

Notes for Remarks of the

Honourable Mr. Justice Frank Iacobucci

"Some Personal Reflections on the Legal Profession:  
Past, Present and Future"

CEREMONY TO RECEIVE  
THE HONORARY DOCTORATE FROM  
THE LAW SOCIETY OF UPPER CANADA

On February 25, 2000

at

Toronto, Ontario

Introduction

Mr. Treasurer, Chief Justice McMurtry, Dean Daniels, Professor Pilkington, Benchers of the Law Society, Distinguished Guests, about to be Newly Called Barristers and Solicitors and Your Proud Family and Friends.

This is a great occasion for me and I wish to thank the Treasurer and Benchers profoundly for the honour they have conferred on me. May I also thank the Treasurer for all his care and effort in welcoming me to this event. I also wish to thank Madame Chair Backhouse for her generous - perhaps too much so - citation. I have always had a special feeling of pride and admiration toward the Law Society of Upper Canada as I hope my remarks will reveal.

But let me also say to you who will be shortly admitted to the Bar of this Province how much I congratulate each one of you for all of the hard work, tears, frustrations, peaks and valleys that have gone into making this day possible for you. Unlike my honour, yours is earned and earned so significantly because you put so much effort into arriving at this moment. I am sure you

have also had wonderful support in your efforts. In my own case, I must acknowledge what my wife, Nancy, has done for me; I can never repay her for her constant support, encouragement and help such that I would not be here today or doing what I do for a living without her. I also know how much your loved ones and special supporters and mentors along the way mean to all of you on this very special day. This is indeed a day of triumph and celebration for them as well as you, and we salute all those who have made your long journey to this ceremony possible. The fact that there are many who have gone before you and that there are many who stand with you today should not detract in any way from the individual success story that each of you represents. All of us in the administration of justice in this Province and this country are proud of every one of you.

### The Changing Nature of the Legal Profession

As we are now in the new millennium, I thought it might be appropriate today to look back and reflect briefly on some of the changes in the legal profession which have occurred in a relatively short period of time. I've taken some of my experiences as a vehicle to comment on those changes and I hope you will not feel that I am being unduly egocentric in doing so. Throughout my

life, a rubric that has very much guided my professional career and in many respects my personal life comes from Petrarch. Petrarch asked three questions of the ancient city: "Where did it come from; where is it now, and where is it going?". Those are questions that we can ask ourselves with respect to any problem we face or any issue that we must deal with; and I think it is important when we look at the legal profession today to recall where it came from and to ensure that we look at its history and its present context to determine directions for the future. Hence the title of my remarks is "Some Personal Reflections on the Legal Profession: Past, Present and Future.

I believe this review is also important for another reason. In a society in which virtually everything is under attack, it seems to me that we should try to keep criticisms in perspective. There is no doubt that we, as members of the legal profession and as members of the judiciary are exposed daily to barbs and jabs, some of which may be fair, but others of which are most unfair and uncalled for.

In this respect, my mother-in-law had a saying that I would like to borrow. She often said: "Look at the doughnut and not the hole". As applied to my comments, her expression simply means that, in trying to improve our profession, we should not forget the progress that has already

been made, and the overwhelmingly positive aspects of the role of law and lawyers in our society.

We should remember these things not to be defensive or for self-aggrandizement, but for the fundamental reason that in our efforts to improve we should not reject the core values of our profession that our history has developed and that are crucial to serving the interests of society.

### Some Personal Reflections

I grew up in Vancouver, the son of Italian immigrants who impressed upon me the value of a good education, even though they had not had the opportunity for much education themselves. At the end of grade 6, the school Principal said something about each of us who were graduating to go to Junior High School; in my case, he mentioned that I was a great talker and therefore might be another Angelo Branca. I had no idea who Angelo Branca was, but when I went home to tell my father what the Principal had said, my dad told me that Angelo Branca was an outstanding lawyer who went on to be a judge on the B.C. Court of Appeal - the first judge of Italian descent on any Canadian Court of Appeal. By his remarks, the Principal planted a seed, and ever after grade 6 I wanted to be a lawyer.

Although we were in a very small minority as Italo-Canadians in Vancouver, I never

really experienced anything personally that I thought amounted to discrimination or inaccessibility as far as minorities were concerned. However, I learned later that during World War II my father lost a job at the Vancouver airport because of his enemy alien background. I also learned that my brother's father-in-law was interned along with many other Italian Canadians and of course thousands of Japanese Canadians. In many cases, internment meant in effect the destruction of families. But my personal world had no dark side.

In fact, I was amused by my being taken for Japanese or Polish or Jewish. For example, I was billed as the first Japanese Canadian to play in the Pacific Coast Soccer League. I was always curious to see whether someone could guess the proper origin of my name.

When I went to University I had an economic statistics professor by the name of Matuszewski, who took a great interest in me. He asked me what I wanted to do with my life and I told him that I wanted to be a lawyer. To my surprise, he said that I should not pursue law. His reason was that my name would be a disadvantage for practising law in Vancouver. He suggested we go see John Deutsch, who was then the Chairman of political science and economics at UBC later the President of Queen's University which we did. Deutsch was something of a Solomon

figure, and fortunately for me he said that if I wanted to study law I should go for it because Canada was changing. But even that remark gave me some disquiet. I had thought that everything was open for anyone, no matter what background.

However, I was to find out that in Toronto and Vancouver and indeed nearly everywhere else, law was not an open and accessible profession. One Toronto senior practitioner recently remarked that in Toronto after the War, it was unheard of for Jews to be hired in non-Jewish firms, and it was hopeless to be hired anywhere if you were a visible minority. And in New York City, where I went in the 60's after graduate school, the firms were quite restricted: The firm I was with had one Jewish partner, and my Jewish friends there used to say that I was more Jewish than that partner.

As for women, we had 3 out of 100 in my law school class of 1962; and when I started teaching law at the University of Toronto in 1967 there were only about 5 out of 150 in the first class that I taught. Now I gather women make up 60% of the first year class there. Visible minorities were also still in very small numbers in my day.

Again with regard to women in law, there are a couple of interesting anecdotes

regarding my wife, Nancy, who was not exactly chopped liver in her 1962 graduating class at the Harvard Law School as she graduated magna cum laude. But even she suffered a fair amount of discrimination in getting a job. One prestigious Boston firm offered her \$1000 less than the men of her class, when salaries were around \$7000; to add insult to injury it was the firm where her father and her older brother had started after graduating from law school, so there was tradition as well as qualifications on her part for her to go there. Fortunately, she refused the offer, and the firm subsequently changed their policy when they realized they would not attract top women if they continued discriminating on salary.

As a member of an ethnic minority, I also had a difficult time in the 60's when I was looking for a job in Boston, Washington or New York so that Nancy and I could be together. One senior partner of a large Washington law firm asked me if my father was in industry in Canada. When I told my interviewer that my dad worked in a steel foundry, the interview ended. A smaller Boston firm which has now become quite large and prestigious, (in fact it was the major law firm in the book "Civil Action"), offered me a job, but on condition that Nancy came along too.

From these remarks, you can see that the relatively recent history of the law

profession was in many respects quite unattractive.

### The Changing Profession

But the profession did start to change. When women started coming to law school in greater numbers, many of us at the Faculty of Law in Toronto became committed to ensuring that more opportunities would be given to those women as well as to other minorities. We did not need to do much promoting because it was obvious that the women and other minorities who came to law school were outstanding and would prove their worth without any difficulty if given the opportunity.

Indeed, I think that probably the most positive development in my time in the law has been the increasing participation, on a relative scale, of women and other minorities in the profession. I don't mean to say we can drop our tools or that we can become complacent; in fact there are task forces that say that much more has to be done. But this change in the legal profession - and I would say particularly as reflected in the Law Society of Upper Canada - has been fundamentally positive. I am proud of the changes that have been made in the profession, in both its academic and practising components as well as in the judiciary. They are cause for celebration

and serve to inspire our continuing commitment to improve. So, to balance all the doom and gloom about the law, the legal profession, and the administration of justice, let us look at the doughnut and not the hole.

This historical context and the lessons we have learned are particularly important now because most of our immigration currently comes from Africa, Asia and Central and South America rather than Western Europe. This change presents our profession with more challenges to include more people with even more diverse backgrounds. But I am optimistic because I believe the momentum for change and improvement cannot be stopped, especially when I look around and see all of you who are about to be called. You are more committed to fairness, inclusion and accessibility than any earlier generation, and that augurs well not only for the legal profession but also for our country. And here I come to the future.

### The Excitement of the Future

Today we in the legal profession face many challenges, whether they be concerns about multi-disciplinary law firms, concerns about the transformation of our profession into a business with all of the attendant pressure on bottom line performance, or concerns about

competence and accountability and accessibility to the public through legal aid. But I will boldly and perhaps injudiciously say to you that you will never regret your being called to the Bar of this Province. Although I am no futurologist, I can confidently predict a life of opportunity, challenge and excitement for each of you. One need only reflect on the fascinating issues that present themselves daily: aspects of technological change, shrinking borders, social evolution, the fundamental issues regarding the environment and so on. The role of lawyers and the importance of the rule of law in all of those issues will be front and centre. We as members of the legal profession have a pivotal role to play as we face all of these new millennium challenges.

We will have to ensure that our law schools, our legal profession in all of its forms, and our judiciary are prepared to meet these important challenges. But as I mentioned earlier, in our search for improvement, we must never abandon or dilute the core values of the legal profession, which are based ultimately on serving the interests of society.

Indeed, when you really reduce the matter to its essentials, it seems to me that the real mission of the legal profession is all about service and helping people. In my view, there is no nobler calling than that; that is the benchmark of being a lawyer. I hope that service is a major

reason you chose the law, and I also hope that it is a reason why you will find the practice of law so fulfilling and rewarding. Whenever you are having a moment of doubt or concern, just remember how important it is for you to serve others, and how much your clients rely on you and need you.

It seems to me that such psychic returns are greater than any financial or monetary one.

I end on a favourite story. Some time ago there were three workers whom a passer by stopped and asked each of them what they were doing. The first said: "I am cutting stone". The second said: "I am making \$5 a day". And the third said: "I am building a cathedral".

The third worker was able to view what he was doing in a larger context. That's what I hope all of us in the legal profession do in our daily work. We see that the cathedral we are building is through our service and help to our clients, participating in the proper administration of justice and the effective operation of the rule of law, both of which are designed for one end only, namely the betterment of society. That is the calling that you are entering today. That is why you should feel so proud of your accomplishments and that is what should motivate you in your future careers. With all of that, I wish you all success, fulfilment and happiness.