

# □ The Honourable Bill Graham, P.C., M.P. Minister of National Defence L'Honorable Bill Graham, P.C., M.P. Ministre de la défense nationale

Office of the JAG Annual Mess Dinner  
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Mess des Officiers de la Force aérienne  
27 octobre 2005, Ottawa, Ontario

Mr. Justice Goodfellow, [The Honourable Walter R.E. Goodfellow,  
Colonel Commandant of Legal Branch]  
General Pitzul,  
Honoured Guests,  
Ladies and Gentlemen,

Good evening.

It is certainly a pleasure to join you this evening to honour our award recipients and to thank all of you for the great work you do.

Many of you are here in Ottawa to attend this year's continuing legal education workshop. And I understand that there are a number of Reservists among you.

I know that those of you who are Reservists are taking valuable time away from your practices, and it is greatly appreciated.

This evening, I'd like to talk to you briefly about Canadian Forces transformation and how important the Legal Branch is in ensuring the process runs smoothly.

## DPS and Transformation

Canadian Forces transformation flows from the Defence Policy Statement, which was released last April and which represents the most significant change to Canada's military in fifteen years.

As our new defence policy sets out, Canada is undertaking a comprehensive transformation to re-organize, re-equip and re-finance the Canadian Forces.

We will maintain modern, combat-capable forces, and we will become more relevant, more responsive and more effective. This will require better integrating maritime, land, air and special operations forces so that they can work as one unified team, including through the creation of new joint units.

## Defending Canada

The new policy establishes the defence of Canada as the top priority for the Canadian Forces.

To improve the ability of the Canadian Forces to respond to emergencies and threats here at home, we will change the way we approach, plan and conduct domestic operations, the centre-piece of which is the creation of a single integrated national command headquarters: Canada Command.

Canada Command will allow the Canadian Forces to deploy the best available military assets to meet any emergency anywhere within Canada.

To enhance the ability of our military to protect Canadians, we will also be moving forward with a number of initiatives, such as expanding our Joint Nuclear Biological Chemical Company and increasing the size of JTF2.

## Defending North America

Dans le cadre de notre nouvelle politique de défense, nous cherchons également des moyens d'améliorer la sécurité et la défense de l'Amérique du Nord. Nous allons nous appuyer sur les accords de défense bilatéraux qui se sont avérés efficaces, comme le NORAD. Et nous allons trouver des moyens d'améliorer la coopération avec les États Unis dans des domaines comme la détection et l'élimination des menaces maritimes, et les accords bilatéraux d'aide aux autorités civiles en cas d'urgence.

## International Security

Étant donné que la sécurité du Canada et des Canadiens passe d'abord par la stabilité dans le monde, les Forces canadiennes accroîtront leur capacité de participation à une vaste gamme d'opérations internationales, en mettant l'accent sur la tâche complexe et dangereuse qui consiste à rétablir l'ordre dans les États défaillants et en situation d'échec.

Les nouvelles unités — comme par exemple la Force opérationnelle permanente de contingence — ainsi que l'augmentation du personnel permettront aux Forces canadiennes d'avoir une plus grande influence sur les missions à l'étranger.

Pour toutes nos activités internationales, nous travaillerons en collaboration plus étroite avec les autres ministères dans le cadre d'une approche « pangouvernementale » visant l'utilisation de nos ressources en matière de diplomatie, de défense, de développement et autres afin d'obtenir les meilleurs résultats possibles.

## JAG and Canadian Forces Transformation

Mesdames et Messieurs, compte tenu des nouvelles structures et responsabilités militaires des Forces canadiennes, de notre nouvelle approche « pangouvernementale » et d'une série d'autres questions liées à la transformation, nous avons davantage besoin des services fournis par le JAG.

En fait, la transformation comportera des risques juridiques, dans certains cas entraînés par le rythme du changement.

Il est possible de gérer ces risques juridiques à condition d'exercer une diligence raisonnable et d'adopter une approche disciplinée.

Afin d'atteindre les buts de la transformation, il doit exister un solide fondement juridique à l'appui de la nouvelle institution de défense.

Heureusement, le Cabinet du JAG est déjà prêt à relever ce défi. Grâce à une série de changements organisationnels que vous avez apportés au cours des dernières années, avez amélioré votre aptitude à donner des conseils juridiques détaillés et opportuns à la chaîne de commandement en matière de droit militaire.

Je constate également qu'un avocat militaire a déjà été désigné pour fournir des conseils juridiques au Commandement Canada, et que le JAG assurera un soutien juridique aux Forces opérationnelles interarmées des différentes régions par l'intermédiaire des bureaux des AJAG.

In addition, a JAG working group, representing the three military justice pillars, has been established in direct support of transformation to review Canadian Forces and Ministerial Organizational Orders prior to the JAG providing the Chief of the Defence Staff and myself with advice on these key matters.

Of course, JAG is supporting transformation in other ways too, but I think this gives you some idea of the scope of your efforts.

I understand the strain this puts on the normal delivery of JAG legal services, and I certainly appreciate all the efforts you deploy to continue

offering the highest quality advice. I have had the opportunity to appreciate the importance of your work both as Foreign Minister and now as Defence Minister. In my conversations with the JAG I have been impressed, on more than one occasion, by the seriousness with which he approaches the legal foundation of the acts we undertake, both individually and as a country: often in complex and even somewhat murky environments.

The legal basis for our campaign against terrorism, the role assumed by our ships in the Gulf, the legal status and appropriate treatment of detainees, the status of our forces in Afghanistan, the evolving law and practice of the ICC, our role in the Kosovo campaign: these and other similar issues have required a vigorous judicial analysis. Often they also have significant political overtones - as you will recall was the case with the legal advice to Mr. Blair's government on the legality of the Iraq campaign.

I believe it was Dean Acheson who once said, when challenged on the legality of the Cuban Missile blockade, "there are times in the lives of nations when international law has nothing to do with it!"

Great powers may not be subject to the same constraints as others, but it has always been a Canadian strength that we act in a way to reinforce the rule of law, not defy it.

It is this recognition of the rule of law as a fundamental value, in fact, that has informed many of our foreign policy goals, such as the development of the ICC and the elaboration of the Responsibility to Protect doctrine, to name but two recent examples.

An approach, rooted in a solid legal foundation has some very practical as well as moral consequences. As General Pitzul put it to me one day: when our troops engage in operations, they know not only that they are doing the right thing but also that their acts are in support of international law. They are rightly proud of that.

And, as noted by Colonel Olsen in his paper "Promoting the Rule of Law: A Value Apart", we see a direct link between promoting the rule of law and addressing the conditions underlying terrorism, in other words, our national security.

So perhaps because I happen to share your "deformation professionnelle", I also happen to believe that the work you do not only is important from a day to day perspective in ensuring that the department functions appropriately, and in accordance with our legal obligations, but also at a deeper level, your work informs the way in which we perform that important task entrusted to us by the Canadian people: ensuring their security and bringing peace and hope to people around the world. In so doing, we can proudly say that as lawyers we are responding to the higher calling of our profession.

## Award Recipients

This brings me to another important reason for my joining you this evening. Tonight, we honour a few exceptional men and women for their outstanding contributions to JAG.

Lieutenant-Colonel Gibson, Mrs. Stevenson, Mme Chevalier, Mr. Parks, members of the JAG Advisory Panel on Military Justice: Please accept our congratulations and sincere appreciation for all you have done to further the understanding and practice of military justice.

You will understand if I take a few moments to offer special congratulations to Professor Leslie Green, whom I have known and admired since I was an academic colleague some years ago. Leslie, as you might have reflected a few minutes ago as I was speaking, I wish that I had paid more attention to what you had to say about the laws of armed conflict those many years ago. I never would have thought that the object of your research and scholarship would have had such a direct



impact on my own work – but then again, I did not ever foresee my being Foreign Minister and I do not think anyone would have been so foolhardy as to predict that I would one day occupy the post of Minister of National Defence!

Member of the Order of Canada and Fellow of the Royal Society of Canada — these are just two of many honours Leslie has received for his outstanding service to Canada and international law.

Leslie is a major figure in contemporary international law. He has lectured at the Universities of Alberta, London, Singapore and Denver and at the US Naval War College in Newport. And he has published extensively in the field, never allowing his tremendous productivity to interfere with his high scholarly standard.

His particular interest lies in the law of armed conflict, and he has contributed to this field not only as a scholar and writer, but also as a legal advisor to government. He has served the Canadian government as Academic in Residence to the Legal Bureau of External Affairs, as a member of the Canadian delegation participating in the negotiation of the Additional Protocols of 1977, and as a consultant to JAG. And somehow, he has always found the time to mentor younger international lawyers.

Five years ago, in the *International Law Studies* journal, the US Naval War College published "International Law Across the Spectrum of Conflict: Essays in Honour of Professor L.C. Green on the Occasion of his Eightieth Birthday."

The introduction of the volume stated:

"[O]ne can but admire [Leslie Green's] continuing creativity and love for new ideas. His lifelong and continuing dedication to international law teaching and to independent scholarship is a model for others to follow in their individual paths".

Leslie, I can only echo this sentiment and say that tonight's award is truly deserved.

## Conclusion

Before Major-General Pitzul presents this evening's awards, I would like to thank you, the members of JAG, for your continued support and fine work.

The General once remarked to me when describing your work that "The strength of the Office of the JAG lies in the strength of its people."

I couldn't agree more and I also believe that the same can be said for the CF in general. As a country, we are truly fortunate to be so well served by such a dedicated and professional group of men and women in uniform [look at campaign ribbons - experienced in the law, experienced in the field]. Thank you for ensuring that your professional qualities provide the legal framework for our work that is so essential to our country and its citizens.

Thank you.