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INTRODUCTION AND HISTORY OF THE CANADA/U.S. LAW INSTITUTE

*Sidney Picker, Jr.**

I am Sidney Picker, Jr., a member of the faculty at Case Western Reserve University Law School. I am also the Chair of the Canada-United States Law Institute's Advisory Board, as well as the Institute's founder and the initial U.S. Director. Henry King, the current U.S. Director of the Institute, asked me to welcome you today to this, the first Annual Conference of the new millennium, "The Management and Resolution of Cross Border Disputes as Canada and the U.S. Enter the 21st Century." As a participant in the dispute resolution process in the prior millennium, having served on the first NAFTA Chapter 20 Dispute Resolution panel in 1996, I have a particular affinity for Prof. King's topic choice this year.

However, that is not the reason he asked me to open today's conference. Rather, donning my "founder's" cap, replete with the Institute's history, Prof. King has asked me to describe briefly the origins and activities of the Canada-U.S. Law Institute. It has been my special honor to provide this service for some years now. Therefore, those of you who are alums of Henry King's Annual April Conferences, you are momentarily excused. For the rest, however – and this year, with registration at an all-time high – I have a whole new audience to.

The Canada-U.S. Law Institute was established twenty-four years ago, in 1976. The Institute is a binational entity, a joint creation of the law schools of Case Western Reserve University here in Cleveland, Ohio, and the University of Western Ontario in London, Ontario, Canada. It has two directors, one at each of the two campuses. They are Prof. Henry King, the U.S. Director, who has served in that position since succeeding me in 1983, Professor Robert Solomon, who is currently serving as acting Canadian Director this year.

The Institute was the first academic organization in either country designed with the following two missions in mind: (1) To explore legal issues affecting the special Canada-United States relationship; and (2) To examine each other's legal structures and processes in order to provide comparative

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law opportunities for the students and faculties at both participating law schools as well as for the 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 Institute's establishment in 1976 there were few organizational legal structures beyond the Great Lakes Commission and the Auto Pact designed to manage the Canada-U.S. relationship. However, in the succeeding twenty-four years we have seen the establishment of a number of international institutional arrangements designed to manage that bilateral relationship, and indeed to expand it to a trilateral, and, inevitably in this new 21st century, to what will be a multilateral hemispheric relationship (current U.S. politics notwithstanding).

With respect to the second mission, the two countries provide a fertile foundation for maximizing comparative law opportunities. On the one hand, they have a great deal in common, including a shared history and geography, cultural and political heritage, language and economic traditions. Thus students in either country have ready access to, and little difficulty understanding, the relevant literature of the other, and they can readily 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. Thus, while both countries have constitutions and federal structures, they are not alike. These in turn shape unique legal solutions to similar social, economic, and political problems. An examination of the other country's legal solutions within the context of its own constitutional/federal structures offers a better understanding of one's own national legal solutions and constitutional and federated system.

In order to accomplish the two basic purposes of the Institute, six separate programs have been established which are operated with varying degrees of regularity. These include:

1. An exchange of law students between the two participating law schools whereby students from each country may take, for full academic credit, one of their six law school semesters in the law school of the other country.
2. An exchange of faculty members between the two participating law schools for brief visits, thus giving each host law school's student and faculty comparative law exposure.
3. The publication of the first scholarly law journal in either devoted exclusively to issues of common interest to practitioners, scholars, and

public service personnel in both countries, the *Canada-United States Law Journal*. (Among other things, the *Journal* publishes proceedings of Institute-sponsored conferences, including the proceedings of the current conference.)

4. The sponsorship of an international moot competition, the *Niagara International Moot Court*, involving U.S. and Canadian law schools. The *Niagara Moot Court* always poses a hypothesized problem involving Canada and the United States which is argued before the International Court of Justice (often referred to as the World Court). Notwithstanding the moot court's name, "Niagara," participating law schools represent the full geography of both countries.
5. The sponsorship of scholarly research on comparative law and international law issues affecting both countries; and
6. The organization of conferences and symposia on subjects of common interest to both countries. The current conference falls within the final program. The Institute has sponsored periodic conferences since its inception in 1976 whenever a subject matter seemed timely and appropriate.

Since its inception in 1976 the Institute has periodically sponsored conferences whenever a subject matter seemed timely and appropriate. The location, format, and duration of such conferences varied with its topic. In 1983, after Henry King joined the Institute, he introduced the concept of an *annual* conference, focusing in particular on various aspects of the Canada/U.S. *economic* relationship. The annual conference format provided more intensive (as well as extensive) experience. It meant probing in greater depth, requiring advance preparation, and circulating extensive background materials at the opening of the conferences. It also meant extending the length of time of that conference to three days, and scheduling it in an environment designed to promote both structured and informal interaction among participants and attendees. Everyone attending the 2000 annual conference is a participant in that tradition.

The Institute is now twenty-four years old. Next year, 2001, marks our silver anniversary. The upcoming academic year provides us with an opportunity to review our past and consider the directions we should explore for the next twenty-five years. We also look forward to a new generation of Institute participants at our law schools. In that regard, I particularly want to welcome today Professor Chios Carmody, a recent addition to the faculty of

the University of Western Ontario who will teach courses in international trade and international business transactions. He represents both for the University of Western Ontario and the Institute, a next generation who will help bring new directions to Institute activities.

The Institute owes a debt of gratitude to many individuals and organizations who have supported its various activities during the past twenty-four years, both financially and intellectually. Included are the Canadian Embassy in Washington, D.C., as well the Canadian Consulates General, first in Cleveland, Ohio, and later, after that office was closed, in Detroit, Michigan. In addition, private nonprofit institutions in both countries have contributed generously since the Institute's establishment. These include the William H. Donner Foundation, the Gund Foundation, the Cleveland Foundation, the Richard G. Ivy Foundation, and Ontario Bar Foundation.

As the founder of the Institute I, in turn, owe a particular debt to the person I am about to introduce, Henry King, the current U.S. Director of the Institute. At the time I first formulated the Institute concept, Henry was Chief Corporate International Counsel at TRW. As an academic inexperienced in the ways of establishing such special-focused organizations, I turned to, and relied extensively on, Henry's organizational skills as well as his substantial knowledge of Canadian affairs.

Professor King's background, as you all know, is extraordinary. He has served as Chairman of the Section on International Law and Practice of the American Bar Association as well as U.S. Chairman of the Joint American Bar Association-Canadian Bar Association (ABA-CBA) Working Group on the Settlement of International Disputes between Canada and the United States. More recently, he served as the U.S. Chair of the Joint American Bar Association-Canadian Bar Association Association-Barra Mexicana Working Group on Settlement of International Disputes. What many may not know is that Henry's legal career started out with his membership on the prosecuting team at the Nuremberg War Crimes Trials in Germany after World War II, about which he wrote and published a book recently, "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 into the development of international law designed to protect human rights.

It is a real pleasure for me therefore to present to you the U.S. Director of the Institute, Professor Henry King.