I would like to begin by thanking the Law Society of Upper Canada – and, in particular, the Treasurer, Janet Minor, and Benchers – for conferring on me an Honorary Doctor of Laws.

It means a great deal to me.

Je vous en suis très reconnaissant.

Ce faisant, le Barreau du Haut-Canada rend en même temps hommage à la Cour pénale internationale et à son Bureau du Procureur, où je travaille actuellement comme Procureur adjoint.

To come now to the important event of the day: may I say how delighted I am to have the opportunity to address you on this happy occasion!

Congratulations on your Call to the Bar.

Je vous en félicite tous.

An end and a beginning: the end of a long process of study and preparation, the beginning of a whole new adventure in the law.

Law is a profession, it is a vocation, but above all, law is a calling – a way of life.

And you are being called.

I wish you every success and every happiness on your chosen path.

I hope you find as much satisfaction as I have in the law.

When I started, I could never have imagined being where I am now, at the International Criminal Court: which brings me to my topic.

In the next few minutes, I would like to underscore the importance of an area of law that touches us all – the law of human rights.

By that, I mean those laws that protect our basic freedoms – the right to live free from tyranny, corruption, oppression; to provide for one’s family, to speak one’s mind, to make choices in life.

We enjoy such freedoms, as Peter Wardle noted, under the rule of law, here in Canada.

It is, of course, not so everywhere in the world.

The importance of laws to protect basic human rights is illustrated by a celebrated passage from Robert Bolt’s play, A Man for All Seasons.

It’s a passage that has stayed with me, because it was one that Arthur Maloney, one of our great criminal defence counsel, loved to cite when he spoke about the art of advocacy and the role of lawyers in defending human rights.
In it, Sir Thomas More explains to William Roper why he would give the Devil himself benefit of law.

Sir Thomas More was on a collision course with King Henry VIII and would lose his life.

Here is the passage:

“More And go he should if he were the devil himself until he broke the law.

Roper So now you’d give the Devil benefit of law!

More Yes. What would you do? Cut a great road through the law to get after the Devil?

Roper I’d cut down every law in England to do that!

More (roused and excited) Oh? (Advances on Roper.) And when the last law was down, and the Devil turned round on you where would you hide, Roper, the laws all being flat? (Leaves him.) This country’s planted thick with laws from coast to coast – Man’s laws, not God’s – and if you cut them down – and you’re just the man to do it – d’you really think you could stand upright in the winds that would blow then? (Quietly.) Yes, I’d give the Devil benefit of law, for my own safety’s sake.”

At the International Criminal Court, where I serve, we give the Devil benefit of law, for everyone’s safety’s sake.

And for the sake of the rule of law and the guarantee of basic human rights.

We investigate and prosecute the most serious crimes – war crimes, crimes against humanity and genocide, but do so in a fair and impartial way.

In the Office of the Prosecutor, we are under a statutory duty to investigate to establish the truth, and this means looking, not only for incriminating evidence, but also for exculpatory evidence.

We honour all of the obligations that one has here in Canada, in order to contribute to the fair trial of persons accused of war crimes, crimes against humanity and even genocide.

Fair trials have intrinsic value.

The outcome of a fair trial has credibility.

It promotes the values we stand for at the International Criminal Court, namely, holding to account, in a fair and impartial process, those who perpetrate the worst crimes known to humanity.

According to the system of international criminal justice, in which the International Criminal Court is a key element, States are responsible for investigating and prosecuting such crimes.

In some situations, however, the laws – or, at least, their application – are all flat and the winds blow cruelly: where States either cannot or will not discharge their responsibilities, then we, as the court of last resort, will intervene.
In a world where there is so much corruption and violence, where politics too often trump justice, the International Criminal Court offers an independent, impartial and objective administration of criminal justice.

This, I believe, is a significant contribution to make in today’s world.

Independence, impartiality, objectivity – these are our watchwords, our guiding principles: the ideals of criminal justice that we strive to apply.

But it is a hard struggle.

As a Court, we can investigate, we can prosecute, we can seek judgment in a fair and efficient process.

However, to achieve our mandate, we need the cooperation of States.

This we generally receive, but it is not always forthcoming.

An example recently in the news is the case of Omar Al-Bashir, President of Sudan, who is wanted by the Court.

He is alleged to be criminally responsible for atrocities in Darfur.

He attended the African Union summit in South Africa.

South Africa, a State Party to the Statute of the Court, should have arrested him, but found itself caught between its obligation under international law to the Court to arrest the fugitive from justice and its loyalty to the African Union, which has been, at least with respect to some of its members, hostile to the Court.

South Africa, given its own troubled history, has been a strong supporter of the Court.

But South Africa failed to arrest President Al-Bashir.

In failing to do so, it flouted the decision of its own High Court, which had issued an order to arrest him, and failed in its obligation to the International Criminal Court.

The fugitive had, in the meantime, been spirited out of the country and back to Sudan.

This illustrates how much we depend on State Party cooperation.

It also demonstrates how politics can sometimes trump justice – at least in the short term, because for us it is a long game, and patience and persistence will ultimately pay off.

It also illustrates that South Africa has a strong civil society and an independent judiciary.

It was the Southern Africa Litigation Centre, an NGO based in South Africa, which applied for the domestic arrest order.

The South African judges had no doubt about where South Africa’s duty lay.

As well, we find that in most of our cases there are those who would actively try to subvert the course of justice, by corrupting or intimidating witnesses.
We must constantly take measures to guard against such attempts.

We are, in a real sense, trying to deflect the winds of corruption and violence – to bring a measure of justice to the victims of mass atrocities and to build up the protection of basic human rights and freedoms.

We wish to nurture the growth of justice and see it done.

We are upholding the laws against war crimes, crimes against humanity and genocide, and seek to make those who violate them accountable.

As difficult as the work is, the International Criminal Court is an exciting place to be right now.

What relevance has all of this to you?

In our endeavour, we need your understanding and your support, no matter in what area of law you practise.

As lawyers, you have a vital interest in upholding the rule of law, and this also means protecting human rights.

Some of you will become directly involved in the practice of human rights law – there is a whole spectrum of opportunities to serve.

Others of you will engage in legal practice that may seem remote from what I am talking about – but it is not: you will still ascribe to ideals of service, of fairness, of what is right.

As citizens of this “global village” – to quote Marshall McLuhan – you have an interest in protecting and promoting human rights.

As citizens of this free and magnificent land, Canada, you have, one might suggest, an obligation to protect and promote human rights.

Canadians have been, from the beginning, in the forefront of developing institutions to advance the rule of law and the protection of human rights internationally.

Canada played a leading role in the creation of the International Criminal Court, to cite but one, important, example.

For our own safety’s sake, we might say, we need such institutions.

To conclude, may I congratulate you once again on your Call to the Bar.

How proud all of us are of you – your families, your friends, all of us here on the stage – we all join with you in celebrating this wonderful day.

Encore une fois, je vous souhaite tout le succès, toute la satisfaction, toute la joie possibles lorsque vous vous engagez dans la pratique du droit.

Vous avez choisi une belle vocation et j’espère qu’elle sera pour vous au cours des années à venir ce qu’elle a pu être pour moi, c’est-à-dire, une aventure merveilleuse.
Bonne chance!

Good luck!

Thank you.

[James K. Stewart]