

January 2000

## Discussion Following the Remarks of Mr. Morton and Mr. Tower

Discussion

Follow this and additional works at: <https://scholarlycommons.law.case.edu/cuslj>

---

### Recommended Citation

Discussion, *Discussion Following the Remarks of Mr. Morton and Mr. Tower*, 26 Can.-U.S. L.J. 155 (2000)  
Available at: <https://scholarlycommons.law.case.edu/cuslj/vol26/iss/28>

This Speech is brought to you for free and open access by the Student Journals at Case Western Reserve University School of Law Scholarly Commons. It has been accepted for inclusion in Canada-United States Law Journal by an authorized administrator of Case Western Reserve University School of Law Scholarly Commons.

## DISCUSSION FOLLOWING THE REMARKS OF MR. MORTON AND MR. TOWER

COMMENT, MS. BRAID: We had reference this afternoon to the fact that trade between Canada and the United States is much more significant to Canada than it is to the United States because it represents such a high percentage of total trade in Canada.

Courtney has taken us through a fascinating historical retrospective of the inherent fear of the annexation of Canada to the United States. These are not issues, either one of them, which I am noticing in any of the press coverage on trade issues. I would like to ask both of our speakers to comment on why not.

COMMENT, MR. TOWER: There are a myriad of reasons. We are in an era where it is not politically correct to talk like that and where the subterranean attitudes of Canadians do not get expressed very much. We have a nominally big liberal government in Canada that is very conservative. It is a whole attitudinal thing that does not make for that kind of expression very much.

There will be some Canadians who feel they might as well lie back and enjoy it. There is a tendency to compartmentalize them; to say that if it is culture or if it is lumber or if it is this or if it is that, well that is not my immediate concern, and I am just not going to get worried. When some trigger, some spark comes up, people always ask the dumb question: what is a Canadian, and how do you differ from the Americans? It is unanswerable, but it is there. That will be triggered, or can be triggered; it was triggered in 1988, and it can be again.

COMMENT, MR. MORTON: It speaks to which generation we are talking about. In Courtney's and my era, I guess it was the great fear of the United States taking us over as the fifty-first state. I look around now and do not see the great sense that the United States wants to gobble up Canada, or that there is any great urgency that that would happen.

The Internet has changed things a lot. Globalization, whatever that means, has the result that people no longer share the territorial links. Younger people see things much more broadly. They see things more in terms of career opportunities; where can I go, what do I have to know, or what do I have to learn to move ahead?

So I do not think that whole paranoia of the 1970s liberals who believed they were coming to get us is there any more. I do not think it is just the United States and Canada. I do not see it. The Mexicans, during NAFTA

negotiations, I think, had a lot of those sovereignty concerns. The IMF or the WTO came out with a report just this weekend that said that Mexico has been the biggest beneficiary under the WTO because of NAFTA. Their cultural sovereignty is still very much intact. So I just do not see that being the issue. It is an economic issue, a looking forward issue. I just do not believe it is a sovereignty issue any longer.

QUESTION, MR. WOODS: About thirty years ago now, maybe twenty-five, Premier Trudeau said when he was Prime Minister he learned more from the *New York Times* than he did from the Department of Foreign Affairs. I am not sure you can say that any more. I am not commenting about the *New York Times*.

On the weekends in Canada, which is Saturday in Canada and Sunday in the United States, the paper would come and you would have a lot of material about public policy and about issues. More and more when I see *The Post* or *The Globe & Mail* – I cannot comment on U.S. papers – I see more Saturday activities, more glitzy stuff, which is good, and I read it. I am John Q. Public, too. But whose responsibility is it? Why is it we are seeing less and less public commentary on big issues and we are seeing more of who is going to win the Oscars?

ANSWER, MR. TOWER: Once again, there are a lot of reasons, but consolidations and the present emphasis on the bottom line means that substantial news is not the best way to get the most advertising in the cheapest manner. So you do not get much of anything substantial. But there are exceptions. The *Financial Post* should be excluded from the *National Post*. The *Financial Post* was and remains a pretty good paper to read about these subjects. The *ROB* and *The Globe & Mail* are not bad, but that is about it. I guess I am oversimplifying, but it is just this bottom-line idea. Reporters have to do so many things at one time that continuity, that expertise is not built up.

ANSWER, MR. MORTON: What Courtney is trying to say politely is called dummifying down.

COMMENT, MR. TOWER: True.

COMMENT, MR. MORTON: That is exactly what we are doing. Canadian newspapers, U.S. newspapers, we are all getting stupider. We are writing simpler material; no depth, more flash. It is all focus group driven. I remember when I just started at the *Calgary Herald*, they had the first focus group. What they found out was that the readers wanted to see Ann Landers on the front page. We are almost going that way now. I am sort of embarrassed in a way.

COMMENT, MR. TOWER: If you ever get the strike over.

COMMENT, MR. MORTON: Exactly. If you look at the *USA Today* as a model it will give you a pretty good sense of where newspapers are going. Someone told me quite rightly that the print version of *USA Today* is simply a nice version of its Internet cite and that is what is happening now. We feared that way back when we thought that the Internet was going to kill newspapers, but it has not. What it is doing is dictating the way we are going. There is no doubt – or very little doubt.

Regrettably, a lot of the public policy issues, the kinds of news and issues with which you guys deal, are getting lost for the glitz, the pretty graphics, the fluff that our newspaper does, I think quite well. It is a good-looking newspaper, but it is hard to find the meat that used to be there.

QUESTION, MR. POTTER: There is a lot of meaty commentary out there. Sure enough, it is in papers that have dummed themselves down and some of it is a lot meatier than we could have found several years ago.

The practitioners in this area have long recognized that the participation of the media in the discussion of trade issues is not only unavoidable but also necessary. It is a necessary adjunct to pushing these issues further. I wonder whether these two speakers can tell us what practitioners can do to help in that necessary exercise, that is to say not what they want to do, and not what it is we would like them to do, but what is it that practitioners can do to make their duty more easily accomplished of understanding and of explaining to the public what is going on.

ANSWER, MR. TOWER: I am going to leave most of it up to you: be more available, be more honest, and be earlier. Do not wait until it has become a crisis and it is too late, because the guns are all blazing by that time. Try to give it to us warts and all. Where there is a hole in your argument, say so, however much it hurts and however much your superiors will hurt you. We will understand, and we will present a balanced piece. But dealing with this honestly and expecting us to respond honestly is at the heart of it, but do it early.

ANSWER, MR. MORTON: I would say much the same thing, especially on something like trade, which is so detailed. The most important thing is constant contact.

COMMENT, MR. TOWER: Yes.

COMMENT, MR. MORTON: You know how things sort of move ahead incrementally. It may not be apparent that something has significantly changed in a detail that could change the entire deal. So the easiest thing is just casual contact. Pick up the phone and tell us this is happening or that is happening. I know it is hard in trade because so much of what happens takes place behind closed doors. It will be interesting to see – and the test will be, I think, the softwood lumber deal. We have very public statements out there

now by a number of parties ostensibly saying the same thing, but not quite the same thing. So it will be interesting to see how they try to handle that; the tandem public opinion as well as the deal. Will there be a deal? Are we just going to get the lawyers to do the countervailing duty? That is basically it. It is necessary to have constant contact, especially with trade reporters.

QUESTION, MR. TENNANT: I have two questions in the same vein. We do not actually have an American reporting on Canada here tonight. Other than reforming our tax structure, both of you do have a knowledge of your American counterparts. How do we interest the American media in what is happening in Canada?

My second question is, apart from the general media, which you represent, as the media transforms itself, are there other segments of the media that we should be better informing and working with that will tell some of these more specialized stories possibly better or with greater interest?

ANSWER, MR. MORTON: Oh, definitely. The other part of dummifying down is that there has been a proliferation of specialty media, such as inside U.S. trade-type publications, which are very much hung up on detail. They are expensive, but they are quite good. Especially for trade that is a more effective way of reaching the people you want to reach rather than the mainstream media like myself because they all speak to practitioners. I have noticed that a lot of people use those. There are web versions and print versions. They are very good.

COMMENT, MR. TOWER: I do not have anything to add. I agree with what Peter said. How do you get the mainstream U.S. media back? I would not give them a nickel in tax relief. They should be here, damn it all, and the little bit of extra tax they have to pay is no reason for them not to be. So what you do to get them back? It beats me.

ANSWER, MR. TENNANT: To get them interested.

COMMENT, MR. TOWER: Well, there you go.

QUESTION, MR. TENNANT: Even if they are not there, how do you get them interested in Canada?

ANSWER, MR. TOWER: It is that whole "lead the horse to water and make them drink" sort of thing. You just have to be an interesting country, I suppose.

ANSWER, MR. MORTON: It really is true. They are focused on Japan and Europe. It is almost impossible to get the American media in trade to focus on their largest trading partner. We have all seen it for years and years and years, and I cannot believe that it is going to change.

COMMENT, MR. TOWER: The other thing about going to the other media avenues is that you will get a deeper and more profound level of

understanding among the more specialized press. But that is not going to do anything for the large group of farmers or lumbermen or people concerned with cultural affairs or whatever. They have to be reached by the popular media, and you have to get to them.

COMMENT, MR. FITZ-JAMES: My name is Mike Fitz-James. I am the Editor of *Canadian Lawyer* magazine, but I am actually a prolific freelancer. I make my living talking to lawyers. That is how I earn my bread. I now do that pretty well on both sides of the border, because I work for American as well as Canadian publications. One thing I have noticed, and this is to address a point that Simon brought up, is that Canadian lawyers, by and large are really terrible at talking to the media, and American lawyers are great.

When you are a reporter working on a story and you have four American lawyers working on an American case, those four American lawyers will call you back within fifteen minutes of your calling them, and bang, bang, bang, bang, they do the interviews, you get the article out the door, and you get paid for it. That is wonderful! You try to do that with a group of Canadian lawyers, and it is just like pulling teeth. They do not call you back. They want to read the story first before it is printed. They want a list of questions. They want all this crap that you do not have time to do and you do not care about anyway.

There is one thing Canadian lawyers could do. They could take a lesson from their American brothers and actually be more responsive. You can bill for that time, you know. You can actually bill for it. The Americans do. Canadian lawyers should learn a little bit of media smarts. Learn how to represent your clients to the media. I write for pointy-headed publications like lawyer's magazines and corporate counsel magazines. But the regular media actually read these things, or the smart guys do, the legal specialists and the daily press do. That is one way you can get through to these people, through guys like me. But Canadian lawyers, learn a little bit of smarts here from your American cousins.

QUESTION, MS. LUSSENBURG: First, I have a comment about Michael's comment that Canadian lawyers generally distrust the press. With no disrespect to the American lawyers in the room it is fair to say that many people identify that kind of rapport with the press as being characteristic of ambulance chasers. I have a more general question to you. I read the article about Canadian taxes and keeping Americans out, and why U.S. publications do not have a foothold in the Canadian market because of a Canadian tax.

I have a couple of views and questions. One is that, the press is not alone in that situation. There are many U.S.-based corporations that face exactly the same issues. So why should the press, who has an interest in educating the public, shelter behind taxes as the reason why they do not have any

American executives in Canada? There are many of American companies that do.

It is more the mouse and the elephant, that we are not sufficiently interesting to the press. There have been a few references to making ourselves more interesting. Do we create more trade disputes? We would all agree that that is not necessarily in the Canadian interest, other than softwood lumber, which I understand causes you to rub your hands together at the prospect.

So what is it that takes that sector of the industry which can shape political opinion, not only in Canada, but also in the United States. The success of many of our free trade agreements and many other cross-border disputes has been largely shaped by the press. The press has a tremendous responsibility in that sense in terms of reporting to the public. Lawyers, speaking as a lawyer, feel that more strongly than others do. We feel we have to represent all sides of the equation. We are not as used to being lobbyists as perhaps our American counterparts are, speaking for the Canadian bar.

So how do we get the attention of the press? How do we bring U.S. publications back into Canada to give the Canadian perspective to the United States, particularly the politicians, which might resolve some of the cross-border issues that we face today? Because sometimes it is an issue that the Canadian view is not being properly represented.

ANSWER, MR. MORTON: I was just going to say that I do not think you are going to see a large American presence of journalists back in Canada. It is not just because they think Canada is boring.

QUESTION, MS. LUSSENBURG: Why can't you hire Canadians like –

QUESTION, MR. TOWER: Like me?

COMMENT, MS. LUSSENBURG: You do not have to be an American to represent an American publication. You do not have to be a Canadian to represent a Canadian publication.

ANSWER, MR. MORTON: But there is something else that is going on, and it is not limited to Americans. Our paper is doing it. *The Globe* is doing it. Most publications are. What they are doing is bringing back the bureaus. You call it rifle shot, but that is exactly what is happening. What they do is sit in world headquarters, such as Toronto, and if there is something going on, they will blast somebody out there to cover it.

So it is not simply a case of getting anybody interested in anybody else's issues. It is a function of money. It is cheaper. Rather than having me in Washington, it is cheaper to have someone sitting around a desk in Toronto and blast off wherever they have to go when something happens somewhere.

That way they can control the news a little more. It is very much hands-on management now in controlling the editorial content of the paper as

opposed to the guys in the field, like *The Financial Times* in London, which is still, bless its soul, sticking to correspondents, where you get a broader perspective. I am afraid that is really what is happening now, and I do not see it changing quickly.

ANSWER, MR. TOWER: You are right. I just want to address this one little thing about having a Canadian reporter covering for an American magazine or paper, and vice versa. I am not in a very good position here, because I am a Canadian working for an American magazine. But by and large, it is important for Canadians to get their news as seen through Canadian eyes, the inculturation I spoke about, when you are in Kosovo or the Gulf War or covering Europe or the United States. Maybe I am just old-fashioned. Maybe it is a gender thing, or the age thing again, but I believe that you get an entirely different cast on the news and on the reporting depending on what kind of an upbringing and background you have had and where you come from. It makes a great deal of sense.

COMMENT, MR. MURPHY: Once upon a time I was actually a fairly good second baseman and line drive hitter. But now I have a little disc problem. I do not run so well any more. I certainly have not chased an ambulance in quite a while. In fact, I never caught the ones that I tried to chase, so I had to stick to legitimate law. Part of the practice of legitimate law in my town, which is Washington, is to take Michael Lelyveld's phone calls for the *Journal of Commerce* when he calls, not on a specific client matter, but because I know a great deal about some of the things he is interested in writing about. In the discussions, he may be completely wrong about something, and we will have a good argument about it.

Months later, the story may come out, and possibly I may have been helpful to him. That is the way you have to practice modern law, where your client's interests have some kind of public aspect. So I would support both gentlemen on that. The press is not the enemy. They are not somebody you have to fear. You have to make sure you know what you are doing and agree on background and take the usual professional precautions, but I have never been taken advantage of. I have never been disappointed by somebody who has taken something on background.

I would like to make another comment from another part of my lost youth. I once was a roommate of Jim Blanchard when we were both young and sincere. You can see how far back this was. It was during a political campaign, and the rug in our living room was wet all the time. So we were pretty poor. I would be very surprised if the views of the former governor, who was very successful in congress and who was equally successful as a politician, was as simpleminded as I have just heard him described.

I did hear a British diplomat come back after fifteen years away. He was quite disappointed that the world had changed in the way that Peter Morton described. I do not disagree that it has changed. There are all sorts of riff-raff now getting involved in trade policy. It used to be just a few good folks like you and me, and that literally was it. It was the experts. It was Dick Cunningham and a few other people. But that is over. Tomorrow is another day.

Our office is at 818 Connecticut Avenue in Washington, D.C. They took away the post boxes from in front of our office yesterday. So whether the kids know what they are talking about, and I dare say a lot of them do not, they will be heard from. If Washington is as professionally mismanaged as Seattle was professionally mismanaged by the diplomats, you will have more troubles. Because those folks are in the game, and they are going to stay in the game.

COMMENT, MR. MORTON: I absolutely agree. Just a quick thing. I talked to a guy who had been in the Peace Corps, and he had been running something called Development Gap for twenty-five years to try to reform the World Bank and the IMF. He said, thank God someone else has come along now. At least these young kids take no prisoners, and that is exactly what it is. He said that they tried for years to reform from within, and they just gave up. So he is grateful to see the mantle handed over a little. Although I am not sure he signs onto the same sort of techniques that we may see on Sunday, if we do see them.

COMMENT, MR. MURPHY: I fear the people are about to speak, the bastards.

COMMENT, MR. MORTON: Exactly.

QUESTION, MR. EASTWOOD: John Eastwood, *Daily Bugle*. I agree fully that the folks in Seattle did not really know what they were protesting about. To what extent do people actually understand some of the trade basics? I am wondering what you perceive as being the biggest gaps in people's knowledge. In other words, if you go out and talk to normal people, not necessarily the people in this room, but if you go and talk to normal people, average people, regular people, what is the biggest missing piece in their understanding of the trade puzzle?

ANSWER, MR. MORTON: That is actually a very good question. When I was in Seattle, I really never got the answer to that question. They were all upset about broad-based things, but I could never find out what part was really annoying them. Was it the WTO? Why was that bad for developing countries? There were some legitimate concerns with the developing countries. They were not getting a voice. They were getting bullied by the usual guys: the European Union and the United States.

But that was not what was concerning these kids. It was such a disparate group. There were environmentalists and labor groups. They were all complaining about turtles and trees and those kinds of things. I really think it is like *Rebel Without A Cause*. They are searching for something to grip on to. They feel they have been left behind or left out or ignored. This is what it is; it is international institutions. That sounds sort of lame, but that is all I can come up with at the moment.

QUESTION, MR. EASTWOOD: What do you run across when you run across normal people, aside from the protesters, with that whole trade thing?

ANSWER, MR. MORTON: I do not think trade is an issue. They just do not see it anymore.

ANSWER, MR. TOWER: That is probably right, but there is also a skepticism about whom to believe. It is not the press, and it is not the politicians. They do not know who it is. So there is a nano media out there. There is a sense that we just do not know. We do not know who to believe, and so we will think about something else.

There is a question for the media, for the politicians, for you, to slowly get the trust back; get the credibility back. Start saying things without all the extra bells and whistles and so on, and treat people honestly and reduce the spin.

COMMENT, MS. BRAID: Thank you very much. It has really been a special evening. I always particularly enjoy the blend of cynicism and idealism that experienced journalists brings. I would like you to join me in thanking Courtney and Peter for sharing that with us and bringing this level of abstraction up at the end of our day to what we can actually do on some of these policy issues and some of these spread-the-information issues.

