy in Washington, D.C. and the Canadian Consulates. Initially, there was a Consulate in Cleveland, which gave us tremendous support and, presently, the Canadian Consulate in Detroit, without which, I do not think we would be able to operate. In addition, a series of non-profit organizations on both sides of the border support the organization. We sought and we obtained funding and support keeping with the notion of absolute equality, support from both sides of the border. That was received from such organization as the Donner Foundation from Canada, the Gund Foundation and the Cleveland Foundation here in Cleveland, the Richard G. Ivey Foundation and the Ontario Bar Foundation in Canada.

As the Founder of the Institute, I owe particular debt all along to the person I am about to introduce, Henry King, the current U.S. Director.

When I first was thinking about the idea of the Institute, Henry was, at that time, Chief Corporate International Counsel with TRW. I was an academic and I knew diddlysquat about how to put together and organize an ongoing organizational structure. Therefore, I turned, at that time, to Henry for advice, and without it, I think we never would have gotten it started.

Professor King’s background, as you all know, is extraordinary. He served as Chairman of the Section of International Law and Practice of the American Bar Association, as well as U.S. Chairman of Joint American Bar Association/Canadian Bar Association Working Group on the Settlement of International disputes.

More recently, he served as U.S. Chair of the Joint American Bar Association/Canadian Bar Association/Barra-Mexicana Working Group on the Settlement of International Disputes. Many of you know, but some may not, Henry has an entirely separate legal background that is no longer in the closet.

He was one of the original participants on the prosecuting team at Nuremberg during the War Crimes Trials following World War II.
He has even written a book on the subject, *The Two Worlds of Albert Speer*,¹ published by University Press. Further, his interests have been ongoing and continuing as he has been actively involved in International Human Rights issues to this day.

He has become, in fact, one of the leading people in the world in dealing with subjects of this kind.

It is my particular pleasure to turn this conference over to Henry King.
