

**Convocation Address by the Right Honourable Beverley McLachlin, P.C.**

**Faculty of Law Convocation – University of Toronto**

**Toronto, Ontario**

**June 8, 2018**

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***Former Chief Justice of Canada***

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Thank you very much for the honour of helping to celebrate your graduation and sharing a few thoughts with you this morning. As an honorary alumnus of the Faculty of Law at the University of Toronto, I feel a special kinship with you, its most recent graduates.

My talk this morning is grounded in two dates.

The first date is June, 1995, twenty-three years ago. On that date, I stood on this stage, and received an honorary doctorate of laws from the University of

Toronto. That degree changed my fortunes. Before, I was just the new judge on the Supreme Court of Canada – edgy but not altogether trustworthy, on occasion reviled by the press, definitely not trending up. After, it seemed my reputation soared. My decisions, it seemed, were greeted with new respect. In 2000 I was appointed Chief justice, a position I held for almost eighteen years. All of which proves that a University of Toronto law degree is a wonderful thing that can change your life forever and change it for the better. So from someone who knows to you, today's graduates – congratulations.

The second date is June 1968, fifty years ago. To stand here today is incredibly moving, because today marks an important anniversary in my life. Fifty years ago, almost to the day, I stood where you are standing, at my graduation ceremony from the Faculty of Law at the University of Alberta. Fifty years. Half a century. However one says it, a long time.

Fifty years ago, I graduated with a law degree and pondered my future. I was full of expectation and hope. I had completed a challenging set of studies. I had learned a lot about legal reasoning and writing law exams. I knew I loved the law, and, deep inside, cherished the hope that a life in the law would be a life well-

spent, a life that would allow me to help others and perhaps, if I got lucky, make a difference.

But as I crossed the stage to receive my LL.B, I was also filled with apprehension – for two reasons.

The first reason for my apprehension was my gender. I was a woman entering a profession where few women had ventured, and fewer still succeeded.[ **I knew that a handful women had eked out middling careers in the law, but I also knew that usually this was confined to solicitors' work and ended when they married. The message was clear: for a woman a legal career was possible, but barely, and rarely was a life-time endeavor.**] I scanned the horizon for role models, and found none. No women among the barristers who were winning cases in the courts. No women on the superior court benches. No women, with the exception of our law librarian, were teaching in law schools.

The second reason for my apprehension was that I knew nothing about the practice of law. I knew a little bit about torts and contracts, something about crime and constitutional law. I could ream off case names and recite the roster of the Justices of the Supreme Court of Canada. But about the practice of law – the day to

day business of the law firm and the courts that I was about to enter – about that I knew, quite literally, nothing. **[I knew from my articling interview that my law firm was a place of tall doors and nice paintings on the upper floor of a modern downtown building. But of what went on behind those doors, where the real business of law was done, I was entirely ignorant.]** What good would all my book-learning do me, when I was told to solve a client's problem or sent off to court on a chambers motion? Disaster, I feared, awaited me.

My apprehensions on both counts were well founded. On more than one occasion, in the years that followed, I was told, directly or indirectly, that as a woman I really did not belong in the legal profession; that I would do better to apply my little learning in some other profession or as an assistant to a man, who was better equipped to do the heavy lifting the law required. And on more than one occasion, I fell flat on my face as I attempted to feel my way through the mysterious web of rules and assumptions that guided the practice of law. But I wanted to practice, needed to practice, and so I soldiered on in the law.

You, the graduates of 2018, are doubtless feeling the same mixture of hope and apprehension that I felt when I stood in your shoes fifty years ago. You hope your studies will lead to a useful life, that you will find a way to make a difference.

But you are also probably filled with apprehension, and with reason. Despite the enormous progress that has been made on the gender front, people who are not classified as heterosexual male still face challenges in the practice of law. And despite curriculum changes that integrate aspects of practice into law studies, you may still worry that your education, marvelous as it has been, has not prepared you for the real world of the practice of law.

Added to the worries I felt fifty years ago, you face a wholly new challenge as you stand on the threshold of your career in law. I speak of the challenge of exponential change – not the gradual change I encountered, but galloping, unprecedented, unforeseeable change.

It is trite to say that we live in a time of exponential change – change begetting change at an exponential rate that makes keeping up with it impossible. Informatics. The sharing society. Countless reams of data floated in metaphorical clouds and propelled around the world by unaccountable bots. Artificial intelligence, taking over human work. Geo-political change, as democracies falter and the institutions that the world worked assiduously to build up in the aftermath of World War II – independent courts, international law and the rule of law everywhere – show signs of unravelling. When I graduated from law school in

1968, I could foresee what the world might be like in ten years' time, even twenty. I could never have imagined the world I am now living in, fifty years on. For you, the changes will be even more dramatic. Your world will be a truly new world.

Our radically changed world is already impacting the practice of law. It will do so dramatically in the decades to come – the decades in which you will be making your mark in the law. **[The law will become increasingly digitalized. Legal research is already conducted on line. In the future this will extend to legal dispute resolution and dispute resolution in a host of areas.]** Where once lawyers devilled in the library to hone legal opinions, computer programs will produce legal opinions that will rival if not surpass the work any human being could do. **[And the digital takeover will not stop with legal research.]** Artificial intelligence will perform countless of the more routine tasks associated with the delivery of legal services that lawyers once performed. Nor is there any reason why computer programs cannot decide the most reasonable outcome on legal disputes, usurping the traditional role of judges.

Faced with these prospects, you may well ask, “What will be left for lawyers? What will be left for me?” And if there is something left, “How can I be sure my law studies will enable me to do it, given the way the world is changing?”

At different points in my career as a legal practitioner, a law teacher, and a judge, I have found myself asking the question: “What is the quintessential, unique subset of skills that lawyers offer?” At a superficial glance, many of the things that lawyers do can be done by others. Trained paralegals and computer programs can transfer property, set up corporations and settle disputes. Anyone who can talk can go to court and tell the judge her story. With a little information, people can draft bonds and contracts. Why then, do we need lawyers? What is the special value-added that lawyers offer?

My answer to this question – an answer I came to after years of observation and reflections - may surprise you. The special value-added that lawyers offer rests on two skills – first, the skill of analyzing a complex situation and transforming it into a coherent model; and second, the skill of communicating possibilities, positions and points of view to others. Let me say a few words on each of these aptitudes.

First, the skill of analyzing a complex situation and transforming it into a coherent model. There is a reason that when complex problems arise in the world of commerce or international relations, lawyers are usually in the forefront of those



called upon to find solutions. Think about what you have been doing for the past three years. You have been looking at complex problems, talking about how judges resolved them, exploring alternative ways in which they could have been resolved. You have been learning to take complicated situations created by multitudinous actions and circumstances, and pull out the facts that are relevant and discard those that are not. You have been trained to put the relevant factors together and weigh and analyze them. You have been trained to take these complex webs of human behavior and physical action, and pull solutions from the mix that will solve, heal and allow people to move on. No other profession and no machine can do this. Only lawyers are systematically trained in the arts of analysis and synthesis of polycentric situations involving all facets of human endeavour; only lawyers can resolve the more complex problems the legal system throws up.

The second skill lawyers possess in unique measure is the art of communication – communication that explains and persuades. The ancient Romans called it rhetoric, and valued it above all other skills. We no longer teach formal rhetoric, but it is something each of you has learned through your studies over the past three years. Your legal training has required you to explain yourself in class, in term papers, in moot courts and on exams. You have learned how to put the solutions to the complex problems you analyze into words, written and oral,

clearly, succinctly and persuasively. You have learned that the law is not about how many facts or rules you have memorized, but about how you analyze the problems and express the results.

This leads me to the good news part of my comments. Yes, the world is exponentially changing, and with it the practice of law. Yes, the problems the law will throw up in the next few decades will be very different from the problems you studied in law school. But the good news is that the twin skills your legal education has given you are precisely the skills you need to face a changing world. The lasting value of a legal education lies not in learning this or that fact, or knowing how to fill out a particular document. Nor does it lie in knowing what current statutes and rule books say. The value of a legal education lies rather in the ability to analyze complex situations and communicate ideas.

When I studied law, the world was very different than it is now. The *Charter of Rights and Freedoms* lay a decade and a half in the future. The guarantee of Aboriginal rights found in section 35 of the *Constitution Act, 1982* was a distant chimera. The issues that have dominated my life as a jurist were not on the curriculum. My law school offered no courses in human rights, intellectual property, feminist theory or aboriginal rights. What it gave me were two skills - the

ability to analyze complex problems and cast them in legal form, and the ability to communicate the ideas and solutions that the analysis produced. It was those skills that allowed me to navigate the changes that occurred during my half-century in the law. It is those skills that will allow you to navigate the changing world you will inherit as the lawyers and jurists of the future.

To meet the challenge of exponential change, you must supplement the skills you have acquired with a quality essential to the endeavor. Call it openness, call it listening, call it humility. Whatever label you put on it, never forget that you don't know – can't know – everything. If you do not practice open listening and lifelong learning, you will not apply the right analysis or effectively communicate the right solution. In a rapidly changing world, constant listening and learning is your only option.

So here are a few rules of thumb, with kudos to Simon Kuper, (Financial Times, May 12, 2018).

- Shut up and listen. Whenever you think, “I know that,” you don't.
- If you're the smartest person in the room, you're in the wrong room.

- If you have a theory that explains everything, bin it.
- When you discover you're wrong about something, don't fight it. Treasure the moment; you've learned something.
- Even if you become an expert, you'll still be pretty ignorant; our rapidly changing world makes this inevitable.

Let me add one final piece of advice of my own. As a new judge on the Supreme Court of British Columbia, I found myself confronted with a question to which I did not know the answer. Not wanting to make a mistake, I adjourned the case and went to see my Chief Justice. He listened carefully, smiled enigmatically and said "Do the right thing".

He was telling me that I was the judge and it was my responsibility to decide, as best I could. But his words resonated on a moral level. When faced with difficult decisions, I have always asked myself, "What is the right thing?" I have enjoyed good times, but have also lived through difficult moments. The advice, "Do the right thing," has served me well through the good times and the bad.

So let me offer this counsel. Keep your moral compass finely tuned, and follow it. Know when to let go and when to move on. But also know what to cling to, what to defend to the death.

Your legal education has equipped you with powerful tools that will help you know what is right and will make you a powerful advocate for good.

Fifty years ago, as I bowed to the Chancellor to receive my degree, I could not have imagined the world I now inhabit or the life I have led. In the world on steroids that you will inherit, how much less can you imagine what lies before you?

Do not despair. You are experts in the law - you have your diplomas to prove it. Armed with the skills of analysis and communication your education has given you, and girded by the humility to listen and constantly learn, you will succeed. You will be of use to your fellow citizens and you will carry the values of justice, fairness and the rule of law into a new era.

I wish you joy and all good things in the adventures that await.