

REMARKS BY / ALLOCUTION PRONONCÉE
PAR

Me Bernard Amyot
Président / President

L'Association du Barreau canadien
The Canadian Bar Association

à la / to the

L'Association internationale des Jeunes Avocats
International Association of Young Lawyers

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Great Hall, Hart House, University of Toronto

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Thank you, German, for those kind words of introduction. Thank you also for this opportunity to bring greetings on behalf of the 37 thousand members of the Canadian Bar Association, the largest voluntary organization in Canada.

This event is my first official function since becoming President a week-ago last Tuesday in Calgary.

On the eve of becoming President, I was reminiscing with my wife Francine on how long I had been involved with the CBA , and how many meetings we had attended over the years, and as we flew over the Rockies descending into Calgary, I could not help but ask her: Did you Francine ever imagine, in your wildest dreams, that I would one day become President of the Canadian Bar Association?”

And she said: “Honey, you’re **not** *in* my wildest dreams...”

I was pleased to be asked to join you today, given my involvement — albeit more years ago than I care to remember — as President of the Young Bar Association of Montreal. Unfortunately, I have long passed the 10 years of practice criteria and, more recently only, have passed the 45-year old aging out limit...

In my days at the Young Bar of Montreal, the issues were already centred on work-life balance and the arrival, *en masse*, of women into our profession. These are still among my presidential priorities for the year to come...Plus ca change...

Getting involved at a young age was also a great opportunity for networking. I had the chance to create long-lasting friendships, in Canada and abroad, that have endured to this day. It also taught me the value of associations and the critical role they play in our profession.

Bienvenue au Canada, bienvenue à Toronto, la métropole financière de notre pays. Une ville riche aussi en attractions de toutes sortes : de merveilleux musées, spectacles de danse et d'opéra, des *musicals* de renom et un grand Orchestre symphonique. Une ville cosmopolite, fière à juste titre, de sa diversité culturelle et des bienfaits qu'elle apporte à tous les Canadiens.

Le Barreau canadien se félicite de la quatrième visite de l'AIJA au Canada, après Québec en 1976, Vancouver en 1986, puis Montréal en 2001. Lors de votre venue à Montréal, Francine et moi avons eu le plaisir de recevoir à l'un des *at-home dinners* et de rencontrer plusieurs de vos prédécesseurs.

Anne-Marie Trahan de Montréal, maintenant juge à notre Cour supérieure, a été la première et seule présidente canadienne de l'AIJA à ce jour et je sais qu'elle aurait beaucoup aimé être parmi nous ce soir.

Notre prochain conférencier, le juge en chef de la Cour supérieure de ma province d'origine, est aussi une personne qui a été très active au Jeune Barreau de Montréal, quelques lunes avant moi par ailleurs... puis actif au sein de l'AIJA, également, avant que je naisse... je pense...

Today, I'd like to share with you some of my reflections on the critical issue of the independence of the Bar, at a time when our profession is under intense public scrutiny — and tremendous pressures of change — around the world.

In Great Britain, Parliament is preparing to debate the *Legal Services Bill*, which would heavily regulate the legal profession. The changes result from the Clementi Report, which found a failure by the regulatory body there to deal promptly with public complaints about lawyers. The government decided that if lawyers could not govern themselves properly, they would be governed from the outside. Earlier this summer, the Bar Council of England and Wales, along with the senior partners of the U.K.'s five largest firms, wrote to the junior Finance Minister to register their disapproval of the Bill.

Their argument was that government oversight would infringe upon the profession's independence and damage the competitiveness of Britain's international law firms.

The House of Lords proposed an amendment which would see members of the Government's Board of Oversight appointed by the Lord Chancellor, with the concurrence of the Lord Chief Justice. However, the government is intransigent: the Ministry says the Bill, as designed, protects the consumer.

The struggle is being closely watched by the profession, here and around the world.

Le *Legal Services Bill*, projet de loi à Westminster ouvrira la voie à des pratiques multidisciplinaires et à des investissements privés externes dans nos cabinets. Peut-on réellement imaginer des appels publics à l'épargne visant les cabinets juridiques? Ce scénario se produit déjà en Australie. Récemment, *Slater & Gordon*, un cabinet juridique qui se spécialise dans les litiges relatifs aux préjudices corporels, a procédé à un appel public à l'épargne et s'attend à une capitalisation boursière de presque 90 millions de dollars.

The move to open law firms to equity markets signals a major change in the profession. A public offering makes a law firm subject to Securities and Exchange commission rules, and therefore to greater public scrutiny, than ever before. It also becomes subject to the whims of the market, and of greedy investors, looking for short term profits. It also means that non-lawyer shareholders effectively get a seat and vote at our partnership meetings. I ask you how will we be supposed to handle conflicts of interest after that? The whole matter challenges our concepts of legal practice and has broad implications for self-regulation and the independence of the profession.

Quels que soient les résultats de la participation au capital des cabinets juridiques et de l'intérêt croissant du public relativement à la pratique du droit, il demeure que la profession juridique est en pleine évolution. Il faut accroître la transparence dans nos méthodes de travail et nos affaires, et ce, tant dans les cabinets juridiques que dans la gestion de la profession par nos barreaux respectifs.

As law firms move clearly into the arena of business, we must take steps to protect public confidence in lawyers, and in the rule of law. Without independence, our legal system is at risk.

I believe it is incumbent upon us as a profession, to speak out in the face of attacks on the Judiciary, the legal system, and the profession itself. Judges must be reassured that independent, courageous lawyers will come before them to plead without fear, without harassment and without government intervention.

À mon avis, il appartient aux membres de la profession de parler haut et fort face aux attaques visant la magistrature, l'appareil judiciaire et les membres de la profession. Les juges doivent être satisfaits que des avocats indépendants plaident devant eux, sans crainte, sans harcèlement, et sans intervention de l'État .

Sans indépendance de la profession juridique, il ne peut y avoir d'indépendance judiciaire. Une profession réglementée par l'État menacerait le système de primauté du droit qui nous est si cher. Nous avons un pays qui se fait le champion de la primauté du droit. Dans les circonstances, il est impératif que nous préservions aussi, ici même au Canada, l'indépendance de notre profession.

The Canadian Bar Association has been fighting just these battles for the past few years. Proposed federal money-laundering legislation threatened to do away with solicitor-client privilege, forcing lawyers to tell a state agency about their clients' affairs.

Meanwhile, the Canadian Government changed our merit-based judicial appointments process for federal judges by adding a representative of the police to the screening committees and tilting the voting balance in favour of ministerial appointees. These are examples of the forces that will buffet our professional independence in years to come.

Fortunately, we in Canada have been well served by our governing Law Societies, which have been vigilant and uncompromising in protecting the public interest.

Despite a media and political atmosphere eager to seize on sacred cows to prosecute, the commitment of Canada's lawyers to police themselves, backed by an approach that includes defalcation allowances, proves that our system of self-regulation works. And because the *Canadian Bar Association* is there to represent lawyers and advocate on their behalf, our law societies are free to govern the profession in the public interest, without cause for concern about conflicts.

As you can see, we must be ever vigilant if the legal profession is to remain independent, and the Rule of Law to function as it should. We owe it, not to ourselves, but to the society which we serve.

Nous avons le devoir de rappeler au monde entier l'importance de ces principes. Nous avons le devoir de les expliquer au grand public et nous avons le devoir de nous opposer à des mesures qui feront de nous des agents de l'état.

The Chief Justice of Canada, the Right honourable Beverley McLachlin, has said "the law is larger than us and larger than our lifetimes". So it is with the independence of the profession and the Judiciary. It is a delicate system and we must do what is required to protect it.

Si nous voulons être en mesure de laisser à nos enfants ce que les générations précédentes nous ont laissé, il faudra appliquer une vigilance de tous les instants.

If we are to leave a legacy with lasting effect, we must be committed as a profession to sustain confidence in our laws and in our legal institutions.

Thank you again for your kind invitation. Have a great time in Toronto and may God bless you all!