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INTRODUCTION AND PURPOSE OF THE CANADA-UNITED STATES LAW INSTITUTE

Sidney Picker, Jr.

I am Sidney Picker, Jr., an emeritus professor of law at the Case Western Reserve Law School. I am also the founder and initial U.S. Director of the Canada-United States Law Institute. Henry King, the current U.S. Director, has asked me to open the 2006 Annual Conference, Comparative Aspects of Innovation in Canada and the United States, and to give you a brief history of the Institute. It is my pleasure and a special thrill to do so this year as 2006 marks the 30th anniversary of the establishment of the Institute. At the time of its establishment I was a relatively young and recently tenured international law professor at Case Western Reserve Law School.

The inception of the Institute actually took place thirty-two years ago after I had organized two regional conferences with Canadian topics for the American Society of International Law (ASIL) in 1973 and again in 1974. At the conclusion of the 2nd conference it occurred to me that there existed no ongoing law school program of any kind devoted to legal aspects of the Canada-U.S. relationship notwithstanding the fact that the two countries had one of the closest, most comprehensive and complex relationships of any two independent states in the world. Hence, the notion of an academic institute operated jointly by two law schools, Case Western Reserve in Cleveland plus a partner in Canada which together would institutionalize a legal research and studies program for their mutual benefit as well as for the benefit of the broader legal communities in both countries.

During the two years between 1974 and 1976 the principles and programs were developed and the funding found to support a binational institute. However, so unsure was the notion of an ongoing institute that at least one candidate Canadian law school partner instead proposed an ad hoc two year trial program. Not believing in trial marriages, it seemed more important to hold out for a fully committed spouse willing to enter into a recognized permanent arrangement. That partner was the University of Western Ontario. Only with a full commitment would we be able, just as in marriage, to weather inevitable break-in bumps and construct an enduring relationship.

So, in 1976, freshly inaugurated as the newborn Institute's U.S. Director, I came to appreciate the satisfaction inventors claim they feel on seeing an idea transformed into reality. However, that pales before the mixed feeling of wonder and pleasure on realizing that 30 years later the Canada-United States Law Institute, thanks to the commitment of its participating law schools and

its succession of U.S. and Canadian directors, not only continues to operate but has evolved into a respected academic institution with a significant and unique role to play in the maintenance of the special Canada-United States relationship. It has survived and endured, I am convinced, because: (1) the glue of commitment to an ongoing institutionalized arrangement—not a trial marriage—held firm, and (2) the stated mission of the Institute is as valid today as it was in 1976.

That mission called for the establishment by an American and a Canadian law school as two equal partner of a binational entity, jointly operated by both, to provide the following services for the academic communities, members of the public and private bars, and broader business communities in Canada and the United States: (1) a forum for the exploration and examination of legal aspect of the seemingly simple but intricately subtle collection of economic, social, political, cultural, ecological and security relationships between the two countries; and (2) a base line for the study of each other's legal structures and processes in order to maximize meaningful comparative law opportunities for the students, faculties, bench and bar in both countries. Not only would such comparisons provide an understanding of the partner country's legal culture, but doing so would also help each side better understand and obtain insights into its own legal culture.

The original programs devised to implement this dual mission were the following:

1. **STUDENT EXCHANGES:** The Institute provided an opportunity for up to six students from each law school to spend a semester in residence at the partner law school, for full academic credit. Not only would the exchanged students better understand the host country's legal system, but by participating in classes, fellow students as well as faculty in the host law school would benefit from the input the foreign visitor could inject in classroom analysis.
2. **FACULTY EXCHANGES:** The Institute provided for the exchanges of faculty in virtually every legal discipline, both for brief 2-3 day visits, and also for semester-long exchanges. The latter provided the additional opportunity of enriching the curriculum of each law school by offering new and jointly taught courses. (Examples of such courses have included a seminar in Comparative Tax Policy, and a course in Comparative Constitutional Law.)
3. **JOINT AND SEVERAL RESEARCH PROJECTS:** The Institute has sponsored research projects in diverse subjects. Examples include Police Practice With and Without an Exclusionary Rule of Evidence, and Comparative Municipal Regulation.
4. **CONFERENCE SPONSORSHIP:** The Institute sponsored conferences and symposia throughout the academic year on subjects of

interest as much to the bench, bar, and business communities in both countries as to students and faculty. Such conferences were held not only on the campuses of the two participating law schools but also in legal/commercial centers in both countries, including Toronto and Chicago. One such conference, Comparison of the Role of The Supreme Court in Canada and the U.S., brought together for the first time in the history of the two countries, a formal panel consisting of justices from both countries' highest courts.

5. **ESTABLISHMENT OF A SCHOLARLY LAW JOURNAL:** The Institute established the Canada-United States Law Journal, the first scholarly law journal devoted to the binational relationship. The once-a-year journal published both scholarly articles (including those whose research was commissioned by the Institute) as well as the proceedings of Institute-sponsored conferences and symposia.

As the years passed the programs of the Institute grew, as for example, the sponsorship of the Niagara International Moot Court Competition involving the participation of Canadian and American law schools across both countries. Then, with the coming of Professor Henry King as successor U.S. Director in the 1980s, the Institute established what became its centerpiece activity: the Annual Spring Conference. The Annual Conference is an in-depth weekend long advance-preparation conference always on some aspect of the economic relationship between the two countries. Prof. King also established the Institute's Board of Advisors, a body of nationally recognized leaders and experts from the legal, business, governmental, NGO, and academic communities in both countries, a pool of people whose strengths the Institute could draw upon beyond the law school communities of the two partner schools.

Thirty years later, bumps in the road notwithstanding, the two law schools together with the Board of Advisors are committed not merely to the maintenance of the Canada-United States Law Institute, but also to its expansion, to explore, consider and adopt new programs appropriate for the next 30 years. They are currently conducting a fresh review to identify activities appropriate to the 21st century. Subjects under consideration include, by way of example:

1. The expansion of the Canada-United States Law Journal to two issues a year, one devoted exclusively to the publication of the institute's Annual Conference proceedings (as well as the proceedings of other conferences), and the second devoted to the publication of scholarly articles by academics, practitioners and others.

2. In addition to the weekend-long in-depth Annual Conference, the re-establishment of shorter conferences throughout the calendar year on subjects of interest to the bar in both countries. Special efforts will be made to hold such conferences in cities throughout Canada and the U.S. In the 2006-2007 academic year, two such conferences are scheduled, one each in Washington and Toronto.
3. Consideration of curricular expansion to include such additions as a jointly taught NAFTA course and seminars addressing current Canada-United States issues.
4. Consideration of internship programs for students from both countries.
5. Consideration of a four year joint J.D. program whereby students spend at least two academic years in full-time residence in the participating law school of each country, with a view to satisfying the academic requirements for admission to the bar in both countries.
6. Consideration of a one year joint LL.M. program in Canadian-American Legal Studies. Such a program would offer scholars the opportunity to focus in depth on the multifaceted Canada-United States legal relationships.
7. Consideration of the appropriate programs and management which would provide for the expansion of Institute participation to include additional law schools in both countries.

These are simply a few of the reviews and reforms currently under consideration by the participating law schools and the Advisory Board.

And now, it is my special pleasure to turn this conference over to its organizer, promoter, indeed the person who invented the Annual Conference, Prof. Henry King, who has served as the Institute's U.S. Director for more than 20 years. Before succeeding me as U.S. Director, Prof. King was International Corporate Counsel at TRW. Indeed, he served in this capacity back in the 1970s when he also mentored, encouraged and advised me with regard to the establishment and initial operation of the Institute. Henry King began his legal career in a most extraordinary manner. He served on the prosecuting team at the Nuremberg War Crimes Trials in Germany after World War II, an experience about which half a century later he wrote *The Two Worlds of Albert Speer*, published by University Press. His interest in international human rights is ongoing, and he is regularly called on to lecture publicly on his Nuremberg experiences as well as his insights on the development of international law designed to protect human rights.

Henry's post-Nuremberg career led him into an international corporate practice where he played a significant public affairs role. He has served as Chairman of the Section of International Law and Practice of the American Bar Association as well as U.S. Chairman of the Joint American Bar Asso-

ciation-Canadian Bar Association (ABA-CBA) Working Group on the Settlement of International Disputes between Canada and the United States. Later, 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.

It is a great pleasure for me therefore to present to you the U.S. Director of the Canada-U.S. Law Institute, Henry King.

