

President Ramo: Well, members of The American Law Institute, it is my particular pleasure and honor to welcome to the podium people very well known to us, Geoff Hazard; our Council member Judge Tony Scirica; and Justice Alito of the United States Supreme Court. *(Applause)*

Judge Anthony J. Scirica (Pa.): Well, good morning. I am Tony Scirica and it is an absolute thrill that Justice Alito is able to be with us this morning. This is a special occasion for all of us at the ALI, and of course it is a very special occasion for Geoff, his former teacher.

I apologize for the late notice, but knowing how busy the court is at the end of the Term, I hesitated asking Justice Alito to participate in this. But when a few months ago, when we were together for a wonderful symposium in honor of Attorney General Edward Levi, I mentioned to Justice Alito that the ALI was going to honor Geoff at the Annual Meeting in mid May, his eyes lit up and he said, "If I'm free I would love to come." And so when we talked last week and he was freed up, I said, "Could you say a few words?" And his response was, "I'd love to." So we are a tag team, and at least in this endeavor I don't think I am going to get reversed. *(Laughter)*

We hope it will be like a twins' birthday party: Twice the amount of ice cream and cake.

If you have ever played tennis with Geoff, the first thing you notice is that he is a good athlete. The second thing you notice is that he has no apparent weaknesses. The third is that the point of playing the point is to win it. And the last thing is that he is generous, gracious, and fun to play with.

Director Emeritus Geoffrey C. Hazard, Jr.: Even in defeat. *(Laughter)*

Judge Scirica: Amen. And if you play mixed doubles with him, as we often did together with our wives, all of the above also applies.

If Geoff had been a professional tennis player, by now he would have won multiple grand slams on different surfaces on different continents, having displayed unmatched skills, unflagging stamina, and

exquisite finesse, all the while earning the respect and admiration of younger players as he nurtured their careers. In short, he would have been one of those magnificent players who transformed the game.

And so we are here this morning to celebrate a stunning career. Few lawyers in the last half century have had a more profound effect or more profound impact on the state of the law than Geoff Hazard. And few have had the ability to bridge and connect the worlds of the academy, law practice, and the administration of justice.

Law professor at several great law schools, prolific scholar, author of textbooks, legendary teacher, mentor, rulemaker of procedural rules and rules of attorney conduct, and, of course, the former Director of The American Law Institute, Geoff continues to leave an indelible imprint on the American and international legal systems. He is truly one of the law's wise men. [See Anthony J. Scirica, Tribute, *A Wise Man of the Law*, 158 U. PA. L. REV. 1301, 1301-1305 (2010).]

For 15 years, as you know, Geoff was the Director of the ALI. He was an exemplary leader—from recommending Restatement topics and selecting Reporters to sagaciously guiding the projects to successful completion.

Working with Geoff on drafting a Restatement was an amazing experience. The first thing you realized was that Geoff knew the text, understanding its strengths and weaknesses. Then you realized his extraordinary ability as a lawyer, characterized by penetrating insights, historical references, and the ability to foresee consequences and then craft wise resolutions. When the drafting got stuck, Geoff always managed to move it forward by asking a question that unlocked the conundrum, by suggesting a new approach, or sometimes by deferring resolution for more thought. Whether direct or indirect, his orchestration was masterful.

One example cited by Mike Traynor suffices. During a discussion of the Restatement Third of the Law Governing Lawyers, Geoff said,

I think gray-area Illustrations are dangerous. . . . I would strongly urge the Reporters to give what I call “bookends,” one that is clearly, “You can’t do that,” the other one clearly, “You can do this,” and not try to go beyond that in nuance. You are just asking for trouble if you try to do that.

[*Continuation of Discussion of Restatement of the Law Third, The Law Governing Lawyers*, 74 A.L.I. PROC. 388 (1997).]

Harold Koh once observed that watching Geoff drive ALI sessions to closure was a lesson on “how a great lawyer can tighten and make rigorous any text—whether she is a life-long expert . . . or, in Geoff’s case (and in his words), ‘just a damn good lawyer asking damn hard questions.’” [Harold Hongju Koh, Tribute, *Hazard*, 158 U. PA. L. REV. 1295, 1296 (2010).]

We all have seen that Geoff has a singular capacity to see points of agreement where others only see discord. Could anyone have expressed more poignantly what Conrad Harper said, on the occasion of Geoff’s retirement, when he described Geoff as the “rightful successor” to Herbert Wechsler, saying that it had been “a stunning 15 years”? [Conrad Harper, *Introductory Remarks*, 76 A.L.I. PROC. 360 (1999).]

Of the many projects that Geoff worked on, and he worked on two as the Reporter, at least one deserves special mention today, and that is the ALI/UNIDROIT Principles and Rules of Transnational Civil Procedure. [For the final version, see ALI/UNIDROIT Principles of Transnational Civil Procedure (2006).] This was Geoff’s creation—from conception to completion. There was early skepticism that the project could ever be accomplished. Geoff understood those concerns and he expertly navigated a course through the common- and civil-law systems—their different philosophies and histories, cultures and traditions, constraints and expectations—to explore and define first principles and to find common ground. The result was a stunning achievement.

The ALI has long been recognized worldwide as a uniquely valuable institution. Other countries considering whether to create a similar

model have asked Geoff for advice and counsel. And in recent years, Geoff has been sought out by legal institutions in the European Union and in Latin America, and just recently he has been sought out again by UNIDROIT to fine-tune the transnational principles and rules.

As Mike Traynor has noted, Geoff has “strengthened the ALI as a prized institution in the life of our country” and worldwide. [Michael Traynor, Tribute, *Geoffrey C. Hazard, Jr.: Director Exemplar of the American Law Institute*, 158 U. PA. L. REV. 1317, 1317 (2010).]

Geoff’s counsel has not been confined to the national and international stages. He is an exemplary teacher. For well over a decade, we have collaborated in teaching a seminar at Penn Law School on civil procedure and complex litigation. A few years ago, we had the good fortune to be joined by Professor Cathie Struve.

Each year, early on in the semester, the students awaken to Geoff’s peerless tutelage and marvel at their incredible good fortune. Few teachers can match his vast knowledge or the way he deftly places legal problems in historical context, plumbing underlying principles, and tying together the procedural and substantive law. He teaches students to understand the indeterminacy of law and how to work with it.

An apostle of rigorous thinking and clear exposition (as he would say, just “describe the metes and bounds”), Geoff takes ample time to help students develop and refine their analytical skills.

Throughout this distinguished career, Geoff has been a wonderful mentor to young law professors. His seemingly inexhaustible willingness to counsel and nurture younger colleagues has been affectionately recorded in a series of tributes in a recent *Penn Law Review* [158 U. PA. L. REV. 1283-1327 (2010)] by Dean Michael Fitts, Dean Harold Koh, and Professors Stephen Burbank, Catherine Struve, and Tobias Wolff.

As a scholar whose articles and insights have shaped the course of doctrine in many areas, Geoff has been a figure of immense influence, but he is also a rulemaker. For several years, we served together on the Committee on Rules of Practice and Procedure of the United States Judicial Conference, commonly known as the Standing Committee.

In my more than a decade of experience on the rules committees, no member has ever made a greater contribution.

And, of course, there is more. For decades, Geoff has been at the center of legal-ethics scholarship and reform, developing and deliberating upon the rules of attorney and judicial conduct. He has made seminal contributions, largely through different committees of the American Bar Association, including the ABA Ethics 2000 Commission, which resulted in a comprehensive revision of the model rules, and also through his great work on the Restatement Third of the Law Governing Lawyers.

A few years ago, Geoff initiated a new law course, different from his customary classes on civil procedure, federal jurisdiction, and legal ethics. It was called, “the Foundations of Western Moral Thought.” Drawing heavily from the Bible, from Plato and Aristotle, the seminar moved to an exploration of St. Augustine, Maimonides, and beyond. The seminar was a natural outgrowth of a concentrated course of study that Geoff commenced some years ago. The fruits of this exploration is a book published this year by Geoff and Doug Pinto entitled *Moral Foundations of American Law*, and it contains tributes from Gerhard Casper, from Mike Traynor, and from David Levi and in which David Levi describes Geoff as “the embodiment of Aristotelian ‘practical wisdom.’”

It is always good to save the best for last and that is Beth Hazard, who, as you know, is so remarkable and compassionate and lovely, and their amazingly wonderful and loving life that Beth and Geoff have together, and how their lives have touched and comforted and inspired so many of us here in this room as they have taken us into their affectionate and sagacious folds. How lucky we all are. Thank you very much. (*Applause*)

Before I introduce Justice Alito, I would like to describe what the Distinguished Service Award is and to thank Mary Schroeder and her Committee for the wonderful work they did and for their nomination of Geoff as the recipient.

This award has only been given—I think this is the fifth time that it has ever been given, and it goes to a member of the ALI who has played a very special role, accepting significant responsibilities and helping to “keep the Institute on a steady course as the greatest private law-reform organization in the world.” We can’t think of a more deserving recipient than Geoff Hazard.

I said at the beginning that it is a great thrill that Justice Alito was able to join us. For 15 years we were colleagues on the court of appeals, and all of us miss him very much. He was the very best of colleagues, he was the very clearest of thinkers, and he did what a lot of people have said about Geoff: Whatever institution that they were associated with, they improved both the life and the character of that institution.

Justice Alito served in the Solicitor General’s Office, in the Department of Justice, he was the United States Attorney for the District of New Jersey, and then he was appointed to the court of appeals. It is a great pleasure to present him to you this morning. Thank you. (*Applause*)

(Associate Justice of the U.S. Supreme Court Samuel A. Alito, Jr., one of Professor Hazard’s former students at Yale Law School, then spoke in honor of Professor Hazard. At Justice Alito’s request, his remarks are not included here.)

Director Emeritus Geoffrey C. Hazard, Jr.: Well, I agree with most of it. (*Laughter*)

My wife, who is the young lady sitting at the far end, has already been introduced to you. Next to her is Katherine Hazard, who, you will infer from the last name, is a close relative, my daughter, who works with the Department of Justice, I am pleased to say. And next to her is Robin Ray, whose name at birth was Robin Hazard, who is another one of my children, and who is a very skillful freelance editor of complex texts, many of them written in Italian and French, as I recall, so that there is a little international component to it.

There is one remark I want to make about Sam’s wonderful statement. I have always cherished the opportunity to teach. I have also

cherished the opportunity to learn, and we should have a slight amendment to Sam's story about antitrust law.

It is true, as he says, that as he and his colleagues came to the fifth semester of law at, or whatever it is we teach at Yale, (*laughter*) they were confronted with the fact that they both wanted very much or they all wanted antitrust law. But our somewhat irregular procedure, for making sure the slots were covered, lived up to its usual level of performance, which was we didn't have anybody. So they came by and said, I think without a whimper but certainly in that tone, "Could we have a course?" "Well," I said, you know, "I don't know a damn thing about it, and the last time I ran into the subject was with Milton Handler at Columbia. He was terrific, but that's a long time ago. But"—there were four of them—"if you guys will teach it to me, we'll have a seminar," and so they did. We got books, and they assigned themselves in rotation, and we had a discussion from which I greatly benefited. (*Laughter*) I assume they did as well.

The other teaching experience, of late, that has been especially memorable for me, apart from the one that Tony mentioned, Cathie Struve and Tony and I participate, I by teleconference, to a seminar at Penn, where Cathie does all the work and Tony and I pontificate; we are both good at what we do. (*Laughter*) So that has been wonderfully rewarding.

And let me remark one other thing we have been doing at Hastings this last year. We created a new MSL, which stands, I don't think it stands for missile. I think it stands for master of, what is it, Bill, Master of Science and Law, something like that; Bill knows. Anyway, we have a course; I call it the doctor seminar. All the people were medical folks, four of them doctors, as I recall, from UCSF, which is the very excellent medical school across town in San Francisco. So we had to put together material that we thought would be interesting and weighty and challenging to those people, who turned out to be very good. So we taught them a course that started off with the Obamacare Supreme Court decision [National Federation of Independent Business v. Sebelius, 567 U.S. ___, 132 S. Ct. 2566 (2012)], and we proceeded from that.

It was one of the most interesting experiences, because we are now trying to do what we did at Yale with Sam, and I have done with Tony and Cathie at Penn, which is to think of the subject in a way that is intelligible to the audience you've got. And the audience we had, in healthcare people, were very, very smart, very well educated, but somewhat hostile because their idea of doctors is that we sue them. And so we had to suggest that there were a few other things that we did.

But let me just close with a thought that brings in mind Herbert Wechsler, who was a great inspiration to me, a very tough guy, but a guy who radiated the idea let's make it as good as we can, even if that involves some really serious thought.

Those of you who have been in the ALI headquarters, in Philadelphia, will know that on the plaque on the wall is a dictum from Herb that reads as follows, responsive to the question, "Well, if you don't simply follow precedent, what is it you think about?" frequently put to the ALI. And Herb said, "we should feel obliged in our deliberations to give weight to all of the considerations that the courts, under a proper view of the judicial function, deem it right to weigh in theirs."

What does that mean? (*Laughter*) Well, I have fashioned an answer. The considerations that we ought to consider include what Holmes called "[t]he felt necessities of the time." Indeed, our discussion of the Penal Code this morning [Model Penal Code: Sexual Assault and Related Offenses] was an exemplar of sensitivity that the felt necessities of the time today, regarding that very difficult subject, are quite different from what they were when the Model Penal Code was fashioned or approved. That is, what Holmes said corresponds to what is understood to be convenient. It was not convenient in a trivial sense, but rather in a sense of the felt necessities as they are compatible with received culture and institutional structure.

Regarding many of the issues of compatibility today, a fundamental problem is the degree to which the law should be protective, or indeed paternalistic, toward individuals in their relationships with organizations, including the government. This was illustrated in a very interesting discussion, early this morning, about the financial distresses

and legal distresses, the so-called leverage out of marginal, to be derived by people who act with only marginal legality and, indeed, marginal illegality. It will show up again in our consumer-law project, consumer contracts [Restatement Third, The Law of Consumer Contracts].

In general, along that axis, and we heard it today, and you will hear it all the time, conservatives are conservative—how’s that for a breakthrough?—and liberals are liberal, and in my observation, the ALI has been somewhere in between.

Thank you very much. (*Applause*)

President Ramo: I cannot imagine a better 90th birthday present than the opportunity to hear from three such extraordinary people, nor the opportunity to honor someone who has had such a profound influence on the institution that we all love and on the American justice system.

As I mentioned to Justice Alito, and some of you know, I was in Geoff’s first class of civil procedure at the University of Chicago Law School. We didn’t have the forewarning that you did, Justice Alito, (*laughter*) and I, never having been in a courtroom nor actually, I think, known anyone who was a lawyer or who was a judge, struggled through, but both Professor Hazard and I survived.

However, when I was elected to the Council of The American Law Institute, about which my husband knew a lot from when I had first been invited to join, and so he knew that Geoff Hazard was its Director, I called him with great excitement and said, “Sweetheart, I have been elected to the Council of The American Law Institute,” and he said, “Does Professor Hazard know?” (*Laughter*)

So with that, I thank you all. Geoff, the physical manifestation of this award is small, but I think you have seen that our care and appreciation to you fills more than this room, so thank you very, very much.

And may I ask everybody, I think it would be a little easier if everybody just stayed seated, while Justice Alito and Tony and Geoff and his family made their way out, and we can have congratulations later, so thank you very much.

Thank you to Mary and the Committee, and thank you, Geoff,
for everything. (*Applause*)