

Canada – Law Firms

David Smith: A Canadian Senator Talks About A Career In Public Service And The Law

The Editor interviews Senator David P. Smith, P.C., Q.C., Counsel and Chairman Emeritus of Fraser Milner Casgrain LLP, Toronto.

Editor: Senator Smith, you have had extremely active careers in both the public service and as a lawyer. For starters, would you tell our readers something about your background and choice of law as a profession?

Smith: I grew up in the home of an evangelical minister, and, as it happened, both religion and politics were the staples of dinner table conversation. In one of those odd twists, one of my earliest memories of an election was not that of a Canadian contest but rather the 1948 contest between Harry Truman and Thomas Dewey. Although I was only seven years old, I still remember cheering for President Truman on election night, and that fascination for politics remained a part of my childhood and youth and, obviously, has continued throughout my life.

Politics and the law are intertwined. Just this month I went to Washington, DC on behalf of the Canadian Parliament to discuss the Patriot Act, and the particular aspects of it that affect Canada. A variety of Congressmen took part in that discussion, and virtually every one of them was a lawyer.

Editor: When did you determine that you wished to be engaged in the political arena?

Smith: As I say, I was interested in politics from a very early age. By the time I received my undergraduate degree – in political science and history – I had become very involved with the Liberal Party of Canada. This was a consequence, I am sure, of having spent my college years in Ottawa, which is the capital of Canada, and hence the seat of Parliament. During those years, I served as head of the Liberal Club at university and got to know Lester B. Pearson, the Prime Minister at the time. His father and grandfather had been Methodist ministers, and we had a number of things in common. He was very kind to me and would have me over to his house for dinner, which was a wonderful introduction to the political arena. I went on, in between undergraduate studies and law school, to serve as chief of staff to two different cabinet ministers in the Canadian government. Later, I went on to serve on the Toronto City Council, was elected to the House of Commons and, ultimately, became a cabinet minister myself in 1983, in Pierre Trudeau's cabinet.

Editor: Would you share with us the highlights of this period of your career?

Smith: I have always enjoyed representing Canada at various events. Often this involved traveling throughout Canada with a visiting head of state. Under Prime Minister Trudeau I had a number of opportunities to do this, with Prime Minister Margaret Thatcher, Pope John Paul II, the Premier of China, and the Prime Minister of Malaysia, among others.

One of the highlights of that period had



Senator David P. Smith

to do with my chairmanship of a special committee of Parliament, which derived from a decision by the United Nations to designate 1981 as the Year of Disabled Persons. The committee had seven members who toured around the country listening to the comments of over 600 different witnesses. I then worked with an advertising executive to help get the message out. We picked a dozen people with physical or mental disabilities, took their pictures and had them tell their stories to a script writer. The report – which contained 195 recommendations – was called *Obstacles*, and such was its impact that we had to print 400,000 copies. Twenty-five years later, there is rarely a month that goes by that someone does not approach me and speak of that committee and its work. That is deeply satisfying – knowing that something you have done has made a difference in people's lives.

Editor: Your association with Fraser Milner Casgrain goes back many years. How did you come to the firm?

Smith: I was recruited by the firm. After I had done my time in the House of Commons, and the Conservative Party came into power, I became serious about practicing law. I had a successful law practice, but I needed a much larger platform than the firm I was with because I was in a position to bring in a substantial amount of business. The predecessor firm of Fraser Milner Casgrain in Toronto constituted such a platform and, in addition, I believed that the firm afforded me an opportunity to take on a leadership role. Three years after having joined the firm I became chairman. This was a time of consolidation among law firms, and firms with a strong regional base were coming together to form national firms. I was involved in the firm's merger with the Milner firm, which gave us a strong presence in Alberta, and later with the Casgrain firm, which gave us an equally strong presence in French-speaking Canada, Quebec. This was an extremely satisfying time in my career, although filling a leadership role with the firm during such an expansion period limited the amount of time that I was able to devote to my practice. Nevertheless, that work – primarily dealing with intricacies of government at the municipal level in

connection with approvals for huge office building projects in Toronto – continued to take up much of my time. I was also called upon to provide strategic advice to clients in their dealings with the federal government, as a result of my parliamentary experience.

Editor: You were FMC's chairman at a very important point in its history. Would you share with us your thoughts about the firm's expansion across Canada and, eventually, south of the border?

Smith: When I became chairman, we were in Toronto, Vancouver and Ottawa. The next logical step was Alberta – Calgary and Edmonton – where the oil and energy fields create a lot of legal work. Once that was done, we moved into Montreal, and that step made us truly national. At present, we have offices in the six largest cities of Canada.

Increasingly business is becoming global in nature, and the strongest trade relationship in the world is that between Canada and the U.S. In 2003 trade between our countries was \$362 billion, i.e. a billion a day, and we have statistics to indicate that this trade accounts for more than 5 million jobs in the U.S. alone. Globalization means that trade is only going to increase. Having a presence in New York was a logical step for the firm in these circumstances.

Editor: What are the ultimate goals that you have for the firm?

Smith: We are one of the five largest law firms in Canada in terms of numbers of lawyers, and the quality of our work is first class. I would hope we would remain where we are on both counts. In addition, I would like to see our firm increase the presence we have today in terms of cross border transactions and trade deals. In light of the accelerating pace of trade between Canada and the U.S., a second American office is a subject of ongoing review.

Editor: During most of the 1990s you were engaged in a very demanding law practice, running one of Canada's leading law firms and playing an extremely important role in the election campaigns of the Liberal Party, all at the same time. How did you manage to handle all of this?

Smith: I have always believed in retaining good people and in delegating responsibility to them. That has served me well over the course of my career. Today, I continue to play a role at the firm as chairman emeritus, which my Senate position allows, provided, of course, that I never act on the firm's behalf in connection with business dealings with the federal government. Much of what I do for the firm today concerns recruiting – hiring and then helping retain the excellent young lawyers that any firm needs if it is to move forward – and, of course, client development.

Editor: In 2002 you were appointed to the Canadian Senate on the recommendation of Prime Minister Chrétien. Are

the members of the Senate appointed to represent specific provinces?

Smith: Yes, although each province does not have the same number of senators. Our system is modeled on that of Britain, and members of the Senate – the Canadian version of the House of Lords – were originally appointed for life; now there is mandatory retirement at the age of 75. In order for any legislation to become law it must go through both the House of Commons and the Senate, which is the reason that the Senate has been referred to – and not always with the gravity appropriate to its position in our system – as “the chamber of sober second thought.” Many commentators believe that Senate committees – being composed of persons who are not subject to ongoing election pressures – are stronger than those of the House of Commons.

Editor: Please tell us about your duties as a senator.

Smith: I chair one committee – the Senate Rules Committee – and sit on two others, the Internal Economy Committee and the Anti-Terrorism Committee. It was on behalf of the latter that I was most recently in Washington. I am fortunate in being frequently selected to act as a representative for Canada abroad, and I have recently been at the Commonwealth Conference hosted by Fiji, as well as ones in Uganda and Bangladesh. I was also an observer at the recent Ukrainian election. During the summer I happened to be in London at the same time as the terrible bombings of the London transit system. And I was with the Canadian delegation at Pope Benedict's installation.

Editor: Our readership consists, in the main, of general counsel and the members of corporate legal departments in corporations across North America. Many of them have interests in Canada or are contemplating investing in the country. Would you share with us your thoughts about Canada as an investment destination and place to do business?

Smith: It is a good place to do business. The business culture in Canada is very similar to that in the U.S., and as a result most Americans feel as comfortable doing business in Canada as they do at home. Many major companies have a presence in both countries. And, as I have indicated, the trade figures reflect the largest bilateral trade relationship in the world. As the pace of globalization increases, and with it the integration of the world's economy, that relationship is only going to become stronger. Because there is so much trade underway, occasional disputes are inevitable. Softwood lumber is an issue which has been around for some time, and it does need to be resolved. Interestingly enough, one of Canada's most important allies in this dispute is Home Depot, which, of course, has its headquarters in Atlanta. That fact is reflective of how intertwined our two economies are, and is just about the best guarantee that we will be able to satisfactorily resolve disputes of this nature.

Please email the interviewee at david.smith@fmc-law.com with questions about this interview.