

Ocean Policy and the Law of the Sea: The Contributions of David D. Caron (1952–2018)

Harry N. Scheiber*

With the sudden death of Professor David Caron in February 2018, the field of ocean law and policy studies lost one of its most gifted and celebrated leaders. His many contributions to scholarship on oceans issues were only one segment of a large corpus of writings in which he contributed to varied aspects of international and environmental law. All of his major early-career writings, and more than a third of his full corpus of scholarly publications, were in the oceans field. In addition to being a prolific and influential writer, David was a prominent actor in the policy arena, achieved eminence as a lawyer and arbitrator (and most recently, as a judge), and was notable for his accomplishments as an academic institution builder and administrator. One may guess, however, that he would most wish that we should recall that he was a gifted and incredibly dedicated university teacher.

His academic positions included service as a member of the faculty in the University of California, Berkeley, School of Law (Berkeley Law), from 1987 to 2013; midway through this period, he was named Maxeiner Distinguished Professor of Law. At Berkeley Law, he shared with Professor Richard Buxbaum a role as leading light and indispensable mentor to the international law faculty. He took every responsibility, from his first day on our faculty, with a sense of high purpose and intense institutional dedication. Berkeley Law—and later the Dickson Poon School of Law, Kings College, London, of which he became Dean on taking emeritus status at Berkeley in 2013—benefited in myriad respects from

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* Riesenfeld Professor and Chancellor's Chair Professor of Law and History, emeritus; Director, Law of the Sea Institute, emeritus, University of California, Berkeley, School of Law. Elected fellow, American Academy of Arts and Sciences. The present Article draws material from a memorial, by the author, that appeared in the Law of the Sea Institute volume *Stress Testing the Law of the Sea*, ed. S. Minas and H. J. Diamond (Brill/Nijhoff, 2018).

the ways in which he deployed his rare gifts both in the classroom and in the creative organization and administration of academic activities.

To the great advantage of scholars, jurists, and policy officials in ocean law and policy, one of the causes to which David gave unstinting efforts was the Law of the Sea Institute (LOSI), which he and I co-directed at Berkeley Law from 2002 until 2013.¹ For five years after departing Berkeley, he continued to be actively involved in LOSI conferences and publications, including his role in the conception and organization of the conference from which the LOSI book *Stress Testing the Law of the Sea* drew its papers.² One of the last entries in the lengthy bibliography of David's distinguished writing is an important paper on the law of marine protected areas (MPAs) that he coauthored for presentation at LOSI's 50th Anniversary conference, held at Berkeley, and that was published in 2018 in the LOSI volume *Ocean Law Debates*.³

Within days after his untimely death, tributes to David began to appear on the web and in print publications; and so his remarkable accomplishments in the larger field of international law are being memorialized as the brilliance of his career requires.⁴ It is, however, especially appropriate that in the present paper we should focus on the scope and importance of his contributions to ocean law and policy discourses, including his role in LOSI at Berkeley Law.

David's connection to the ocean was formed during his undergraduate years as a cadet in the U.S. Coast Guard Academy, to which he won appointment after a childhood and secondary education in New England. Evidence of his bent for leadership and the recognition of his character and intellectual brilliance surfaced quickly in his Academy years: he was named brigade commander of the corps of cadets, and he graduated in 1974 with special honors in physics and political science. In the following four years in the Coast Guard service, reaching the rank of Lieutenant, he drew challenging assignments of significant responsibility, including a position as navigator on the icebreaker-style research vessel *USCG Polar Star* during its storied transit of the Northwest Passage. Both in the Arctic area and in a later assignment as the Coast Guard's assistant chief for marine protection and port security in California, David was also a salvage diver, one of the last cohort of dive officers who wore the old metal-helmeted diving suits

1. For the history of the Law of the Sea Institute at Berkeley Law, and its prior record from 1965 on as a consortium of ocean law experts, see Harry N. Scheiber, *The Law of the Sea Institute: A New Forum for Debate of Ocean Law in the 1960s: Decade of Uncertainty*, in *OCEAN LAW DEBATES: THE 50-YEAR LEGACY AND EMERGING ISSUES FOR THE YEARS AHEAD* 11, 84–92 (H.N. Scheiber, N. Oral & M. Kwon eds., 2018).

2. See generally *STRESS TESTING THE LAW OF THE SEA: DISPUTE RESOLUTION, DISASTERS AND EMERGING CHALLENGES* (Stephen Minas & H. Jordan Diamond eds., 2018).

3. David D. Caron & Stephen Minas, *Conservation or Claim? The Motivations for Recent Marine Protected Areas*, in *OCEAN LAW DEBATES*, 529–52.

4. See the website https://works.bepress.com/david_caron/ for biographical data and a detailed listing of David Caron's writings.

supported by an air line from the tending surface vessel—a link to naval history and the heritage of undersea exploration that fascinated our students and that David cherished recalling when pressed by his seminar students to recount this or other “war stories.”

Similarly, albeit this time in a major international arena, at the Fridtjof Nansen Institute International Conference on Globalization and the World Ocean, held in Oslo in August 2008, David and an International Tribunal for the Law of the Sea judge (later the Tribunal’s president), Vladimir Golitsyn, were together on the platform to present brief talks at the closing session. David spoke on varied historic “images of the Arctic,” a subject on which he had presented in numerous other fora as well. In his talk he mentioned the pioneering *Polar Star* transit—prompting Judge Golitsyn to interject that in addition to irritating the Canadians, the ship also was guilty of incursions, en route, into Russian waters. David replied that he happened to have been the navigator on the *Polar Star*, and he could assure everyone that any drifting into Russian waters was “entirely inadvertent”! Judge Golitsyn, as I recall, joined in the laughter that shook the conference hall at that point!

Whatever the satisfactions that he earned in his illustrious career in law, uniquely memorable times for David, I think, were the days during which he could steal time for a private scuba diving expedition, or to enjoy the surf off an island beach, or (on a recent vacation adventure) to delight in even inland waters, as at the helm of a lumbering chartered vessel on European canals in company of the family to which he was so devoted—his wife, Susan, and grown children, Marina and Peter.

After resigning his Coast Guard commission, David was awarded a Fulbright study grant, on which he completed a MSc. degree in 1979 at the University of Wales Center for Marine Law and Policy. During that interval, he studied the problem of the global ocean seabed and its management as was contemplated under the drafts of the United Nations Convention on the Law of the Sea (UNCLOS) then circulating, and offered a searching analysis of how the national legislation for seabed mining ventures enacted by the United States and Germany (neither State then a party to the Convention) should be viewed in the event that active seabed mining under the proposed United Nations agency, “The Authority,” should be undertaken.⁵

Having decided to pursue legal studies in a professional program, David was admitted in 1980 to the JD program at Berkeley Law. Here again, his record was one of great distinction: He would graduate in 1983 with Order of the Coif honors, and in his final student year he was editor-in-chief of *Ecology Law*

5. See David D. Caron, *Deep Seabed Mining: A Comparative Study of Municipal Legislation by the United States of America and the Federal Republic of Germany*, 5 MARINE POL’Y 4, 5–16 (1981).

Quarterly, one of the first law journals in any country to specialize in the emerging fields of environmental law and policy.

Most significantly, however, he earned as a law student at Berkeley the attention of Professor Stefan A. Riesenfeld, who engaged him as his research assistant and who would become a mentor to him in the years to follow. Inspired and guided by Professors Riesenfeld and Buxbaum, and by several senior scholars outside Berkeley (most notably the distinguished lawyer and diplomat Bernard Oxman, who was a visiting professor during David's final student year), David published articles on the problems of the prospective seabed mining regime under UNCLOS and on transnational marine pollution from offshore oil activities.⁶ On rereading today those papers from his student years, one is astonished by the extent to which David was even then exhibiting a leading characteristic of his later writings, *viz.*, a remarkable prescience regarding the potential range of legal implications that could arise from newly applied technologies and from emerging environmental challenges.

An historic event in international discourse on the status and future of UNCLOS was a major international conference of the Law of the Sea Institute, held in San Francisco in October 1984. More than seventy presenters, including many of the most eminent scholars in international law and several of the most prominent participants in the lengthy negotiations of UNCLOS, discussed virtually the entire range of ocean law issues addressed by UNCLOS, including fisheries management and conservation principles, criteria and processes for marine environmental protection, navigation by military and civilian vessels, and, withal, the overarching question of how UNCLOS would affect the traditional process of the formation of international law.⁷ Professor Riesenfeld was co-organizer of the conference, in the run-up to which David Caron was his research assistant and in that capacity deeply involved in the identification of topics and speakers. David's involvement in the subsequent global discourse, down to our own day, as to the rights and obligations of States as set down in UNCLOS and implementing instruments thus began "at the creation," as it were. With Professor Oxman, whose visiting professorship at Berkeley coincided with the San Francisco conference preparations, and the international lawyer Charles Buder, David coedited a small book of essays evaluating the UNCLOS issues, the first of his publications in book form, again a product of his student years.⁸ Over the years that followed, David composed learned commentaries on the

6. David D. Caron, *Liability for Transnational Pollution Arising from Offshore Oil Development*, 10 *ECOLOGY L.Q.* 641, 642 (1983).

7. THE DEVELOPING ORDER OF THE OCEANS: PROCEEDINGS: LAW OF THE SEA INSTITUTE, EIGHTEENTH ANNUAL CONFERENCE, OCTOBER 24-27, 1984, SAN FRANCISCO ix-xiii, 743-49 (Robert B. Krueger & Stefan A. Riesenfeld eds., 1985). On Riesenfeld's role in organizing the conference, see John Briscoe, *A Remembrance of Stefan A. Riesenfeld*, in *SCIENCE, TECHNOLOGY, AND NEW CHALLENGES TO OCEAN LAW* 464-65 (Harry N. Scheiber, James Kraska, & Moon-Sang Kwon eds., 2015).

8. Bernard H. Oxman, David D. Caron & Charles Buder, *LAW OF THE SEA: U.S. POLICY DILEMMA* (1983).

Convention, expressing his frustration regarding the negative US posture toward ratification, as Congress, paralyzed by the decision-making process in committees, continually declined to act favorably despite a continuous rise in support for ratification by the 1990s from industry, the military, and scholars.⁹

After receiving his law degree at Berkeley, David served the Iran-US Claims Tribunal in The Hague from 1983 to 1986 as legal assistant to the American judges Charles Brower and Richard Mosk. His immersion, during his Tribunal clerkship, in the processes of international dispute settlement was of great influence on his subsequent career both as scholar and as lawyer. During these years in The Hague, he also advanced his formal credentialing as a scholar in international law, receiving the Diploma of The Hague Academy and initiating a research project that would culminate in his earning the Doctorate of Law from the University of Leiden in 1990. He lay the academic groundwork in this period for the recognition he would in time achieve as a leading expert on procedure in international arbitration; it would serve him for his later-career role, too, in a range of major international arbitrations on boundary disputes, environmental issues, commercial treaty obligations, and human rights challenges.

After completing his service with the Tribunal judges in 1986, David returned to California, taking up a position as law associate in the prestigious San Francisco law firm Pillsbury Madison & Sutro, with offices across the Bay from our law school in Berkeley. After a year in the firm, the wheel of his career took a major turn: his alma mater brought him home, it may be said, as a tenure-track assistant professor in 1987. Settling in at Berkeley Law, and provided with an elegant office looking out on a section of the busy campus but also the quiet of the magnificent Berkeley hills, David now was established in a coveted institutional base for what became a truly great career in academia. In a relatively short time, he won tenure and then was named to a chair as Maxeiner Distinguished Professor. While on the Berkeley Law faculty, he enjoyed the collegueship and continued mentoring of his former teachers; and he won the enduring respect and admiration of his own cohort of younger colleagues—not only those in the Law School but also professors in many other disciplines on the Berkeley campus faculty, in relationships impelled by David's exceptional literacy in the physical sciences and his deep interest in political science, history, and the new interdisciplinary "law and society" field.

I was privileged to have an office next door to David's, and from his earliest days on the faculty we spoke to one another almost daily, our more substantive exchanges being reflected in the acknowledgements in nearly all our respective ocean-law-related publications. He always had interesting insights, humorous angles, or compellingly lucid comments on matters of law and policy, classroom teaching, and campus issues. Family news was always in the mix—notably in

9. See, e.g., David D. Caron & Harry N. Scheiber, *The United States and the 1982 Law of the Sea Treaty*, 12(4) ASIL INSIGHT (2007).

the form of boastful (though of course wholly accurate) reports on the accomplishments of our children!

Only a few months after David's appointment to the Berkeley Law faculty, I was engaged in organizing an international symposium on the subject of ocean resources, and in that context, David mentioned that he was deeply concerned about the implications for international law of the US policy of imposing sanctions on distant-water-fishing nations that were engaged in damaging environmental practices. I urged him to present a paper on the subject to the symposium, which was scheduled to be held in only about six weeks' time.

In the weeks that followed, colleagues were astounded by the way in which he was exploiting the already rich "on-line" research resources of the worldwide web, a medium regarding use of which most of our older generation colleagues (including myself) were then almost completely ignorant. The brilliant paper that David produced in such short order was presented to acclaim at the conference, and it was then published in 1989, along with the other conference papers, in a symposium issue of *Ecology Law Quarterly*.¹⁰

At that time, the UNCLOS, signed in 1982, had not yet gone into force, as the United States and the other most advanced industrial nations were withholding ratification because of the notorious controversy over the seabed mining regime. However, the Convention's vitally important provision authorizing the creation by coastal nations of Exclusive Economic Zones (EEZs) had already produced an historic change in the old regime of freedom of the seas, with more than a hundred nations having already acted to proclaim extended offshore jurisdictions beyond their territorial sea limits. Yet there was no settled view as to whether the Convention's language warranted a coastal nation's entire denial of access by foreign states' flagged fishing vessels in an EEZ. The United States Congress had passed legislation under which the Executive potentially would be required to ban fishing in the American EEZ by the fleets of nations that violated the restrictions on commercial whaling imposed by the International Whaling Commission—a declaration, in effect, of authority in EEZ waters that ostensibly went beyond the specific terms of UNCLOS regarding coastal state authority. David's article provided a close textual analysis of the relevant international instruments and the existing literature, analyzed the U.S. legislation and executive process, and commented on a decision in 1986 of the United States Supreme Court. In addition, he presented empirical data that illustrated the limits of potential practical impact of the fishing sanctions policy. Beyond that, he also broadened his inquiry to examine what he termed "the growing instrumental importance of sanctions," especially in regard to the conditions under which such actions, whether with regard to fishing access, trade terms, or other relations among states, might be justified as legitimate exercises of state power. Reflecting

10. David D. Caron, *International Sanctions, Ocean Management, and the Law of the Sea: A Study of Denial of Access to Fisheries*, 16 *ECOLOGY L.Q.* 311 (1989).

on the specific U.S. policy in effect, he concluded that it was not prohibited by the explicit language of UNCLOS—yet, he asserted, this exercise of the power posed a high “strategic risk” to the achievement of overarching American policy objectives in international law and diplomacy. Whatever the short-term payoff for the policy, he wrote, it was a precedent that other nations could rely upon in the same or other ways that would confuse and disrupt the process by which a consensus could be achieved as to the terms of authority in the EEZ under UNCLOS.

In what would become a hallmark of David’s later writings, he thus moved to the front and center of his analysis the issue of institutional stability in international relations. In conclusion, he deplored the fishing sanctions because they “increase[d] the complexity of the legal order,” in particular as to the terms of authority in the EEZ—but more broadly, he contended, sanctions were undesirable as lending legitimacy to a “possessory view” of ocean resources and spaces that could undermine the underlying “cooperation and friendly relations” among states, essential to achievement of consensus on EEZ powers. The importance of such consensus, he averred, transcended any short-term advantage. One discerns, then, in this first major research effort by David, the laying of a foundation stone for the intellectual framework that would provide the basic thematic thrust of argument—a prioritizing of institutional stability and efficacy—in so much of his work in the years to follow.

His article on sanctions established David immediately as an important voice in ongoing debates over U.S. ocean-law policy; and it had a durable influence in the extended debates and diplomacy, persisting well into the 1990s, regarding the interpretations of the more comprehensive UNCLOS regime. Only a year after his sanctions article appeared, he published in *ELQ* a path-breaking study: “When Law Makes Climate Change Worse: Rethinking the Law of Baselines in Light of a Rising Sea Level.”¹¹ This piece was one of the very first scholarly analyses to appear in the literature of international law to address the rising-sea-level question—an issue now recognized, of course, as one of the most urgent challenges posed for islands and coastal areas by climate change. It is today recognized as a classic, and its analysis is as relevant now as it was when it first appeared. Together with his later contributions to the discourse on rising challenges from climate change, his 1990 study reminds us of David’s impressive capacity for anticipating new challenges to established ocean regimes and their implications for inherited legal norms. Equally, it illustrated his insightfulness in suggesting the innovations in ocean law required to meet those challenges.

11. David D. Caron, *When Law Makes Climate Change Worse: Rethinking the Law of Baselines in Light of a Rising Sea Level*, 17 *ECOLOGY L.Q.* 621, 622 (1990).

The passage of time, and a personal research agenda that seemed ever-broadening in scope—with arbitration, in both the commercial law and public law areas, becoming increasingly central to his work as scholar and as practitioner—did not push the climate change issue out and away from the core of David’s engagement with major research issues. In fact, in two papers published in LOSI books, he extended and modified his conception of how the law should adapt to sea level rise, advancing the proposal that the boundaries of offshore zones should be fixed, so that the allocations of rights and responsibilities for each zone (as defined in the 1982 United Nations Convention on the Law of the Sea) would remain in force even when future change in geological realities impacted the physical boundaries of islands and other coastal areas. With the subtitle, “A Proposal to Avoid Conflict,” the first of these papers appeared in a 2009 LOSI book on maritime boundaries disputes and settlements.¹² Four years later, David wrapped the same proposal into an insightful analysis of how the legal order would need to cope with intersecting effects of climate change and the potential problems that must be anticipated from varied human efforts at mitigation.¹³

The 2018 LOSI volume *Stress Testing the Law of the Sea*, which includes excellent papers addressing climate change impacts in their manifold dimensions, bespeaks the durability of David’s commitment to the subject. More particularly, that book is also a testament to the active role that he played in designing the conceptual structure of the conference in London at which the papers were originally presented. It is evidence, too, of the continuing connection that David maintained with the Law of the Sea Institute after he left Berkeley, in terms of not only inspiring the direction and content of the larger LOSI discourse but also in arranging for the kind of material support that sustains the Institute’s vitality as a forum for new research. This continuity of his personal commitment was an invaluable asset to the present LOSI co-directors, Holly Doremus and H. Jordan Diamond, in the same way as it was to me when I continued as solo director for several years, until my retirement.

Other major academic and professional legal activities, meaning commitment to a busy schedule that often required much international travel, occupied David from almost the beginning of his time on the Berkeley faculty. More specifically, when the LOSI headquarters was moved to Berkeley, reorganized (as will be mentioned below) as a Berkeley Law unit, David had already achieved for himself a prominent place in the international legal arena:

12. David D. Caron, *Climate Change, Sea Level Rise and the Coming Uncertainty in Oceanic Boundaries: A Proposal to Avoid Conflict*, in MARITIME BOUNDARIES DISPUTES: SETTLEMENT PROCESSES AND THE LAW OF THE SEA 1–18 (Seoung-Yong Hong & Jon M. Van Dyke eds., 2009).

13. *Climate Change and the Oceans*, in REGIONS, INSTITUTIONS, AND LAW OF THE SEA: STUDIES IN OCEAN GOVERNANCE 515 (Harry N. Scheiber & Jin-Hyun Paik eds., 2013). See also David D. Caron, *Time and the Public Trust Doctrine: Law’s Knowledge of Climate Change*, 35 U. HAW. L. REV. 441, 449–52 (2013).

He served from 1994 to 1996 as counsel in proceedings before the Marshall Islands Nuclear Claims Tribunal, and then from 1996 to 2003 on the Precedent Panel of the UN Compensation Commission in Geneva, charged with addressing the myriad claims arising from damages incurred during the 1990 Gulf War. He had also begun in 1993 a long period of important service to the government as a member of the U.S. Secretary of State's Advisory Committee on Public International Law—an appointment of special personal significance to David since his revered mentor Professor Riesenfeld had served on that committee with great distinction for many years.

Similarly, an award of great sentimental importance to David, apart from the professional recognition it conveyed, was his winning of the Stefan A. Riesenfeld Award of the University of California “for outstanding achievement and contributions to the field of international law.” David’s involvements meanwhile multiplied, while also increasing steadily in their visibility, in the professional organizations of both American and international arbitrators, in the American Society of International Law (of which he would be elected as president from 2010 to 2012), in the American Law Institute, and in the programs of The Hague Academy of International Law. A culminating event of his career, an especially meaningful “bookend” chapter as it were, would come in 2015 when the United States government appointed him as a judge on the Iran-US Claims Tribunal, the institution in which his professional career as lawyer had begun three decades earlier. He also was assigned then to the eminent position of ad hoc judge of the International Court of Justice.

Despite the pressures of these proliferating commitments, David was maintaining his full program of teaching and administrative obligations at Berkeley at the time he and I took up codirection of the Law of the Sea Institute. We began our work in 2002, in consultation with the eminent scholars and International Tribunal for the Law of the Sea members, Judges Tullio Treves and Choon-ho Park, and with Professors Richard Buxbaum of Berkeley, William T. Burke of the University of Washington, and Bernard Oxman of the University of Miami—and especially with the late Jon Van Dyke of the University of Hawaii with regard to the specifics of LOSI program designs and conference organization. With Judge Park as intermediary and sponsor, aided in liaison by Seokwoo Lee, then a young professor at Inha University, several of our early conference and publication efforts enjoyed the coordinated support of Inha University. More recently, LOSI has collaborated in conference organization with the Korea Institute of Ocean Science and Technology. At Berkeley Law, we benefited from the office facility and operating support provided by the dean’s office, and also from other sources in the University of California, especially the California Sea Grant program. Collaborations were negotiated from 2003 to 2010 with other institutions, among them the University of Washington; the Harte Institute of Texas A&M University (a research unit headed by a Berkeley

JSD graduate, Richard McLaughlin); and the Environmental Law Institute (whose ocean and coastal program was founded and then headed by another of our graduates, Dr. Kathryn Mengerink, and in which H. Jordan Diamond began her legal career); the Coast Guard Academy (where a Berkeley Law LL.M. graduate, Capt. Glenn Sulmasy, a prolific scholar, was a department head); and the Nansen Institute in Norway (where Dr. Willy Østreng and, later, Dr. Davor Vidas maintained close ties with our Institute).

The efforts involved in forging these and other organizational relationships, the familiar never-slackening pace of fundraising that the realities of academic life impose, and the burdens that academic editing require were responsibilities that David and I shared. Our agreed design for the Institute, departing from the previous policy when LOSI was headquartered at the University of Hawaii, was to sponsor mainly small conferences on an invitational basis, and to publish the papers in book form after full vetting and editing. The 2010 LOSI conference, however, was held at the facility in Hamburg of the International Tribunal for the Law of the Sea, with further cosponsorship of Academia Sinica of Taiwan, the Ocean Policy Research Foundation of Japan, and the Bucerius Law School in Hamburg; the proceedings were in this instance open to subscribers from the public, with some two hundred in attendance.¹⁴

The foregoing discussion of the content and organizational history of LOSI at Berkeley provides, I hope, a general picture of the milieu and the challenges in which the work went forward during the period when David was codirector. One special element in David's part of that record justifies, however, being considered his most outstanding personal accomplishment while codirector—again, evidence of his exceptional gift of insightful prescience: It was his recognition that the course of human events was altered fundamentally with the advent of the nuclear age in 1945, but that its implications for the oceans, as of seventy years later, had been studied only in highly fragmented ways, with many gaps. David believed it was a matter of signal urgency that the ramifications of the nuclear age should be analyzed as an interrelated set of technological and environmental phenomena that were already having—and in the future would have—far-reaching impacts on the oceans and their role in the global climate.

And so, in 2004 we convened in Berkeley a small LOSI invitational workshop of ocean-law experts from several countries, to obtain advice on David's preliminary agenda. Incorporating their critiques, and after further

14. We were fortunate that the Brill/Nijhoff house committed to us for publication vetted and edited volumes as they became ready. Several of the books in the LOSI series were coedited by colleagues in other institutions: Judge Paik of ITLOS and Professors Moon-San Kwon of KIOST, Nilufer Oral of Bilgi Istanbul University, Clive Schofield of Wollongong University (Australia), James Kraska of the U.S. Naval War College, Seokwoo Lee of Inha University, and Jon Van Dyke and Sherry Broder of the University of Hawaii. For a full listing of LOSI books, *see* Publications, Oceans at Berkeley Law, available at <https://www.law.berkeley.edu/research/clee/research/law-of-the-sea-institute/publications/>.

consultation with a few scientists and engineers, the agenda was refined to include the respective impacts of nuclear testing, the dumping of wastes into the ocean and burial of waste in the seabed floor, the transport of nuclear materials at sea, the deployment of military vessels as mobile bases for nuclear weapons, and seaborne carriage or uses of nuclear weapons at sea by terrorists or by rogue nations. Special conditions in the polar regions and in the Marshall Islands were also to be addressed by expert commentators. This agenda became the program of our major international LOSI invitational conference held at Berkeley Law in February 2006. Not least important of the conference panels was one devoted to the topic of environmental dangers associated with nuclear power stations and waste facilities located in coastal zone areas, the tragic relevance of which would become evident five years later, when the Fukushima disaster struck in 2011. Publication of the conference papers, after editing and commissioning of two additional papers, was achieved with the appearance of the book *Oceans in the Nuclear Age: Legacies and Risks* (Brill/Nijhoff, 2010), coedited by David and myself. Brill brought out an expanded edition in paperback format in 2014, and the book remains one of the brightest ornaments of the LOSI program's record.¹⁵

After having reviewed here the record of David's extraordinary career, there remains the need to take notice, however briefly, of the graciousness with which he left his mark on institutions and in relationships with colleagues in so many profoundly personal ways. In the words of former Berkeley Law Dean Christopher Edley, who relied on David's sage counsel in the administrative realm, David was not only a "superstar" in the profession but also a man always "forthright, insightful, and painstakingly fair." Kathryn Mengerink, Berkeley Law alumna and currently executive director of the Waitt Institute, has written of David as a great "oceans rock star, . . . but more importantly, as one of the most beautiful souls out there." The encomium posted on the US-Iran Claims Tribunal website at the time of David's death stated that he will be remembered for "his exceptional professional skills and impressive experience as a scholar . . . , but above all [for] his persuasive human qualities giving evidence of his deeply-rooted moral qualities." These appraisals encapsulate the expressions of admiration and sorrowful remembrance that have come forth from many of David's hundreds of former students and from his colleagues in the large constellation of institutions that he served.

15. A second major LOSI undertaking in the same time frame was a research project, funded by the California Sea Grant program, that was centered on Pacific fisheries issues and conducted by a team made up of Kathryn Mengerink (a Scripps Institution doctoral graduate in biology and then a Berkeley Law JD student), Yann-huei Song (a Berkeley Law JSD graduate, senior scholar in Academia Sinica of Taiwan), and the present writer, who was Principal Investigator for the project. For some of its major findings, see Harry N. Scheiber, Kathryn Mengerink & Yann-huei Song, *Ocean Tuna Fisheries, East Asian Rivalries, and International Regulation Japanese Policies and the Overcapacity/IUU Fishing Conundrum*, 30 U. HAW. L. REV. 99-165 (2007).

A close friendship with David, along with our joint projects and shared responsibilities on the Berkeley Law faculty and in LOSI, formed a treasured part of my own career as a research scholar and teacher in ocean law and policy. On one occasion, in the course of delivering an elegant banquet address, David referred generously to our having “mentored one another,” despite the difference in seniority and despite our having come to the history and the law of ocean uses from different but intersecting paths. For me, this mentoring exchange produced enduring intellectual benefit, but it also brings to mind today the memory of David’s capacity for loyalty and of his love of lively, though always respectful, intellectual engagement. For many others, in the many legal, juridical, and academic organizations in which he served—and in which he so often took a leadership role—one can be certain that there are similar memories of how he enriched the lives of individuals and exemplified the worthiest values of those institutions.

One can also say with a certainty that David would have taken great pleasure in the publication of the present BJIL-ELQ joint edition, representing, as it does, a merger of his deep interests in science, environmental values, rule of law ideals, dispute resolution, and, more comprehensively, the human condition as affected by legal ordering of the oceans. He will be sorely missed by the many colleagues with whom he was associated in the several worlds of public service and of law, both academic and practical, in which he made his indelible mark. But missed by none, outside his beautiful family, more so than by the community of scholars, jurists, and policy officials who shared his devotion to the study and advancement of ocean law and policy—always, as David advocated, in the context of the quest for a global regime of rule of law.