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January 2001

## Conference Opening

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### Recommended Citation

Henry T. King Jr., *Conference Opening*, 27 Can.-U.S. L.J. 5 (2001)

Available at: <https://scholarlycommons.law.case.edu/cuslj/vol27/iss/4>

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## CONFERENCE OPENING

*Henry T. King, Jr.*

At this time I want to introduce to you our program.

Both Canada and the United States have federal systems of government. However, these systems are quite different in terms of heritage and background. The U.S. system was created after a military revolution and was based on a written Constitution with three strong, independent branches of government. The Constitution suffered early attack and it was in effect during and survived a terrible Civil War. Yet, it has a two hundred-year history, which has stood the test of time. The system has shown an ability to respond to the changing needs of its constituents.

Canada remained a part of Great Britain during the U.S. separation from Great Britain. Canada's independence from Britain became a peaceful reality over a period of time and the ties that bound Canada and Britain were in essence severed, comparatively speaking, only recently. Notably, Canada has retained the British parliamentary system form of government with a Prime Minister dependent upon a parliamentary majority. It was not until quite recently that Canada had a written constitution. Moreover, the desire of many in Quebec for independence has put stresses and strains on Canada's federal framework.

The comparative focus of the U.S. and of the Canadian economies has had an effect on the development of federalism in each country. The Canadian economy is to a considerable extent a natural resource and an agricultural based economy, while in the U.S.; the focus has been on manufacturing. Additionally, the U.S. maintains a substantial agricultural base and also relies on natural resources. The role of the states and provinces in the natural resource and agricultural areas is very significant, and sometimes produces cross-border economic conflicts, which we shall be looking at in the course of the conference.

The relative size of certain states and provinces in each of our countries has impacted our respective federal system. For example, California alone, in terms of economic impact is larger than most countries in the world. Similarly, the sheer geographical size of both Quebec and Ontario is larger

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than that of most countries of the world. Quebec and Ontario, as well as other Canadian Provinces, have tremendous clout in terms of control over their natural resources. The same is true but to a much lesser extent in the U.S.

Stresses and strains in the Canada/U.S. relationship result because of the differences in our federal systems and also by reason of the parallels in our economies where competitive conflicts arise. We shall, in the course of this conference, be looking at these points of tension and we hope that by airing these differences we can create a better mutual understanding of each other's position.

As we examine the impact of federalism on the Canada/U.S. relationship, we shall also be keeping our eyes on border issues as they have arisen. It is, indeed, in the interest of both countries to keep the level of hostility arising from these issues to a minimum and we feel by airing these differences it will help be helpful on both sides of the border.

Our program will start with the broad strokes. Though the eyes of Professor Daniel Farber of the U.S. and Professor Patrick Monahan of Canada, we shall be looking at how the differences between the Canadian and U.S. federal systems impact the ability of the U.S. and Canada to deal with cross-border and International issues.

In the second session, which we have styled federal states in the broader world, we shall be looking at the current and prospective roles of states and provinces in foreign affairs in the negotiation and implementation of trade agreements and the handling of trade disputes. Professor Matthew Schaefer of the U.S. and George Anderson of Canada's Privy Council will give us the Canadian and U.S. perspectives on the many facets of this issue.

Our luncheon speaker, Professor Hans Smit of Columbia University, who is of Dutch descent, will lead us in comparing the relative roles of Provinces and States in the Canada/U.S. context with that of Nation States in the European Union (EU). His observations will be particularly relevant because of his unique background as a Dutch born and Dutch educated professor working and living in the U.S. at a leading American University and because of his truly broad based international experience.

States and provinces play a major role in the taxation of individuals and corporate entities in the Canada/U.S. context. There is a double taxation treaty, limiting the double taxation on the federal level, but nothing parallel on the state and provincial level. There is a need for more cross-border cooperation in this area. We will be looking at cross-border taxation problems and mechanisms for cooperation and dispute resolution through the eyes of Professor Walter Hellerstein of the U.S. and Robert Brown of Canada, both of whom are very distinguished tax authorities.

Agriculture is a perennial battleground for U.S. and Canada. I am interested in this area. We shall be looking at the relative roles of the states and provinces in regulating agriculture and the resulting impact on cross-border trade. Here we will be dealing with the question of whether states and provinces can be prevented from interfering with, condoning interference with, or subsidizing the movement of agricultural products through their territories. Kevin Brosch of the U.S. and Michael Gifford of Canada will be our speakers at this session.

In the overall Canada/U.S. context a critical question is how do Canadian Provinces and U.S. States view the importance of their relationship with their cross-border counterparts? Here we shall be looking at this question through the eyes of former Ontario Premier, David Peterson and James Sisto, the former International Development Director for the State of Ohio. We are indeed pleased that James Sisto has agreed to substitute for former Governor Blanchard of Michigan, our scheduled speaker for this session.

We begin Day Two with an important topic. Plant location is the name of the game in the competitive context in which the U.S. and Canada operate today. States and provinces compete for new plant locations in today's world. We shall be examining the incentives through which this is done with Ron Strassma and Grahame Richards as our discussion leaders.

Our midmorning session on Day Two of our conference will deal with federal, state and provincial interplay regarding cross-border environmental pollution. This is a very complex subject with many facets. We are very lucky to have Professor John Knox of the U.S. and Stewart Elgie of Canada to lead us in a discussion of these complexities. Both are well versed to handle this topic.

Canada and the U.S. have had their share of border problems and these could increase as our relationship intensifies. Our speaker at our luncheon session on Day Two of the conference will be Demetrios Papademetriou of the Carnegie Endowment for Peace. His topic at the luncheon session will be a Canada/U.S. border for the twenty-first Century. We look forward to what he has to say on this topic.

Our post luncheon session of Day Two will deal with state and provincial regulations with cross-border impact. The Minnesota/Ontario fishing and tourism dispute is a case in point on this issue. This session will encompass the use of the North American Free Trade Agreement (NAFTA) dispute resolution mechanisms by States and Provinces. James Southwick of the U.S. and Katharine McGuire of Canada will be our discussion leaders in this session.

Our late afternoon session will deal with the pacific salmon dispute. This is a dispute of long standing between the U.S. and Canada that has state and

provincial implications, as well as federal implications. David Colson of the U.S. and Professor Don McRae of Canada will be our speakers for this session.

The softwood lumber dispute, like the pacific salmon dispute, has state and provincial as well as federal aspects. It is a long-standing controversy involving different constituencies on both sides of the border. Complications arise because there are parties on each side of the border who are at odds with each other, as well as parties on each side of the border who are at odds with cross-border counterparts. Jean Anderson and Helmut Mach will lead us in our discussion on this complex issue.

The climax of our conference will be our Sunday morning session, which will deal with the impact of Chapter 11 on sub-federal governmental agencies. There are a growing number of Chapter 11 complaints dealing with state and provincial measures. We have to look at and assess these complaints and the actions taken on them in terms of whether they are resulting in a significant curbing of environmental regulatory powers as exercised by the states and provinces or a mere correction of highly discriminatory or expropriatory behavior. Dan Price of the U.S. and James McIlroy of Canada will be our speakers at this session.