

Speech by Marlys Edwardh
February 12, 2002 - London, Ontario
Re: Honorary Doctorate Bestowed by the Law Society of Upper Canada

Chief Justice LeSage, Mr. Treasurer, Benchers of the Law Society of Upper Canada, My Esteemed New Colleagues, Honoured Guests:

Thank you for this honour. I am not at all sure I feel worthy of it. There are a number of persons in my own family that hold doctorates, but they slaved for years to get them. This wonderful honour can't help but feel like a little bit of a cheat. Mr. Treasurer, when I was first told of convocation's intention to bestow this degree, I gave a fleeting thought to asking you, to prevail upon my partner of many years, Clay Ruby, to support a paid leave of absence so I could get a real one. I thought we might just postpone this a little bit so I might really qualify.

Let me turn to honouring the accomplishments of those who are called to the bar today. Everyone who is here applauds your personal achievement in reaching this milestone. No one underestimates the toll it has taken. All of you have endured long hours of difficult and often times tedious work at law school and while articling. Some of you will have sacrificed much to reach this goal. Today you open the door to the profession that is law and we welcome you.

Who are we to whom you now belong? Today is not the day to focus on our failings as a profession -- or to ask and answer the question of why we are sometimes the butt of jokes or why we hold ourselves in high esteem when some in our community question our integrity. While these voices of criticism must be heard and not be silenced, today is a day for asking a different question. What is the best in us to which you can aspire? The history of our profession is complex and rich, reaching back hundreds of years. There are powerful ties which bind us to those who have gone before — yet each generation of new lawyers must face the challenges that his or her era presents. Your challenges will be no less than

the challenges of the many who have come before you. Indeed, they may be more daunting.

The powers that be tell us that the world changed on September 11. They tell us that we must fortify our borders, change our laws and forsake the values that are the bedrock of our democracy and the rule of law as we know it. Criticism is denigrated — it is at best the talk of fools, at worst the talk of defenders of terrorism.

The new anti-terrorist act, so recently rushed through Parliament makes provision for preventive arrests and detention as well as for abrogating the right to silence in interrogations presided over by members of the judiciary. Such provisions are alien to our legal culture and clash with the fundamental law of our land — the Charter of Rights and Freedoms.

We are told we must do this because we now stare at the face of evil. This challenge has been met before and will be met again.

Sir Thomas Moore, Lord Chancellor of England, faced an irate monarch, Henry the 8th, bent upon defying the laws of the land and the Church of Rome in his struggle to produce a male heir. Those who stood in his way faced allegations of treason for which they would pay with their life as did Moore. In a memorable exchange, captured in Robert Bolt's play "A Man for All Seasons", More was accused by Roper, a supporter of Henry, of being willing to give the devil itself the benefit of the law.

"Roper: So now you'd give the Devil benefit of law!

More: Yes. What would you do? Cut a great road through the law to get after the Devil?

Roper: I'd cut down every law in England to do that!

More: Oh? And when the last law was down, and the Devil turned round on you — where would you hide, Roper, the laws all being flat? This

country's planted thick with laws from coast to coast — Man's laws, not God's — and if you cut them down — and you're just the man to do it — d'you really think you could stand upright in the winds that would blow then? Yes, I'd give the Devil benefit of law, for my own safety's sake."

I love this quote, if for no other reason than it evokes a sense of both the devastation and destruction that flows from the arbitrary exercise of unchecked power. Without the rule of law we would succumb to this power. But without the rule of just laws, the rule of law is but an empty promise. While lawyers can be many things, the core of what makes us worthy is our trusteeship of the values that make justice a tangible reality in our communities. Justice is not only the correct application of technical rules of law and procedure. Justice is also about working to secure an inclusive society, dedicated to tolerance and equality, committed to fairness, and to the right of every person to share and participate in the benefits of our community.

This trusteeship requires that you do not bend to fear or those who pander to it. In a recent Supreme Court of Canada decision involving a man who faced deportation as a refugee to a country where he risked torture, the court unanimously acknowledged the need for governments to have legal tools to meet the challenge created by terrorists, but also cautioned:

"On the other hand stands the need to ensure that those legal tools do not undermine values that are fundamental to our democratic society -- liberty, the rule of law, and the principles of fundamental justice -- values that lie at the heart of the Canadian constitutional order and the international instruments that Canada has signed. In the end, it would be a Pyrrhic victory if terrorism were defeated at the cost of sacrificing our commitment to those values."

Our legal culture is distinctly Canadian — it is something worth preserving and nurturing. On

the international stage, we are neither adventurist nor isolationist by nature and have struggled to promote the rule of law on a global scale. We cannot abandon these goals and become mesmerized by our economic relationship with the United States. Canada has been a supporter of the United Nations ad hoc international tribunals for the former Yugoslavia and Rwanda. Indeed, Mr. Milosovic starts his historic trial today. We have also been instrumental in carrying forward the work of the Treaty of Rome which will lead to the founding of the first permanent International Criminal Court. By the spring of this year, 60 nations will have become signatories to this treaty and by early fall this institution will be born. As lawyers, your trusteeship now extends to the promotion of international human rights.

Nor should you bend to political correctness or to the prevailing mood or taste without regard to the fundamental values that are at stake in the work that you as a lawyer will undertake.

You will abuse this trust if you are only pre-occupied with counting billable hours and are nothing more than a hired gun for sale to the highest bidders.

In order to build a profession of which we can be proud, we ourselves must be inclusive. We must resist those law schools which want to raise tuition to a height that ensures that the study of law is the preserve of the wealthy. If the trend that is occurring continues, you will be among the last who even resemble the diversification of our community. If we lose this diversification, our collective vision of the profession will be impaired and we will undoubtedly fail to serve the interests of those who are most in need.

I cannot help but comment on the fact that so many of you who are called to the bar today are women — indeed a clear majority. You join a profession that has truly struggled to break down gender barriers both within the profession and in the broader community. As

all of you know, we have come a long way, but there is still a long way to go.

In 1976, when I received my call to the bar and started to practice as a criminal defence lawyer, the world I entered was overwhelmingly male. In Toronto, there were only three women who practiced criminal law and one was a Crown Attorney.

I travelled to smaller communities to do trial work and when I asked court staff where the barristers' robing room was, my question would be greeted with horror and someone would throw their arms across the robing room entrance and say — “But men are dressing in there”. I would be ushered to a public washroom or some cubby hole that was used for storage in order to gown for court. This will not happen to you. In fact, I think in those early years, my world was so profoundly male it led to a kind of identity disturbance. As the faces of hundreds of men, all wearing blue suits and ties, floated through my day — I was forever embarrassed by failure to remember their names. I soon realized my difficulty was that they all looked the same. In fact, it got so bad, that once very early in my career I was in Old City Hall in Toronto just about to start a trial and I slipped into the washroom. Two very large uniformed officers were standing unzipped in front of the urinals. I didn't blink an eye, but just opened the door of the cubicle and settled in, being very surprised to see the officers flee. This will not happen to you.

However, you will face barriers. These barriers are more likely to be evident as you struggle to find accommodations that will bring balance to your working life as a lawyer and your choices around family and children. These issues, which are not unique to women who practice law, are an unresolved challenge.

But you are not alone. Women are everywhere in our profession. There are now many hands that you can reach out to who will guide, advise and support. Never hesitate to do so.

Blessing for You:

1. May you be blessed with patience, tolerance and gentleness as you help men and women who are in need;
2. May you be blessed with cases that challenge your intellect and skill; that bring both satisfaction and a sense of purpose to your labour;
3. May you be blessed with partners and colleagues who surround you with support and enrich your practice;
4. May you be blessed with the resolve to set your mind and heart against the almighty dollar; and
5. May you be blessed with the courage to stand resolute and fearless in the cause of justice.