

Nominations à la Cour suprême du Canada : L'honorable juge Michael J. Moldaver et l'honorable juge Andromache Karakatsanis

Supreme Court of Canada Appointments: The Honourable Justice Michael J. Moldaver and the Honourable Justice Andromache Karakatsanis

Les juges de la Cour suprême du Canada et la Faculté de droit de l'Université d'Ottawa ont toujours entretenu d'étroites relations, tant personnelles que professionnelles. La tradition veut que l'on tienne une réception d'accueil pour chaque juge nouvellement nommé à la Cour suprême du Canada. La juge en chef et les juges puînés de la Cour suprême du Canada, les doyens des Sections respectives de common law et de droit civil, les professeurs et les étudiants sont conviés à cette réception.

Pour perpétuer cette tradition, la Faculté de droit a célébré le 18 janvier 2012 la nomination des juges Michael J. Moldaver et Andromache Karakatsanis, annoncée le 17 octobre 2011. À l'instar des cérémonies précédentes organisées pour les juges Deschamps, Fish, Abella, Charron, Rothstein et Cromwell, la très honorable Beverley McLachlin, juge en chef, a prononcé des remarques liminaires et exprimé de façon personnelle ses souhaits de bienvenue aux juges Moldaver et Karakatsanis : « Au fil des ans, nous avons travaillé avec eux, découvert et apprécié leurs nombreuses qualités, c'est donc avec le plus grand plaisir que je les présente de façon officielle à la communauté universitaire »¹.

Voici la version intégrale des remarques du doyen Feldthusen, de la très honorable Beverley McLachlin, juge en chef, de l'honorable Michael J. Moldaver, de l'honorable Andromache Karakatsanis et du doyen Sébastien Grammond.

The judges of the Supreme Court of Canada and the University of Ottawa's Faculty of Law have always maintained close personal and professional ties. It is tradition to hold a welcoming reception for each newly appointed judge to the Supreme Court of Canada. The Chief Justice and Puisne Judges of the Supreme Court of Canada, Deans of the Common Law and Civil Law Sections, professors and students are invited to attend.

In keeping with this tradition, the Faculty of law celebrated on January 18, 2012 the appointments of Justices Michael J. Moldaver and Andromache Karakatsanis, which were announced on October 17, 2011. As in previous ceremonies for Justices Deschamps, Fish, Abella, Charron, Rothstein and Cromwell, the Right Honourable Madam Chief Justice Beverley McLachlin made introductory remarks and offered her own words of welcome to Justices Moldaver and Karakatsanis: "Over the time that we've worked with them, we've grown to love them and to appreciate their many qualities and I can only say that it's with the greatest pleasure that I welcome them formally and introduce them to you, the university community."

Here are the full remarks of Dean Feldthusen, the Right Honourable Madam Chief Justice Beverley McLachlin, the Honourable Justice Michael J. Moldaver, the Honourable Justice Andromache Karakatsanis and Dean Sébastien Grammond.

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1 Notre traduction.

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BRUCE FELDTHUSEN, DOYEN DE LA SECTION DE COMMON LAW
BRUCE FELDTHUSEN, DEAN OF THE COMMON LAW SECTION

Au nom des deux sections de la Faculté de droit, common law et droit civil, et au nom du doyen Sébastien Grammond de la Section de droit civil, j'aimerais souhaiter la bienvenue à toutes les personnes présentes ici ce soir, y compris nos anciens et nos anciennes, les membres de la magistrature, les juristes du barreau local, nos étudiants et étudiantes, et les membres de notre Faculté de droit.

Welcome everyone, including of course Chief Justice Beverley McLachlin, juge en chef de la Cour suprême du Canada, l'honorable Louis LeBel, l'honorable Marie Deschamps, the Honourable Mr. Justice Morris J. Fish, the Honourable Madam Justice Rosalie Silberman Abella, the Honourable Mr. Justice Marshall Rothstein, the Honourable Mr. Justice Thomas Albert Cromwell, and our two special guests of honour, the Honourable Mr. Justice Michael J. Moldaver and the Honourable Madam Justice Andromache Karakatsanis.

Suivant la tradition, les Sections de droit civil et de common law sont heureuses d'accueillir chaque juge nouvellement nommé à la Cour suprême du Canada.

The tradition began in 2002 with the appointment with Madame Justice Deschamps, and we have been able to welcome each new justice appointed since then.

In keeping with the tradition established by the Chief Justice and the other justices of the Supreme Court of Canada, we know that our new justices, like their colleagues before them, will be at our law school often, lending their experience and weight of office to legal education at the University of Ottawa.

The purpose of today's event is to make sure you know that you are welcome, and to invite you to adopt our law school as your own while you are here in Ottawa.

J'ai maintenant le plaisir d'inviter la très honorable Beverley McLachlin à nous dire quelques mots. Then the Chief Justice will introduce Justices Moldaver and Karakatsanis, who will each say a few words.

The Chief Justice has attended and participated actively in each one of these welcome events. On behalf of my colleague Dean Grammond and myself, and all of the members of the Faculty, I would like to thank the Chief Justice for all of her ongoing support. We appreciate, as always, her support for legal education, and also her support for her own colleagues on the bench.

LA TRÈS HONORABLE JUGE EN CHEF BEVERLEY MCLACHLIN, C.P.
THE RIGHT HONOURABLE MADAM CHIEF JUSTICE BEVERLEY MCLACHLIN, P.C.

Chers collègues, Monsieur le doyen Feldthusen, Monsieur le doyen Grammond, faculty, students, friends. It is really a pleasure to be here once again and to play a small role in your welcome of our two new judges on the Supreme Court of Canada. We're very grateful to you, c'est une très heureuse occasion et je sais que mes nouveaux collègues l'apprécient à sa juste valeur.

Now, the focus is not on me, it's rather on Justices Moldaver and Karakatsanis. Therefore, I will be brief. Je serai brève. Ma première tâche, my first task, is to thank the University for continuing this tradition. En effet, bien que ce ne soit pas formellement fait dans mon cas, j'ai moi-même profité d'une tradition de quelque sorte d'accueillir les nouveaux membres de la Cour il y a vingt-deux ans. C'est difficile à croire, mais c'est vrai. And over the years I have personally come to very much appreciate the valuable ties that are present between the Supreme Court of Canada, the University of Ottawa and the Faculty of Law. Cette réception témoigne des relations étroites qui existent entre la communauté universitaire et la Cour suprême. I know that Justices Moldaver and Karakatsanis are very happy to be here tonight. In fact, it's the first time that we've let them out of the Supreme Court building since they were sworn in some time ago. So for them, this is a true "coming out" as it were. My second task, ma deuxième tâche, c'est simplement de présenter our two honoured guests tonight, our two new colleagues on the court. Over the time that we've worked with them, we've grown to love them and to appreciate their many qualities and I can only say that it's with the greatest pleasure that I welcome them formally and introduce them to you, the university community.

The first is Justice Moldaver. Justice Moldaver has been a judge for 22 years. He has vast experience—people emphasize the criminal law, but his experience is very wide-ranging. I know, from my personal encounters with Justice Moldaver over the years, that he shares a deep and passionate commitment to making the legal system work and work well, and we welcome that in the Court. To top it off, he is a warm human being endowed with a wonderful sense of humour.

C'est également mon grand plaisir de vous présenter la juge Karakatsanis, une juge d'expérience, a judge of experience and wisdom. She brings a broad background, having worked in government affairs as well as in private practice, and having worked in the courts now for a number of years as a respected and learned judge. Justice Karakatsanis, like Justice Moldaver, has a wonderful sense of humour and we love having her with us, quite literally.

L'HONORABLE JUGE MICHAEL J. MOLDAVER
THE HONOURABLE JUSTICE MICHAEL J. MOLDAVER

Dean Feldthusen, Dean Grammond, Chief Justice, members of the court, distinguished guests, ladies and gentlemen.

Je vous remercie de m'avoir invité aujourd'hui. C'est un honneur d'être ici. La Faculté de droit de l'Université d'Ottawa est l'une des plus distinguées de ce pays et ceux et celles qui en font partie—étudiants comme professeurs—méritent des éloges.

I am deeply honoured to be here. The University of Ottawa Law School is one of the finest law schools in the country. It is universally acclaimed for its scholarship, its high standards and its tradition of excellence. Everyone here tonight – students and faculty alike – should be very proud. During my 15 years on the Court of Appeal for Ontario, I am pleased to say that some of our finest law clerks have come from this law school and many have gone on to serve their communities and the people of this country with great distinction and honour.

I understand that in addition to the faculty members and students, we are joined by several distinguished members of the Ottawa Bar. Thank you so much for attending. Your presence means a great deal to me. The Ottawa Bar is a strong and courageous Bar and it was always a pleasure to have one of your members appear in the Court of Appeal. The quality of advocacy was invariably high and you served your clients faithfully and well.

Ladies and gentlemen—in the brief time I have available to me, I would like to share a few thoughts with the students who have kindly attended tonight.

First, for those of you who have just started law school, I would urge you to think twice before specializing while you are here. Take as many different courses as you can, explore as many areas of the law as possible, keep your horizons open and expansive. I say that because while many of you may think you know precisely what you want to do and where and with whom you want to do it, I've learned that if there is one thing in life that is predictable, it's that life is unpredictable.

In my years at law school, I had every intention of returning to Peterborough to practice with my brother. We had it all planned. He would do the corporate and commercial and I would do the litigation. And that's how things stood until the end of third year, when something unexpected happened, and I ended up practicing criminal law in Toronto for the next 17 years of my life.

So, keep your horizons open. Stay flexible. Apart from not knowing where life will take you, it is important to appreciate that the law is not a series of unconnected silos—rather, it's a series of silos that are very much interrelated and interconnected. And because of that, I would suggest that the broader your knowledge of the law, the more depth you have in all areas of the law, the better and more rounded lawyer you will be.

My second point concerns your reputation. During my years of law school, I remember working hard, scraping to make ends meet, incurring a lot of debt and generally not living out what I would call “the good life.” And throughout those years, one of the things that kept me going was the thought that one day soon I would be a lawyer and my troubles would be over—the money tap would start flowing and I would have the boats and cars and trips and houses that I had always dreamed of but never been able to afford. In short, the good life would soon be upon me.

And for those of you who may be thinking along those lines, I am not here to discourage you. I am here to sound a note of caution and it is this: unscrupulous clients seem to have a nose for cash-hungry lawyers—particularly newly minted, inexperienced cash-hungry lawyers. They can smell vulnerability and, unfortunately, this can lead to young lawyers being duped or worse yet, engaging in conduct that they know to be wrong.

So please, be careful. Your reputation is your most important asset. It takes a long time to build and you can lose it overnight. If you have a good reputation, I assure you the boats and cars and trips will come—if that's what you want. It may take a little longer, but they'll come. But they won't come if you have a reputation for being duplicitous and someone who cannot be trusted. The Law Society may come, but they won't. So please, remember. Your reputation is your most important asset. Let your word be your bond. Let honesty and integrity be your guideposts. And the rest, I promise you, will fall into place.

Finally, for those of you who may be looking at me and thinking “I wish I were him,” let me assure you that “him” is looking at “you” wishing “he” were “you.” The message is this: be yourselves, enjoy the moment, enjoy what you have. You have your whole life ahead of you and each of you has the opportunity to do great good. And when I speak of great good, I don't necessarily have in mind arguing

landmark cases in the Supreme Court of Canada or writing learned treatises on the law or defending high profile murder cases. Rather, I am talking about little things that generally go unnoticed. I'm talking about small measures that can make an immeasurable difference in people's lives. I'm talking about helping little people who have been victimized by others more powerful—helping those who are less fortunate. Doing what you can to ensure that they are accorded the rights and freedoms and benefits to which they are entitled as Canadians. Providing them with a voice so they can access the justice system—a system which many find daunting and foreign and unwelcoming, and overall, just helping people in their daily lives. Helping them weave their way through the mass of rules and regulations that govern our daily activities, be it the purchase of a house, the incorporation of a business, the payment of taxes, or the treatment of employees.

Every day, as lawyers, you will have the opportunity to go out into your community and do great good. And I know you will—and I know it will bring you great satisfaction. Encore une fois, je vous remercie d'avoir organisé cet événement très spécial. Merci beaucoup.

L'HONORABLE JUGE ANDROMACHE KARAKATSANIS
THE HONOURABLE JUSTICE ANDROMACHE KARAKATSANIS

I am very pleased to be here today and to have the opportunity to meet with faculty, the bar, and especially to meet with so many law students. It brings me back more than three decades, to when I was a law student and really had no idea what the future would hold for me. Lorsque je lisais les décisions de la Cour suprême du Canada, je n'aurais jamais cru qu'un jour, je serais juge à la Cour suprême.

I can tell you that when I was a law student, I did not *love* the law. At the time, it seemed to me like a collection of rules; the tools of the trade. C'était quelque chose que je devais apprendre pour devenir avocate et exercer le droit. It was after I left law school that I began to appreciate that I had learned a way of thinking, an analytical framework that provided me with extraordinary training for any career I chose to pursue. Une carrière en droit peut ouvrir tellement de portes à la fois intéressantes et inhabituelles, dans les secteurs de droit privé et de droit public. Nous avons même l'occasion de faire une véritable différence.

So I say to the law students, you are in for an exciting and perhaps unpredictable journey. Some of you will work in private practice. Some of you will work in government, in the public service. Some of you will work for tribunals, in the administrative justice system. I have worked in all those settings, et je peux vous assurer que vous aurez une carrière merveilleuse, satisfaisante et enrichissante — peu importe la piste que vous choisissez.

My own legal career has been a varied and perhaps unconventional journey—for the most part in public service. Par conséquent, je crois profondément en notre système démocratique qui repose sur trois piliers : la législature, la fonction exécutive et la branche judiciaire. J'ai été témoin de l'impact profond du droit comme instrument de politique sociale. As a lawyer in private practice, an adjudicator in an administrative tribunal, assistant deputy minister for native affairs and as deputy minister of justice, I experienced a diverse and broad perspective on social and legal issues.

So my passion for the law developed over time, as I began to understand the fundamental way in which the law shapes our society, our values and our relationships with each other and with the state. It defines the very fabric of our society. Le droit touche chaque aspect de la vie privée et de la vie publique.

And so, I am very excited and honoured to serve the public as a judge of the Supreme Court of Canada. Je suis vraiment ravie d'être juge de la Cour suprême du Canada. On a personal level, I can tell you it is quite a transition. Of course, it has been much easier coming here with my friend Michael Moldaver. Not only because he manages to get me on the treadmill most days, but because of his great sense of humour and warm humanity. The Chief Justice and my colleagues have also made it so much easier. Mes nouveaux collègues de la Cour suprême du Canada ont tous et toutes été incroyablement accueillants et chaleureux.

Perhaps the hardest of all—at my age—is moving to a new city. But I suspect that shared decision-making will also be somewhat challenging. Justice Rosie Abella described it to me as having eight husbands. But while it may sometimes be a challenge to reach agreement with eight independent and brilliant thinkers, so far, I have found that to be one of the real joys of the job—the other justices are so collegial, thoughtful, open and respectful. Of course it could just be the honeymoon period—la lune de miel.

The work is, of course, extraordinary. Toutes les causes que nous entendons nous amènent à réfléchir sur des questions de droit difficiles et importantes. Just this week our cases address: une question relative au partage des compétences entre les gouvernements fédéral et provinciaux; whether internet service providers should bear responsibility for broadcast content; si la législation du Québec, qui ne règlemente pas les pensions alimentaires et le partage des biens entre conjoints de fait, contrevient à la *Charte canadienne des droits et libertés*; and whether public interest standing should be broadened to permit interest groups to challenge legislative schemes, in this case the prostitution laws.

But it is not just the cases and the substantive issues. It is the importance of the judiciary and the Supreme Court—the institution—to our system of parlia-

mentary democracy. J'ai eu le privilège de pouvoir apprécier le système judiciaire sous plusieurs perspectives différentes. As I reflect back on three decades of a diverse legal career, one thing stands out: the rule of law is the cornerstone of our free and democratic society and our way of life as Canadians. The rule of law means that no one is above the law. The rule of law allows us to live together in freedom and harmony. We often take it for granted but I believe that it is what makes Canada the envy of the world.

La primauté du droit est une réalité qui existe seulement en raison de notre système judiciaire. Je crois que l'indépendance et l'intégrité de la magistrature sont au cœur de notre système judiciaire. Les juges ont la responsabilité d'appliquer la loi avec impartialité et ouverture d'esprit, en accord avec la loi et la jurisprudence. Nous devons incarner et protéger les valeurs fondamentales de la société canadienne, en conformité avec notre *Charte canadienne des droits et libertés*. As judges, we must bring independence of thought, with humility of spirit, recognizing that the rule of law must be safeguarded for all.

Bien sûr, la Cour suprême du Canada est là où la primauté du droit est définie et raffinée. Alors, c'est avec enthousiasme que j'ai accepté ma nomination à cette Cour si importante et si dynamique. I am thrilled and very excited to be a member of the Supreme Court of Canada. But I am also keenly aware that it is a tremendous responsibility. Je me sens à la fois honorée et humble d'avoir l'extraordinaire privilège de servir le public comme juge de cette Cour.

En terminant, je voudrais vous rappeler que le système de justice repose aussi entre les mains du professionnalisme et de l'indépendance du Barreau. Comme avocats, vous avez, ou vous aurez un rôle important à jouer dans l'administration de la justice. Je vous souhaite de faire bonne route dans les sentiers de l'aventure qui vous attend.

SÉBASTIEN GRAMMOND, DOYEN DE LA SECTION DE DROIT CIVIL
SÉBASTIEN GRAMMOND, DEAN OF THE CIVIL LAW SECTION

Au nom de la Faculté de droit, je veux remercier les juges Moldaver et Karakatsanis d'avoir profité de leur première « libération conditionnelle » pour venir nous offrir quelques conseils et des grains de sagesse, a few insights in their new job. Let me just say that we are so lucky at the University of Ottawa to be so close to the Supreme Court and that we are grateful to all the judges of the Court to accept our invitations on a regular basis. It provides so much interesting perspective for our students.