

**Remarks of the Right Honourable Beverley McLachlin, P.C.
Chief Justice of Canada**

to the Faculty of Law, University of Alberta

**September 19, 2008
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I have been given 30 minutes or so to speak to you. In beginning my address, I am mindful of the advice of author Norman Ford: “Never try to tell everything you know. It may take too short a time”.

Today, I would like to focus on a small corner of what I think I know perhaps a little about — the legal profession and its traditions of public service. But before I go there, however, I want to begin by saying something about the great institution that is this university, whose 100th anniversary we celebrate this year and today.

The first world I knew as a small child was quite literally “home on the range”. A small house on a farm. No electricity. No running water. Rural electrification came a few years later, but in the mid to late 40's it remained a dream on the farms and ranches west of Pincher Creek.

University was an improbable destination for a small girl in such an environment. But through the books I read, the teachers who schooled me, the family that filled me with stories of what they wished they had been able to do with their lives, I came to the view that I must go to university,

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and with the help of creative funding, largely from the government of Alberta, at the age of 17 I found myself on the Greyhound bus bound for Edmonton and the University of Alberta.

My undergraduate degree exposed me to the world of arts and humanities and history, and gave me a hankering to do more. But what? Dithering during the summer, I wrote to the Faculty of Law at the University to ask for information about the requirements for admission. The inimitable Dean William Bowker — who to me was then just a name — wrote back by return post, “You’re accepted. Classes start September 5th”. Still undecided, I make my way to the law school. My plan was to give it a week and see if I liked it. If I didn’t I could still go to the States and do graduate work in philosophy. That week has turned into a lifetime in the law.

The Faculty of Law has changed tremendously since my student days. Today the Faculty is larger, more sophisticated and more complex. By contemporary standards of legal education, the law school of the 60’s was a modest affair. A Dean, a few full-time professors, a coterie of lawyers who crossed the North Saskatchewan to teach us evidence, trusts, land law and criminal procedure. No building, just a floor of the old Rutherford Library. Yet it offered those of us fortunate to pass through its portals gifts of inestimable value – a sound grounding in legal principle and an appreciation of the nobility of law and its importance in regulating the affairs of men and women. Above all, it instilled in us the belief that the law is not only about rules and rhetoric – it is about respecting and helping people and trying, in ways small and not so small, to make our particular worlds a little better.

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That for me is what the practice of law — and the work of judging — is all about: in ways small and not so small, making our worlds — from the community to the nation and beyond — a little better. We make our livings, to be sure. But the legal profession is first and foremost a profession of service. We are given our privileges of practice for one purpose — to serve the women, men and children of our society.

This tradition of service is intertwined with the very rise of the legal profession as a profession, and is what distinguished it, in its origins, from the trades. Until the late middle ages in Europe, people, rich and poor, relied on the church and on canon lawyers to solve their legal problems. By 1250, A.D., however, canonical legislation had begun restricting the situations that could be judged in ecclesiastical courts. That left many people without a way to resolve their legal problems. The people began to turn to municipal courts and civil lawyers for aid. Civil advocates began to emerge as an identifiable group. The strict view was that no compensation was required for the lawyers' services, since the lawyer would receive spiritual remuneration for sharing his gifts of knowledge conferred by God — although even spiritually gratified, lawyers had to eat and soon ways were found for grateful clients to slip a ginea in the creases of the barrister's gown. My point is not that lawyers should not be paid, it is that the legal profession from an historical perspective was grounded in a higher ethic — the ethic of service. Service to the public is the rock on which the profession was founded, and on what it still rests.

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From the earliest time, helping the poor was an inherent component of the profession of law, and indeed, contributed to its very status as a profession. As historian James Brundage writes,

It is not coincidental [...] that the period in which the lawyers began to bear a major share of the responsibility for furnishing legal aid to the poor and disadvantaged was also the period in which those same lawyers commenced to define themselves as members of a profession.

Like physicians, who likewise began in this period to identify themselves as professionals, rather than simply as practitioners, medieval lawyers regarded it as one mark of their superiority to other craftsmen that they furnished their specialized skills to economically and socially disadvantaged persons without compensation.¹

This ethic of service remains central to the practice of law today. To practice law is a privilege. But it is a privilege that comes with a condition — the condition of service. As the American jurist Benjamin Cardozo put it :

“Membership in the bar is a privilege burdined with conditions. ...[A lawyer] becomes an officer of the Court, and, like the Court itself, an instrument of agency to advance the ends of justice.”²

I believe that basic justice is a fundamental social good in our society to which every woman, man and child is entitled, like food, shelter and adequate medical care. It is our duty as members of the profession — and your duty as future members of the profession — to ensure that everyone —

¹Zino I. Macaluso, “That’s O.K., This One’s on Me: A Discussion of the Responsibilities and Duties Owed by the Profession to do Pro Bono Publico Work” (1992) 26 U.B.C. L. Rev. 65

² Benjamin Cardozo; *People ex rel Karlin v. Culkin*, 162 N.E. 487 (N.Y. 1928) at 489-90.3

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regardless of how much money they have or who they know or don't know — can access the justice system and obtain justice.

Today, as we are all too well aware, there exists a disconnect between the ideal of justice for everyone and the reality that some people are unable to access a justice system whose procedures have become increasingly costly and prolix. Governments, courts and lawyers are more and more coming together to tackle this problem of access to justice. Yesterday, I spoke at a conference in Vancouver on Pro Bono Law. And on Monday a national justice forum committee will meet here in Edmonton to study the issue of the costs of legal services. In tackling the problem of access to justice, we are doing no more than is our duty as professional lawyers — discharging our role as “agencies to advance the ends of justice”, to borrow Judge Cardozo's phrase.

This weekend, we are celebrating the 40th anniversary of my class's graduation from law school. Life has taken the Class of '68 in diverse directions. Many have practiced law. Some have spent their careers in government, drafting laws and directing policy. Some have taught. A few like me, have become judges. One of the wonderful things about the law is that it offers many ways to serve. Whatever your talents, whatever your passions, the law provides a way in which they can be used as “agencies of justice”.

Wherever the profession of law takes you, I hope you will never forget the ethic of service that lies at its heart. If you remember it, you will be richly rewarded. You will make a living, yes

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— hopefully a good living. But more important, you will have the satisfaction of knowing that you, in your own way, have helped the men, women and children of your communities to obtain justice.

The work of lawyers — helping people find justice — is a high calling of great importance. Let me leave you with these words – the words of John W. Davis, a former US Solicitor – General, describing the role of lawyers in a just society:

True, we build no bridges, we raise no towers, we construct no engines, we paint no pictures. There is little of all that we do which the [human] eye can see. But we smooth out difficulties, we relieve stress, we correct mistakes, we take up other men and women’s burdens and by our efforts we make possible the peaceful life of men and women in a peaceful state.³

To those of you who are about to embark on a career in the law, let me say simply this, “ I can think of no better way to spend your life”

I thank you.

³Quoted in Douglas W. Hillman, /Professionalism - A Plea for Action!” (1190) 69 Mich. B.J. 894 at 897

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