

MINUTES OF SPECIAL CONVOCATION

Toronto – Thursday, 18th June, 2009
9:00 a.m.

The Treasurer (W. A. Derry Millar), benchers and their guests proceeded to the auditorium at Roy Thomson Hall for the Call to the Bar ceremonies of 305 candidates listed in the Report of the Director of Professional Development and Competence.

.....

CONVOCATION WAS CALLED TO ORDER AT 9:00 A.M.

A quorum of Convocation was present.

The body of the auditorium was occupied by the candidates and their guests.

The Treasurer asked all present to stand for the National Anthem sung by Keith Klassen.

The Treasurer welcomed the candidates and their guests.

.....

CONFERRING OF AN HONORARY DEGREE

Ms. Beth Symes, a representative of the Professional Development and Competence Committee introduced the Doctoral candidate the Honourable Justice Harriet Sachs, and read the following citation:

“Treasurer may I present to you and this Convocation Madam Justice Harriet Sachs and request that you confer upon her the degree of Doctor of Laws, *honoris causa*.

Harriet Sachs has been and is seen to be a pioneer and role model for women in the legal profession. She was one of the founders of the first all woman firm in Ontario and for 22 years, before her appointment to the Superior Court of Justice, she practised in the areas of family law, civil litigation and human rights.

Elected a Bencher of the Law Society of Upper Canada in 1995, she was Co-Chair of the Bicentennial Report on Equity Initiatives in the Legal Profession. That report summarized the work of the Law Society to promote equity and diversity in the legal profession and the challenges of doing so going forward. Twelve years after its release, the Society continues to reflect upon the issues it raised and to measure the progress of women lawyers by its benchmarks.

Madam Justice Harriet Sachs is deserving of this honour, I request you, Sir, to confer upon her the degree of Doctor of Laws, *honoris causa*.”

The Treasurer admitted Justice Harriet Sachs to the degree of Doctor of Laws, *honoris causa*.

Justice Sachs then addressed the candidates and their guests.

“Thank you for this great honour. I am overwhelmed and when I am overwhelmed my usual response is to retreat into a book, not give a speech. I love to read, but if get to choose, my books come with happy endings. I have learned that life does not always deliver happy endings. However, if you’re lucky, it can deliver wonderful moments. For me, this is one of those moments, not only because of the honour I have received but because I get to share it with all of you and, most particularly, my eldest daughter, Emma, who is being called to the Bar today.

I look at you and I see myself- sitting in what was then the O’Keefe Centre, waiting to be called up to the stage. I remember that my feet hurt and that the collar of my court shirt felt way too tight. I don’t remember feeling triumphant, but I do remember feeling unsure and scared- unsure about my choice of profession and scared, because, having made that choice I could not see how I would ever find my way in a profession that had not yet made a place for women.

When I started law school my class of 300 was divided into sections of 60. My section had three women. I had never had a woman law professor and when I articulated at a medium sized downtown law firm there was one woman associate. When I got called to the Bar, there were a handful of women on the trial benches; there had never been a woman appointed to the Court of Appeal of any province and there had never been a woman on the Supreme Court of Canada.

I had tried my hand in the courts during the summer and semester that I spent in a legal clinic during law school. By any standards, it had not gone well. My first court appearance, on behalf of a regular attendee in what was then referred to as “drunk court” came to an abrupt end when, just after I’d nervously given the judge my name, a voice boomed from the back of the courtroom asking the judge to have me arrested. It was my client’s wife, another drunk court regular. She was pointing at me and yelling to a packed courtroom about how I was having an affair with her husband. For the record, it wasn’t true. On my second appearance – also in drunk court, fortunately, in front of another judge, I fared no better. This time I pled my client guilty and gave what I thought was an effective presentation about how he had changed and should therefore receive a light sentence. The judge listened and then turned to my client saying “It’s bad enough that you would try and deceive this court with this tale of reformation, but what’s worse is that you actually got this nice young girl to believe you.”

I have to confess that when I first thought about this speech my plan was to talk about how I now realize that not having a ready slot to fit into forced me to find my own path in the law in retrospect, a gift. That is, until I read Frank Bruni’s article in the Sunday New York Times a few weeks ago. It was a column about the struggle that this year’s

commencement speakers are having giving the usual messages about the triumphs awaiting the graduating class when, in so many ways, the realities facing that class seem so grim. He went on to summarize what he called the “leitmotif” of this year’s commencement speeches. As he put it,

“ Speaker after speaker recalls nailbiting national conditions at their own graduations – or simply miserable personal stories from their youth – as a way of assuring their audience that life’s ordeals are plentiful, survivable and, as the trajectories of the speakers themselves demonstrate, preludes to great accomplishment. Message: it’s tough now, but you could be on a dais in a tasselled cap receiving an honorary degree and dispensing some assertive optimism of your own in 30 years.”

I read that column and my heart sank. If he hadn’t summarized my speech, he’d at least lampooned its subtext and I hadn’t even written it yet. If I couldn’t talk about triumphing over adversity and the opportunities it presents, what could I talk about? And then I thought about what the law has offered me over the past 30 years and I realized that there was something I wanted to share with you, because it is how I survived and, believe me, survival was my aim, not triumph.

As you’ve heard, after I was called to the Bar I set up a firm with three other women. For the rest of my professional life as a lawyer I continued to work with women and, more importantly, with people I cared about and who cared about me. My workplace offered me a place to connect – and when I use the word “connect” I mean more than just keeping in touch or making contacts. We were women facing an array of challenges and we reasoned and laughed our way together towards solutions. What we did for each other gave us the strength and the will to interact in the same way with our clients and our communities.

In the over 30 years I have been in the law I have seen real changes. The profession has become much more diverse. Women, particularly, are now a huge presence. They go to law schools in the same numbers as men. They get hired by the firms that did not want me in the same numbers as men. This is a good thing. What has been disturbing has been to watch how, within 5 to 7 years, so many of them are gone – often leaving the profession for good.

The realities that have caused women to flee the workplaces that my generation had fought to get them access to, have also affected the men in those workplaces. To make this point, Joshua Perry, a law professor at Vanderbilt University, composed a fictionalized letter based on the conversations he had had with practising lawyers he knew – some his former classmates, most his former students. It began as follows:

“Dear Professor Perry,

I am writing to seek your advice regarding my life.

I graduated from law school two years ago, passed the bar exam and I have been in the practise of law for about 18 months.

I am earning a good salary- enough to make my monthly school loan payments, drive the standard issue BMW, make the mortgage on my new house, and drink \$3 cups of coffee. Financially speaking, things are pretty good. I think I'm earning about twice what my father earned when he retired. I'll turn 29 next month.

But I'm writing today because I am restless. I feel disconnected and empty. I do not enjoy my practise, much less feel fulfilled by it. In fact, I dread the thought of going into work every day. And I don't know what to do..."

For his former students, Professor Perry's response is to return to them a copy of the personal statement that they wrote when they applied to law school.

In the past three decades life in the law has come to be dominated by the billable hour. The more hours you bill, the more you earn. If you do not bill up to expectation, there is no place for you. The problem is, as Professor Marina Angel so succinctly put it when she spoke to the New York Women's Bar Association a few years ago, "Two thousand billable hours a year are incompatible with human life."

Billable hours have become the measure of participation and contribution. Yes – they offer the advantage of objectivity. But, in a fundamental way, they miss the point. Participation, human participation in a collective enterprise, cannot be reduced to a number. If you do that, you destroy what makes working together and living together worthwhile – a sense of connectedness – the recognition that we can depend on each other for our mutual survival and well-being. When we feel connected, we learn to trust each other. We learn to rely on each other to solve the problems that we all face. We learn to believe and act in a way that reinforces the development of reciprocal relationships – relationships that recognize that mutual self-interest is also our own self-interest.

I have a friend. I call him my "inspiration". His name is Ric Young. He is not a lawyer, but he is one of the leading thinkers about how to effect social change in this country, change directed at creating healthier communities and from that a better world. I cannot do justice to his message, but I have heard him quote Marcus Aurelius, the Roman emperor and philosopher who 2000 years ago put it this way: "Always remember this doctrine: Reasoning beings were created for one another's sake." I have also heard him talk about the research that shows that, ultimately, the quality of people's lives depends not upon whether they earn hundreds of thousands of dollars, but on the quality of the bonds between them.

If the tap that fed the billable hour culture has not been turned off – it has at least been reduced to a trickle. In a sense the music has stopped. That silence may feel scary, but it is also your opportunity – your opportunity to demand something better – for yourself, for the people you work with and for your community. Because here is another connection. Alienation breeds alienation. People who feel alienated in the place where they spend most of their waking hours become alienated from each other and from their social and political institutions. As Robert Putnam, a professor of public policy at Harvard put it, "this disengagement poses a critical threat to our personal health, local communities and national well-being."

Who is better equipped to rebuild our workplaces and our profession so that they foster, rather than destroy connection, than you are? You are among the best and the brightest of your generation – a generation that has started to speak out about the need for change. You have spent four years studying an enterprise that is fundamentally about the ordering of human relationships. You have been trained to understand that decision making requires listening, hearing both sides, thinking and reflection. You have been taught the importance of process – that if the process is not fair – the result is compromised. You have been taught to examine and test the principles that guide our relationships to each other and to adjust those principles to meet new, unanticipated situations. You know that there are no easy answers, but that if we take the time to reason our way together, we can create environments that foster human dignity, environments that are based on the concepts that lawyers have helped develop – values such as freedom of speech, freedom of association and equality. So my message to you is use what you have learned and know. Don't compromise on connection. Start with yourself. Integrate who you are with who you become as a lawyer. Take that into the world you work in. If that work place does not seem to exist, work with others to make the one you're in change or create a new one of your own. Care about yourself and the others around you. For truly, we are in it together and without each other, we will not survive.

I am going to end this speech with a benediction of sorts. In doing so I realize that I no longer care what the New York Times would think about what I say. It is a slightly modified quote from Paul Goodman. Paul Goodman was a philosopher, teacher and artist, who, in his time, was compared to Rousseau. He believed in a Utopian society, which he described as follows: "...where the community is planned as a whole, with an organic integration at work, living and play; where it is the policy to give an adequate voice to the unusual and unpopular opinion; where people are not afraid to make friends; where sexuality is taken for granted; where happiness means people to love, a community to work for and a world at peace." That is my wish for you and for us."

CALL TO THE BAR

Ms. Potter and Messrs. Banack, Lewis and Ruby presented to the Treasurer 305 candidates for the Call to the Bar as follows:

305 CANDIDATES FOR CALL TO THE BAR

(list of candidates in Convocation file)

The Treasurer conferred upon the candidates the degree of Barrister-at-law and called them to the Bar of Ontario.

The Treasurer addressed the new barristers.

CONVOCATION ADJOURNED

.....

Following Convocation a Special Sitting of the Court of Appeal for Ontario and the Superior Court of Justice convened, with the Honourable Justice Laurence A. Patillo presiding.

The candidates were presented to Justice Patillo before whom they took the Oaths and acknowledged their signatures on the Rolls in the presence of the Court.

Justice Patillo addressed the new barristers and solicitors.

.....

At the conclusion of the formal proceedings, the Treasurer and benchers held a reception and luncheon for their guests at Osgoode Hall.

Confirmed in Convocation this 24th day of September, 2009

Treasurer