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## CLOSING ADDRESS

THE HONOURABLE JEAN CÔTÉ\*

*Author's Note: This closing talk on 1 February 2019 was ex tempore, and so its exact words are not worth chasing. Working off the outline used for that talk, it has been reconstructed, in a form a little easier to read, and then the video-recording has been checked for completeness of topics. Opening words of address to the various classes of person present have been deleted.*

I thank you from the depths of my heart.

It is a great gift to be named an honorary editor of this old and esteemed periodical. Words fly away, but print remains. I will treasure this.

I wish to be brief this morning. For one thing, this very familiar lecture hall no longer has a blackboard, and that makes it difficult for me to lecture for 50 minutes. And besides, the most important part of any day, lunch, is impending. I never want it thought that I kept anyone from lunch.

The mention of time is not just flippant. The whole subject of this morning's various addresses makes me realize the enormous list of people to whom I owe everything, at the very least my thanks. To single out even a dozen prominent debts would take quite some time.

For example, my debts to some of those who spoke this morning are very deep. And there are still deeper debts to others, some here, some still in the law, and some no longer living.

Enough years have passed to see that one of the most fundamental debts which I owe is to a teacher whom many today never knew, or have forgotten. It is Dr. Alexander Smith.

This very old Law Faculty was founded by one of the greatest legal minds of the twentieth century, Dean John Weir. It is time that Albertans fully recognize some of the stellar achievements of their own people. Dean Weir's intellectual successor was Dr. Smith, and his heir is William Stevenson. Bill Stevenson and Dr. Smith taught me.

Dr. Smith's story is astonishing. He left high school early, being bored with school and wanting to farm. He was a very physical young man and loved hunting and fishing. One summer day after hard work digging and cribbing a well, he took a team and wagon into town to get more supplies. A thunderstorm caught him on the way home, and thoroughly chilled him. He came down with a bad cold. More and more ill, he lay on a mattress in the kitchen beside the stove. When the dust cleared, his legs no longer worked. The local doctor

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\* Former Justice of the Alberta Court of Appeal from 1987–2015; graduate of the Faculty of Law, University of Alberta. He is a brilliant legal mind and prolific writer whose contributions to the law have had an enormous impact on the lives of ordinary Albertans. In 2017, he received an honorary degree from the University of Alberta.

did not know what it was. At the University Hospital he learned he had had polio, and his legs were paralyzed. He was given leg braces, and learned to hobble with two canes.

In those days, a farmer who cannot walk would have been thought almost useless, so another way to earn a living was needed. Law occurred to the family. A neighboring girl who rode a horse to high school each day said she would handle Alex getting off and on a horse at school, if the family provided a horse and handled their end. So Alex went back to high school and graduated. He needed a degree before entering the Law Faculty. The University cut him no slack: for example, he had to take Physical Education. He could get up and down stairs (there being no elevators) but only barely. That took so long that he could never have two back-to-back classes. Therefore, the only way to meet the science requirement was to take Botany. Alex was good at Botany, and it became his major. At the end of his B.A., the Botany Department tried hard to persuade him to do graduate work, but he stuck to his plan to study law.

At some point during university, Alex fell ill again. He told the University Hospital that the polio had recurred. They said that was impossible, but he insisted, and he was right. The second bout of polio further damaged his health and stamina.

He graduated as part of the Lex Nova class, the great law class of 1940. He articulated at Milner Steer, was called to the Bar, and soon was very busy. Most of the firm were off on war work, and the economy was booming. Law was complex, given a flood of federal emergency Regulations covering every aspect of life, even rental accommodation. Alex was overworked all through the War.

In the summer of 1945, on very short notice, Wilbur Bowker from Milner Steer had to recreate a Law Faculty, ready for work in early September. He brought over Alex Smith to help, and the new Faculty was a great success. Alex twice went to Stanford to get graduate degrees, and ended with an S.J.D., which was an exceedingly rare degree in Canada at that time. Alex had no hand controls on his car but drove using his canes to work the clutch and gas pedal or brake, even on the steep hills of San Francisco. He also loved being taken out to hunt or fish.

The Law Faculty had tiny, almost invisible, offices in the Arts Building. Alex always taught in a large dusty bare classroom just down the hall, which room was shared with the English Department. There was a huge desk bolted into place there. A student would bring his books to the room, and Alex would come in, sit down, and heave one of his braced legs up onto the desk. His physical and dynamic nature showed how riveted he was to his topic. He taught all the hardest courses in the Faculty. He became very excited at the principles and analysis in the cases on which he had the students recite. If an answer to his question was wrong, there might be a cry of "No!" followed immediately by a loud explosion, as he hit the desk with his cane. If a student's answer alluded to the right key passage in a good judgment, he would ask the student to read out the exact words from the case. His face suffused with pleasure, and his thumb wiggling, he would exclaim "Ah! Golden words!"

It is unfortunate that time and deaths are letting the memory of Dr. Smith slip away, as I have never encountered a better university teacher anywhere. His analysis of mistake in the

law of contract went well beyond, and was better integrated than, anything in any English or American legal textbook. I can testify that if he had been suddenly parachuted into McGill or Oxford to teach, he would have been just as good as anyone whom they had to offer. And certainly better than most.

Now you see more what a heritage we have here in Edmonton and why talking about it is my duty and my pleasure.

Thank you.

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