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## Conference Introduction and Welcome

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## CONFERENCE INTRODUCTION AND WELCOME

*Henry T. King, Jr.<sup>†</sup>*

I want to apologize for Professor Picker. He was summoned to Russia. However before his departure he asked that I read the following comments in his absence.

COMMENTS OF SIDNEY PICKER, JR: I am Sidney Picker, Professor Emeritus of Case Western Reserve School of Law. I am currently President of RUSLEF, a non-profit Russian legal education foundation. I am also the Chair of the Canada-U.S. Law Institute's Advisory Board, and was its founder and the first U.S. Director. Henry King, as usual, has asked me, in my dual capacities, to welcome you to the 27<sup>th</sup> Anniversary of the Conference, the Institute itself, and to open the Conference, this year's topic being Canada-U.S. Security and the Economy in the North American Context. He has also asked me to briefly explain what the Canada-U.S. Law Institute is all about. Since I have to put on my founder's cap and run through all that, I will be as brief as possible. So for those of you who have not heard it before, I will give you some background of where we came from and how we got here.

The Institute was founded in 1976. It was the binational entity, the joint creation of the two law schools of Case Western Reserve University and the University of Western Ontario in London, Ontario. It has two directors. Henry King is the U.S. Director and Chios Carmody serves as our Canadian Director.

The Institute was the first academic organization in either country that was designed to explore legal issues affecting the Canada-U.S. relationship and to examine each other's legal institutions and structures and processes in order to provide comparative law opportunities, both for the law schools and for the larger legal communities in both countries.

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With respect to the first mission, it is interesting to note that at the time the Institute was established, there were virtually no international legal organizations designed to explore the Canada-U.S. relationship, and the institutional nature of the relationship at that time was only exposed in the Great Lakes Commission<sup>1</sup> and the Ottawa Auto Pact.<sup>2</sup> Today, as you all know, there are a series of not only a number of bilateral and trilateral (with Mexico) official or institutional relationships. In the 21<sup>st</sup> century, we are going to see a growth of multilateral relationships involving both countries, not only in the hemisphere, but across the oceans as well.

With respect to the second mission, the comparative law mission, the two countries provide an ideal opportunity to maximize opportunities in the study of comparative law. On one hand, Canada and the U.S. have a tremendous amount in common. They share history, geography, cultural foundations, political and legal heritage, language, and an economy – virtually everything. Students and faculty therefore, have ready access to, and little difficulty understanding, the relevant literature of the other country. They can also readily relate to the kinds of societal issues under examination. On the other hand, Canada and the U.S. are sufficiently different so that one can maximize the comparative law opportunities that are presented. While they both have Constitutions and they both have Federal structures, they are very different. Each system has been shaped by the unique background of that country, and by looking at the other country's way of managing its affairs under its Constitutional and Federal structures, each can hopefully obtain better insight into its own system as well. In order to accomplish these two missions, the Institute has developed, six separate programs. These are:

- (1) an exchange program for law students. Students from each of the two law schools may spend a semester in residence at the other and obtain full academic credit at their home school;
- (2) the exchange of faculty members for guest lectures;
- (3) the publication of the first scholarly law journal dedicated to the Canada-U.S. legal relationship, the *Canada-United States Law Journal*, which, among other things, will publish the proceedings of this conference;

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<sup>1</sup> Convention on Great lakes Fisheries ("GLFC"), U.S.-Can., Sept. 10, 1954, 6 U.S.T. 2836. The GLFC was founded in 1955. *Great Lakes Fishery Commission, About Us*, available at [www.glfc.org](http://www.glfc.org)

<sup>2</sup> Agreement Concerning Automotive Products, U.S.-Can., Jan 16, 1965, C.T.S. 1966/14.

- (4) the sponsorship of the Niagara International Moot Court Competition. This is an international law moot at the World Court level involving a hypothetical suit between Canada and the U.S.
- (5) the periodic sponsorship of scholarly research on international and comparative law subjects which affect the two countries; and,
- (6) the organization of conferences on subjects of common interest to both countries. They include the annual Conference each Spring at Case Western Reserve University as well as periodic seminars throughout the year at both the University of Western Ontario and Case Western Reserve University.

The highlight of the Institute's annual calendar is its annual conference, a three-day event designed to explore in depth selective aspects of the U.S.-Canada economic relationship. The format was designed to be both intensive and extensive.

The three-day format provides an opportunity to probe in greater depth the subject under consideration. Substantial and meaningful preparation not only by speakers but also participants is an essential feature of the conference with extensive background materials available to all. The conference is designed also to be held in a setting which allows as much informal as well as formal interaction.

The Institute acknowledges a debt of gratitude it owes to both the individuals and the organizations, which make its existence possible. In particular, this Institute is grateful to the Canadian Embassy in Washington, as well as the Canadian Consulate General, first in Cleveland, and after its closure, in Detroit, whose support continuously over the past 27 years made all of this possible.

There also have been a group of supporters among private non-profit organizations and institutions, several of which I want to acknowledge, made it possible for the Institute to come into existence: the William H. Donner Foundation, the Gund Foundation, the Cleveland Foundation, the Richard G. Ivey Foundation, and the Ontario Bar Foundation. It is a special debt that I owe, and I acknowledge each year, to Henry, even though I chide him regularly, but he was the person who made it possible for me to start this back in 1976. I was, and I remain, an academic with little idea of how one puts this kind of thing together.

As founder, I owe a particular debt to Henry King. At the time, Henry was Chief Corporate International Council at TRW, and I was an international law professor at Case Western Reserve School of Law

with a plan. Henry's experience guided me in the implementation of the plan. Then, in 1983, I was able to persuade him to give up TRW and succeed me as the U.S. Director.

Let me add a word about Henry's background. Henry, in addition to having been the International Corporate Counsel of TWR, was Chair of the International Law Section of the American Bar Association. He was also the U.S. Chairman of the Joint American Bar Association/Canadian Bar Association Working Group on the Settlement of International Disputes. He more recently has served as U.S. Chair of the Joint American Bar Association/Canadian Bar Association/Barra-Mexicana Working Group on the Settlement of International Disputes. In addition to his background in Canada-U.S. affairs, Henry is one of the original lawyers who participated in the Nuremberg Trials in Germany right after World War II.

Ever since then, he has maintained a substantial interest in public international law dealing with international criminal law activities. He has written books on his activities, most recently, the *Two Worlds of Albert Speer*,<sup>3</sup> published by University Press. He is one of the foremost advocates around the world for the establishment of and now-established International Criminal Court. It is my pleasure to turn the podium over to Henry King, the Institute's U.S. Director.

MR KING: First of all, I wanted to welcome you here. We are very happy you are here. Secondly, I want to give some background on the conference. Some of this material many of you already know, but I wanted to make sure that everybody was "briefed" on it.

Canada and the United States have the largest trading relationship of any two countries in the world. That is something you heard many, many times. But now, after 9-11, both have tightened security concerns necessitating the procedures to protect the security of individuals and of our society in the North American continent. This conference is designed to examine the threats facing our security in North America, how are we dealing with these threats, and how the measures we take to protect our security affect our economic relationship.

We shall open with the broad strokes in our first session. We will deal with The New Reality in Canada/U.S. Relations: Reconciling Security and Economic Interest - The "Smart Border." Tom Ridge who was to be our opening speaker has canceled and has been replaced by Stephen Flynn, who I will be shortly introducing to you. Our opening Canadian speaker will be Robert Hage, a high-level official with the Department of Canada who has

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<sup>3</sup> HENRY T. KING, JR., *THE TWO WORLDS OF ALBERT SPEER: REFLECTIONS OF A NUREMBERG PROSECUTOR* (1997).

graciously substituted for Deputy Prime Minister John Manley as our lead off speaker for Canada. We are, indeed, pleased and honored to have Mr. Flynn and Robert Hage as our speakers for this important first session.

Our second session will take a look at the future of Canada/U.S. economic relationship through the eyes of Derek Burney, who is directly involved with negotiations of the Canada/U.S. Free Trade Agreement and Gary Hufabuer, a very prominent Washington economist. This session has been styled, "The Canada/U.S. Economic Relationship: From FTA to NAFTA to What?"

Our luncheon speaker will be William Graham, Canada's Minister of Foreign Affairs, who will discuss "The Economy, Security and Sovereignty in a North American Context." Here, among other issues, we will be concerned with how the new context of dealing with security and economic concerns affects the issue of sovereignty.

Our early afternoon session on the first day of the conference will be concerned with how the Smart Border between Canada and the United States will affect the movement of people between Canada and the United States. The guides for this session will be Ellen Yost for the United States and Charlotte Janssen from Canada.

Issues dealing with the Smart Border and movement of goods in a new context will be addressed in our next session. Here Douglas Browning, Deputy Commissioner of the U.S. Customs' Service and Allan J. Cocksedge, formerly a top customs' official in Canada, will be our guides.

Our evening session looks at what the polls say about Canadians and Americans regarding security and the economy. More specifically, we will be looking at the public perception and the realities concerning Canada/U.S. relations. Thomas Riehle and Michael Colledge will be our speakers for this session.

On the second day of the conference, we will be looking at some of the threats we must face up to in protecting Canada/U.S. security. Our opening session deals with food safety and bioterrorism. Professor Barry Kellman of DePaul University Law School will be handling the issue of bioterrorism while John McNamara, former President of Archer Daniels Midland Company U.S., will deal with food safety.

Our second session on Day Two of the conference will be concerned with the issues of security of our North American computer and communications infrastructure. Ted Theofrastous of the Cleveland Clinic Foundation will deal with our computer infrastructure, while Selma Lussenburg of AT&T Canada Enterprise will cover the North American communications infrastructure.

At our luncheon session of Day Two of the conference, we will be concerned with defending North America, specifically the role of NORAD and NORTHCOM. Jack David will be our luncheon speaker and as U.S. Chairman of the Canada/U.S. Defense Board he is eminently qualified to discuss this important topic.

Preserving the integrity of North America's financial markets will be the subject of our early afternoon session on Day Two of the conference. Michael Mann of Richards, Spears, Kibbe & Orbe of the United States and John Crean of the Bank of Nova Scotia will be guides in examining this topic.

Our late afternoon session on Day Two of the conference we will be concerned with securing our energy supply in North America. We are very pleased to have David Manning of Keyspan Energy Corporation and Michael Cleland of the Canadian Gas Association discuss this important topic.

As our governments make moves to deal with terrorist threats, these moves can affect our freedoms. This will be the subject of our evening session on Day Two of the conference. Professor David Cole of the U.S., who you have probably seen many times on television, and Michael Power of Canada will be our speakers for this important session.

In our Sunday morning session, we will be comparing the issues to be dealt with on our northern border as compared to what we are concerned with on our southern border. To cover this broad topic we have three speakers: David Gantz of the U.S., Marcella Szel of Canada, and Aurielano González Baz of Mexico. We have a lot of ground to cover in this conference.