

Allocution

Remarks

Frank Iacobucci

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NOTES, INFORMATIONS ET DOCUMENTS

Doctorats honorifiques octroyés à M. le Baron Francis Delpérée et à l'Honorable Frank Iacobucci Collation des grades du 4 juin 1995

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THE HONOURABLE MR. JUSTICE FRANK IACOBUCCI
Supreme Court of Canada

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INTRODUCTION

Madame le Chancelier,

Permettez-moi d'exprimer ma profonde reconnaissance pour l'honneur que vous me faites en me conférant un doctorat honorifique de l'Université d'Ottawa. J'aimerais féliciter Monsieur le Baron Francis Delpérée avec qui je reçois cet honneur. To receive this honour with you Monsieur le Baron, adds greatly to the lustre of this occasion for me and for all of us here to-day. Être ainsi reconnu par cette université est d'une grande importance pour moi, et cela pour plusieurs raisons, mais particulièrement parce que l'Université d'Ottawa est une institution remarquable. Je parle en connaissance de cause car depuis que j'ai accédé à la magistrature, j'ai eu presque chaque année, un diplômé de l'Université d'Ottawa comme clerc. Je puis donc attester de l'excellence des diplômés d'Ottawa aussi bien en common law qu'en droit civil.

À cet effet, nous devons être reconnaissants envers les professeurs pour leur enseignement et leur contribution académique impressionnants. Ils ont été d'une grande aide aux tribunaux de ce pays, et particulièrement à la Cour suprême. J'aimerais souligner le leadership de la doyenne Sanda Rodgers, du doyen M^e Louis Perret, de même que celui de leurs prédécesseurs.

With that ringing endorsement, I hope the Chancellor and Rector will react accordingly when it comes to budget setting and resource allocation for the Faculty of Law.

Graduation is a time when we remember the past, celebrate the present, and look forward to the future. But of the three time dimensions of the occasion, celebration is the most important. And here let me say that each of you graduates deserves the praise and recognition that this day brings to all of you.

Il n'est pas facile d'être admis à une faculté de droit du calibre de celle d'Ottawa; d'avoir réussi comme vous l'avez tous fait requiert beaucoup de persévérance, de travail ardu et de sacrifices. Je voudrais reconnaître le soutien exceptionnel que vous avez reçu de votre conjoint ou conjointe, de vos parents, et peut-être même de vos enfants dans certains cas, de vos frères et sœurs, de vos proches et de vos amis.

I suspect most, if not all of the degrees conferred to-day are jointly held degrees. I know that in my own case, my wife, Nancy, deserves at least one of the two letters of the D.U. because without her support, understanding and love, I would not be here.

In any event, congratulations to all of you graduates and your supporters and friends who not only rejoice with you to-day but also deserve to be recognized for their contributions to the happiness and success of this important occasion.

ADVICE : SOME SUGGESTIONS TO THINK ABOUT

A convocation address should be like an argument before the Supreme Court of Canada; it should "Be Brief, Be Heard, Be Clear and Be Gone" as former Justice Estey used to say. It is common for a convocation speaker to offer some advice as you embark on the next chapter of your lives.

To the extent I offer you any advice, you may be somewhat reluctant to receive it from a judge after H.L. Mencken's description of judges as law students who mark their own examinations.

In the final analysis, I am not sure I am going to offer advice as much as I wish to share some thoughts with you and offer some suggestions for you to think about.

Offering some suggestions brings me to dealing with the future. I am wary about futurology because I agree with Eugene Ionesco that you can only predict things after they have happened. However, by necessity we have to be somewhat prepared for the future because as Confucius wisely remarked, "If a person takes no thought about what is distant, he or she will find sorrow near at hand".

I wish to make four suggestions. I begin by observing that nowadays we constantly hear and see evidence of so much cynicism in the world around us. Granted we are in a world of change whether change is technological, social, international, political, demographic or whatever. But change need not breed cynicism.

Toutefois, presque toutes les institutions dans la société sont visées par des appels à la réforme ou à des changements fondamentaux. On doit toujours être en quête d'amélioration et de progrès, mais il n'est pas nécessaire de tout rejeter ou de constamment refuser de reconnaître ce qu'il y a de bon dans le monde dans lequel nous vivons. Devant cette marée de cynisme quotidien, il semble qu'une bonne nouvelle soit une espèce en voie d'extinction.

To-day, however, I want to share some good news with all of you. In doing so, I am inspired by my late mother-in-law who died at 97 after a life of setting high standards for herself and her family. She had a number of expressions by which she lived her life and here I come to my first suggestion to you. My favourite expression of her was "Look at the doughnut, not the hole". There are other expressions that convey the same meaning but I prefer my mother-in-law's because of my respect for her and my fondness for doughnuts.

With her approach, a disquieting world of change and cynicism can be viewed as a world of challenge and excitement. That's the good news. This is not a gimmick or *naïveté* on my part. I simply mean that there has been no more fascinating period to study the law, legal institutions and the administration of justice than the present. I realize that the problems that my generation has left yours are enormous; indeed these problems are probably greater than ever before in history when we consider issues like the environment, health care, poverty, and so on. But never in our history have we had a generation that is as diverse, talented, enlightened, and energetic as you. That fact converts a world of disquieting change and cynicism into one of challenge and confidence to overcome the obstacles of change and the malaise of cynicism.

My second comment to you relates to the profession that most of you law graduates will be entering. Again the legal profession is undergoing extensive strain, self-analysis, and criticism. Much of this ferment may be necessary to achieve progress but again we should not lose sight of what is right and good about the legal profession. The rule of law can have no higher aim than to be the difference between a tyranny and a civilized society and lawyers play an invaluable role in making the rule of law a reality.

Roscoe Pound, the former Dean of the Harvard Law School stated :

Historically, there are three ideas involved in a profession : organization, learning, and a spirit of public service. These are essential. A further idea, that of gaining a livelihood, is involved in all callings. It is the main if not the only purpose in the purely money-making callings. In a profession, it is incidental.

Nowadays we hear so much of the economic or business side of the legal profession with great emphasis on the bottom line rather than on the right line. I realize that economic considerations are an obvious reality but if the practice of law becomes only a business we will have produced a calling without a spirit, or much worse, without a soul.

Le plus noble attribut d'une profession est le service qu'elle rend à un client en particulier et au public en général. Comment peut-on avoir plus de satisfaction que de pouvoir aider un être humain? N'est-ce pas ce que le mot service veut vraiment dire? C'est avoir la confiance de quelqu'un qu'on est obligé de servir avec les plus hauts standards d'éthique, même si parfois, cela signifie donner un avis qui n'est pas toujours le bienvenu.

In that respect, there is a special story I wish to relate about Abraham Lincoln.

Lincoln often refused to undertake doubtful causes, discountenanced sharp practices and discouraged litigation. He once said, for example, to one client that : "Yes, we can doubtless gain your case for you; we can set a whole neighbourhood at loggerheads; we can distress a widowed mother and her six fatherless children, and thereby get for you six hundred dollars to which you seem to have a legal claim, but which rightfully belongs, it appears to me, as much to the woman and her children as it does to you. You must remember, however, that some things legally right are not morally right. We shall not take your case, but we will give you a little advice for which we will charge you nothing. You seem to be a sprightly, energetic man. We would advise you to try your hand at making six hundred dollars in some other way".

Comme avocats, nous devons tous être prêts à donner le genre d'avis que Lincoln a donné dans des circonstances similaires. Ce genre de courage et de conviction sont ce que j'admire le plus chez les avocats.

A BALANCED LIFE

Mon troisième commentaire traite de l'importance d'avoir une vie en dehors du droit ou de quelqu'autre profession ou carrière que vous choisirez ultimement. In my view, a university degree is not so much a ticket to earn a living as it is a passport to learn how to live.

We devalue our degree and education if we lose sight of our roles as husband, wife, partner, parent, friend or citizen. The role that each of you will play in your family, community or province as a citizen is crucial. Too often, many lawyers abandon that role because of a distortion of priorities. I have said that when my peers and myself look back over our careers, many express regret at not having spent more time with their children while they were growing up. Whereas few, if any, ever express regret at not having spent more time in the office.

A balanced life is virtually unattainable in a perfect sense; but the important point is to be sensitive to it and to make the effort to achieve it.

INDIVIDUALISM AND IDEALS

Finalemment, je vous dirai que chacun de vous, diplômés, possédez quelque chose de magique, c'est-à-dire, votre individualisme et les idéaux que vous avez acquis durant vos études de droit. Vous avez tous constaté que nos lois et notre système juridique avaient des faiblesses. Ils ne sont pas parfaits et ils doivent être améliorés.

As future lawyers and law reformers, I urge you to heed the inspiring words of Lord Brougham in the early 19th century. He said :

It was the boast of Augustus [...] that he found Rome of brick and left it of marble [...] But how much nobler will be the Sovereign's boast, when he shall have it to say, that he found law dear, and left it cheap; found it a sealed book — left it a living letter; found it the patrimony of the rich — left it the inheritance of the poor; found it the two-edged sword of craft and oppression — left it the staff of honesty and the shield of innocence.

You will gain much experience and understanding as you enter your professional careers. But not to use your intellect, and education for the betterment of society is little short of a sin. Thomas Wolfe has written : "If a man has a talent and cannot use it, he has failed. If he has a talent and uses only half of it, he has partly failed. If he has a talent and learns somehow to use the whole of it, he has gloriously succeeded, and won a satisfaction and a triumph few men ever know".

Don't ever lose the spirit or compassion that stirred you to study the law. Keep that compassion, that spirit always. Also, keep that sense of individualism even at the risk of making a mistake. It was said of John Diefenbaker that he was sometimes wrong but he was never on the side of wrong. That's what really matters.

Madame le Chancelier, peut-être que ce que je viens de dire pourrait être caractérisé comme étant des idéaux difficiles à atteindre, mais cela ne m'inquiète pas, parce que comme l'écrivait un grand avocat et poète :

Ideals are like the stars, we can never reach them or touch them with our hands, but like the mariners of old we can chart our course by them and safely reach our destination.

In reaching the many destinations throughout your lives, law graduates, look at the doughnut, not the hole, emphasize service to people, strive for a balanced life, and chart your journey by ideals.

Je vous félicite encore une fois et je vous offre mes meilleurs vœux de bonheur. J'espère que vous serez comblés dans tout ce que vous accomplirez.

Thank you.

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