

# TRANSCRIPT

## OPENING REMARKS

### *Speakers:*

*Prof. Charles Moxley;<sup>1</sup> Richard C. Lewis;<sup>2</sup> Mary L. Smith;<sup>3</sup> Prof. Jeffrey Biller;<sup>4</sup> Jonathan Granoff;<sup>5</sup> Edward K. Lenci;<sup>6</sup> Ambassador Khrystyna Hayovyshyn;<sup>7</sup> John Burroughs;<sup>8</sup> Prof. John D. Feerick<sup>9</sup>*

*This is a transcript of the Opening Remarks of the 2023 conference “Nuclear Weapons and International Law: The Renewed Imperative in Light of the Ukraine War.” The speakers’ remarks have been edited for readability and clarity by the Georgetown Journal of International Law Digital Committee staff as well as by the speakers themselves.*

### PROF. CHARLES MOXLEY:

Welcome everybody. I’m Charlie Moxley. I teach nuclear weapons law at Fordham Law School. I’m one of the organizers of this conference. On behalf of our faculty and the organizers, I’m delighted to welcome everybody.

Fordham’s Dean Emeritus John Feerick is going to make opening remarks, but is delayed. He’ll come in a little bit later.

### **Objectives of the Conference**

This conference, as you know, is on “Nuclear Weapons and International Law: The Renewed Imperative in Light of the Russian Invasion of Ukraine.” It follows a 2020 conference that we presented on the same subject of nuclear weapons and legal issues concerning the lawfulness of the threat to use nuclear weapons and the use of nuclear weapons. The proceedings of that conference were published by the *Fordham International Law Journal*.

Sadly, this issue is still with us. Russia’s invasion of Ukraine and Putin’s threats about the potential use of nuclear weapons have heightened already high concerns. Nuclear weapons raise humanitarian, moral, philosophical, technical, and many other issues, but particularly, legal issues. The focus of this conference is on the legal piece. It would not be a hyperbole to say that the ability of law to be a useful vehicle to address nuclear weapons policy and potential use and threats of use is probably the biggest challenge law faces.

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Can law be useful here? A couple of very brief opening points for anyone who has any doubts about the matter. There is no question there is a body of law that governs the lawfulness of nuclear weapons threat and use. Everybody across the spectrum of legal views on the subject is in agreement that such law exists. There's a robust body of international law that addresses the lawfulness of nuclear weapons threat and use. It will be interesting for everyone to hear that both defenders of the potential use of nuclear weapons and related policies of the U.S. and other nuclear weapons states and critics of such policies agree in large measure on what the applicable rules are

We know what they are. They were addressed by the International Court of Justice in an [Advisory Opinion](#) in the mid-90s [Legality of the Threat Or Use of Nuclear Weapons, 8 July 1996], and the rules are recognized in U.S. military manuals and authoritative statements by the U.S., and other governments and other militaries. They've been written about by a broad range of people. So, there is law and it's not controversial.

But here's the rub: there are respects in which proponents and critics of U.S. nuclear weapons policies and plans disagree on how this body of law should be *applied* to potential nuclear weapons threat and use. That's a big focus of what we'll be talking about today. Given that we have these rules, and we know what they are, how should they appropriately be applied? How are they required to be applied?

Even beyond that, it has to be acknowledged that there are areas where international law is not clear—is debatable. You can argue one side or the other of a number of issues. We need more clarity and more clarification as to such matters.

That's part of the thinking that underlies the list of issues that we have circulated. I think Carra from the State Bar has sent them to everybody who signed up for the conference and they're on the conference website.

This is the list of issues that we've drafted and worked on as part of our preparation for the conference. We tried to identify issues as to how this body of law should be applied, and issues where we need further elaboration and discussion. So, from the perspective of the organizers of this conference, that's the value, the extraordinary value, of the discussions we're going to have today.

We have brought together an extraordinary range of people who have focused on these issues from the perspectives of the U.S. government and military, from critics of U.S. policy, from think tanks and NGOs, truly a wide range of experts on these issues. We've particularly brought together people who focus on the legal piece.

It's worth saying that, if any of you google "nuclear weapons issues," you'll get literally thousands, really millions, of hits. But the focus on the legal piece has been much less than the focus on policy. The people on the faculty today, I think it's not unfair to say, represent a fairly substantial portion of the people who have written, spoken, and been interested in legal issues as to nuclear weapons. And, as I said, we have people across a broad spectrum of views on the matter. So I think we'll have an opportunity for us all to learn. We're all going to learn from one

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another, from our respective thinking on where things stand. And we'll focus on, "Can law work here?"

We'll focus on it on two levels. One is the various rules and principles of international law that are applicable and how they should be applied. But we certainly all recognize that there are issues as to the enforcement of this law. There's a humanitarian crisis. There's a rule of law crisis. So we'll address that broader issue, as well: "Does international law matter? Does it have a significant role here? Are violators going to be brought to the bar and have to answer for violations? Is there a continuing potential for the law to help address these issues?"

### **Conference Sponsors**

Let me thank our sponsor and co-sponsors for this program. We have the New York State Bar Association's International Section; the Fordham Law School Center on National Security; the U.S. Air Force Academy's Law, Technology, and Warfare Research Cell; the American Bar Association International Section; the Georgetown Law School *Journal of International Law*, which is going to publish the proceedings of this conference; the Catholic Peacebuilding Network; the Lawyers Committee on Nuclear Policy; and the Global Security Institute. I call them all out and name them all because these groups represent a wide range of individuals who are interested in this issue, and we are so thankful for their support.

### **Other Speakers**

Let me very briefly introduce the introducers who are going to make some comments. We're first going to hear from Richard C. Lewis, Dick Lewis, who is President of the New York State Bar Association. We're so grateful for Dick and his predecessors, and Ed Lenci whom you'll meet in a little bit, for NYSBA's support. We're equally privileged, again, as with the 2020 conference, to have Mary Smith, President of the American Bar Association, whose support symbolizes the involvement of lawyers across the country on rule of law issues concerning the use of force and weapons of mass destruction.

We are particularly grateful, and I'm particularly grateful, along with other organizers of the conference, for Professor Jeffrey Biller of the U.S. Air Force Academy. Jeff has been involved in the planning. He's been instrumental in bringing in many of our speakers. Jeff is the Deputy Director of the Cell on Law, Technology, and Warfare Research at the Air Force Academy. He's a retired lieutenant colonel and was a JAG officer—which means a legal officer—and he's taught in this area. And something I noted when I first met him is that he's a survivalist. He's one of those guys who can go out there in the wilderness, without any supplies, and survive. So he has an extraordinary background to bring to this conference.

We're also very privileged to have Jonathan Granoff, President of the Global Security Institute. Jonathan is Senior Advisor and Permanent Observer to the U.N. in connection with the International Anti-Corruption Academy. He's a Senior Advisor to the Permanent Secretariat of the World Summits of Nobel Peace Laureates and a major leader in this area.

John Burroughs, Senior Analyst of the Lawyers Committee on Nuclear Policy (LCNP), is extraordinarily well-known in this area, including at the U.N. Anybody who's been involved in international affairs involving nuclear weapons and other important areas at the U.N. knows John and has heard him speak, and has heard Jonathan Granoff speak and is familiar with them.

Let's get started. Dick, do you want to lead it off?

RICHARD C. LEWIS:

Sure, I'd be more than happy to. And I appreciate your leading it off, Professor Moxley. I know that Dean Feerick will be along fairly soon. I had the great honor of being at Fordham last week and being on a panel with him with regard to gubernatorial succession. It's an honor to be anywhere with Dean Feerick.

Good morning everyone. Our meeting today is to discuss one of, if not the most important international issues that we could face. And that's nuclear weapons and the role of international law. Issues surrounding the risk of nuclear weapons were probably not on the top of our minds until the invasion of Ukraine by Russia, and now our concern is exacerbated by the incursion into Israel and our concerns regarding Iran. And it will be interesting to hear from those in the military who will comment on the law and also about what we do with the lawbreakers. Our role as lawyers and how we can use our knowledge for peace and deterrence on the international stage is at the forefront of this particular meeting, and we need to know how to use law to address the risks of nuclear weapons in the same way that we've attempted to do with chemical weapons and land mines. I might add that we have not been totally successful in any of those, but that doesn't mean we shouldn't keep trying.

So those are a couple of many questions that I'm sure will be discussed today. We have, as Professor Moxley indicated, an exceptional group of speakers, including representatives from the Armed Forces. I really look forward to an honest dialogue between military leaders and those who may be critical of U.S. policy to foster understanding. I'm interested to hear what's being said there.

I want to thank Professor Jeffrey Biller, deputy director of the Law, Technology and Research Cell of the U.S. Air Force Academy, for attending and bringing faculty from the academy to this event. I don't want to play favorites, but we're also honored to have speakers from the U.S. Navy, the Marine Corps, and the Army. And I thank all of you for coming here and sharing your perspective. I'm very anxious to hear it, and we thank you for your service to this country.

I want to thank Professor Moxley and the members of the New York State Bar International Section for all of the hard work on this conference. The New York State Bar Association is extremely proud to be involved in this conference. This, like most of our programs, tries to hone in on important and controversial issues.

Our co-sponsors, the *Georgetown Journal of International Law*, the Catholic Peacebuilding Network, the Lawyers Committee on Nuclear Weapons Policy, and the Global

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Security Initiative all bring their own fresh perspectives to the issues we're going to discuss today, and I appreciate the participation of all.

And of course, last but in no way least, I'd like to thank the American Bar Association and its President Mary L. Smith, who will now say a few words. Thank you, Mary.

MARY L. SMITH:

Hello, I am Mary Smith, President of the American Bar Association. I would like to thank the New York State Bar Association International Law Section for organizing this program, along with all the co-sponsor, including the American Bar Association (ABA) Section of International Law. I am honored to welcome you to this vital program, "Nuclear Weapons and International Law—The Renewed Imperative in Light of the Ukraine War."

When this program convened in 2020, our global landscape was vastly different. In October 2023, JPMorgan Chase CEO opined that the most serious threat facing mankind is nuclear proliferation, stating, "If we're not sitting here 100 years from now, it will be nuclear proliferation. It's not our climate." International bodies and proliferation experts warn that the danger of nuclear weapons use is higher than it has been in decades, amid wars involving nuclear powers like Russia and the weakening of adherence to international nuclear treaties. "The risk of a nuclear weapon being used is currently higher than at any time since the depths of the Cold War," the [United Nations wrote in a statement in March 2023](#).

Today, Ukraine is embroiled in conflict with Russia, a scenario compelling the U.S. and the international community to intervene on two significant fronts. First, the assault on democracy in Ukraine symbolizes a ubiquitous threat to democratic values everywhere. Second, the harrowing specter of nuclear warfare highlights the critical need for the international community to reinforce its commitment to international law, peace, disarmament and nonproliferation.

The ABA has worked tirelessly on both fronts. The [Task Force for American Democracy](#), one of my initiatives, reflects our enduring commitment to uphold democratic principles. The ABA has a longstanding record in advocating for international peace and security through international regimes such as the Comprehensive Nuclear Test Ban Treaty, the Treaty on the Nonproliferation of Nuclear Weapons, and the START II Treaty, which aimed to significantly reduce the overall number of long-range nuclear weapons possessed by the United States and the Russian Federation. The ABA's commitment is underscored by the recent adoption of [Resolution 405](#), condemning the Russian Federation's unlawful invasion of Ukraine, which further extends our 2013 resolution advocating for the UN General Assembly to authorize war crime tribunals to hold accountable those responsible for crimes of aggression against Ukraine.

Today, we gather to address the escalating urgency surrounding international law and nuclear weapons, emphasizing our collective pursuit of global stability and legal order. The potential use of nuclear weapons has catastrophic repercussions and necessitates action across diverse professions, political inclinations, genders, races, and nationalities.

Current tensions between the United States and Russia, the predominant holders of nuclear arsenals, threaten the prospect of nuclear winter and approximately 5 billion casualties—symbolizing the end of the world as we conceive it. Thankfully, a substantial body of international law governing the use of force exists, providing legal avenues to address potential nuclear conflicts. It is imperative that we remain focused, articulate, and proactive in applying this law in a globally impactful manner.

This conference offers an ideal platform for analyzing these issues, to foster dialogue with experts across government, military, NGOs, and academic sectors, and underscores the paramount role of law and legal institutions in maintaining international order—a shared concern between the ABA and the New York State Bar Association.

The ABA, as the world’s largest and most distinguished organization of legal professionals, is steadfast in leveraging legal frameworks to regulate, limit, and eradicate nuclear weapons, standing unified with other eminent organizations in supporting international peace and security through the rule of law. Thank you so much to all of you for your work and commitment to protecting our world through justice and the rule of law.

PROF. CHARLES MOXLEY:

Thank you. Professor Biller?

PROF. JEFFREY BILLER:

Thank you, Charlie. And let me start by thanking you. As somebody who has seen many of the Zoom calls, phone calls, all the emails, I promise everybody that Professor Moxley has put an enormous amount of energy into the planning of this symposium, and I think it is reflected in the fantastic panelists and organizations that are involved. So I want to say thank you to him and thank you to everybody who has participated and been involved. It’s been very heartening to see the passion and all the effort that so many people put into this extraordinarily important area of international law.

But I also agree with Professor Moxley that it is an area that is somewhat understudied given the importance of it. Most of the effort so far looks at kind of *per se* issues of international law and the use of nuclear weapons and arms control, but particularly the law that would govern the actual use within a conflict is a narrative that’s extraordinarily understudied, and his efforts in this area are greatly appreciated. But I think part of the reason, clearly, that these areas are perhaps somewhat understudied, is the nature of nuclear weapons as a weapon of deterrence. And I think we have to start with the recognition that it has largely achieved that effect. I think that there's no doubt that widespread international conflict among great powers has been significantly reduced as a result of the deterrent effect of nuclear weapons. That's something that should be at least recognized at the outset. However, if I may be so bold as to quote Grotius [in *Law of War and Peace*], “We must also be aware of what happens and what we foresee may happen beyond our purpose, unless the good which our action has in view is much greater than the evil which is feared, or greater than the fear of the evil.”

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Certainly, as has been mentioned already, there's been an increasing concern about potential use, which is something I know everybody wants to work towards preventing. And although there are many different factors that would go into the potential use and governing of the use of nuclear weapons—politics, ethics, morality, and many other areas. I certainly believe that the law has something to say on that, and that we need to continue to explore that.

I really appreciate Professor Moxley's efforts to be open about the dialogue in discussion, to not just sit around and agree with each other on the outcome. I think there are a lot of difficult issues that do need to be worked through. If we don't do the hard work of working through those issues and being honest about the issues, I don't think we'll continue to move the ball forward. Charlie's been very open about wanting to do that, and I very much appreciate it.

So again, I look forward to all the fantastic panelists and discussions that we will have today. I hope that this can be a launching point for continued discussions following the symposium. Hopefully, we can continue to have events such as this, where we can bring experts in to explore the many different aspects of this particular problem set and continue to resolve some of those issues, and hopefully work towards a future where it continues to be a weapon of deterrence and not a weapon of use.

So thank you again, everybody, and I'll turn it back over to you, Professor Moxley.

PROF. CHARLES MOXLEY:

Thank you. Jonathan?

JONATHAN GRANOFF:

First, I want to express my profound gratitude to Charlie's lead in this, to his scholarship in his book on this subject, for his passion and his respect of everybody's point of view, and his adherence to a moral compass and the sense of importance of protecting life. It's that basic, but very few people step up with the passion that he does.

My first question is: "Are nuclear weapons more dangerous than any hazard that they seek to address? In other words, are they themselves more of a problem than any problem that they seek to address?" That's the core issue of their very existence in the first place. The paradox is that the more the weapons and their delivery systems are perfected, it appears the less security that we obtain. Any perfection by any participant in the nuclear venture will stimulate others to do the same.

There's also the moral incoherence of nine countries saying that these weapons are good for us but not good for anybody else. Imagine if the Biological Weapons Convention said that no country could use smallpox or polio as a weapon, but we will allow nine countries to use the plague as a weapon to maintain strategic stability in international security. The incoherence of that morally, legally, and rationally, is quite clear.

[Albert Einstein said](#) [in a January 23, 1946 interview with Michael Amrine, Chairman of the Emergency Committee of Atomic Scientists] "Rifle bullets kill men, atomic bombs kill cities.

A tank is a defense against a bullet, but there is no defense [in science] against the weapon that can destroy civilization. Our defense is in law and order.”

It’s interesting that Albert Einstein turned to our profession, ultimately, as the solution to nuclear weapons.

Now imagine if you were going to get on an airplane, and the airplane put up a sign that said there’s a one in a hundred chance that this plane is going to crash. I personally wouldn’t get on that plane. This statistical risk issue of the ongoing threat to use nuclear weapons as a means of pursuing security under the guise of strategic stability has to be statistically analyzed. I’m really glad that at this conference, we will hear some experts with that particular skill.

As lawyers, we know that there is a standard for taking unnecessary risks in tort law, and that there are levels of responsibility of conduct. And if that level of responsibility is neglected, there’s accountability. General Lee Butler, who was head of Targeting Readiness, and in fact was one of the creators of the Single Integrated Operating Plan (SIOP), said [quoting Otto Kreisher, Retired Generals Urge End to Nuclear Arsenal, *San Diego Union-Tribune*, Dec. 5, 1996, at A] in relevant part, “Despite all the evidence we have yet to fully grasp the monstrous effect of these weapons, the consequences of their use defy reason transcending time and space, poisoning earth, deforming its inhabitants. Nuclear weapons are inherently dangerous, hugely expensive, militarily inefficient.” General Butler said, “Accepting nuclear weapons as the ultimate arbiter of conflict condemns the world to live under a dark cloud of perpetual anxiety. Worse, it codifies mankind’s most murderous instincts as an acceptable resort when other options for resolving conflict fail. I have spent years studying nuclear weapons’ effect. Have investigated a distressing array of accidents and incidents involving strategic weapons and forces. I came away from that experience deeply troubled by what I see as the burden of building and maintaining nuclear arsenals. Grotesquely destructive war plans, the daily operational risks, and the constant prospect of a crisis that would hold the fate of entire societies at risk.”

So it’s the general background of the risk, and we know there have been dozens of instances in which we have come far too close to destroying civilization because of computer error or human error:

- General Butler talked about in the same context of that speech how a B-52 bomber crashed in North Carolina. And there was a nuclear bomb on it, six of the seven safety devices failed, and it was just good luck that it didn’t explode.
- In November 1979, Senator Chuck Percy was at a facility and an officer wanted to show how responsible we were. He put a training tape in the wrong computer, so the whole system of monitoring looked as if we were under a full-scale attack by the Soviet Union.
- In January 1995, a weather satellite was launched off the coast of Norway, and twenty-eight nations were notified that this weather satellite was going to go look at the northern lights and evaluate them. But it looked to the Russians, because it didn’t get past up the command and control, as if it could be a high-altitude missile deployment that would create an electromagnetic pulse and fry the



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command and control of Russia by exploding over Moscow. Boris Yeltsin had but a few minutes to decide. He decided that because of his relationship with Bill Clinton, it was safe, and didn't preemptively respond.

- In 1983, Stanislav Petrov was watching the monitors in Moscow, and it looked like a full-scale American launch. He didn't pass it up the command and control chain because he knew they would have inadequate time to evaluate it and would likely launch, as he said [in an MosNews May 21, 2004 interview], "eleven thousand nuclear warheads at the United States." He violated his protocols. It turned out there was a unique cloud formation. Bill Perry, who was the former Secretary of Defense, told me about a computer chip malfunction and it looked like we were under similar attack.
- In 2009, the U.K. nuclear submarine *Vanguard* and the French nuclear vessel *Le Triomphant* collided in the Atlantic.
- During the Bush administration, there was an afternoon when six nuclear weapons were flying around the United States unaccounted for—they'd been improperly loaded onto a plane.

The point is that we make mistakes, and the ongoing risk has not, in my opinion, been adequately evaluated from a rigorous legal analysis. And we have a great body of law on what is a reasonable risk.

Last but not least, I believe that the biggest problem we have is *pacta sunt servanda*. Are diplomats, in good faith, negotiating, in the context of the Nuclear Non-Proliferation Treaty, a set of threat-reducing, security-enhancing measures as fulfillment of moving towards a nuclear-weapons-free world and a strengthening of the non-proliferation regime? Included in that process is the commitment to strive to obtain a fissile material cutoff treaty, entry into force of a nuclear comprehensive test ban treaty, strengthening safeguards, improved monitoring, and a whole menu of promises that have been made and have not been kept. That puts the entire legal regime at hazard. And that, to me, is the biggest issue for lawyers. Because if our skills of law and reason and diplomacy fail, bullets become verbs, and in the nuclear age, that's not acceptable.

Again, thank you, Charlie.

PROF. CHARLES MOXLEY:

Thank you, Jonathan. I see that Ambassador Khrystyna Hayovyshyn, Deputy Permanent Representative of Ukraine to the U.N., and Ed Lenci are here. We'll proceed because I know the Deputy Ambassador has to get back to the U.N. There's a lot going on today, so we'll hear you and then we'll hear John Burrough's introductory remarks.

Let me introduce Ed Lenci, whom we all know. Ed was Chair of NYSBA's International Section and strongly supported our 2020 program and this program. We're very grateful. Ed will tell you about the Ukraine Task Force, which he conceptualized and initiated, and will introduce the Deputy Permanent Representative of Ukraine to the U.N. Ed is also a practicing lawyer in

New York, as is Dick Lewis. So many of us involved in this conference are working lawyers. Ed, thank you and please introduce yourself further and introduce the Ambassador.

EDWARD K. LENCI:

Well, Charlie, thank you very much for that introduction. Greetings to all of you. I'm Ed Lenci, as Charlie mentioned, and I am a former Chair of the International Section of the New York State Bar Association.

I was the founder of, and for six months led, the International Section's Ukraine Task Force, which, from the very first day of the invasion, jumped in and went to the aid of Ukraine with our legal resources. We were in almost daily contact with the Ukraine Bar Association, Anna Ogrenchuk, then President of the Bar Association, and Inna Liniova, its head of operations. We brought together representatives of the American Bar Association, the New York City Bar Association, the DC Bar, various other bar associations, and human rights organizations in the U.S. and abroad. We worked in areas such as immigration, the investigation of war crimes, and other important aspects of addressing the legal problems arising from the invasion of Ukraine. The very well-regarded Ukraine Immigration Task Force, I'm proud to say, was an outgrowth of our New York State Bar Association Ukraine Task Force.

When I spoke at our last conference, I highlighted the problem of rogue states such as North Korea. This time around, we face something different: a large, heavily nuclear-armed, autocratic power that this year has repeatedly threatened to use its nuclear weapons. Just a few days ago, Russia reported boastfully the successful test launch of an intercontinental ballistic missile designed to carry warheads from a new nuclear submarine. This isn't a Tom Clancy novel. This is for real. Our world has gone far beyond the problem of rogue states. Our world has once again reached the brink where a large militaristic power, with a large nuclear arsenal, is threatening to use those nuclear weapons.

It is now my honor to introduce the honorable Khrystyna Hayovyshyn, deputy permanent representative of Ukraine to the United Nations. Madam Ambassador, Slava Ukraini.

HON. KHRYSTYNA HAVOVYSHYN:

[Remarks omitted.]

PROF. CHARLES MOXLEY:

Thank you so much, Madam Ambassador, for those remarks. John Burroughs?

JOHN BURROUGHS:

Thank you, Charlie. Lawyers Committee and Nuclear Policy is a New York City-based organization that, since 1981, has stood for the application of international law to nuclear weapons and the abolition of nuclear weapons in accordance with international law. I was glad to have played a minor role in assisting Charlie in organizing this conference and, like others, I want to acknowledge how much work he put into this conference. I will have a chance to speak

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during the program today so I'm not going to make any further remarks at this moment. Thank you, Charlie.

PROF. CHARLES MOXLEY:

Thank you so much, John. I see that Fordham's Dean Emeritus Professor John D. Feerick is here. Dick Lewis mentioned that he had been at Dean Feerick's conference last week, which maybe John will tell us a little about because it's relevant in ways that John and I have talked about in preparing this conference.

John Feerick, after over 20 years at Skadden Arps, became Dean of Fordham Law School in 1982 and led it into a new era. He is at the forefront of lawyers in New York, widely trusted and admired. He was Chair of the New York State Public Integrity Commission and President of the Association of the Bar of the City of New York, to name just two of his many leadership positions in the New York legal community. Dean, thank you so much for your support and participation in this conference and in the one before this, which I well recall led you to go to the then President of Fordham University and say: "We need, as a university, to get more involved." And the university has, so thank you, John.

PROF. JOHN D. FEERICK:

Well, thank you very much. I co-chair the Chief Judge's Attorney Emeritus Advisory Council in New York, which promotes volunteerism by lawyers to help poor people and those in need of that kind of assistance. But I want to say just a few words first. I want to say something about you, Charlie. You're a "lawyer's lawyer" in my view, and you've been recognized as such in many leadership positions you presently hold and have held in the bar of the state. Your career over the past forty-plus years has been marked as well by a deep commitment to finding ways to resolve controversies and disputes as a litigator, arbitrator, and mediator, both internationally and domestically. I'm honored each year, because of your requests, to participate as a speaker in a program you organized with others for the New York State Bar Association that's held often at the Fordham Law School.

I can't think of a program more timely than the one you and others have put together for today. Just to add a quick footnote in my own history, back in 1962—I am a graduate of Fordham Law School in '61—there was a great deal of concern about a nuclear war involving America and the Soviet Union, and we narrowly avoided that potential catastrophe. Also, the following year, the assassination of President Kennedy led the American Bar Association to say: "We have to take a look at our succession foundations." They saw that the problem, which couldn't be solved during the Eisenhower years and went all the way back to when Garfield was assassinated, was how to deal with the inability of a president and how to fill a vacancy in a vice presidency as there was no provision to do so in the Constitution. So, the lawyers of America, including a young Senator by the name of Birch Bayh from Indiana, got together and put together the 25th Amendment to the Constitution. That didn't solve all our problems, but the reasoning was that if we tried to deal with all the other issues, we would end up with failure, as we had for decades

before in dealing with that area of the Constitution. And I just want to call to your attention, as you discussed the exceedingly important areas of this conference, that what belongs in the mix is what happens if we are subject to a nuclear attack in our country and the Congress is incapacitated, and how do we deal with that.

Well, a few years ago, Professor John Rogan and I put together a clinic at Fordham Law School, and students made a number of recommendations on how to deal with an incapacitated government in Washington. I know that material has been made available to you in all the sources for this program, and I really hope that Charlie, you, and all the important people who participate in this conference will consider that area. It's also exceedingly important because the stronger our foundations, the more likely it is that we'll be able to protect the people and also have peace. So, I thank you so much for this opportunity.

PROF. CHARLES MOXLEY:

Thank you, Dean Feerick, thank you so much. And that will be part of the discussion later today. We have a senior representative from the ICRC, the International Committee of the Red Cross, and that's on the agenda. We are now going to move directly into the first panel of the day.