

# **ON BECOMING A PROFESSIONAL: WHAT IT MEANS TO BE A LAWYER**

## **Remarks of Chief Justice Warren K. Winkler on the Occasion of the Law Society of Upper Canada's Call to the Bar Ceremony Toronto, Ontario June 15, 2010**

- Treasurer, Justice Blair, other judicial colleagues, Honourable benchers, candidates for the Call to the Bar, families and friends.
- It is my great privilege to accept the honorary degree of Doctor of Laws, and, at the same time, to be present at and enjoy this wonderful and meaningful ceremony. To each of the candidates about to be called to the Bar of Ontario, I express my sincere congratulations and my hope that every day of your life in the profession of law will be as rich and satisfying as this day.

- Your presence here is a milestone event. It marks both an end and a beginning. Nearly four years of dedicated study, hard work and perseverance are over, at long last. If your experience in law school and during the articling period was typical at all, you have likely discovered by now that you couldn't have endured the ordeal, or endured it as well, without the loving support of your parents, families and close friends.
- The four years having come and gone, what awaits you next are many more years of dedicated study, hard work and perseverance. These, after all, are the hallmarks of all good lawyers.
- This Call to the Bar ceremony is full of significance. It means that in just a little while today, and every day hereafter, you will be known as, and you will deserve to be called, a lawyer. The designation is a most significant one, and it is permanent. It does not end when you retire; it does not end when, for any reason, you cease to practise.
- Your soon-to-be-conferred status, your stature as a lawyer, changes everything. From this day forward, it is as a lawyer

that you will present yourself: to the public at large; to your clients; to your peers; even to your families and friends.

- I want to talk to you today, in the few moments available to me, about what I think it means to be a lawyer, and about some of the weightier responsibilities and burdens that attach to that role.
- First, and most importantly, you must recognize that to practise law is not a right, but a privilege. It is a privilege, not to mention your reputation, that can be lost in a vanishing moment, should you fail to live up to the high professional standards imposed upon you by virtue of your entry into the community of lawyers.
- The privilege of calling yourself a lawyer comes with many perquisites. You will be treated with respect and deference not only by your clients, but also by the public generally.
- You will be recognized as an officer of the court when you appear in a courtroom. You will have the distinction of being gowned, as you are today, whenever you appear in court on behalf of a party. The gown is itself a special distinction, a

powerful sign or manifestation of dignity and worth. You will have the pleasure and satisfaction of being referred to as “counsel” by judges and opposing lawyers.

- The privilege of calling yourself a lawyer also means that even as you practise your craft you will also have the opportunity to make a healthy living. And, if your experience proves to be anything like mine, you will find that as you make your living, your work will be interesting and stimulating and challenging.
- When I became a lawyer some 45 years ago, I would say to myself on the way to the office every day that I couldn't believe how lucky I was to be able to do the work I did. The truth is that I would have done that work for free. When I told my colleagues this, they didn't believe me. But it was true. Very few people are fortunate enough to work at something that they enjoy completely, all day, every day.
- However, along with the pleasures and privileges of practice come many responsibilities, and potential pitfalls. Chief among these responsibilities is the duty to serve the public ethically, diligently, and competently. I can tell you that a

lawyer without high ethical standards is an empty vessel, a mere technician, whose relationship to the client amounts to nothing other than a casual, superficial commercial transaction.

- Were it not for the strict ethical code by which lawyers are required to conduct themselves, they would have no right to command a monopoly over the services they render in the practice of law. Nor would they enjoy the privilege of self-regulation.
- Law is a learned and noble profession. So, as you join it starting today, you do so on the solemn undertaking that you will act in accord with your distinguished office, which is to say that you will act professionally. Now, as you likely know, just what “professionalism” means is a much debated topic among lawyers, professors, judges and the public. The term has many different connotations, and is still, in a sense, the flavour of the month in legal educational programs. More than any other group, lawyers love to pursue precise definitions, and yet they recognize that it’s hard to pin a tail on such a broad based concept.

- However, for me at least, generally speaking, professionalism signifies a cluster of values that are palpable, that you can see, hear or feel. Scholarship, honour, personal integrity, leadership and independence, pride in our justice system and generous *pro bono* public service, are just a few of the ways in which or by which it is exemplified.
- Professionalism is the life force that pulses within and drives through every ethical lawyer. It is the rock, the foundation, upon which the public maintains confidence in the justice system. It is the guiding light to lawyers in meeting their obligations to the public they serve, in defending the rule of law, and in upholding their duties and responsibilities to clients and to the court. Stated differently, being a lawyer, being a professional, means committing oneself to the fair administration of justice and to doing one's part in facilitating true access to justice.
- Ethical lawyering is, therefore, wholly compatible with the realities of practising law within an adversarial system. Clients who seek your advice are often overwrought, angry and defensive. When that happens, they expect you to

convey their feelings of injustice and outrage. They may also, however, insist that you adopt a position that would require you to relax or ignore your duty as a legal professional. This you must never do.

- The demands of practice sometimes require toughness, strength of spirit, not only with opposing parties and counsel, but also, and just as often, with your own clients. The good professional, the ethical lawyer, has the wisdom and the courage to refuse to act for a client when the client's instructions would cause the lawyer to violate the *Rules of Professional Conduct*.
- The environment in which many lawyers currently practise has over time become increasingly commercial and competitive. There is a pressure to bring in, and to keep, clients. The drive to the bottom line is sometimes difficult to resist. But I reiterate: law is, first and foremost, a profession; it is a business only secondarily. You must never, ever, fail to heed the distinction between profession and business, because if you do, you will almost certainly lose your way.

- I do not mean to be critical of the legitimate objectives of the business world. But the objectives of the legal profession are different, and indeed loftier. That is why I remarked earlier that law is a noble profession, the true end of which, for everyone called to it, is to serve, not to profit. As my predecessor, The Honourable Roy McMurtry used to say, we are a “helping profession.”
- Perhaps I’ll make the point even more bluntly. In my view, anyone who enters the profession of law to get rich enters it for the wrong reason, and is bound ultimately to be unhappy and unfulfilled. Again, I don’t wish to demean or trivialize the importance of economic success. And, indeed, you can make a good living in the practice of law, but if that is your only or primary goal, then a far more deeply satisfying one, the pursuit of professional excellence, will elude you.
- Even now, as you prepare to start your career, you have already acquired a substantial body of legal knowledge through formal study and articling. However, the virtues of mature judgment and practical wisdom you likely possess right now in much less abundance. They tend to be gathered

over time, and are refined only through experience, including occasional failure.

- One modest suggestion I have is that you try not to go it alone, even if you intend to be a sole practitioner. You will find everywhere experienced colleagues at the bar who will be more than willing to help you through difficult problems. You only have to ask them. And the magic you will discover is that you, too, in time will become someone else's mentor. And so it goes, in the best traditions of our profession.
- I was fortunate to establish a mentoring relationship with a senior partner in the very first law firm I joined. That person is here today. He is a distinguished lawyer and a former judge. His name is The Honourable Robert Stanley Montgomery, Q.C. He was my mentor when I was a law student, he remained my mentor when I became a lawyer and then a judge, and he is my mentor today, almost fifty years later. He is the person who has helped me most to deal with all sorts of seemingly insoluble problems that I encountered in practice and on the bench.

- Mentoring, I have learned, is not a simple “question and answer” connection. Most of what I learned from Robert Montgomery I picked up just from being around him in various situations, watching and listening to him, and of course, asking questions. I prepared cases with him at his home at 5 a.m. I went to the gym with him at 5 p.m. We had dinners together, went to court and to conferences together. He taught me how to fly fish and I taught him how to train Labrador retrievers.
- He introduced me to the leaders of the bar, and I observed how he and they conducted themselves in different situations. I learned, by my mentor’s example, how to handle myself in the hurley-burley of law practice. And the mentorship didn’t end when I left the practice and followed him to the bench. The Chief Justice made sure of this, by designating him as my mentor on the court.
- Time doesn’t permit me to exhaust the list of what my mentor imparted to me. Three short, simple examples will serve to illustrate the type of values Monty sought to instill in me. He said: “Don’t exaggerate”; “Don’t mislead the court”; “Don’t take advantage of people.”

- Above all, he showed by his own conduct how important it is to observe basic tenets of civility: to be polite, and to always be courteous to and respectful of other lawyers, judges, and clients. He emphasized that lawyers are officers of the court with a duty to the court. These were zero-tolerance precepts. I understood clearly and emphatically that they were not to be picked up or discarded on a whim, whenever the occasion suited me.
- I would urge each one of you to seek out such a mentor, a task which, I regret, is probably not so easily accomplished today as it was when I was called to the bar. However, I believe the search may well be worth the effort, and if you happen to find someone as principled as my mentor, Monty, you will be fortunate indeed.
- The lawyers in my day numbered only about 6,000. Today, there is approximately 7 times that many. Not only is the profession much larger, it is, needless to say, more impersonal than when I was in your position. But even if you don't succeed in identifying a mentor to inspire and direct

you as Monty did me, you can still achieve some reasonable approximation of that ideal.

- I believe this, because I know that law is the most collegial of professions. Senior lawyers are invariably flattered when they are asked for their advice. They will happily take your calls, field your questions, and help you to work through tough decisions and momentary crises. The Law Society regulates the profession in the public interest, but it can also be your friend and it has a help line. Don't go it alone. In a collegial profession, there is no need for you to even try.
- You have worked hard to reach this point. You have made real sacrifice, and no doubt, so have members of your family. It is a defining moment, a proud moment. It calls for celebration, and excitement, and relief.
- To each of you I extend my sincere congratulations on becoming a lawyer. Having achieved this glorious milestone, may your lives be forever enriched.
- Thank you.