Spring 2012

Remembering Jon Van Dyke

David D. Caron

Harry N. Scheiber

Berkeley Law

Follow this and additional works at: https://scholarship.law.berkeley.edu/facpubs

Part of the Law Commons

Recommended Citation

Remembering Jon Van Dyke, 34 U. Haw. L. Rev. 393 (2012)
Remembering Jon Van Dyke

David D. Caron & Harry N. Scheiber

The Law of the Sea Institute and the entire community of legal scholars globally have lost a colleague of great distinction in our field with Jon Van Dyke's death. As so many colleagues and the wider audiences for his work have attested, Jon's writings, engagement in public discourse, and litigation efforts have been of far-ranging influence across a remarkable range of fields. His scholarly writing has made enduring contributions on the subjects of indigenous rights, the imperatives of multiculturalism, United States constitutional law, and international human rights. He also established himself in recent years as a major authority on Hawai'i history. His pro bono litigation, in collaboration with his wife Sherry Broder, an eminent graduate of the University of California, Berkeley, School of Law and former president of the Hawai'i State Bar, has been of great importance in the pursuit of restitution for victims of human rights violations in the Philippines and in litigation on environmental issues in the Islands and on behalf of Native Hawaiian claims.¹

It is with regard to his great contributions to the field of ocean law and policy, however, that we are mainly concerned with in this tribute and memorial. Put simply, Jon was a giant in the field. The Law of the Sea Institute ("LOSI"), since 2002 based at UC Berkeley Law, was for many years one of the gems in the crown of the University of Hawai'i; and no one was more deeply invested personally or more influential than Jon in the important activities of LOSI at the East-West Center and the university at large. In those days, LOSI held international conferences both in Honolulu and at locations around the globe that were of a scope and magnitude that required heroic organization efforts. Jon was unstinting in his devotion to these conferences (also taking the lead in bringing papers from those conferences to publication as books). He was also dedicated to keeping the focus of conference panels, which regularly involved the most eminent diplomats and scholars in the field, upon the need for the global community's success in hammering out agreement on the Law of the Sea Convention—a treaty that was nearly a quarter century in the making, finally signed in 1982 and now in force as the basic framework of global ocean ordering.²

¹ For a detailed analysis and an appreciation of Professor Van Dyke's career, see Harry N. Scheiber, A Jurisprudence of 'Pragmatic Altruism': Jon Van Dyke's Legacy to Legal Scholarship, 35 U. OF HAW. L. REV. 385 (2013).
The influence of this LOSI series of scholarly and policy meetings (building on earlier efforts out of the University of Rhode Island) was truly substantial. With determined guidance from Jon and others who shaped the programs, these LOSI meetings were acknowledged then, and are recognized retrospectively, as the richest contemporary source of thoughtful, authoritative analyses of ocean law from a broad spectrum of policy perspectives. In his own various writings and commentaries at those conferences, Jon, as always, wore lightly but to great effect his depth of knowledge and profundity of analysis in his determined quest to overcome the constraints that emanated from self-interested nationalism, particularism, and Cold War divisions—and, as time went on, from the conflicts of interest between the industrialized North and the developing South. In those debates, as in controversies in other realms of law and policy, Jon’s writings eloquently expressed his consistent vision of a global commons, an international order respectful of human rights, and global stake in advancing environmental and resource conservation in the name of future generations. Always at the edge of innovation, Jon was among the first scholars to focus on the importance of the precautionary principle for international environmental law in general and for ocean law in particular. His advocacy for that concept must receive much credit for attainment of the now-conventional acceptance of a precautionary approach embodied in adjudicatory decisions and ocean resource treaties of recent years.

In the last decade, since LOSI became based at UC Berkeley Law, we as its Co-Directors have come to owe an enormous debt to Jon for his invaluable intellectual contributions, his always-steady and reliable counsel, and his continued devotion to advancing the ocean law field. Not least, he has made distinguished individual contributions to our annual conferences and publications both as author and as book editor. He was consistently generous with his time, energy, and wise counsel. He gave presentations of his recent research at the LOSI cosponsored conference in Istanbul in September 2011 and as co-speaker with ourselves on behalf of LOSI at two international conferences held in Seoul, Korea in June 2011.

A special gift of Jon to UC Berkeley School of Law was his presence in the spring semester of 2011 as a visiting professor, teaching both international law and U.S. constitutional law. Typical of him, he was present and deeply engage during his time in residence at more than a dozen special seminars and conferences on the campus; and despite an unreasonably heavy schedule he prepared a paper for an international conference at the School on the subject of Japanese law that offered a

brilliant interpretation of Japan’s adoption and adaptation of Western concepts of international law.

Even at the moment of his passing, he was working for and with LOSI in his continuing quest for international comity and forward progress in ocean law: for this tragic loss to us all occurred while Jon was participating prominently in the LOSI conference co-organized by Berkeley, Korean, Australian, and U.S. colleagues and being held in Wollongong, Australia.

Jon’s death is an enormous loss not only to Sherry and their children, to whom he was so devoted, but also to his friends and colleagues. We two ourselves cherish personally the memories of so many weeks spent with him over more than twenty-five years in the pursuit of a common scholarly cause. We treasure the many experiences of visits together to other countries and cultures, and the sharing of times when his love of life, of intellect, and of nature’s bountiful gifts of environment were either complements to our academic activity or a light-hearted respite from them.

In celebrating the joyful legacies that Jon Van Dyke has left us, we join the many men and women whose lives he enriched by dint of his very special gift as a teacher and of his unfailing kindness, respectfulness of others, and deep devotion to scholarship.