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Plenary Session

Introductory Remarks

Donat Pharand

Mesdames et messieurs, il me fait grand plaisir, au nom de la Faculté de Droit et au nom de l'Université d'Ottawa, de vous souhaiter la plus cordiale bienvenue à ce sixième Congrès du Conseil canadien de Droit international. This year, our sixth annual conference is being co-sponsored by the Canada-United States Law Institute, and in a few minutes I will ask the United States director, Professor Sidney Picker, to say a few words to you about the purposes of that Institute.

The Constitution of our Canadian Council on International Law provides, among other things, that we are to promote the imaginative use of peaceful methods of dispute settlement, including resort to the International Court of Justice. It provides, in particular, that we are to foster the study of the legal aspects of Canada's international problems and to advocate their solution in accordance with existing or developing principles of international law. Within the scope of these objectives, we are now going to make a study of the legal aspects of Canada-United States relations and, more particularly, the question of dispute settlement. Indeed, it is part and parcel of the concept, "dispute avoidance." I am sure the speakers and discussants will refer to these two aspects of the same concept.

We are going to begin this morning, in plenary session, with a general panel where two main papers are going to be presented in order to give an overview of the problem. We are going to be centering on the dispute settlement mechanisms in the light of a few examples. Some of them, of course, are fairly current. A recent piece in the *Globe and Mail*, headlined, "Settlement is possible for sea boundaries," says that: "talks on disputed maritime boundary claims between Canada and the United States have progressed enough that negotiators are going to make a good effort at drawing boundary lines, but a final agreement is not likely until the new year, government officials said." After we have had a general presentation and comments by our guest speakers, who will be introduced to you later, we will then proceed to a general discussion. This afternoon, we will break into three workshops or seminars. You will have the opportunity to discuss the modes, mechanisms and procedures of peaceful settlement of disputes with respect to three specific issues: boundaries and resource issues; pollution; and trade and investments.

Je vais, sans plus tarder, demander au président américain du Canada-United States Law Institute — parce qu'il y a également un président ou directeur canadien de cette association, le professeur Roberts de l'Université Western — je vais donc demander à notre collègue, le professeur Sidney Picker, Jr. de Case Western Reserve University Law School, de bien vouloir

nous dire quelques mots sur les objectifs de cette Association et ensuite je vais demander au sénateur van Roggen de présider. Alors pour le moment voici donc, le professeur Sidney Picker.

Sidney Picker, Jr.

Thank you, Professor Pharand. It is a great honor for the Canada-United States Law Institute, as its first annual conference, to cosponsor these meetings with the Canadian Council on International Law in what is the Council's sixth annual meeting. It is a pleasure to welcome you here, today. As many of you know, the Institute is of recent origin, begun only a year ago with the objective of enhancing comparative and international law educational opportunities, experiences and scholarship by means of a series of binational programs. The Institute is operated jointly by an American and a Canadian law school: Case Western Reserve University of Cleveland, Ohio, and the University of Western Ontario of London, Ontario. In particular, it is the Institute's twin goals to: first, maximize comparative legal opportunities for undergraduate law students in both countries by examining alternate legal solutions to common problems in the United States and Canada—two similar but different constitutional federal states; and second, to explore the unique Canadian-American legal relationship within the context of contemporary and historical international law.

In its first year of operation, the Institute emphasized comparative law issues through a series of programs involving exchanges of students and faculty between the two participating law schools. In its second year, the Institute is expanding its program to include sponsorship and cosponsorship of conferences and workshops. The primary purpose of these additional programs is to emphasize the second goal of the Institute: the exploration of the Canadian-American legal relationship. To this end, in September of this year, the Institute sponsored a one-day workshop, at the University of Western Ontario, which examined the extraterritorial application of United States antitrust legislation in Canada. It is with this same purpose in mind that we find ourselves here today with the Canadian Council on International Law. The subject of this conference, dispute settlement and avoidance within the North American context, is of primary concern to both sponsoring organizations, and it is a great pleasure for us to join with the Council in exploring our common interest. I am also pleased to note that two of the Institute's nine Advisory Committee members, Professor Myres McDougal and Mr. Monroe Leigh, are active participants in this conference.

Donat Pharand

I would now like to say a few words of introduction for Senator van Roggen who is our chairman this morning. Senator George van Roggen hails from British Columbia, and practised law at Whitehorse in the Yukon Territories for a good number of years, and also in Vancouver in more recent years. He was summoned to the Senate of Canada in 1971 and has been the Chairman of the Senate Standing Committee on Foreign Affairs for the last

three or four years. Indeed, he has made it a point of studying Canada-United States relations. There was a special study conducted by his committee which produced a most interesting report in December, 1975, on the subject of Canada-United States relations. Senator van Roggen has also been a member of the Canada-United States interparliamentary delegation for five or six years. Senator van Roggen kindly accepted our invitation to chair these deliberations, and he is most qualified to do it.

Chairman George van Roggen

Thank you very much, Professor Pharand. I might just say that the study which we have been conducting has been fascinating. The first volume, as Professor Pharand just mentioned, was published a couple of years ago. Following that, we decided the second phase of our study would be Canada-United States trade. I do not think we realized what we were undertaking when we started into that. It is so overwhelming a portion of the relationship and of our economy as Canadians, that we have been taking evidence for almost two years. Mercifully, we have stopped taking evidence and are now going to try to make some sense of it. I hope the second report will receive the same complimentary reaction as the first one has.

This morning, it is my pleasant duty to be chairman and to introduce the panelists. Today we will first have two speakers, Messieurs Baxter and Macdonald. Following that, there will be commentaries on their remarks by Ambassador Cadieux and Mr. Leigh. I will introduce them in a little more detail in a moment. The commentators will follow and we will then have a general discussion. The *curriculum vitae* of these particular gentlemen on my left and right are so extensive because of their collective accomplishments that I will not endeavor to read them to you in their entirety. They all have extremely accomplished careers in areas related to the discussion this morning and I will just pick out some of the highlights for you in case you do not know them already.

Richard Baxter was educated at Brown University, Harvard, and Cambridge. He was an attorney with the Office of the General Counsel at the Department of Defense; a Guggenheim Fellow; Counselor on International Law, State Department; and an Honorary Fellow at Christ College in Cambridge. Professor Baxter is vice-president of the American-British International Law Association and is the author of a large number of publications. Since taking up his professional duties, he continues to be consulted by the Department of Defense, the Department of State, the Naval War College and the United Nations Secretariat.

Ronald St. J. Macdonald is the Dean of Law at Dalhousie University. He received his education at Saint Francis Xavier University as well as London and Harvard. He is a member of the Nova Scotia and Ontario bars and has been a lecturer at a number of the universities in Canada and Mexico. He has served in delegations of various sorts abroad. He was a member of the International Committee on the Elimination of Racial Discrimination. He was

president of this association two or three years ago and is the founding editor of the Dalhousie Law Journal. He is an author, and, I might say, one of the most effective witnesses that we have had the privilege of having before my committee in our study for volume one of our report. We based much of the chapter in that report concerning negotiation techniques upon the testimony which he gave.

Ambassador Cadieux will be one of our two commentators to follow the speakers. He, too, was kind enough to appear before our committee while he was Ambassador to the United States, and was most helpful. Ambassador Cadieux was born in Montreal, educated at the University of Montreal, and later at McGill. He joined the Department of External Affairs in 1941 and has since pursued a very distinguished career with the Department, serving in all parts of the world over the years. He was first named as Ambassador to the United States in 1970, and later as head of the Canadian Mission, which is the equivalent of Ambassador to the European Communities in Brussels. They have seconded him to settle our salt water boundaries out to the two hundred mile limit and is presently engaged in that mammoth undertaking. Perhaps we will hear today what success he has had thus far. It is a great pleasure to welcome Ambassador Cadieux here today, and it is an honor to share this podium with him.

Monroe Leigh, the other commentator this morning, is from the United States. He, too, has had a very distinguished career. Mr. Leigh hails from Virginia where he took his education before the war and, after serving in the United States Air Force during the war, he took law at the University of Virginia Law School. He followed this with a general practice of law with emphasis on international problems and, in Washington D.C., has served in capacities with the United States Government, including Deputy Assistant Counsel for International Affairs in the office of the Secretary of Defense. He has now returned to private practice and is the author of a number of books and articles.

So, with those introductions, I will now go back and ask Professor Baxter if he will commence the presentations.