

## MINUTES OF SPECIAL CONVOCATION

Ottawa – Thursday, 14th February, 2002  
3:00 p.m

Prior to Convocation, the Treasurer and Benchers held a reception and luncheon in the Amphitheatre of the National Arts Centre in Ottawa. The guests in attendance were Justice Douglas J. A. Rutherford, Justice Hector Soublière, Raymonde Soublière, Janie Marie-Josée Soublière, Prof. David J. Mullan, Elizabeth Mullan, David Stratas, Dean Alison Harvison Young, Justice John M. Evans, Justice Marshall Rothstein, Stanley Sadinsky, Lucille Bordeleau, Dean Peter W. Hogg, Dean Bruce Elman, Dean Bruce Feldthusen, Stephen Cavanagh, Celine T. Allard, Stuart C. McCormack, Donald Macdougall, James Leal, Jacques Ménéard, Fran Russo, Martine Richard and Jonathan Brunet.

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Following the luncheon, the Treasurer, the Benchers and their guests proceeded to Southam Hall in the National Arts Centre for the Call to the Bar ceremonies of the 162 graduates of the Bar Admission Course and 15 transfer candidates.

### CONVOCATION WAS CALLED TO ORDER AT 3:00 P.M.

The Treasurer asked all present to stand for the National Anthem sung by Martine Richard.

#### PRESENT: (Platform)

The Treasurer (Prof. Vern Krishna, Q.C., FCGA), Stephen Bindman, Gordon Bobesich, Kim Carpenter-Gunn, Earl Cherniak, Andrew Coffey, Marshall Crowe Edward Ducharme, Todd Ducharme, Gordon Farquharson, Abraham Feinstein, Patrick Furlong, Gary Gottlieb, George Hunter, Barbara Laskin, Frank Marrocco, Janet Minor, Daniel Murphy, Ross Murray, Helene Puccini, Heather Ross, William Simpson, Donald White, Richmond Wilson and Bradley Wright.

and

Justice John Evans, Justice Gilles Lévesque, Justice Marshall Rothstein, Justice Douglas J. A. Rutherford, Justice Hector Soublière, Prof. David J. Mullan, Lucille Bordeleau, Dean Peter W. Hogg, Dean Bruce Feldthusen, Dean Bruce Elman, Dean Alison Harvison Young, Stephen Cavanagh, Celine T. Allard, Virginia Schweitzer, James Leal, Jacques Ménéard, Martine Richard, Jonathan Brunet, Malcolm Heins, Ian Lebane, Terry McCarthy, Gregory McCashin, Diane van Bergen and Nancy Martin.

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

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#### CONFERRING OF AN HONORARY DEGREE

Mr. Edward Ducharme, Chair of the Admissions Committee introduced the Doctoral candidate, Professor David J. Mullan and read the following citation:

“Treasurer, it is my most pleasant duty to present to you and to this Convocation, Professor David J. Mullan and request that you confer upon him the degree of Doctor of Laws, *honoris causa*.

Law and education have been intertwining themes throughout Professor Mullan's extensive career. Educated in New Zealand, he demonstrated outstanding scholastic ability in his legal studies at the University of Wellington where he received an LL.B. and LL.M., 1st class. Even as he embarked upon his career in the traditional practice of law, however, he was drawn to the world of academia.

David Mullan's gift as a legal educator has been a true constant throughout his career. He has shaped the minds of many members of this profession. His possession of a sharp and analytical legal mind has allowed him to become an accomplished author of legal studies in Administrative and Constitutional Law, as well as, Contract and Remedies. His works have challenged the traditional confines of law and challenged the thinking of those who practise it.

Currently, he holds the Osler, Hoskin and Harcourt Professorship of Administrative and Constitutional Law, an honour that further underscores his outstanding contributions to the legal profession.

He is deserving of the highest honour this Society can give and I request you, Sir, to confer upon David Mullan the degree of Doctor of Laws, *honoris causa*."

The Treasurer admitted Prof. David Mullan to the degree of Doctor of Laws, *honoris causa*.

Prof. Mullan addressed the candidates and their guests.

"Treasurer, Justice Rutherford, Members of Convocation, guests, and especially those of you about to be called to the Bar and your families and friends:

I am just delighted at the great honour the Law Society of Upper Canada has conferred on me today. The profession's choice of a legal academic as the recipient of an honorary doctorate is both personally gratifying and reflective of an era of greater mutual respect and recognized commonality of endeavour on the part of these two branches of the law. It is, also, of course, a considerable pleasure to attend a ceremony marking the culmination of a process of formal education involving both the law faculties and the profession. That pleasure is enhanced by the presence among those about to be called of a number of my own former students, one of whom, to my great delight, is about to receive a veritable treasure trove of prizes. However, enough parochial chatter! My warmest congratulations to all of you presenting yourselves for admission to the Bar today and also to those who have supported you during the long journey to this first highlight of your professional lives. [Mes félicitations les plus chaleureuses à tous ceux et celles d'entre vous qui sont admis au Barreau aujourd'hui, de même qu'aux personnes qui vous ont aidés à atteindre ce premier grand moment de votre vie professionnelle.]

In his bicentennial history of the Law Society of Upper Canada, Christopher Moore provides details of the historic meeting on July 17, 1797 at which the Law Society was founded. It was held in a hotel in what is now Niagara-on-the-Lake but then named Newark, Upper Canada. Ten lawyers were present, and Moore describes them as a "diverse" group. Their backgrounds were varied and some had "tenuous" professional credentials. One was only nineteen and none was older than thirty-six! Indeed, six of the ten were dead within a decade, the victims of dueling, drunkenness, drowning, and illnesses of various kinds. Not a promising start, some might say! As you might also have suspected given the era, they were all white males and members of "an embryonic ruling élite."

Indeed, not much had changed by the time I was called to the Bar in New Zealand in 1968. Sixty-five or so of us gathered in our wigs and gowns in the main courtroom of what was then the New Zealand Supreme Court. We too were in very large measure white and male though there was at least a scattering of women, Maori, and Pacific Islanders, and, if I recollect it correctly, one visually impaired person.

Fortunately, in Canada (as well as in New Zealand), the era of change was nigh. "Diversity" in the sense in which we use it commonly today, that of a professional cadre reflective of all segments of a multi-faceted society was about to become both a goal and, within a few years, an at least partially achieved reality. The

composition of the group presenting themselves for admission today reflects the continuing realization of this objective.

However, we can still learn much from the profession's past. Indeed, on an occasion such as this, it is instructive and cautionary to consider the Preamble to the Law Society Act of 1797. Those ten founding members spoke with clarity as to their objectives. The Law Society was to provide a means "for the establishing of order among ourselves". The Society was also to exist

...for the purpose of securing to the Province and the Profession a learned and Honourable body to assist their fellow subjects as occasion may require and to support and maintain the constitution of the said Province.

Wisdom. Service. Altruism. [Sagacit9. Service. Altruisme.] These are the values that are at the root of this formal but moving and unambiguous declaration of intent. Moreover, the service of which the Preamble speaks is not just the provision of legal assistance to those in need but equally service in the broader sense of vigilant protection of the constitution and the rule of law.

The passage of 205 years has in no way diminished the force and the relevance of those aspirations. Indeed, at a time when, for many lawyers, the distinctions between law and business are becoming increasingly blurred, it may be more important than ever to pay heed regularly to the foundations on which the profession is built. However large the profits to be made out of the practice of certain kinds of law, this declaration serves to delineate for all of you what is both distinctive about being a member of this profession and what constitute your primary obligations to the Society, the courts, your fellow lawyers, your clients, the public at large, and your province and country.

However, you will not be without role models and support from your peers in the pursuit of these lofty but fundamental goals, and this irrespective of the capacity in which you practise, be it government service, major corporate law office, or as a general practitioner practicing alone or in a small firm. Look around you. You will find in abundance good examples as well as support from those to whom you look for guidance and assistance be they colleagues or other lawyers you come to know from regular professional contact or Bar Society membership.

For all of you, the road to this point has been a long one. For many, it has been a hard struggle economically and often in other ways. Indeed, for all but a few, your call to the Bar today is by no means the end of the quest for professional satisfaction and personal security. The next few years will be challenging ones as you seek to become established in whatever domain or type of practice you find yourself. You may well have to contemplate the possibility of a change of direction. It may even become a necessity. I am under no illusions to the struggles and challenges you may still face.

Nonetheless, despite all the obstacles that will inevitably confront you, I do want to urge that you think regularly of the terms of that Preamble to the foundational statute. You are a member of a learned profession. Keep abreast of the law. Take advantage of the great opportunities now available for continuing legal education. At all costs, be honourable. And, that means more than simply being ethical in the sense required by the detail of your professional code. It also involves at all times treating our fellow lawyers, adjudicators, government officials, and particularly your clients with civility and, in the case of clients, with sensitivity to their needs and problems. Recognize also the call that the requirement to "assist [your] fellow subjects" places on you. In particular, it requires not just competence in the representation of those who can pay but being alert to the plight of those who cannot and for whom legal aid is not available or insufficient. Put aside time for pro bono work whether you are practicing alone, for a major national or international law firm, or somewhere in between. Have the courage, even as a new associate in one of those large firms, to find out about and, if necessary, work for change in the firm's pro bono work policies. Become a member of a community group which can draw usefully on your expertise. Don't see every out of office involvement in terms of its potential for additional remunerative work for your practice.

Beyond this, I also want to emphasise particularly the public service component of the Law Society's foundational objectives. Lawyers have played a major role in the public life of this country. Indeed, it is to

be lamented, not celebrated that the number of lawyers in Parliament and the legislatures is apparently diminishing. Your training and skills fit you particularly well for effective and informed participation in the political and broader public life of Canada. The Charter notwithstanding, Canadians still depend mightily on Parliament and the legislatures for the framing of laws which are respectful of fundamental constitutional and legal principles. Whether as elected members, advisors to parliamentarians, or lobbyists in the cause of appropriate respect for the rule of law and the fundamentals of our legal system, lawyers have a vital role in our democratic processes.

As well, in an increasingly transnational environment, Canadian lawyers are and will continue to be significant participants in international organizations of all kinds. The export of the Canadian version of the rule of law and perspectives on global legal problems should be as much a priority as enhancing trade and securing global security and, indeed, be an integral part of ongoing evolution in both those domains.

Of course, the international, national, or even provincial stage is not for everyone. However, engagement in public service does not stop there. Lawyers have much to offer in their home communities not just as municipal politicians but in various local organizations the aims of which are to enhance the general quality of life of citizens and neighbours, including their effective participation in community decision-making and the harnessing of law to constructive ends.

In the past few months, I have been particularly moved by two stellar examples of the best in lawyers using their abilities in the broader public interest and in aid of the preservation of the rule of law and constitutional values writ large. In 1972, Louise Binder was my student and my first research assistant. She is now a long-tem AIDS survivor. This past Fall, Queen's University conferred an honorary doctorate on this remarkable, tenacious, and courageous woman who since her diagnosis has worked tirelessly and to great effect on behalf of those who share her illness. In her Convocation address, she spoke movingly of how her priorities changed dramatically but how, despite all, she still continued to draw upon her legal training as the foundation for the incredibly effective advocacy in which she has engaged.

Louise concluded that Convocation address by quoting from Ralph Waldo Emerson and his admonition that we should all aspire to ensure that "even one life has breathed easier because you have lived". Ian Scott expresses the same philosophy in the title to his recent autobiography which I was reading at about the same time. Mr. Scott, a courtroom advocate of immense reputation and an Attorney General of this province who in a short time contributed so much to court reform in particular, entitled his memoirs "To Make a Difference". His capacities now diminished by a devastating stroke, Mr. Scott continues to inspire:

We have no assurances in life, no guarantees that we will be healthy, enjoy a long life or continue to control our destiny. What we can control is our attitude. We can still strive to make a difference, whether or not we achieve anything concrete.

Few may be called on to emulate the courage, commitment, and particular endeavours of these two members of the Society, and it is to be hoped that even fewer will have to meet the physical and emotional challenges that have been so much part of both of their recent lives. Nonetheless, we should all see in them the kind of person who epitomizes what is best in the human condition generally and in the legal profession specifically. They each provide us with a graphic example of what is possible, as well as a reason for optimism and the courage to keep going when the inevitable challenges and difficulties of professional life close in.

This is a day for unrestrained celebration. You all deserve it! And, when tomorrow dawns, remember the principles and aspirations on which the Law Society of Upper Canada was built and live up to them for the whole of what I hope will be a fulfilling professional life. This is not the end but only the beginning! [Ce n'est pas le fin, mais bien le commencement.] Very many thanks. [Merci beaucoup!]

PRESENTATION OF PRIZES

Mr. Terry McCarthy, Regional Head of Bar Admission, Ottawa presented the prizewinners to the Treasurer.

The Treasurer presented the following prizes to the respective recipients:

Awarded the Law Society's First Prize; The Osgoode Society for Canadian Legal History Prize; The Isadore Levinter Memorial Award; The Edwin George Long, K.C. Memorial Scholarship (second highest grade); The Gowling Lafleur Henderson LLP Prize; a share of The McCarthy Tétrault Business Law Prize – Ottawa; The Elisabeth Slasor Prize; a share of The Margaret P. Hyndman, O.C., Q.C., D.C.L. Prize; and The S.J. Birnbaum Q.C. Scholarship Third Prize

*Robin Fraser Holman*

Awarded The Law Society's Second Prize; The Osgoode Society for Canadian Legal History Prize; a share of The Vera L. Parsons Prize; a share of The Joseph Sedgwick, Q.C. Prize; The Arthur Wentworth Roebuck Award; and The Harcourts Advocacy Award

*Jennifer Theresa Arrigo*

Awarded The Osgoode Society for Canadian Legal History Prize

*Vicky Eatrides  
Mandy Elizabeth Moore*

Awarded a share of The McCarthy Tétrault Business Law Prize – Ottawa, and a share of The Margaret P. Hyndman, O.C., Q.C., D.C.L. Prize

*Nicole Anne Strano*

Awarded a share of The Isadore Levinter Prize

*Genevieve Coulte*

CALL TO THE BAR

Ms. Helene Puccini, Mr. Abraham Feinstein and Mr. Bradley Wright, representatives of the Admissions Committee presented to the Treasurer 177 candidates for the Call to the Bar as follows:

BAR ADMISSION COURSE 2001 – 2002

177 CANDIDATES FOR CALL TO THE BAR

(Enclosed in Convocation file is a list of the candidates for Call to the Bar)

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

CONVOCATION ADJOURNED

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Following Convocation a Special Sitting of the Court of Appeal for Ontario and the Superior Court of Justice convened, with The Honourable Douglas J. A. Rutherford, Superior Court of Justice, East Region presiding.

The candidates were presented to Justice Rutherford before whom they took the Oath of Allegiance, the Barristers Oath and the Solicitors Oath and acknowledged their signatures on the Rolls in the presence of the Court.

Justice Rutherford then addressed the new Barristers and Solicitors.

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At the conclusion of the formal proceedings the new Barristers and their guests were entertained by the Treasurer and Benchers at a reception in Southam Hall Lobby.

Confirmed in Convocation this 25th day of April, 2002

Treasurer