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## Presentation of the Henry T. King, Jr. Award and Remarks

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## PRESENTATION OF THE HENRY T. KING, JR. AWARD AND REMARKS

### INTRODUCTION

*Daniel Ujcz*

PROFESSOR UJCZO: Good evening. I am Dan Ujcz, the Managing Director of the Canada-United States Law Institute.<sup>1</sup> We are going to get started with this evening's program. We know that it has been a long day for certain folks. Our Executive Committee and Advisory Board got started bright and early at 7:30 AM this morning.

Welcome to Ambassador Jacobson,<sup>2</sup> Admiral Parks,<sup>3</sup> Consul General Norton,<sup>4</sup> and tonight's honoree, The Honorable Bill Graham.<sup>5</sup> Governor Blanchard,<sup>6</sup> Minister Peterson,<sup>7</sup> Judge Baxter,<sup>8</sup> and I have it on very good authority that the real bosses in the room are Cathy Graham, Janet Blanchard, and Heather Peterson. I welcome you to the Canada-United States Law Institute. Ladies, I hope you had the opportunity to enjoy Northeastern Ohio this afternoon.

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<sup>1</sup> See *Dan Ujcz—Biography*, CAN.-U.S. L. INST., [http://cusli.org/conferences/annual/annual\\_2011c/bios/bio\\_ujcz.html](http://cusli.org/conferences/annual/annual_2011c/bios/bio_ujcz.html) (last visited Dec. 31, 2011). Mr. Ujcz acted as the Managing Director of the Canada-United States Law Institute from 2004 to May 2011. He is presently the Economic Relations and Regulatory Affairs Officer at the Consulate General of Canada in Detroit, Michigan.

<sup>2</sup> *Ambassador David Jacobson—Biography*, EMBASSY OF THE U.S., OTTAWA, CAN., <http://canada.usembassy.gov/ambassador.html> (last visited Nov. 4, 2011).

<sup>3</sup> *Rear Admiral Michael Parks—Biography*, U.S. COAST GUARD, <http://www.uscg.mil/d9/d9.asp> (last visited Nov. 4, 2011).

<sup>4</sup> *Consul General Roy B. Norton—Biography*, GOV'T OF CAN., <http://www.canadainternational.gc.ca/detroit/officesbureaux/bio.aspx?lang=eng> (last visited Nov. 4, 2011).

<sup>5</sup> *Hon. William C. Graham—Biography*, U. TORONTO, <http://www.trinity.utoronto.ca/UserFiles/Document/trinity-magazine/trinity-spring2007.pdf>.

<sup>6</sup> *Hon. James J. Blanchard—Biography*, DLA PIPER, [http://www.dlapiper.com/james\\_blanchard/](http://www.dlapiper.com/james_blanchard/) (last visited Nov. 4, 2011).

<sup>7</sup> *Minister James S. Peterson—Biography*, FASKEN MARTINEAU, <http://www.fasken.com/en/jim-peterson/> (last visited Nov. 4, 2011).

<sup>8</sup> *Judge Randolph Baxter—Biography*, JUST THE BEGINNING FOUND., <http://www.jtbf.org/index.php?src=directory&view=biographies&srctype=detail&refno=123> (last visited Nov. 4, 2011).

Distinguished friends of the Canada-United States Law Institute, both longstanding and new, I welcome you, once again, to the 2011 Henry T. King, Jr. Annual Conference on Canada-United States relations and to the presentation ceremony of the Henry T. King Award.

We have had a long day and substantively many of you have talked about what has been gained in our relationship, and just once again, I offer our thanks to our speakers and panelists today. It has been an exciting day. There is more to come, both this evening and tomorrow. Thank you, many thanks, to our sponsor for tonight's reception, Miller Canfield,<sup>9</sup> and Paul Durbin<sup>10</sup> from Miller Canfield is with us tonight. Thank you, Paul, and thanks to Miller Canfield.

I likewise extend our thanks to our Conference Co-Chairs who have brought their extraordinary experience and expertise, and as Governor Blanchard stated earlier today, the other “e”—eloquence—to this program. It has been a year in the making, but many thanks to our Conference Co-Chairs, Chris Sands<sup>11</sup> and David Crane,<sup>12</sup> who are spread throughout the room. Thank you, gentlemen.

Now I talked earlier today, as we did our signing ceremony with our two deans, Ian Holloway<sup>13</sup> at The University of Western Ontario Faculty of Law and Bob Rawson<sup>14</sup> at Case Western Reserve University School of Law, about how we have the best of both worlds in our institute by having a home here in Cleveland and a home in London, Ontario—“The London” as we like to say.

But we do, and when I have been out talking with many of you at your respective institutions, I say that we have the best of *all* worlds, in that not only do we have our home at two highly regarded academic institutions, but we also have the benefit of a public and private sector Advisory Board that has

<sup>9</sup> MILLER CANFIELD, <http://www.millercanfield.com/firm.html> (last visited Nov. 4, 2011).

<sup>10</sup> *Paul Durbin—Biography*, MILLER CANFIELD, <http://www.millercanfield.com/PaulDurbin> (last visited Nov. 4, 2011).

<sup>11</sup> *Christopher Sands—Biography*, HUDSON INST., <http://www.hudson.org/sands> (last visited Dec. 31, 2011).

<sup>12</sup> *David Crane—Biography*, CAN.-U.S. L. INST., [http://cusli.org/conferences/annual/annual\\_2011/bios/bio\\_crane.html](http://cusli.org/conferences/annual/annual_2011/bios/bio_crane.html) (last visited Nov. 13, 2011).

<sup>13</sup> *Ian Holloway—Biography*, U. CALGARY L., [http://www.law.ucalgary.ca/faculty/fulltime/bio\\_holloway](http://www.law.ucalgary.ca/faculty/fulltime/bio_holloway) (last visited Jan. 5, 2012). Mr. Holloway acted as the Dean of The University of Western Ontario Faculty of Law from July 2000 to July 2011. He is currently the Dean of the University of Calgary Faculty of Law.

<sup>14</sup> *Robert Rawson—Biography*, JONES DAY, <http://www.jonesday.com/rrawson/> (last visited Jan. 5, 2012). Mr. Rawson acted as the Interim Dean at Case Western Reserve University School of Law from October 2008 until May 2011. He is currently a partner at the Cleveland office of Jones Day.

us figuratively and literally on the front lines of the Canada-United States relationship.

I do pause for just a moment to acknowledge and, more importantly, thank our Executive Committee Members chaired by Governor James J. Blanchard<sup>15</sup> and Minister James S. Peterson,<sup>16</sup> but also if I can ask you to stand up and so then be recognized. From Canada: Selma Lussenburg of the Ontario Capital Growth Association;<sup>17</sup> Jim McIlroy of McIlroy and McIlroy;<sup>18</sup> Michael Robinson, who you have met on many occasions throughout today, of Fasken Martineau;<sup>19</sup> and Larry Herman of Cassels Brock.<sup>20</sup> Larry Herman could not join us. He has been sending us messages from overseas throughout the day today and he has been getting constant updates. On the United States side: Don Cameron of Troutman Sanders;<sup>21</sup> Dick Cunningham of Steptoe & Johnson;<sup>22</sup> Rick Newcomb of DLA Piper;<sup>23</sup> and our newest member of the Executive Committee, Davis Robinson, the former legal adviser at the State Department.<sup>24</sup> Davis, thank you.

Of course, this does not happen without the support of our Advisory Board and, when I say advisory, there is rarely a day that goes by that we are not on the phone or exchanging e-mails with a member of our Advisory Board. In the interest of time I will not ask everyone to stand up, but if I can just acknowledge a few folks. I mentioned the Honorable Randolph Baxter from the United States Bankruptcy Court,<sup>25</sup> who is joining us as a member of our Honorary Advisory Board. It is great to see the Judge here. It is sign of

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<sup>15</sup> *Blanchard, supra* note 6.

<sup>16</sup> *Peterson, supra* note 7.

<sup>17</sup> *Selma Lussenburg—Biography*, ONTARIO, <http://www.pas.gov.on.ca/scripts/en/bios.asp?minID=52&boardID=142020&persID=152329#1> (last visited Jan. 25, 2012).

<sup>18</sup> *James McIlroy—Biography*, MCLROY & MCLROY, <http://www.mcilroy.com/Expertise.htm> (last visited Nov. 4, 2011).

<sup>19</sup> *Michael Robinson—Biography*, U. W. ONT., <https://www.law.uwo.ca/lawsys/pages/contents.asp?contentName=Instructors&contentFileName=jrobin69> (last visited Jan. 5, 2012).

<sup>20</sup> *Larry Herman—Biography*, CASSELS BROCK, [http://www.casselsbrock.com/people/lawrence\\_herman](http://www.casselsbrock.com/people/lawrence_herman) (last visited Nov. 4, 2011).

<sup>21</sup> *Donald Cameron—Biography*, TROUTMAN SANDERS, [http://www.troutmansanders.com/donald\\_cameron/](http://www.troutmansanders.com/donald_cameron/) (last visited Nov. 4, 2011).

<sup>22</sup> *Richard Cunningham—Biography*, STEPTOE & JOHNSON, <http://www.steptoec.com/professionals-168.html> (last visited Nov. 4, 2011).

<sup>23</sup> *Richard Newcomb—Biography*, DLA PIPER, [http://www.dlapiper.com/richard\\_newcomb/](http://www.dlapiper.com/richard_newcomb/) (last visited Nov. 4, 2011).

<sup>24</sup> *Davis Robinson—Biography*, BROCK CAPITAL, <http://www.brockcapital.com/our-team/alphabetically?fullbio=DavisRRobinson-34> (last visited Nov. 4, 2011).

<sup>25</sup> *Baxter, supra* note 8.

our economic recovery that the dockets are getting smaller. Thank you that you have the time to be here, Judge.

Steven Petras of Baker and Hostetler,<sup>26</sup> who is also the President of the Cleveland Council of World Affairs.<sup>27</sup> Mr. Ambassador, I do not want to speak for the Council, but I am sure if you want to come to Cleveland in the fall, and we do have beautiful foliage, they would love to have you here as well.

I would also like to acknowledge James Graham of Cliffs Natural Resources,<sup>28</sup> who is joining us and Dick Petry of Eaton Corporation.<sup>29</sup> We have with us Cathy Vernon of Formica.<sup>30</sup> We also have with us Jessica LeCroy of Bennett Jones' Toronto office.<sup>31</sup> We have with us our friend from DLA Piper, William Minor.<sup>32</sup> We are welcoming to the Canada-United States Law Institute this year not only Miller Canfield and Paul Durbin but also Dickinson Wright. Thank you, Jamie Spence<sup>33</sup> and Mark High,<sup>34</sup> for being here with us today as well.

If there is anybody that I forgot, that is always dangerous. Steven DeBoer of Environmental Canada,<sup>35</sup> who is fresh from Bangkok, coming in on our climate change file and also Cyndee Todgham Cherniak,<sup>36</sup> who I should note is very important to us in terms of chairing our Niagara International Moot

<sup>26</sup> *Steven J. Petras, Jr.—Biography*, BAKER HOSTETLER, <http://www.bakerlaw.com/stephenjpetrasjr/> (last visited Nov. 4, 2011).

<sup>27</sup> CLEVELAND COUNCIL ON WORLD AFFAIRS, [http://www.ccwa.org/board\\_leadership.aspx](http://www.ccwa.org/board_leadership.aspx) (last visited Nov. 4, 2011).

<sup>28</sup> *James Graham—Biography*, GRAHAM WARD ONE, <http://www.grahamwone.com/> (last visited Nov. 4, 2011).

<sup>29</sup> *Richard Petrie—Biography*, STEWART MCKELVEY, <http://www.stewartmckelvey.com/en/home/directory/details.aspx/rpetrie/66> (last visited Nov. 4, 2011).

<sup>30</sup> *Catherine Vernon—Biography*, CAN.-U.S. L. INST., [http://cusli.org/about/bios/bio\\_vernon.html](http://cusli.org/about/bios/bio_vernon.html) (last visited Nov. 4, 2011).

<sup>31</sup> *Jessica LeCroy—Biography*, BENNETT JONES, <http://www.bennettjones.com/LeCroyJessica/> (last visited Nov. 4, 2011).

<sup>32</sup> *William Minor—Biography*, DLA PIPER, [http://www.dlapiper.com/william\\_minor/](http://www.dlapiper.com/william_minor/) (last visited Nov. 4, 2011).

<sup>33</sup> *James W. Spence—Biography*, DICKINSON WRIGHT, <http://www.dickinson-wright.com/ourpeople/pages/person.aspx?person=6d5b8a77-4b67-4450-9989-3ad4483fb1d4> (last visited Nov. 4, 2011).

<sup>34</sup> *Mark High—Biography*, DICKINSON WRIGHT, <http://www.dickinson-wright.com/ourpeople/pages/person.aspx?person=d773f9ff-68ce-4720-95b8-a64240d6829d> (last visited Nov. 4, 2011).

<sup>35</sup> *Stephen DeBoer—Biography*, U. W. ONT., <https://www.law.uwo.ca/lawsys/pages/contents.asp?contentName=Instructors&contentFileName=sdeboe99> (last visited Nov. 4, 2011).

<sup>36</sup> *Cyndee Todgham Cherniak—Biography*, MCMILLAN, <http://www.mcmillan.ca/CyndeeTodghamCherniak> (last visited Jan. 25, 2012).

Court along with Ian Laird of Cowell & Mooring<sup>37</sup> out of Washington, D.C., and welcome, Ian.

With our Institute I should note as well that we rely on the support of our corporate sponsors. Many of the firms and corporations you have just heard but also entities like Lubrizol<sup>38</sup> and William Manson<sup>39</sup> who are with us today; Parker Hannifin<sup>40</sup> right here in town, and Tom Piraino<sup>41</sup> and Chris Hunter;<sup>42</sup> as well as Eaton Corporation<sup>43</sup> with Sharon O'Flaherty,<sup>44</sup> Tim Boyle,<sup>45</sup> and a number of others that are with us. We thank Torys and John Terry,<sup>46</sup> as well as Research in Motion's<sup>47</sup> Praveen Goyal.<sup>48</sup> It is just wonderful to have the types of support that we do from these firms and organizations. They provide the support both in terms of finance but also that experience and expertise that we require to move forward, and we look forward to having new relationships with our partners, many of who you have seen today: Gordon Pennoyer at Enbridge,<sup>49</sup> Tim Kennedy<sup>50</sup> at Spectra Energy,<sup>51</sup> and a number of others. We thank all of you for contributing to our program.

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<sup>37</sup> *Ian Laird—Biography*, COWELL & MOORING, <http://www.crowell.com/Professionals/Ian-Laird> (last visited Nov. 4, 2011).

<sup>38</sup> LUBRIZOL, <http://www.lubrizol.com/> (last visited Nov. 4, 2011).

<sup>39</sup> *William Manson—Biography*, MARTINDALE, <http://www.martindale.com/William-D-Manson/1473669-lawyer.htm> (last visited Nov. 4, 2011).

<sup>40</sup> PARKER HANNIFIN, <http://www.parker.com> (last visited Nov. 4, 2011).

<sup>41</sup> *Tom Piraino—Biography*, PARKER, <http://www.parker.com/portal/site/PARKER/menuitem.44ba091f41f6402a75c4c210237ad1ca/?vgnextoid=c57e67b3960f2210VgnVCM10000032a71dacRCRD&vgnnextfmt=> (last visited Nov. 4, 2011).

<sup>42</sup> *Christopher Hunter—Biography*, FINDLAW, [http://pview.findlaw.com/view/2731120\\_1](http://pview.findlaw.com/view/2731120_1) (last visited Nov. 4, 2011).

<sup>43</sup> EATON CORPORATION, <http://www.eaton.com/Eaton/OurCompany/AboutUs/index.htm> (last visited Nov. 4, 2011).

<sup>44</sup> *Sharon O'Flaherty—Biography*, FINDLAW., [http://pview.findlaw.com/view/2726313\\_1](http://pview.findlaw.com/view/2726313_1) (last visited Nov. 4, 2011).

<sup>45</sup> *Timothy Boyle—Biography*, LINKEDIN, <http://www.linkedin.com/pub/timothy-boyle/6/a0a/aa4> (last visited Nov. 4, 2011).

<sup>46</sup> *John Terry—Biography*, TORYS, <http://www.torys.com/OurTeam/Pages/TerryJohnA.aspx> (last visited Jan. 25, 2012).

<sup>47</sup> RESEARCH IN MOTION, <http://www.rim.com/company/> (last visited Nov. 4, 2011).

<sup>48</sup> *Praveen Goyal—Biography*, CAN.-U.S. L. INST., [http://cusli.org/about/bios/bio\\_goyal.html](http://cusli.org/about/bios/bio_goyal.html) (last visited Nov. 4, 2011).

<sup>49</sup> *Gordon Pennoyer—Biography*, LINKEDIN, <http://www.linkedin.com/pub/gordon-pennoyer/10/208/156> (last visited Nov. 4, 2011).

<sup>50</sup> *Tim Kennedy—Biography*, SPECTRA ENERGY (Feb. 8, 2011), <http://www.spectraenergy.com/Newsroom/News-Archive/Spectra-Energy-Corp-Names-Tim-Kennedy-as-Vice-President-Federal-Government-Affairs-Canada/> (last visited Nov. 4, 2011).

<sup>51</sup> SPECTRA ENERGY, <http://www.spectraenergy.com/> (last visited Nov. 4, 2011).

Now, coming full circle, our Canada-United States Law Institute has its home here at Case Western Reserve University School of Law<sup>52</sup> and The University of Western Ontario Faculty of Law.<sup>53</sup> We pride ourselves on that we do not just do things within the ivy-covered walls. Even in something as seemingly academic as a course such as our Canada-United States Legal Relations Seminar, we canvas our Advisory Board members and say, “We have about thirty law students who are looking for paper topics to write with you and they can work with you.” They in turn work and develop partnerships with law firms or corporate counsel, et cetera, in doing those things.

Again, what we do is relevant. There is perhaps no greater example of that than our Canada-United States Law Journal. Hot off the press is the Journal containing last year’s proceedings that was distributed to all of you. I just have to note that law reviews for the practitioner usually make great doorstops, to be honest with you, but I can say again today this is the leading—in terms of citations and readability—law journal on the Canada-United States relationship. There is a call for papers that will be issued by our Journal asking for other works, dealing with the energy relationship, and that will be published. Our next issue is just coming right on the heels of this issue, dealing with the American Bar Association and Canadian Bar Association mechanics while in a joint working group on the settlement of international disputes.<sup>54</sup> The work not only has a historical record but some updates. We have with us tonight a number of our students from Case Western Reserve University, as well as The University of Western Ontario, who are the people that make this happen. We are sad to see some of them go as they graduate and go on to bigger and better things. In particular Christian Sorensen, our Editor-in-Chief, is moving on and our Managing Editor this year, Sarah Antonucci.<sup>55</sup> We are fortunate to have her for another year, not because we are holding her back at Case, but because she is going over to the business school to complete a joint degree, so she can learn more about pew charts and those things we heard about earlier today.

We welcome our incoming staff. Our new Editor-in-Chief is Elizabeth Minton; John Sawyer will be our Managing Editor; Matthew Hemme will be our Publication Editor; Keith White will be our Production Editor; and also with us tonight is Benjamin Skomsky, who will be our Articles Editor.<sup>56</sup>

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<sup>52</sup> CASE W. RES. U. SCH. L., <http://law.case.edu/> (last visited Nov. 4, 2011).

<sup>53</sup> U. W. ONT. FAC. L., <http://www.law.uwo.ca/> (last visited Nov. 4, 2011).

<sup>54</sup> See generally *North American Dispute Settlement*, 35 CAN.-U.S. L.J. (2011).

<sup>55</sup> *Past Law Journal Editorial Boards 2010-2011*, CAN.-U.S. L. INST., <http://cusli.org/lawjournals/pastboards.html> (last visited Nov. 4, 2011).

<sup>56</sup> *Law Journal Editorial Board 2011-2012*, CAN.-U.S. L. INST., <http://cusli.org/lawjournals/lawjournal.html#currentboard> (last visited Feb. 6, 2012).

I want to close just with where we started again. It does not happen here at Case Western Reserve University without the support that we receive from our faculty and our friends here. As I said earlier today, there is a secret handshake among our tenured and tenured-track faculty, as many of you know, but we are fortunate here to have the support of our two deans as you saw earlier and from our national directors who you will meet in just a moment, but I emphasize again that we are on the front lines of this relationship.

Right now we are launching or continuing our regulatory cooperation initiative and partnership with Chris Sands at the Hudson Institute.<sup>57</sup> We have about six research fellows working on regulatory cooperation, not the most sensational or sexy issue admittedly, but it is perhaps the most important confronting our Canada-United States relationship and on security issues.

We are quite fortunate under Admiral Parks' leadership, and with Commander Andrew Sugimoto,<sup>58</sup> to have the United States Coast Guard<sup>59</sup> and the Department of Homeland Security.<sup>60</sup> We have a wonderful relationship with the Coast Guard and the Department of Homeland Security in the sense that we have a student lab that we have expanded to year-round given student interest. The wait list for the course filled up in three minutes last semester, so we have expanded it to the spring where the Coast Guard refers legal issues to our students. The Coast Guard gets the benefit of free legal research, our students get a wonderful opportunity, and we have also started internship and externship programs.

It is wonderful in terms of externships and internships as we expand our national security, and it is important as Canada and the United States move toward a perimeter approach. I will spare you the full name of that bureaucratic title of what is happening, but we are feeding into that process under Admiral Parks and Commander Sugimoto's leadership.

So thank you, gentlemen, as well. It is the hot ticket item here at the law school, but we do not do this alone.

Certainly, I do not do it alone, and I want to thank three people in particular that make this Conference happen and also make the Institute happen as well. First, the Assistant Director of our academic center is Nancy Pratt,<sup>61</sup> who I think has probably stepped outside; Alice Simon,<sup>62</sup> who is in charge of

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<sup>57</sup> *Sands, supra* note 11.

<sup>58</sup> *Andrew Sugimoto—Biography*, CASE W. RES. U. SCH. L., <http://law.case.edu/studentLife/organizations/apalsa/content.asp?id=523> (last visited Jan. 25, 2012).

<sup>59</sup> U.S. COAST GUARD, <http://www.uscg.mil/top/about/> (last visited Nov. 4, 2011).

<sup>60</sup> DEP'T OF HOMELAND SEC., <http://www.dhs.gov/xabout/> (last visited Nov. 4, 2011).

<sup>61</sup> *Nancy Pratt—Biography*, CASE W. RES. U. SCH. L., <http://law.case.edu/centers/ethics/about/staff.asp> (last visited Nov. 19, 2011).

<sup>62</sup> *Alice Simon—Biography*, CASE W. RES. U. SCH. L., <http://law.case.edu/centers/ethics/about/staff.asp> (last visited Nov. 19, 2011).



our marketing and communications and really the muscle behind our institute; and Jared Gregory,<sup>63</sup> who is the guy that makes all of this happen.

There has been perhaps no greater source of support for our Institute than our two national directors, and certainly to me personally, and it is my high privilege and even greater pleasure to introduce my colleague here at Case Western Reserve University, our United States Director Professor Michael Scharf.<sup>64</sup>

#### REMARKS OF MICHAEL SCHARF

PROFESSOR SCHARF: And thank you very much, Dan.

When I asked Dan what it was he wanted me to do in this welcome, he basically outlined what he just did. So note to self: never give a speech right after Dan Ujczko. I apologize if some of this is repetitive, but it is important stuff and you cannot thank some people enough.

In addition to serving as the United States Director of the Canada-United States Law Institute, I am also Director of the Law School's Frederick K. Cox International Law Center.<sup>65</sup> And the two of them really work as partners. We see the Canada-United States Law Institute as the international business law arm of the international law program, which we collectively call Case Global.<sup>66</sup>

I am happy to announce that our Case Global Program, and in large part due to the Canada-United States Law Institute, was ranked fifteenth by twelve hundred international law professors in the United States in the most recent, just three weeks old, United States News and World Report.<sup>67</sup> And that number fifteen ties us with Stanford, and it really I think is a testament to how important the Canada-United States Law Institute is, as well as its participants.

Dan asked me to start with some words of welcome to some of our special guests, many of which he has already listed, but I can give you another welcome and a thanks on behalf of the law school, using my secret handshake or whatever Dan was referring to that we tenured professors have.

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<sup>63</sup> *Jared Gregory—Biography*, LINKEDIN, <http://www.linkedin.com/pub/jared-gregory/29/1b5/b18> (last visited Jan. 25, 2012).

<sup>64</sup> *Michael Scharf—Biography*, CASE W. RES. U. SCH. L., [http://law.case.edu/centers/cox/faculty\\_detail.asp?faculty\\_id=142](http://law.case.edu/centers/cox/faculty_detail.asp?faculty_id=142) (last visited Nov. 19, 2011).

<sup>65</sup> *Fredrick K. Cox International Law Center*, CASE W. RES. U. SCH. L., <http://law.case.edu/centers/cox/> (last visited Nov. 19, 2011).

<sup>66</sup> *Id.*

<sup>67</sup> *2011 Best Graduate Schools: Case Western Reserve University*, U.S. NEWS & WORLD REPORT, <http://grad-schools.usnews.rankingsandreviews.com/best-graduate-schools/top-law-schools/case-western-reserve-university-03123> (last visited Nov. 19, 2011).

As a former member of the Office of Legal Adviser of the United States Department of State, I would like to start by welcoming Ambassador Jacobson to the Canada-United States Law Institute. You are now part of this family, Ambassador.

I would like to present you with my recent book about the Office of the Legal Adviser.<sup>68</sup>

And I, likewise, welcome Admiral Parks of the United States Coast Guard, and I further welcome Consul General Roy Norton of the Consulate General in Detroit, and I thank you. I thank you so much for all your support for the Canada-United States Law Institute.

And I offer a very heart felt welcome to The Honorable Bill Graham, tonight's Henry King honoree, who we will be hearing from later.

It is also my pleasure, and I will not name your names, but to welcome the members of the Executive Committee and Advisory Board and in particular our distinguished Co-Chairs that have added so much luster to this program in the last year. It has been a pleasure to work with the committee throughout the many years that I have been here but in particular the last twelve months or so since I have been appointed the United States Director of the Canada-United States Law Institute.

I offer also a special welcome to my colleague, Professor Chi Carmody,<sup>69</sup> our Canadian National Director, and I welcome the several students that have traveled from Western Ontario to Cleveland for this weekend's activities.

We have both a student exchange and a faculty exchange, and I was fortunate to have spoken at a recent conference at Western Ontario, and my chapter was included in a book edited by one of Chi's colleagues, Richard Vernon,<sup>70</sup> which was just published this month by Cambridge University Press. This is the kind of thing that the two law schools do together because of the Canada-United States Law Institute.

And finally, I welcome the many students and alumni here from Case Western Reserve University who support our Canada-United States Law Institute. You are a fantastic team of both students and current alumni who have appeared year after year at these conferences.

And now for some words about the state of the Canada-United States Law Institute. As you have witnessed at this year's Canada-United States Law Institute Conference today, our Institute continues to thrive. This afternoon we completed a decade long process to address our structure and governance

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<sup>68</sup> MICHAEL SCHARF, *SHAPING FOREIGN POLICY IN TIMES OF CRISIS: THE ROLE OF INTERNATIONAL LAW AND THE STATE DEPARTMENT LEGAL ADVISOR* (2010).

<sup>69</sup> *Chi Carmody—Biography*, U. W. ONT. FAC. L., <https://www.law.uwo.ca/lawsys/pages/contents.asp?contentName=Instructors&contentFileName=ccarmody> (last visited Nov. 17, 2011).

<sup>70</sup> *Richard Vernon—Biography*, U. W. ONT., <http://politicalscience.uwo.ca/faculty/vernon/> (last visited Nov. 19, 2011).

model. We believe that this model will allow the Canada-United States Law Institute to continue its growth over the next thirty-five years and beyond.

We have been proud to dedicate greater resources here at this law school to the Canada-United States Law Institute in the last couple of years, including the realignment of the Canada-United States Law Institute within our academic center's framework, and you have heard and seen the great work of Nancy Pratt, Alice Simon, and Jared Gregory who have now been harnessed for this project as well, in addition to our law school's development and admissions teams who have been working closely with our Canada-United States Law Institute program.

The Canada-United States Law Institute programs continue to be a great success within our law school. We have more than 120 students and faculty involved in our program, many of whom you have seen at the Conference today. Our Canada-United States related courses continue to grow, and we benefit from many of the folks in this room who have given visiting professorships here, including Cyndee Todgham Cherniak, Steven DeBoer,<sup>71</sup> and Dick Cunningham who have taught on the North American Free Trade Agreement and international trade. We hope that we will harness more of you to come and teach more Canada-United States law-related courses here in the future.

In addition, our Case Abroad at Home Program run by former United States Director of the Canada-United States Law Institute, Jon Groetzinger,<sup>72</sup> includes a course every summer taught by a Canadian law professor; last August, Valerie Oosterveld of Western Ontario<sup>73</sup> taught a course on "Prosecution of International Crimes Against Women." We are looking forward to the next visitor in the summer from Western Ontario.

Our Canada-United States Law Journal has, as Dan was telling you, expanded to two issues this year. You received issue number one in your bag this morning, and you will be seeing issue number two very soon. Our students freely exchange between the law schools and have externships and fellowships with organizations such as the International Joint Commission,<sup>74</sup> the Council of Great Lakes Governors,<sup>75</sup> the Great Lakes Mayors,<sup>76</sup> the Great Lakes Manufacturing Council,<sup>77</sup> the Hudson Institute,<sup>78</sup> and many more.

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<sup>71</sup> *DeBoer, supra* note 35.

<sup>72</sup> *Jon Groetzinger—Biography*, CASE W. RES. U. SCH. L., <http://law.case.edu/OurSchool/FacultyStaff/MeetOurFaculty/FacultyDetail.aspx?id=902> (last visited Nov. 19, 2011).

<sup>73</sup> *Valerie Oosterveld—Biography*, U. W. ONT. FAC. L., <https://www.law.uwo.ca/lawsys/pages/contents.asp?contentName=Instructors&contentFileName=vooster> (last visited Nov. 19, 2011).

<sup>74</sup> INT'L JOINT COMM'N, [http://www.ijc.org/en/background/ijc\\_cmi\\_nature.htm](http://www.ijc.org/en/background/ijc_cmi_nature.htm) (last visited Nov. 19, 2011).

<sup>75</sup> COUNCIL OF GREAT LAKES GOVERNORS, <http://www.cglg.org/Overview/index.asp> (last

Many of our students go on to government service, not just in the United States but in Canada thanks to these internships and the connections they have built.

Our Niagara International Moot Court competition<sup>79</sup> continues to expand, and again, I would like to thank DLA Piper, Fasken Martineau, Torys, McMillan, and Cassels Brock for sponsoring this year's event in Toronto where nineteen schools from both sides of the border participated.<sup>80</sup>

This year's problem, which some of you know I authored, involving environmental and national security issues relating to the melting of the polar ice cap, is directly related to the theme of this year's Canada-United States Law Institute Conference, and Judge Baxter, Jon Johnson,<sup>81</sup> and Admiral Robert Cowley<sup>82</sup> judged the final round to really make that a special event for the students. And this year Windsor, Ontario won, if you were curious.<sup>83</sup>

Many thanks to Cyndee Todgham Cherniak and Ian Laird for co-chairing the Moot Court competition, and we look forward to seeing all of you at the Moot, which rotates every other year. It was in Toronto this year. This coming year in February 2012, it will be in Washington, D.C.

I hope you all agree with me that our Annual Conference has so far been a huge success. We thank all of the speakers and session chairs, as well as the Planning Committee chaired by Chris Sands and David Crane, and I want to say also assisted in so many ways by the Canada-United States Law Institute Managing Director, Dan Ujcz. Thank you, gentlemen, for your extraordinary efforts.

Beyond this annual event, we are privileged to participate and co-sponsor events with the Cleveland Council on World Affairs,<sup>84</sup> the Henry T. King, Jr. Greater Cleveland International Lawyers Group,<sup>85</sup> and the American Bar

visited Nov. 19, 2011).

<sup>76</sup> *Great Lakes Mayors*, GREAT LAKES & ST. LAWRENCE CITIES INITIATIVE, <http://www.glslcities.org/aboutus.cfm> (last visited Nov. 19, 2011).

<sup>77</sup> GREAT LAKES MANUFACTURING COUNCIL, <http://www.greatlakesmanufacturingcouncil.org/index.cfm> (last visited Nov. 19, 2011).

<sup>78</sup> HUDSON INST., [http://www.hudson.org/learn/index.cfm?fuseaction=mission\\_statement](http://www.hudson.org/learn/index.cfm?fuseaction=mission_statement) (last visited Nov. 19, 2011).

<sup>79</sup> *Niagara International Moot Court Competition*, CAN.-U.S. L. INST., <http://cusli.org/niagara/> (last visited Nov. 19, 2011).

<sup>80</sup> *2010-11 Niagara International Moot Court Competition*, CAN.-U.S. L. INST., [http://cusli.org/niagara/2010\\_2011\\_archive.html](http://cusli.org/niagara/2010_2011_archive.html) (last visited Nov. 19, 2011).

<sup>81</sup> *Jon Johnson—Biography*, CAN.-U.S. L. INST., [http://cusli.org/about/advisory\\_board.html](http://cusli.org/about/advisory_board.html) (last visited Nov. 19, 2011).

<sup>82</sup> *Robert Cowley—Biography*, U.S. NAVY, <http://www.navy.mil/navydata/bios/navybio.asp?bioID=80> (last visited Nov. 19, 2011).

<sup>83</sup> *Niagara International Moot Court 2010-11 Awards List*, CAN.-U.S. L. INST., [http://cusli.org/niagara/niagara\\_results.html](http://cusli.org/niagara/niagara_results.html) (last visited Nov. 19, 2011).

<sup>84</sup> *Cleveland Council*, *supra* note 27.

<sup>85</sup> *Fredrick K. Cox International Law Center: Co-Curricular Activities*, CASE W. RES. U.

Association. We take particular pride that the Canada-United States Law Institute is on the front lines of the Canada-United States relationship.

With great support from the United States Coast Guard, as Dan was mentioning, we launched our Department of Homeland Security and United States Coast Guard lab in 2006 in which students perform legal research for the Department of Homeland Security and the Coast Guard. I want to thank Admiral Parks and Commander Sugimoto again for their support, as now Case Western students serve as interns at their offices throughout the year.

They come and they teach that course, which is so extraordinary and unique. We have expanded the course, as I said, to year round, and we are really looking forward to another set of exciting issues to work on for you.

We have also embarked on a research agenda with organizations, such as the Hudson Institute, to examine regulatory cooperation between Canada and the United States. Finally, we are pleased to collaborate with partner institutions such as the University of Windsor,<sup>86</sup> University of Buffalo,<sup>87</sup> and many others in the development of a robust Canada-United States curriculum and course book. I understand there is a very early morning meeting tomorrow where people will get together and hammer that out.

In the coming weeks, you will be hearing about the appointment of a new dean at Case Western, but we would like to thank Bob Rawson for his incredible leadership over the past two-and-a-half years and his great support for the Canada-United States Law Institute.

A year ago, Bob launched the Henry T. King, Jr. International Law Studies Fund here to provide long-term capital support for the Canada-United States Law Institute.<sup>88</sup> In your bags, one of the things you received was a copy of the Case Western Reserve University Law Review issue containing eleven tributes to Henry King, Jr.

In addition, we recently finished editing Henry's final book of reflections on his life's journey and his work on Canada-United States relations and international justice. So many people that are here today are here because of Henry King. So it is a great honor, I think, that we continue to have this conference that is named after him, and we feel like he is here in the room. I think every one of us feels that way who knew Henry.

The book that we have been working on, his final words, will be published in August by Carolina Academic Press.<sup>89</sup> This week, I decided to do-

SCH. L., [http://law.case.edu/centers/cox/content.asp?content\\_id=28](http://law.case.edu/centers/cox/content.asp?content_id=28) (last visited Nov. 19, 2011).

<sup>86</sup> U. WINDSOR, <http://www.uwindsor.ca/about-the-university> (last visited Nov. 19, 2011).

<sup>87</sup> U. BUFFALO, [http://www.buffalo.edu/about\\_ub.html](http://www.buffalo.edu/about_ub.html) (last visited Nov. 19, 2011).

<sup>88</sup> *Make a Memorial or Tribute Gift*, CASE W. RES. U. SCH. L., <http://law.case.edu/Support/OtherWaystoGive/MakeaMemorialorTributeGift/tabid/299/itemid/279/Default.aspx> (last visited Jan. 25, 2012).

<sup>89</sup> HENRY T. KING, JR.: A LIFE DEDICATED TO INTERNATIONAL JUSTICE (Michael P. Scharf

nate the stipend I received as author of this year's Niagara Moot Court problem and bench memo for the purchase of one thousand dollars worth of copies of the new Henry book at sixty percent off, which will, therefore, be distributed as part of our fundraising efforts to strengthen the Canada-United States Law Institute and the other institutions that Henry helped create. If you are thinking of donating, please get a book.

I do want to say, just to finally wrap things up, that I hope you will help us out with these efforts to ensure Henry's lasting legacy and to continue to strengthen this wonderful organization and the conference. I now turn it over to my colleague and friend, Chi Carmody.

### REMARKS OF CHIOS CARMODY

PROFESSOR CARMODY: Michael, that was certainly a send off. It is a great pleasure to be here. For those of you I have not met, my name is Chi Carmody. I am the Canadian National Director of the Canada-United States Law Institute, a position that I have held now for the last ten years. This is a momentous occasion, and it is a momentous occasion because I believe that what we have achieved with this Conference is the realization and the crystallization of so many things that were evident to us five or six years ago when we met at this Conference as an Executive Committee, and we realized that there was no succession plan.

We had to sit down and had to figure out what we were going to do about the future of the Institute as we moved forward. Early this morning there was a meeting of our Advisory Board, and at that meeting, I think we took stock of the fact that we have made a tremendous amount of progress, and we have moved forward. I sense a new energy, a new ambition, and a new vision of where the Institute is going.

I am very proud and pleased to be part of this Institute and to be able to participate in as many activities as we go forward. There is a tremendous amount of activity that is going on, and it seems in this past year that there is ever more activity. Not only has our Niagara Moot gone from strength to strength and brought together students from both sides of the border, but we also have our Journal. We also have our Conference. We also have our other periodic activities, and I think this is a testament to the fact that the Institute itself serves as a vital link between our two great nations.

I am very grateful to Dan Ujczko for his continuing work as our Managing Director, and I wanted to thank him publicly this evening for all that he has done on behalf of the Canada-United States Law Institute.

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ed., Carolina Press 2011).

I am also very grateful to the members of our Executive Committee who continue to give of their time, who continue to give of all of their efforts on our behalf. I know that in January when I was teaching a course on the "Law of International Organization," Richard Newcomb of DLA Piper in Washington, D.C. was very gracious in hosting my course and my students when we visited Washington, D.C. for a day and accommodated us in his wonderful law firm, where we heard from a series of speakers on the Law of International Organization. Thank you very much to Richard and also to Governor Blanchard of DLA Piper. Thank you.

And I am also very grateful to all of the students who behind the scenes and in front of the scenes make this Institute actually happen and work. Over the years, we have noticed that the interaction between our students has changed. As the world has grown more global, we have had to find new ways of bringing our students together, and I think it is fair to say that we are continuing to do so with great success with the Niagara Moot in Toronto.

In February of this year, we were able to bring together a group of Canadian and American students who worked together on the actual organization of the Moot. And I am very grateful for that. I am also very grateful to those of you who have served on the Journal this past year. The Journal has and continues to be a tremendous amount of work and dedication, and Christian Sorensen and Sarah Antonucci, who have already been recognized, I think deserve a special round of applause for all their hard work.

Christian and Sarah came up to London in September to visit us. And at that time, they helped to induct a new crop of editors for the Canada-United States Law Journal on the Canadian side, and working with them this year was a person who functioned very much as my right-hand person, and who I would like to publicly recognize, Phillip Turi, who is here with us this evening.

I would also like to recognize those Canadian editors who were not able to be here with us today. The Canadian side of the Institute is actually going into exams today, so they were not able to be with us tonight, but I would like to recognize Cherisa Valle, Adam Chamberlain, and a number of other students who have helped out and who I think have created something of a tradition on the Canadian side that will ensure that the Institute and the Journal continue to go forward with us.

Without any more, I would like to say that this is a very special conference for me because I have been coming to this Conference now for about twelve years. This is, I think, my twelfth conference, and with me, I have also been able to bring this time ten students who are with us at The University of Western Ontario.

They are not only spread out among you this evening, but they are also seated at the table that we have at the back, and not only are they Canadians, but they are also from Singapore, Sweden, New Zealand, France, and India.

I think that this is a great testament to the fact that “around the world” is becoming a much smaller place, and that as Henry King himself recognized many years ago, the relationship between Canada and the United States is special, in part, because we can show to the world what it is when two nations decide to work together. I think our reflection and our relationship together is something that we can show these people who are going back to their countries what it is to live and work together in such close quarters in peace. So thank you very much. Have a good night.

PROFESSOR UJCZO: We now very quickly return to our regularly scheduled programming, but I do want to pause for just a moment to thank, once again, all of our speakers, session chairs, and panelists today starting with Meera this morning and Michael Moore ending this afternoon.

More to come tomorrow, but you can join me, once again, in thanking our panelists for today.

Without further ado, it is my privilege and even greater pleasure to introduce our Co-Chair, The Honorable James Peterson, who will present tonight’s award.

#### REMARKS OF HON. JAMES PETERSON

HON. JAMES PETERSON: It is an incredible pleasure to be here, and I have enjoyed very much working with my Co-Chair, Jimmy Blanchard, in this marvelous Institution to strengthen relations of our two countries.

It was thirty-six years ago that Henry King established the Canada-United States Law Institute’s Annual Conference.<sup>90</sup> For every year since, it has provided a forum for academics, government officials, politicians, industry leaders, media, and scholars to address the very special relationship that exists between Canada and the United States.

Just to remind you, and I am sure you all know it, but Henry was the youngest prosecutor at the Nuremberg War Crime Trials.<sup>91</sup> He was a prominent, commanding lawyer. He was a teacher and mentor to so many people. He was a strong leading voice in international efforts to promote justice and the rule of law. He was a tireless champion for building the Canadian-American relationship, and he was the heart and soul and embodiment of the Canada-United States Law Institute.

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<sup>90</sup> *History*, CAN.-U.S. L. INST., <http://cusli.org/about/history.html> (last visited Jan. 25, 2012).

<sup>91</sup> See HENRY T. KING, JR., *supra* note 89.



The winner of the Henry T. King, Jr. award, The Honorable Bill Graham, has an incredible resume. You would all love to read it. Let me just hit a few highlights.

On his resume, it says that in 1964 he got his Bachelor of Law degree from the University of Toronto, which is Canada's second-best law school. His resume does not say, however, that he obtained the Gold Medal.<sup>92</sup> His resume does not say as well that Mr. Justice Bora Laskin,<sup>93</sup> who taught him, said that Bill was the best student he had ever seen.

Bill was obviously very smart, and he joined the Fasken law firm in 1967. He practiced law and became a partner there, but one of the most remarkable undertakings he had as a lawyer was in the heart of the difficult times we were having with Québec. There was a real dispute over whether air traffic controllers in Québec were going to have to be bilingual or whether they could speak in either language.<sup>94</sup> Bill was hired as counsel for that commission by the Province of Québec, and they were able to deal with it in a satisfactory way. Bill really made his name on that. We are very proud of him.

In 1980, Bill stopped practicing law, and he became a professor at the University of Toronto Faculty of Law,<sup>95</sup> attempting to take it from number two to number one. He taught international business and trade in European law.

In 1993, he wrested the riding of Toronto Center Rosedale from the hands of the forces of evil and became a member of Parliament. Very quickly after his election, he went on to become the Minister of Foreign Affairs, the Minister of National Defense, and when Paul Martin<sup>96</sup> stepped down as our leader, it was a unanimous decision of the caucus that the only person to take over from Paul until we had a leadership convention was Bill Graham, and he did.

He became the leader of the official opposition and the head of the Liberal Party of Canada. Today, Bill is into many things. He is Chair of the Atlantic Council of Canada. He is an Honorary Lieutenant Colonel of the Governor General's Horse Guards. He is a Chancellor of Trinity College.

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<sup>92</sup> *Bill Graham—Biography*, TRINITY C., [http://www.trinity.utoronto.ca/About\\_Trinity/College\\_Governance/Chancellor.htm](http://www.trinity.utoronto.ca/About_Trinity/College_Governance/Chancellor.htm) (last visited Nov. 19, 2011).

<sup>93</sup> *Bora Laskin—Biography*, GOV'T OF CAN., <http://www.scc-csc.gc.ca/court-cour/ju/laskin/index-eng.asp> (last visited Nov. 19, 2011).

<sup>94</sup> See generally SANDFORD F. BORINS, *THE LANGUAGE OF THE SKIES: THE BILINGUAL AIR TRAFFIC CONTROL CONFLICT IN CANADA* (1983) (discussing the evolution and implications of the language conflict).

<sup>95</sup> *Bill Graham—Biography*, *supra* note 92.

<sup>96</sup> *Paul Martin—Biography*, <http://www.paulmartin.ca/biography/> (last visited Nov. 19, 2011).

Henry King held brown bag lunches with his students. Bill holds Chancellor's evenings where he brings in prominent people from around the world and interviews them. Heather, my wife, and I had a wonderful evening there when he had Paul Martin and Paul had a wonderful time, too. And Bill does that so frequently.

He has really made a name for himself doing it. Bill is married to his wonderful wife, Cathy, and like Bill, she is highly intelligent, so interesting, and so much fun to be with.

I have to share this with you. They have two fabulous kids, son Patrick who has reported extensively in the past from Afghanistan and Iraqi, now in Libya as an international journalist, and their daughter Katie lives in Paris, married with three of the most wonderful grandkids they could ever ask for, William, Claret, and Thomas.

In conclusion, let me say this: as Henry himself said, "It gives your life meaning if you have done something for the society you live in, not only for the present generation but for future generations."

Bill, you have done so much for us and so much for generations to come. We are honored, indeed, that you have accepted this Henry T. King, Jr. Award. Henry would be so pleased.

The inscription on the plaque reads: "The Canada-United States Law Institute at Case Western Reserve University School of Law and The University of Western Ontario Faculty of Law presents the Henry T. King, Jr. Award to The Honorable William C. Graham, PCQC. The Canada-United States Law Institute celebrates the Honorable William Graham's contributions to the legal profession and academia, a life dedicated to public service and Parliament, his many contributions to global affairs and as Minister of Foreign Affairs and Minister of National Defense, his tireless fostering of the special Canada-United States relationship through security, prosperity, and supportive institutions such as inter-parliamentary associations, the Atlantic Council of Canada, the Canadian International Council and his promotion of the rule of law and human rights at home and abroad, the Canada-United States Law Institute further celebrates as nearly three decades of leadership of our Institute as a member of the Advisory Board, this 15th day of April, 2011, from Blanchard and Peterson, Co-Chairs, Executive Committee, Canada-United States Law Institute."

#### REMARKS OF HON. BILL GRAHAM

HON. BILL GRAHAM: Thank you very much, Jim and Excellency, honored guests, Admiral, it is very important to have admirals. I was a cadet in the Navy, so I am very intimidated by admirals.

And I think, as a basis of what Jim said, every one here is a friend of Henry King. I cannot tell you how moved I am to be honored by you with this

Award. I understand that before me was the International Joint Commission.<sup>97</sup> I cannot say I flow back and forth across the border the way International Joint Commission does, but I can say my mother was American, and like so many Canadians, I have had family here, and Ambassador Blanchard was just reminding me he has a special link with some of our family. We have worked together on various things. So it is a family.

It is a family occasion, and it is an extraordinary opportunity to be here to join with you and thank you for this honor and remember the life of Henry King. I also would like to say that I am extraordinarily honored to know that I am following in the footsteps of last year's honoree, George Voinovich.<sup>98</sup>

I do not know how many of you personally knew George. It was my great privilege to work with him on the Canada-United States Parliamentary Association.<sup>99</sup> He was a remarkable person, a great tribute to his country, an elegant senator, one of the persons one would say represented the best of what we know about American politics, and politics is in a tough time now. Someone like George is a testimony to what constitutes a great person in American politics, and I am very proud to be following in his footsteps, and it is great to be back here at this Institute.

Case Western Reserve University School of Law and this very special Law Institute really celebrates the nature and success of what is such a testimony, if I may say, to the close and enduring relationship that unites our two countries through these two exceptional law schools.

I cannot say any particular meeting that I attended, and I came to lots of them, stands out from those I have participated in over the years. I can say that the friendships and the sense of common purpose that prevailed at our meetings will always remain, and of course, the memory of one very special personality will always be there, Henry King. He will always be associated with this Institute.

Many things attracted one immediately to Henry: his affable personality and willingness to work with others combined with his extensive experience in the international business world made him a natural leader in bringing together students, practitioners, and scholars who were struggling to make sense of the complex matrix of rules that govern relations between our two countries and, more generally, the rapid and ever expanding field of international law and his nexus to foreign policy. Henry devoted his great personal intellectual skills to the daunting task of creating a better understanding, both

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<sup>97</sup> INT'L JOINT COMM'N, *supra* note 74.

<sup>98</sup> *George Voinovich—Biography*, GOVTRACK.US, <http://www.govtrack.us/congress/person.xpd?id=300098> (last visited Nov. 19, 2011).

<sup>99</sup> *Canada-United States Inter-Parliamentary Group*, GOV'T OF CAN., <http://www.parl.gc.ca/iiia/Association.aspx?Lang=E&DCId=4&DTId=6&P=overview&ORGId=1383> (last visited Nov. 19, 2011).

of how international law must form international relations and also how transnational law, to use Myers McDougal's famous expression, creates greater security for international commercial transactions and, thus, prosperity for us all.<sup>100</sup> Indeed, one might have thought that his extensive business experience would have focused his attention on the commercial dimension, but his intellectual range was broader and encompassed the whole spectrum of humanity, as the War Crimes Research Office<sup>101</sup> that bears his name is testimony to.

I had forgotten, until Jim mentioned it, how he had been one of the juniors to Judge Jackson at the War Crimes Tribunal.<sup>102</sup> As young students, you read about the Nuremberg trials, but when we talk to Henry, we talk to somebody who was there. That makes an enormous difference. It makes a huge impression, and I remember teaching the Nuremberg trials to my students, and when I talked to Henry about it, this came to life.

Henry was a proud American and he was perfectly aware that within a world where power based relations prevail over a rules based system, his country's overwhelming strength would guarantee its preeminence. But experience also informed him that the law of the jungle creates room for the cruelest and the most brutal to prevail as well. He consistently argued then that the United States in constraining its power by the farsighted use of international law was advancing its own best interest while promoting its finest principles globally. I hope that Henry is watching as the world struggles with the humanitarian crisis in Libya and is consciously applying principles of international humanitarian law designed to protect civilians in harm's way in circumstances that when we met here thirty years ago would have been inconceivable.

This audience will recall, as we discussed at many conferences here, that in the 1990s when we participated in the Kosovo campaign to stop a similar human tragedy,<sup>103</sup> international lawyers at the time tied themselves into knots trying to find a legal basis for the intervention that lacked Security Council authority. I can remember serving on the Standing Committee of Foreign

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<sup>100</sup> See MYRES S. MCDUGAL, *STUDIES IN WORLD PUBLIC ORDER* 678 (1987) (stating "We shall need prosperous markets in the world to insure our own prosperity.").

<sup>101</sup> *Henry T. King, Jr. War Crimes Research Office*, FREDERICK K. COX INT'L L. CTR., [http://law.case.edu/centers/cox/war-crimes/content.asp?content\\_id=128](http://law.case.edu/centers/cox/war-crimes/content.asp?content_id=128) (last visited Jan. 25, 2012).

<sup>102</sup> See John Q. Barrett, *Henry T. King Jr., at Case, and on the Nuremberg Case*, 60 CASE W. RES. L. REV. 583 (2010) (recounting the life accomplishments of Henry T. King, Jr., including his affiliation with Justice Robert H. Jackson).

<sup>103</sup> See generally Enrico Milano, *Security Council Action in the Balkans: Reviewing the Legality of Kosovo's Territorial Status*, 14 EUR. J. INT'L L. 999 (2003) (discussing NATO's use of force in Kosovo).

Affairs International Trade,<sup>104</sup> international in our own parliament, and we asked our legal adviser—we have a former legal adviser here—for a legal opinion as to the legality of the war. Ted McWhinney,<sup>105</sup> who came to these Conferences, was also an international law professor. There were four international law professors on our Committee. We never got that opinion. The Foreign Minister kept saying, “It is in the mail. You will get it one day.” But somehow that opinion never came forward.

We know now why we did not get that opinion: because as of today the conventional wisdom is that that action was illegal, but it was legitimate. George Voinovich knew a lot about that. He came from that region. He could speak to that. He could speak to those tragedies. He could speak of the humanity behind those legal principles that we had to deal with.

But as this audience also knows, out of that experience grew the Responsibility to Protect Doctrine,<sup>106</sup> which provides a legal framework for the world community to intervene in egregious cases of the violation of international humanitarian law.

Again, if I can speak to our legal adviser, this is a huge issue now. Just last Wednesday, I saw William Hague<sup>107</sup> at the Doha Conference<sup>108</sup> echoing the words of his Prime Minister to the effect that this intervention in Libya is necessary, right, and legal. That has not always necessarily been the advice that legal advisers can give.

I can remember speaking to your predecessor, sir, at a Ditchley Conference when we asked about the Iraq war. We said, “What is your advice as to the international law component?” and he said, “There is no need for such advice.” Congress had approved, but in the United Kingdom, as you know, the Attorney General had to provide advice to the Chief of the General Staff before he would commit his troops to the operation for fear that it might be a

<sup>104</sup> *Standing Committee on Foreign Affairs and International Trade*, GOV'T OF CAN., <http://www.international.gc.ca/trade-agreements-accords-commerciaux/goods-produits/Consult3.aspx?lang=en&view=d> (last visited Nov. 19, 2011).

<sup>105</sup> *Ted McWhinney—Biography*, OPEN PARLIAMENT, <http://openparliament.ca/politicians/5642/> (last visited Nov. 19, 2011).

<sup>106</sup> See generally Michael P. Scharf, *Seizing the "Grotian Moment": Accelerated Formation of Customary International Law in Times of Fundamental Change*, 43 CORNELL INT'L L.J. 439, 451 (2010) (discussing the evolution of various doctrines of international law, including Responsibility to Protect doctrine).

<sup>107</sup> *William Hague—Biography*, CONSERVATIVES, [http://www.conservatives.com/People/Members\\_of\\_Parliament/Hague\\_William.aspx](http://www.conservatives.com/People/Members_of_Parliament/Hague_William.aspx) (last visited Nov. 19, 2011).

<sup>108</sup> *Libya Contact Group: Chair's Statement by Foreign Secretary William Hague*, FOREIGN & COMMONWEALTH OFF., <http://www.fco.gov.uk/en/news/latest-news/?id=583592582&view=News> (last visited Nov. 19, 2011).

violation of the Rome Statute and England's obligations in international law.<sup>109</sup>

So principles of international law, of which it was once said were often used to turn plowing shares into swords, are now at the center of the legitimacy of armed conflict.

As put by Professor Kennedy at Harvard Law School, law has become a mark of legitimacy, and legitimacy has become the currency of power.<sup>110</sup> I think it is pretty clear that President Obama was governed by that concept as he built a case for action both at the United Nations and the Arab League. And of course, this not only applies to justification for armed conflict but also to conduct where the actions of soldiers, even for most countries not signatories to the Rome Statute, are governed by the principle of proportionality,<sup>111</sup> and they conduct their operations in and among civil populations.

As Canada's Minister of National Defense and a former law professor, I was both proud and amazed at the role that our legal officers played as they risked their lives in combat, advising commanders and soldiers on whether actions are legally permissible or not. I know from talking to my American colleagues that while the United States is not a signatory to the Rome Convention, it follows similar principles and procedures in ensuring that, even in the heat of battle, it is principles of law that are constraining the acts of violence that take place.

That is an extraordinary development, ladies and gentlemen. It would have been inconceivable. Henry King, when he came back from Nuremberg, was seeking to say that that was what Nuremberg was all about, but nobody practiced it until very recently. But it is part of practice now. As David Kennedy said, the law is part of legitimacy and legitimacy is the currency of power.<sup>112</sup> So what we try to do here is important. It affects the conduct of states. It affects the conduct of individuals in the most difficult of circumstances.

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<sup>109</sup> See Rome Statute of the International Criminal Court art. 5, July 17, 1998, 2187 U.N.T.S. 90 (establishing that the court has jurisdiction to prosecute crimes against humanity, war crimes, and the crime of aggression); see also U. N. Charter art. 2, para. 4 (declaring the general prohibition against the use of force against another state).

<sup>110</sup> David Kennedy, Professor of Law, Harvard L. Sch., Address Before The Watson Institute at Brown University: Modern War and Modern Law (Oct. 12, 2006), available at <http://www.law.harvard.edu/faculty/dkennedy/speeches/BrownWarSpeech.pdf>

<sup>111</sup> Rome Statute, *supra* note 109, at art. 8, para. (2)(b)(iv). See also Protocol Additional to the Geneva Conventions of 12 August 1949 and Relating to the Protections of Victims of International Armed Conflicts art. 51, para. (5)(b), June 8, 1977, 1125 U.N.T.S. 3 (outlawing attacks where it may be "expected to cause incidental loss of civilian life, injury to civilians, damage to civilian objects, or a combination thereof, which would be excessive in relation to the concrete and direct military advantage anticipated.").

<sup>112</sup> Kennedy, *supra* note 110.

Henry knew that, and Henry also knew in the area of international commercial law, similar principles have been met, that states have constrained their ability to act with power but, rather, to act under rules of law so that the field has been leveled for all to participate with equality.

I only remind you of these developments because you are more familiar with them than I am as a way of reminding us how much Henry was at the center of their elaboration and advancement. How much of his life was devoted to furthering the notion of a fair, just, international legal system, which would contribute both to global security and global prosperity. He brought us considerable intellectual talents and his charm and devotion to this task of increasing our understanding of the law, scholarly exchanges, and encouraging respect for law among students and the wider public.

As Conference Chair, while he was unfailingly polite and gentlemanly, he also had that necessary will to bring relentless pressure on contributors to the Journal, a characteristic that all great academics must possess if journals are to be published, and I noticed that Dan in his introduction made sure that he made that point.

So it is, therefore, with a sense of great honor and humility that I accept this Award in his name and join with you in celebrating his remarkable life of contribution to the rule of law.

Thank you very much.