WILBUR FEE BOWKER: IN APPRECIATION

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A talk given in a shorter form with miscellaneous informal remarks since expunged, to a joint dinner meeting of the Legal Forum and the Legal Circle, two discussion groups of Edmonton lawyers, held September 18, 1975, at the Mayfair Club, Edmonton, in honour of Dean W. F. Bowker, Q.C., on his retirement. The Alberta Law Review is pleased to publish this tribute to Dean Bowker, who for many years has been an invaluable supporter of the Review.

Wilbur Fee Bowker was born February 18, 1910, in Ponoka, Alberta, one of the most attractive of the pleasant little villages in the rich farming land south of Edmonton. He has ever since retained close connections with his home town, and will point it out from the highway, with more affection than irony, as "the Vale of Paradise".

I know little of Wilbur's boyhood.

However, it seems evident that his upbringing in this small village left him three legacies of enduring value. He came to know the true democracy of the Canadian West, which values a man for what he is, how he uses his talents, and how he treats his neighbour. To this I attribute, in part, the extraordinary range and vitality of Wilbur's many friendships. Second, he was fortunate in his family. His father, I think, must have been a remarkable man, with a genius for encouraging the developing interests of a curious and intelligent boy. He furnished him with books, enduring bullion from which good coin may still be struck, and, in an era and circumstances when travel was limited, took his son to interesting places and made him aware of the wider world. A father does this at cost to himself, knowing it must in time take the boy away from home to other places and larger experiences. I suspect Wilbur also inherited from his father his half-bemused, somewhat ironic, view of material progress and its confusing mechanical products. Finally, the Dean was privileged (as I think) to be born at such a time that he could view authentic survivals of the early West, and yet share in his own lifetime in the extraordinary economic, social and political evolution of this province, unequalled in Canada for variety (and, indeed, sometimes peculiarity) and colour, in this century.

To give some historical perspective, perhaps I should recall here that Ponoka, a small settlement near major Indian communities, had been garrisoned (in a little blockhouse, sometimes called "Fort" Ostell) during the 1885 rebellion. By 1901, it had a population of 151—a statistic recalling Bob Edwards' earlier description of Wetaskiwin as "287 souls plus three total abstainers"—at which time the population of what is now Edmonton was 4,176 and that of all Alberta only 73,000. The Dean was born in the midst of the first great influx of new settlement, in Clifford Sifton's era, from Eastern Canada and all quarters of the globe, which raised Alberta's population to 185,412 by 1906, and led to the fevered land speculations which by 1912 raised some Edmonton land prices to $6,000 an acre. Then came the Great War, and the extraordinary emotions it engendered. Transportation was changing, as the automobile joined the train and replaced the horse: the first

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recorded automobile trip between Edmonton and Calgary was in 1906, but although by 1918 Alberta had only 9,700 cars, by 1919 there were 34,000.[1] From boyhood perceptions have come, I think, the Dean's love of history, and his appreciation of the achievements, splendid if not spectacular, of those who in lawful and orderly ways peopled and built the Canadian West.

Happily, there existed, in the University of Alberta, a school that could respond to the intelligence and curiosity of such young men. It had been founded by the foresight of Premier Rutherford only about twenty years before Wilbur entered as a freshman, at a time when the customs of higher education were little enough known that one student asked the President whether gowns were worn with or without trousers. That remarkable man, the first President, Dr. Tory, had from the outset seen the contribution which the University could make to the new Province: while educating the public to see the University staff not as civil servants but as "independent scholars and thinkers who are to bring us into an appreciation of higher things," he reminded the professors that the University would be "the prophet of the people," from which "would come forth the men who are to make their laws, who shall expound the principles of government, who shall soundly conceive the responsibility of the people," a mandate later to be amply fulfilled by Dean Bowker in his own career. Tory knew the strength of the early University would be in its teachers; if he could not induce the famous scholars in the established seats of learning to abandon their great libraries and comfortable common rooms, he would choose his staff from "young men of talent, learning and promise." So wisely did he make his choices—bringing together men like Alexander (Classics), Broadus (English), and later MacEachern, Sonet, John Macdonald, A. L. Burt—altogether a remarkable constellation—that the new University was soon able to furnish its charges a rich, and liberating, education.

So large and prosperous is this University now, that it is hard for us to see it as it must have appeared to Wilbur when he came up, in 1927 or 1928, at just about the time Dr. Tory was leaving for the National Research Council. The University buildings were the old Arts Building, the power plants, St. Stephen's College, the University Hospital, the old residences, and that lovely crescent of Professors' houses, since vandalized to make a concrete parkade. These were about all that had been accomplished of the extraordinary master plan devised by Dr. Tory and his architects before the War ("damn good plan," he once said, when exasperated by critics), and had been built only with difficulty: the first University building was done with money never properly authorized by the legislature to be spent, and in 1915 the banks had stopped the University's credit, leaving the Arts Building without a roof, while the contractor (an American firm) itself financed the completion of construction.[2]

The relations between the University and the community were close. Prominent citizens, including many lawyers and judges, were involved in the University's government and teaching. Faculty lectured to public meetings throughout the province. (Dr. Tory was once asked to talk to a convention of morticians on "What the undertakers can do to promote the prosperity of Alberta.") Interested members of the public attended open lectures on the campus. Across the river, in the city (reached on the

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[1] These miscellaneous (and probably irrelevant) historical details are taken from J. G. MacGregor, *A History of Alberta*, esp. pages 145, 156, 174, 194, 226, 243, 258.

[2] A good account of the early days of the University is to be found in E. A. Corbett, *Henry Marshall Tory—Beloved Canadian*, from which some of the foregoing has been taken.

"Toonerville trolley" that crossed the High Level Bridge) student pranks and editorials in the *Gateway* were the subject of comment, outraged or amused. Altogether, the people took a lively interest in the University, and the students enjoyed a splendid vantage point from which to observe the extraordinarily exciting politics of this Province in the Twenties and Thirties.

Within the University, classes were small, many of the students lived in residence, there was a lively range of sporting and extracurricular activities (including debating of a high order) and in the French Club or History Club or like Societies, students and teachers met (often in the professors' homes) for good talk. It was a community, in which the student could combine hard study and the usual undergraduates' earnest discussions of the mysteries of the universe with much innocent fun. Sometimes, the activities were thought to get out of hand, and after the *Powlett* case (a local *cause célèbre* which gripped the attention of the University and public) the custom of "hazing" freshmen was proscribed.[3] However, when our distinguished guest matriculated, it was in force. Indeed, in his first weeks Wilbur Bowker won the attention and affection of the University when, wearing a beanie, he came onto the stage of a local theatre thronged by students in a manner that has been described as that of "a pterodactyl doing Swan Lake," and sang a song which those present (whose memories, like those of the independent witnesses described by Mr. Justice Macnaghten, "as the years go by, become more and more certain and less and less accurate") recall as either *I'm a lonely little petunia in an onion patch* or (as I like to believe to be true), *I'm a little prairie flower, growing wilder by the hour.* In that moment was revealed the dramatic talent that was later to make immortal, among generations of students and the Uniformity Commissioners of Canada, the Dean's rendition of *Casey at the Bat.* Less fortunately, perhaps, there was also released the singing voice still recalled (with somewhat less pleasure) by those who were to hear it daily in his fraternity house (one of the earliest on campus) where he shared an attic room.[4]

University was a rich and happy experience for Wilbur Bowker. He came prepared and ready to learn, and found provided the nourishment he sought and needed. In all his activities—dining in residence with chums, visiting in the homes of friends, enjoying fraternity life—he early showed that genius for friendship we all know.

Between terms, he did various jobs. One experience worth recalling is a summer spent in the Northwest Territories as a deckhand on a river boat, used as an itinerant court by an Edmonton Judge doing Northern duty. I believe that glimpse of the circumstances of frontier justice helped him later to recreate the early career of Chief Justice Harvey.

In 1929, Wilbur Bowker entered the Faculty of Law, thus coming within the charge of the second of those I believe most to have influenced the course of his life, Dean John A. Weir.

The University had from 1913, by agreement with the Law Society, organized lectures and administered examinations for articling students (a "Mr. G. H. Steer of Hamilton" was in the first group); but the real foundation of the Faculty dates from 1921 when legislation recognized the three-year degree programme, 1922 when the young John Weir was appointed a

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[3] *Powlett* v. *University of Alberta* [1934] 2 W.W.R. 209 (Alta. App. Div.).

[4] Some recollections of the Dean's student days are to be found in a *liber amicorum*, published privately on his retirement in 1975 by the staff of the Institute for Law Research and Reform.

sessional lecturer (on the recommendation of several of his distinguished teachers at Oxford), or 1926 when he became Dean.[5] In the early years, he was ably assisted by Mr. Kleven and later Sigvald Neilson, by the sessional lectures of a group of remarkably able practitioners (including Mr. Steer, Mr. Justice Frank Ford, W. Dixon Craig, H. H. Parlee, H. A. Dyde, L. Y. Cairns, and Mr. S. W. Field), and of course, by Dr. Malcolm MacIntyre, whose still-developing analytic powers and awareness of the social purposes and consequences of law (both nurtured at Harvard, under Dean Pound) had a lasting, liberating effect on students—as described by Dean Bowker himself in a charming memoir.[6] However, it is fair to say that until 1942, when he died, still a young man, for most students the Law School was Weir.

It is impossible for those who did not know him as a teacher fully to understand, or explain, the remarkable dedication, respect and affection this man evoked from the students and the profession. We know that he was very young; that he carried a teaching burden that no one today could tolerate; that his scholarship was exact, and that no matter how great the range of courses he taught, he seemed master of each subject. We have been given pictures of him at his work. Outside the classroom, with strangers or local dignitaries, he is said to have been extremely shy and ill-at-ease; in the classroom, he was a man transformed, at home with his subject and his students, beaming genially at some good answer, gently planting some seeds of healthy doubt whenever students thought the law too certain or too clear, absently rubbing his stomach as he reflected on some question, unfolding from some familiar textbook pages of notes and citations he had inserted on a particular point. Mr. Justice Johnson once told me that if "Johnnie" Weir had asked someone to lay down and be a door mat, every student would have volunteered; and only ten years ago, I knew a discussion to be concluded by the simple assertion that on the point in issue Dean Weir held a particular view. The influence of a great teacher must always be something of a mystery, lying just beyond measurement or explanation, but we may be certain that many of the traits we all admire in Wilbur Bowker as a man and teacher he in his day saw in John Weir, and that it is no idle courtesy, but a carefully considered judgment of great value, when anyone of that era says (as they do) that in Wilbur Bowker the Law School found a fitting successor to this reserved but beloved and powerful man.

In 1932, Wilbur Bowker received his LL.B. degree and entered articles. In Western Canada, that was not an auspicious time to begin the practice of a profession. Many of his classmates found little opportunity; I believe one, later to have an outstanding career as a geologist and executive, used his periods of enforced idleness actually to pan for gold in the North Saskatchewan. Many established lawyers had their savings wiped out by the Depression, and others either did not have work or were not paid for what they did. The prospects for a young man must have seemed pretty bleak, and some of the work done there was to be done, such as farm foreclosures, must have been unpleasant indeed for a kindly youngster. There is, in such circumstances, not too much consolation to be found in Daniel Webster's encouraging words, "There is always room at the top!"

In the result, however, whatever its financial rewards, the practice of law proved to be for Wilbur Bowker a tremendous experience. He had found a great calling, and counted himself fortunate in his circumstances. He could

[5] These, and other facts concerning the development of the Faculty, are to be found in Dr. W. H. Johns, *A History of the Faculty of Law*, a pamphlet published by the University of Alberta, Edmonton, in 1972.

[6] Bowker, *Malcolm Murray MacIntyre, 1904-1964*, (1964) 3 Alta. L. Rev. 161.

work in courts of a quality which still astonishes me, when one considers the size and resources of the Province then, and with a small Bar containing leaders of great ability and some of very colourful personality. He found himself, by happy chance or otherwise, in a firm (after 1934, Milner and Steer), which by reason of its size and the stature and interests of its senior members, was deeply involved in the legal aspects of the great political events that then convulsed the Province—the fall of the U.F.A., the rise of Social Credit, the *Bankers' Toadies* case,[7] some of the challenges to the radical legislation of the new government—and which dealt, on both the solicitors' and barristers' sides, with some fascinating questions of private law. To give but two examples, Wilbur Bowker had much to do with the development of mortgage proceedings in this Province (as protective legislation was attempted), and did much of the staff work in preparing the appeal to the Judicial Committee on the famous case, still cited in the torts textbooks, the "Corona Hotel Case."[8] (Indeed, he used for many years in the Faculty, when teaching the case, a scale model of the situs that had been prepared for use by Mr. Martland in briefing Sir Wilfrid Greene.) Anyone who has ever glanced at Bentwich's *Privy Council Practice,* with a sigh of relief that he need now never read it in earnest, will know what a training in painstaking accuracy preparation of such an appeal afforded a young lawyer. Those were exciting times, made more pleasant by the fact that they were enjoyed in the congenial atmosphere created by colleagues, such as Mr. Martland,[9] who combined hard work and high talents with companionship and good humour in a mixture entirely matched to Wilbur's own chemistry.

Above all, there was Mr. Steer, who perhaps of all those I may mention most helped to shape the pattern of Wilbur's professional life. It is impertinent to me to speak of one whom I only occasionally met, but no account of Dean Bowker's career could be given without reference to Mr. Steer.

Having come West after graduation from Queen's University and read law in offices here, George Steer early established himself, by ability, enormous industry and force of personality, as a leader of the Bar, a status that he retained through the whole of his long and useful life. His concentration was intense and immediate; he wasted no time recalling past accomplishments, but always looked forward to each new challenge. In Churchill's phrase, "he had the root of the matter in him," and relied on native analytic power, sound sense, and a comprehensive grasp of basic principle, to resolve problems, finding later in the catalogue of specific rules and precedents support for his view. He was quick, thorough, immensely demanding of himself and others. A gruff manner hid a sometimes unsuspected sentimentality: he could never think without the deepest emotion of the early loss of his friend, Dean Weir, and he took great pride in the career of his son and in the professional attainments of his former students, as we saw when Alex Smith published his work on constitutional law, and he had a sense of humour that emerged in terse and ironic comment; but these softer qualities were sometimes well concealed, and probably were not very apparent immediately to a beginning law student. When Wilbur became his pupil, Mr. Steer's powers were entering their full maturity; he was known with respect in the Supreme Court and the Judicial

[7] *See R.* v. *Unwin* [1938] 1 W.W.R. 339 (Alta. App. Div.) and *R.* v. *Powell* [1938] 1 W.W.R. 347 (Alta. App. Div.), rare cases of criminal libel.

[8] *Northwestern Utilities* v. *London Guarantee and Accident Co.* [1936] A.C. 108 (P.C.).

[9] Later, and now, Mr. Justice Martland of the Supreme Court of Canada.

Committee, and in Alberta his counsel was sought in matters of great significance. He was an outstanding teacher and principal, revered ever after by Wilbur and later Alex Smith as their "Master in the Law."

But Wilbur, for his part, was an apt pupil, soon "graduating" from a student to the status of respected member of the firm. His colleagues of those years testify to his ability and sound sense as a lawyer, his good humour and reliability as a colleague and his complete integrity in all capacities. He seemed settled for a long and busy career in the practice of law.

However, then came the War. Wilbur, who retains a simple admiration for modest men of valour, tends to speak in wry self-deprecation of his military career, but it is all of piece with his character. Although well established in practice, and not long since married, he enlisted in the ranks, spurning the opportunity of a commission, threw himself wholeheartedly into the mundane details of basic training, served well as duty required, and rose to the rank of Captain. In the Army, as in all phases of life, he made some good and lasting friendships.

During the late years of the War, the Faculty of Law was reduced almost to extinction. Dean Weir died in 1942; and the helm was taken briefly by Dr. MacIntyre, who carried on with the aid of sessional lecturers. By 1945, however, the student population had shrunk to nine, and that year Dr. MacIntyre left to join his father in practice in the Maritimes. The future of the School must have seemed very uncertain, just at the time when immediate measures were needed to prepare to serve those who would soon be returning from the War to resume their interrupted studies.[10]

Mr. Steer took matters in hand, assuming the duties of Acting Dean. On his nomination, Wilbur Bowker was appointed a full-time teacher. In 1947, Alex Smith, who had served as a sessional lecturer in the War years, was made an Associate Professor, and Mr. Hawco joined the staff as a lecturer. Wilbur Bowker was named Acting Dean in 1947, and in 1948 he became the Dean, assuming the title by which he shall always be known to all those associated with the School in the years that followed.[10]

Although Wilbur has never admitted to this, I suspect every law teacher thinks occasionally of what life would be like if he had continued in the practice of law. There can be no doubt Wilbur would have been a distinguished solicitor, respected for honour and competence, and a progressive force in the profession. Had he been made a Judge, he would have combined with scholarship and a powerful sense of justice, dignity and courtesy. However, I count it to the great fortune of this Province that his services were claimed for legal scholarship. The office and the man were well matched.

The immediate challenge that had to be met, with no opportunity to regroup forces, was to meet the needs of classes soon to be swollen by returned soldiers. Can you now imagine, sympathetically, the plight of one discharged from the services, a dozen years from his own graduation and three years away from practice, having within days to face classes in a range of subjects? And these were no ordinary students; these were men, seasoned by experience, anxious to get on with their lives, expecting efficient organization and competent instruction. The University was overcrowded, and the large classes, swollen by 1950 to 142, were far beyond the capacity of the little reading room in the Arts Building or of any single classroom. However, burning the candle at both ends (and aided by skilful

[10] *See* Johns, *supra*, note 5.

notes prepared by his wife) the Dean—and the students—made it through triumphantly. Those were tough years for the Dean and Alex Smith—though their burden was lightened when Bill Reed[11] joined them as a valued colleague—but they had great regard and affection for the veterans' classes ("good boys," as the Dean calls them, even now) and look back on those strenuous days with pleasure.

Alex Smith, having several times been mentioned, should now be brought to centre stage, the next of those deserving a special place in the story of Wilbur Bowker. Having done some part-time teaching while in practice with Mr. Steer, he joined the Faculty full-time and served it until his retirement in 1974. His scholarship, developed through his teaching and his doctoral studies at Stanford, was massive and exact; his expression was both elegant and precise; both qualities show to advantage in his book on the *Commerce Power*.[12] In the opinion of students, and also of colleagues who between them shared experience of most of the great law schools of the common law, he was one of the master teachers of his time. The atmosphere in his classroom was charged with excitement. All his students will recall the skilful design and sequence of his questions, his insistence that they "wrestle with the angels," his impatience with slovenliness or neglect, his warm endorsement of work well done, his infectious and ever-renewed enthusiasm for the challenges of the law. Sometimes the lightning would flash and the thunder roll, but when the sun shone, it warmed the room. His students first feared, then loved him. He pried open their minds, and gave them glimpses of the infinite. Like the Dean, he knew his role was to help the students make themselves into lawyers in the grand tradition, and with Wilbur he shared interests in literature and history. Often agreeing on questions of professional values and educational purpose, different in style and temperament, they enjoyed for over twenty years an association which, while it must have had its occasional strains and tempests, proved a happy and productive partnership. For years, much of the business of the School was done in the doorway between their offices, and a visitor joining them at their habitual sandwich luncheon in Alex's room was treated to fascinating talk that roamed the intellectual universe. It was the good fortune of the Dean to have this learned and stimulating coadjutor, and thinking of the School, we recall them both.

The creative middle years of the Bowker deanship began, one might suggest, in the early Fifties. The urgent demands of the immediate post-war period had been met. Enrolment, which had been swollen to record numbers by the returning veterans, fell to more normal levels and thereafter, for some while, increased only slowly. The transition is marked by the opportunities the Dean had twice to escape the immediate demands of his office for periods of reflective scholarship, taking his LL.M. degree at Minnesota and spending a stimulating term as a Sterling Fellow of the Yale Law School. Brought into close touch with the active and exciting world of American legal scholarship, he made good new friends and learned much, including a detailed and balanced knowledge of American constitutional doctrine that I daresay could be matched by few American lawyers.

Fully to appreciate the achievements of these years, we must remind ourselves of the condition of the School and of legal education in Canada as the Fifties began. The University budget was still stringent. In, say, 1952,

[11] Mr. G. W. Reed, later Vice-Chairman of Appeals, Ontario Workmen's Compensation Board.

[12] Alexander Smith, *The Commerce Power in Canada and the United States.*

the teaching staff was small: Mr. Hawco had left; A. B. Weston[13] had come; that year Alex Smith was on leave at Stanford and Andy Thompson,[14] newly joined, was reading for his LL.M. at Toronto. The library was soon moved from the old Reading Room, long taxed far beyond capacity, to the new Rutherford Building but the collection, although good, was small and the funds needed for its development were not forthcoming until the more opulent days of the mid-Sixties.

On the national scene, while some schools were of age, others, now well established, had not been born or, if alive, were undergoing painful change. Dalhousie was long established; U.B.C. was just coming into being; Manitoba had still a part-time law school, with a few teachers using morning lectures offered over a four-year period to apply some veneer of scholarship to articling students. In Ontario, the Law Society was beginning to feel the pressures to relinquish its monopoly of legal education and to recognize University law degree programmes. To the practitioner, the professional law teacher was still an unfamiliar and somewhat suspect figure; when the Canadian Association of Law Teachers first met formally, in 1951, 24 persons were in attendance. Works of Canadian scholarship—or even basic materials for teaching law—were few.

But if the challenges were formidable, and resources few, the circumstances of the day also provided (I think) the optimum conditions for a man of the Dean's personality and unique qualities as an educator. These, in the smaller school, could be felt full strength. Later, in altered circumstances, they were necessarily somewhat diluted. In the middle and late Sixties, vastly increased enrolments—jumping from 107 in 1959 to 170 in 1965 to over 300 in 1969—made it necessary to divide classes into sections, which not every teacher could meet. More formal procedures and complex regulations reduced the discretion of Deans in many decisions. It became much harder for the Dean to get to know the students, and though he strove mightily to maintain the close relations of an earlier day, less frequent contact in the classroom, his own natural reserve and what may have appeared somewhat old-fashioned manners and sense of propriety made it harder for the students to come to know the Dean, whom they might see only in his official capacity, and to appreciate the colourful personality and progressive attitudes thus somewhat concealed. In a much larger faculty, necessarily mixing ages and experience and subject to more frequent change, a much greater variety of personalities and outlooks had to be accommodated, and frequent committee meetings and formal procedures began to succeed the earlier, informal means by which consensus was reached on school policy. Rapid growth created budgetary and space problems, and in the vast expansion of the University from a small institution to one of the largest in Canada, it became necessary to treat with new and unknown persons in formal and unfamiliar procedures, with much more assiduous attention and a more aggressive spirit. The Dean never saw the internal affairs of the University as a political process. If he did, he lacked the thrusting and guileful manner that some came to expect of the proconsuls of the new academic empire in asserting claims to greater shares of available resources. The Dean's practice was to measure his immediate

[13] Later to be of the Faculty of Law, Dar-es-Salaam.

[14] Andrew R. Thompson, LL.B. (Man.), LL.M. (Tor.), J.S.D. (Columbia), an outstanding member of the Faculty of Law from 1950 to 1969, a leading authority on petroleum law, and now Professor of Law at the University of British Columbia and Chairman of the British Columbia Energy Commission. In his years in Alberta, he gave great impetus to the development of the library, the institution of graduate studies in law, and the planning for the new Law Centre. He was a founder of the Petroleum Law Foundation. In 1970-71, he was President of the Canadian Association of Law Teachers.

requirements carefully, state them succinctly, and trust to those making decisions to do the right thing by him. To their credit—even when new styles of dress and haircuts might have suggested to the careless observer that the young were rejecting older values—the students still saw in the Dean an example of simple and straightforward virtues worth their respect, and their testimony of affection and regard on the occasion of his retirement is a treasured memory.

In early and simpler days, however, these standards could be more directly impressed upon the students.

In University matters, the Dean was dealing with old friends, familiar to him and acquainted with the School. Within the Faculty, things were worked out quite informally with colleagues in daily discussions. The Dean, conscientious though he was in the discharge of any duty, was not a master of office management—his own examination papers were always late, rushed to the students with the ink still wet, and he would not have loved the flow charts and computer forms that fill administrators' in-baskets today. He made no deliberate use of techniques, common in large organizations today, to project an image or promulgate a policy. Happily in those simpler days, there was time and occasion to meet and know his colleagues and students, and, by just being himself, to influence them greatly.

For the great influence exerted by the Dean was achieved without being designed, and by example, not precept or exhortation. Under him the school was governed, not by decrees, proscriptions and discipline, but by expectation. Students and colleagues knew that the Dean himself lived by high personal and professional standards; his example made those standards valid for them; and they willingly undertook the obligation to try to live up to his expectations, and felt keenly the desire to avoid the injury he would feel if they were to fall short.

They were made to feel members of a community, and a tradition, to which they had their own special responsibility. To come to class unprepared, for example, was not a purely personal option; it was default on the obligation to assist the class in its common pursuit.

In dealing with students individually, whether in his office or more informally at student parties or sporting events, the Dean showed great understanding and sympathy. He is a perceptive judge of character. His kindliness and discretion tend to conceal how shrewd and penetrating his assessments of persons are; in friends and students, he forgives almost every fault but cruelty and double-dealing. In a simpler era, when Deans were entrusted with some discretion, and their decisions not minutely governed by regulations and subject to innumerable appeals, Wilbur Bowker rightly saw in many applicants and students, with unpromising records, the stuff of which good lawyers could be made, and showed them how to use it. I do not think he was often disappointed. When he was, it hurt deeply.

But it is as a teacher in the classroom, not as an official of the University, that graduates will recall the Dean.

Those great performances, as entertaining as they were instructive, have often been imitated. They began quietly, with the calling of the roll, in a soft, almost weary, voice—last names only, except for the women students, who were "Miss" or "Mrs." in those days when to any scholar "Ms." meant only "manuscript." Then, volume rising, there would be a brief recapitulation of the last day's discussion, or the introduction of a new topic. Then, the first of

many questions to the class. The starting questions would be gentle and straightforward; the supplementaries, testing the student's initial views in varied hypothetical applications, more penetrating. While listening to answers, or giving his own views, the Dean was always in motion: chewing ruminatively on a cough drop, flipping his piece of chalk (they are said one day to have been interchanged by accident), using the same chalk to trace and retrace his initials on the lectern (what started as a Napoleonic "N" always eventually was reduced to a modest "W"), performing series of mysterious manoeuvres with pointers and map books. Perhaps Wilbur felt that one could say of the teacher what Lord Lyndhurst said of the Judge, that it was his duty "to make it disagreeable for counsel to talk nonsense,"[15] but his questioning was gentle, and serious efforts in reply received genial approbation. Teaching something to each Year, meeting each Year as a class, he came to know the quality of mind of each student, and used his socratic skills adroitly to suit each case, encouraging the timid or challenging the dogmatic. Occasionally, frustrated by a series of inept or unprepared answers, the Dean would let forth a bleat of exasperation. In turn the students drew forth from him guidance and information, never ceasing to marvel at his incredible recollection of principles and cases, and the fund of legal history, philosophy, and amusing but relevant legal anecdotes which enlivened and enriched the lectures. By the middle of the hour, he would be in full volume—and even down the corridor one could hear in his stentorian tones the elaborate but ordered paragraphs in which he speaks (contrasting so strongly with the simple and declaratory style of his writing), the phrases interrupted by meditative pauses.

How is the impact of a great teacher to be explained? The root of Wilbur's success, I think, was the respect he showed his students, his subject, and his profession. Only direst necessity ever stopped him from meeting a class. He prepared carefully for every class as if it were his first, constantly reviewing the law and seeking new ways to present it. He cared deeply for accuracy in every point. He never glided over any tough problem of importance, but struggled with it, and insisted that the students join him in the effort. He was never dogmatic, and did not seek to make disciples. His object was to help the students make themselves into lawyers who were skilled, rational, sensitive and responsible. He entertained seriously all their views, even from freshmen, and never hesitated to review and then either change or justify his own opinions. He was entirely without the arrogance or pedantry which are so often the vices of the teacher. He was enthusiastic about the law, delighting in the work however hard, and his students caught this infectious spirit. "Gladly wolde he lerne, and gladly teche."

Dean Bowker saw the law in a full perspective, deepened by his knowledge of history and theory, sharpened by his years in practice, focussed on the purposes and utility of rules and institutions. With Holmes, he appreciated that[16]

> . . . a body of law is more rational and more civilized when every rule it contains is referred articulately and definitely to an end which it subserves, and when the grounds for desiring that end are . . . ready to be stated in words . . .

and while realistic in his view of the conservative conventions of the courts and profession, he knew that in the long run, as Lord Mansfield once said, "The reason and the spirit of cases make law; not the letter of particular

[15] Lord Lyndhurst L.C., quoted in Campbell, *Lives of the Lord Chancellors: Lyndhurst*, Ch. 5.

[16] O. W. Holmes, *The Path of the Law* (1897) 10 Harvard Law Review 457, reprinted in Holmes, *Collected Legal Papers* (1920), 167. The quotation appears at page 186 of the latter work.

precedents."[17] Thus, while presenting rules clearly and even canonically, he had a clear view of inconsistencies and inelegancies, a sound sense of which rules were doomed to obsolescence and which contained the seeds of growth, and, without adopting any informal scheme, a clear set of criteria, of human values and interests, by which to assess the law. In the students of such a teacher, the Province has been given a profession capable of apt and creative response to the changing needs of its community.

Ultimately, a community, however soundly conceived its law, must depend upon the ministers of that law and their ethical quality. Professional responsibility is not established by preaching homilies. The young will attach to such matters only such importance as they provably have in the actual life and work of the leaders of the profession whom they respect. Wilbur Bowker provided that example in his teaching, his scholarship, his treatment of students and colleagues, of complete integrity. It was clear to all who knew him that ethics were as essential to his life, or that of the profession, as oxygen is to existence.[18]

Wilbur Bowker believed, and taught us all to believe, in Bacon's credo: "I hold every man a debtor to his profession, from the which as men do seek to receive countenance and profit, so ought they of duty to endeavour themself

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[17] Lord Mansfield C.J., *Fisher* v. *Price* (1762) 3 Burr. 1363, 1364.

[18] Dean Bowker, in his quiet way, is a man of deeds—one of those, admired by Holmes, who takes on a job, hammers it out as best he can and leaves it unadvertised. He has not often written in general terms about his views on legal education. For these, one must look to the work he did. Perhaps it may also be said that he subscribed (and may still, in large part, accept) the report of a committee of the Association of Canadian Law Teachers, published in (1958) 36 Canadian Bar Review 242, as *A Statement of the Objectives of Canadian Law Schools*, of which he was a principal author. If that is so, it may be said (in general terms) that he recognized that law in society serves many functions. Being purposive, whether serving moral ends or some more pragmatic calculus of interests, it must be studied in terms of these purposes. He appreciated that lawyers—as a profession, or individually—play many roles; they have opportunities for creative work with social impact. Law schools cannot provide knowledge of all laws relevant to each social end or professional function. They can (and should) strive to foster an understanding of the purposes of laws, give an appreciation of the nature of legal institutions and processes, provide a knowledge of the basic principles of the law in its main branches, and develop the aptitude of the student to resolve problems by proper analysis, research, and argument. These points may now seem well-established, but there was a time when they amounted to staking a contested claim for the academic study of law and a rejection of the spurious antithesis sometimes drawn, to the intended disadvantage of one or the other, between "practical" and "academic" education. I believe Dean Bowker agreed with the view of the late Dean C. A. Wright in a wise address in 1950:

> I do not believe there is any clash between these objects [vocational and educational], provided that we do not make the mistake of translating "professional" as mere expertise in existing technique . . .
>
> It is this mistaken narrow professionalism that now and then cries out at the law schools for being academic, impractical and theoretical. In that connection, it may be wise to remember the gibe of Disraeli that 'the practical man is the man who practises the errors of his ancestors.' Personally, I have no hesitation in throwing in my lot with the statement of Holmes that 'Theory is the most important part of the dogma of the law, as the architect is the most important man who takes part in the building of a house . . . theory is not to be feared as impractical for to be competent it simply means going to the bottom of the subject. C. A. Wright, *The University Law Schools*, (1950), 28 Can. Bar Rev. 140, 143.

In some quarters, in 1950, those were still fighting words. The quotation of them will bring back to some a whiff of the cordite and echo of the cannons of the struggle to establish elsewhere the place of the University law schools. Such a battle did not have to be fought in Alberta, thanks to the foresight and accomplishments of Dr. Tory and Dean Weir, and to the attitudes of a profession that appreciated the value of a sound foundation in legal principle. In 1947 Mr. Steer, then Chairman of the Legal Education Training Section of the Canadian Bar Association, had written that in none of its aspects "is the life of a lawyer without public importance," that "the lawyer, more perhaps than the member of any other learned profession, owes a duty to society to equip himself as a policy maker," and that accordingly the teaching of law was not a matter of a slavish adherence to precedent and existing practice, but a learned study to be conceived in appreciation of the "importance of the political, historical and sociological views" of lawyers and judges: G. H. Steer, *On Legal Education in Canada* (1947) 25 Can. Bar Rev. 942 at 944, 948.

As Dean, Professor Bowker took an undogmatic view of legal education. His principal concern was never the formal structure of the curriculum, but what was actually done, for and to the student, in the programme. He ensured that all the main subjects were represented and supported by steady library growth so far as the resources of the school allowed. General courses in Jurisprudence and Equity were preserved. He had reservations about the trend, in the 1960's, towards "optionalization" of the curriculum, fearing both that teaching talents might be spread too thin and that the broad, foundational, education required by students might be restricted. However, he gave warm support to any well-conceived proposals from colleagues for experimental teaching methods intended to make learning more effective. Indeed, before the "problem method" was commonly discussed, he had introduced it into his own teaching. In his pioneering legal research and writing course, the general purpose of which he modestly stated to be to teach the student "to write a defensible opinion," a distinctive requirement was the writing of thorough case notes, of which some ten or twelve were published in the Canadian Bar Review between 1950 and 1960: *See* W. F. Bowker, *Legal Writing at the University of Alberta* (1959) 13 U. of T. L.J. 85.

by way of amends to be a help and an ornament thereto."[19] When a man has several professions, these duties are multiplied.

Wilbur Bowker is the sort of friend who will do three days' solid research to answer a casual inquiry for assistance. He is not like the fabled Serjeant Waller, called "Index," whom fellow lawyers went to only for lists of authorities, which they then took to lawyers of more intelligence, if frailer memory, for an opinion.[20] Wilbur's friends seek his wisdom as well as his learning. His replies to such requests have influenced arguments, articles, statutes and judgments. The trail may be partly followed through acknowledgments in the prefaces and footnotes to the writings of others, but we shall never know the full extent of his service and influence through these friendly offices.

Wilbur Bowker gave his distinguished service to the University, beyond his own Faculty. He was unfailing in his attendance at council and committee meetings. At these, he rarely spoke, but his interventions, though infrequent, had impact—whether in earlier days to give a timely reminder of a student's right to due process, or in later times to suggest that unwieldy procedures should not block effective decision-making. He would give "curbstone advice" on legal points occasionally, but typically would venture no opinion on a point of importance until he had fully "addressed his mind" to it. Outside of council, colleagues from every faculty sought his informed and sagacious judgment. He never sought an office nor declined an assignment. In 1960, he chaired a committee to review the 1942 University Act; its report, largely his work, was done promptly, and formed the basis for all later studies. In 1964, he was, as a member of another committee, the person who (in the opinion of former President Dr. W. H. Johns) "deserves the credit for being the chief contributor to the report of 1965, which was the document on which the new Universities Act of 1966 was based."[21]

Successive governments of Alberta have sought Dean Bowker's counsel on matters of public law, and he has been an adviser to the Province's delegation to federal-provincial constitutional conferences.

His known services to the legal profession are almost too many to recount. A long-time member of the Canadian Bar Association, he served its Council and the Scott Committee on Legal Research.[22] In this Province, he has presented papers or organized panels for many meetings of the Law Society or continuing education programmes.[23] He was an indispensable member of the old Law Reform Committee.[24] He served as co-ordinator of the Special Committee of the Benchers[25] to review the Land Titles Act following the *Turta*[26] case. He was an unfailing source of help to the Society in matters of professional education and qualification, and of course served on the Board of Examiners in Law, delegate of the Universities Co-ordinating Council.

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[19] Francis Bacon, *Maxims of the Law: Preface.*

[20] Roger North, *Life of Lord Keeper Guilford*, Vol. 1, 24 (1826).

[21] Quoted from the contribution of Dr. Walter H. Johns to the *liber amicorum, supra*, note 4.

[22] *See The Thirty-sixth Annual Meeting of the Canadian Bar Association* (1954) 35 Can. Bar Rev. 994, 998-999.

[23] *See* notes 30, 31, 32, *infra.*

[24] A committee of the Law Society, discontinued on creation of the Institute of Law Research and Reform, as to which *see* note 62, *infra.*

[25] A Committee of the Benchers of the Law Society of Alberta, appointed at the invitation of the Provincial Government at a Convocation of the Law Society held in January 1955, to give special study to legislation which might be enacted with respect to settling equities of persons in regard to minerals in respect of errors respecting ownership of or claims to such rights on the Land Titles Office and the establishment of a special assurance fund for such rights, and generally to consider other matters deemed relevant. The Report of the Committee is published in 1 Alberta Law Review 185.

[26] *Canadian Pacific Railway and Imperial Oil Ltd.* v. *Turta et al.* [1954] S.C.R. 427 (S.C.C.).

As a law teacher, he was one of the earliest members of the Canadian Association of Law Teachers, later serving as its historian and, in 1955-56, as its President. Twice he had the pleasure of being host to its annual meeting, in Edmonton in 1958 and in Calgary in 1968.

His occasional talks to various professional and community groups are beyond number, and the range of subjects is extraordinarily various. I recall one, to a Librarians' meeting, on early law reporters.

Nationally, he is perhaps best known for his outstanding service to the Conference of Commissioners on Uniformity of Legislation of which, as an Alberta Commissioner, he was a member from 1952 until this year. Through that period, as any review of the *Proceedings* of the Conference will disclose, the Alberta Commissioners on the civil side did a fair, a more than proportionate, share, of the work of the Conference,[27] and they all would wish to acknowledge the leadership and service of the Dean in the preparation of their reports. In 1965 Dean Bowker was President of the Conference. He worked hard at the job, canvassing all Provinces for suggestions to make the Conference more efficient and productive, and examining closely the procedures of its American counterpart, the National Conference of Commissioners on Uniform State Laws. Dean Bowker took (or perhaps made) the opportunity to deliver a Presidential address, and I in turn welcome this occasion to draw attention to that very important, but now rather neglected, statement.[28] To many concerned with legal research and reform, the production of the Conference, although valuable, is disappointingly limited and spasmodic. The explanation, one suspects, lies in problems of funding, organization and procedure. In Dean Bowker's speech is to be found a clear, modest, and (I think) workable prescription for improvement, which must not be overlooked.

Nor were Dean Bowker's services, anymore than his interests, wholly confined to the Law. He has been, and is, a concerned and active citizen, helping church, social service, and fraternal groups. To mention but two activities of many, he has been involved in the organization of the debating programme sponsored by the Churchill Society, and he is a loyal and long-time member of a service club.

Those who have been privileged to work closely with Wilbur in these varied enterprises enjoyed, as could his Faculty colleagues, the delight of his informal conversation, in relaxed moments over lunch or at the close of a meeting. It is as amusing as it is instructive. No matter the subjects over which the talk might range—law, literature, history, travel, sport—the Dean, intermittently re-lighting his cigar, supplies from his extraordinarily capacious memory a flow of anecdotes, apt questions, curious facts, all encouraged by his eager auditors and cast in a distinctive elaborate

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[27] Contributions by the Albertan Commissioners included reports on the Survivorship Act (1954, 1956), a report and draft statute on legitimation (1958), a recommendation for a study of the law of domicile (1957), various reports and draft legislation concerning bulk sales (from 1957 to 1967), a report on bills of sale and conditional sales (1958, 1959, 1962) a report and draft legislation on survival of actions (1961, 1963), a report on an aspect of the enforcement of maintenance orders (1963), a report on the application of rules of the road to private property (1964), reports on a human tissue act (1964) and a draft act (1965), a report on aspects of family relief legislation (1965), a report on the last clear chance rule under the Contributory Negligence Act (1967), a report on contributory negligence and joint tortfeasors (1967, 1974), reports and draft legislation on adoption (1967, 1968, 1969), reports on limitation of actions (1967, 1968), a report on the application of the Survivorship Act to life insurance (1968), reports and draft legislation on the rule against perpetuities (1970, 1971, 1972), reports and draft Acts on the interpretation and form of statutes (1970, 1973), a report on *Hollington* v. *Hewthorn* (1974). Dean Bowker also strove regularly and eventually successfully for the restoration of a uniform construction section in each uniform Act: *Proceedings*, 1967, page 27.

[28] "President's Address," *Proceedings of the Forty-Seventh Annual Meeting of the Conference of Commissioners on Uniformity of Legislation in Canada*, (1965), 16. In 1971 the Alberta Institute of Law Research and Reform submitted to the Uniformity Conference a statement of ways in which law reform organizations and the Conference could productively work together: *Proceedings*, 1971, 129.

sequence or structure of sentences built up of plain words, enlivened by some adroitly adapted legal or literary term or some pithy expression redolent of the earlier West.[29]

These many public and professional services, valued though they must be in their own right, seem to me to have another and larger, significance. I see in Wilbur Bowker's career an outstanding example of the role to be played by academic lawyers in their profession and community. His able and selfless service has done much to establish the status of the law teacher in the legal world, and so to enlarge our opportunity for creative service.

Substantial though this list of accomplishments may be, given in even this abbreviated form, it is the more impressive considered against the background of his principal work as dean, teacher—and scholar. Wilbur Bowker is not a facile writer—his research is too thorough, his concern for accuracy too great—but from 1947 on, the Canadian Bar Review, the Alberta Law Review (to which he has in other ways given constant support), and other learned journals—including some in disciplines other than law—have contained a fairly steady flow of articles, notes, and reviews from his pen. These include reports of panels conducted or organized by him at Bar meetings, on subjects such as wills,[30] expropriation,[31] and commercial law;[32] perceptive memorials of early judges;[33] constructive and informed reviews of books on topics from jurisprudence to jury trials.[35] His *magnum opus,* perhaps, is his outstanding biographical article on Chief Justice Horace Harvey.[35] Not only does it bring to life a man who (it seems fair to say) did not have a colourful personality easily revivified for later generations, but it served as a medium to portray the entire evolution of the courts, legislation, social attitudes and jurisprudence of Alberta. Bowker's article on the law of dower[36] now has the stature of a classic. In 1962, he was one of the first, perhaps the first, Canadian writer to treat fully some long neglected basic issues in the laws of governing the limitation of actions;[37] he has argued for a more rational approach to claims based on death caused by tortious injury;[38] and he has reviewed carefully the law of contributory negligence.[39]

To assess the Bowker archive, or even to catalogue it, would require another essay. Here, however, three features of his legal writing, whether articles or law reform reports, may be noted.

First, perhaps the most striking quality is the plainness of the style—simple words and short, declaratory sentences in logical order. Bowker's articles are mainly meat, with little in the way of sauce or garnish. Occasionally he paints a vivid picture—such as that in the Harvey article[40] of the dramatic conflict between the military authorities and the Alberta

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[29] One (unsatisfactory) attempt to describe the warm character and appeal of the Dean's conversation is made by Anderson in the *liber amicorum* referred to, *supra*, in note 4.

[30] *See The Drafting of Wills* (1956) 2 U.B.C. Legal Notes, 381.

[31] *See Panel Discussion on 'Expropriation Procedure and Compensation,'* (1962) 2 Alta. L. Rev. 76 (introductory text prepared by W. F. Bowker).

[32] *See Panel on Bills of Sale, Chattel Mortgages and Conditional Sales Agreements,* 1 Alta. L. Rev. 273.

[33] W. F. Bowker, *Three Alberta Judges* (1965) 4 Alta. L. Rev. 5.

[34] *See, inter alia,* reviews in (1960) 38 Can. Bar Rev. 443 (Scott, *Civil Liberties and Canadian Federalism*), (1947) 25 Can. Bar Rev. 931 (Paton, *A Textbook of Jurisprudence*).

[35] W. F. Bowker, *The Honourable Horace Harvey, Chief Justice of Alberta* (1954) 32 Can. Bar Rev. 933, 1118.

[36] W. F. Bowker, *Reform of the Law of Dower in Alberta,* (1961) 1 Alta. L. Rev. 501.

[37] W. F. Bowker, *Limitation of Actions in Tort in Alberta* (1962) 2 Alta. L. Rev. 41. *See* also J. P. S. McLaren, *The Impact of Limitation Periods on Actionability in Negligence* (1969) 7 Alta. L. Rev. 247, esp. footnotes, 1, 99, 142.

[38] W. F. Bowker, *The Uniform Survival of Actions Act* (1964) 3 Alta. L. Rev. 197. For another view, see J. H. Laycraft, *Survival of Claims for Loss of Expectation of Life* (1964) 3 Alta. L. Rev. 202.

[39] W. F. Bowker, *Ten More Years Under the Contributory Negligence Acts* (1965) 2 U.B.C. L. Rev. 198.

[40] *See Bowker,* (1954) 32 Can. Bar Rev. 933-937.

courts in 1918, when Lewis, a conscript, sought *habeas corpus*[41] (a curious local analogue to the case of Wolfe Tone in Ireland more than a century earlier).[42] Very rarely does the Dean when writing permit himself the ironic humour that enhances his conversation and his informal letters. There is a touch of it in the Harvey article: "The Chief Justice did not easily yield to the common desire to give a wrongdoer another chance."[43] Sometimes the austere style can give peculiar emphasis to the ludicrous or unusual, as many a funny story is best told dead-pan; the history of the interpretation of the Alberta Dower Act is well put in this way.[44] Generally, however, the Dean's written work, lucid and readable as it is, does not reflect the variety and richness of his lectures or conversation. His great performances are given *viva voce*.

However, on examination, this terse style proves to have been deceptive. One soon appreciates that what in the orderly march of his sentences appears so clear, almost elementary, was largely unperceived or unresolved before it fell under his analysis. His articles, the substance reduced by hard work and frequent revision, go to the root of an issue. I cannot fully illustrate this now (and, were I to do so, would select illustrations from his teaching of torts on which, curiously, he has written relatively little), but will give some modest examples. In his article on dower,[45] criticizing then quite recent legislation, the Dean exactly anticipated the problem of the improperly executed mortgage that soon arose in *Kos* v. *Kos*.[46] In 1948, in a general survey of the law of evidence,[47] Dean Bowker expressed the view that the so-called "rule in *Hodge's* Case"[48] was only an elaborate way of restating the rule as to reasonable doubt, in cases where the evidence is circumstantial, and he deprecated the tendency of the Canadian courts to require it to be specifically stated as an independent direction to be put in almost canonical form. Now, consider the words of Lord Morris of Borth-y-Gest, speaking for the House of Lords in 1973:[49]

> . . . here in the home of the common law *Hodge's* case has not been given very special prominence. . . . *Hodge's* case was reported not because it laid down a new rule of law but because it was thought to furnish a helpful example of one way in which a new jury could be directed in a case where the evidence was circumstantial . . . the abstract, and therefore necessarily vague direction that a jury must be satisfied beyond reasonable doubt is the only restriction which in ordinary cases English criminal law imposes on the discretion of juries in pronouncing on the sufficiency of evidence. . . the form of any particular direction stems from the general requirement that proof must be established beyond reasonable doubt. I consider that the form in which this general requirement is emphasized to a jury is best left to the discretion of a judge without his being tied down by some new rule that would likely have the effect that a stereotyped form of words would be deemed necessary . . .

The third feature of these writings worthy of remark, is their positive tone. The merits of others' works or views are fully acknowledged, and when deficiencies in the law are exposed it is with the object of promoting reform.

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[41] *Re Lewis* (1918) 13 Alta. L.R. 423, 41 D.L.R. 1, [1918] 2 W.W.R. 687 (Alta. S.C., Full Court); *Re Norton* (1918), 13 Alta. L.R. 457, [1918] 2 W.W.R. 865; and *see Re Gray* (1918), 57 S.C.R. 150 (S.C.C.), a similar case in which the Supreme Court of Canada held the orders-in-council in question to be valid, and so overruled *Re Lewis*.

[42] *The Case of Wolfe Tone* (1798), 27 St. Tr. 614. *See* R. F. V. Heuston, *Essays in Constitutional Law* (1961), 34 *et seq.* Dean Bowker, at page 937 of his article, refers to the case of Merryman, an alleged Confederate sympathizer in the American Civil War, in which an order of *habeas corpus* issued by Chief Justice Taney was involved.

[43] *Supra*, note 35, at 1132.

[44] *Supra*, note 36.

[45] *Supra*, note 36.

[46] *B.A. Oil Co. Ltd.* v. *Kos*, [1964] S.C.R. 167 (S.C.C.).

[47] W. F. Bowker, *The Law of Evidence: 1923-1947* (1948) 26 Can. Bar Rev. 246, 247-248.

[48] *Hodge's Case* (1838), 2 Lewin 227, 168 E.R. 1136.

[49] *McGreevy* v. *D.P.P.* [1973] 1 All E.R. 503 (H.L.), 508, 510.

The article on limitations,[50] for example, makes a strong plea (effective, I believe, for a while, until municipalities resorted again to their deplorable habit of seeking special immunities) for the abolition of special periods and the consolidation of all provisions in one clear and accessible statute. The piece on dower,[51] in model fashion, by setting out clearly the purposes to be served by the Dower Act and the Land Titles Act clearly depicts the conflict between the two statutes and suggests balanced measures for their reconciliation.

Two areas in which Bowker has made himself particularly knowledgeable are civil liberties and the legal aspects of medical research and practice, although he did not teach a course in the former subject until after his resignation as Dean, and was led into the latter field indirectly, when asked at various times to lecture to nursing and medical students, to advise members of the University's research departments on the legal and ethical implications of experimentation, and to assist in the study of breathalyzer legislation, and when either or both of the provincial government and Uniformity Commission considered solution of problems concerning blood donations by minors and others, compulsory transfusions, and the donation of human tissue.[52] Very recently, he has been making a detailed study of some of the grave problems that may arise in the course of genetical research and engineering. These various subjects require not only a sound knowledge of law and craftsmanship and perception in the application of old principles to novel circumstances, but an appreciation of medical procedures and the methods and ethics of scientific research. Some indication of the Dean's knowledge and sensitivity in these matters is to be found in his excellent commentary on relevant proposed sections of the Quebec Civil Code.[53]

The Dean's interest in civil liberties, as both scholar and citizen, goes back many years. It predates, but certainly was stimulated by, his studies in the United States. I myself believe that his broad, comparative knowledge of the law and appreciation of the knotty underlying philosophic problems and conflicting interests in this area fully equal (or exceed) those of others better known for their writings on the subject. He has not written as extensively on these matters as one might have wished, although he is the editor of a useful casebook[54] and has written several good articles,[55] of which one, *Basic Rights and Freedoms: What Are They?,* was an early—and is still a very helpful—analysis of the entire subject; with admirable concision, it defined and related the elements of the topic and surveyed the related law. That the Dean has not written more is no doubt explained by the many other demands of a busy life, but one suspects there is another reason for his reticence. Appreciating the range and validity of the various interests to be served and reconciled, seeing these questions in the full perspective of history and philosophy, constrained by a judicial cast of mind and a strong sense of responsibility, he has never been able to commit himself to any simple solution to truly complex issues, and so has had to struggle hard to

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[50] *Supra*, note 37.

[51] *Supra*, note 36.

[52] *See supra*, note 27.

[53] W. F. Bowker, *Experimentation on humans and gifts of tissue: articles 20 and 23 of the Civil Code* (1973) 19 McGill L.J. 161. *See* also: Bowker, *Legal Liability to Volunteers in Testing New Drugs* (1963) 88 Canadian M.A. Jo. 745.

[54] W. F. Bowker, *Cases on Civil Liberties*. Revised edition. Faculty of Law, University of Alberta, 1972.

[55] W. F. Bowker, *Basic Rights and Freedoms: What Are They?* (1959) 37 Can. Bar Rev. 43; *Protection of Basic Human Rights and Liberties* (1956) 2 U.B.C. Legal Notes 281; and *see* (1963) Canadian Bar Papers 58.

see his way through the thickets. (As instances of this, one might mention his recognition, in a comment on the *Drybones* case,[56] of the respectability of the argument that the liquor provisions of the Indian Act, whether wise in policy or not, may be defended as protective legislation adopted for a valid purpose if applied equally and without discrimination to all within the protected class;[57] and also his concern about the threat to free expression carried by too broad a legislative sanction against hate literature, repugnant though such vicious trash is to him.) This in my view gives the greater weight to the conclusions he reaches, but necessarily has restricted both the number and the style of his writings. In matters so difficult, another's views can be summarized only at the risk of caricature and injustice, but some account of the Dean's opinions should be given.

Before attempting that, however, one should recall the Dean's personal service to the cause of civil liberty. He is what I call a "limited joiner," uncomfortable in large associations with broadly defined objects which purport to speak on a wide diversity of subjects in the name of their members (he used sometimes to be upset when media reports suggested a majority vote in the last minutes of an ill-attended Bar Association meeting represented the opinion of the Canadian legal profession); for this reason he has not been known as an active member of various civil liberties activist groups, but has chosen to act in an individual capacity or with others on a particular matter. Because some of his interventions have been privately made, in advising lawyers or recommending legislative or procedural change to public authorities, not all his contributions can be measured. At the same time he has always held in great admiration those such as Mr. W. Glen How who have fought the issues in the courts and the public forum, and has taught his students to admire, as exemplars of the best traditions of their future profession, those lawyers who in duty have put popularity and income to hazard by undertaking the representation of unpopular clients or causes. With concern, he has studied the record of the Gouzenko inquiry and the wartime dislocation of Japanese-Canadians, and prepared recommendations for Parliamentary review and control of the powers and procedures then used. (I believe that as a solicitor he had had first-hand experience, in the early part of the War, of the application of special regulations, when he represented some interned persons.) In the cold war period (or "McCarthyite" phase of it), the Dean strongly resisted the notion (which gained some ground elsewhere) that lawyers be subject to some form of loyalty test or excluded from practice for communist beliefs,[58] and at a time when even in the Universities there were authorities who barred certain speakers from addressing students, I believe that he once personally took the chair at a student meeting to ensure a full hearing for a Communist leader.

Dean Bowker from an early date has maintained that discrimination can be limited, and eventually public attitudes altered, by progressive implementation of aptly designed human rights legislation, initially aimed most effectively at improper practices in public accommodation and employment, clearly identified and made subject to an appropriate and flexible range of remedies designed first to secure voluntary compliance but ultimately enforceable by effective sanctions. While acknowledging the limits of the law in shaping common morality (was it Ring Lardner who said, "Prohibition is better than no liquor at all"?), he has effectively argued

[56] *R.* v. *Drybones* [1970] S.C.R. 282 (S.C.C.).

[57] Bowker, (1970) 8 Alta. L. Rev., 409, 414, criticized, Marx, (1972) 37 Sask. L. Rev. 101.

[58] *See Martin* v. *Law Society of B.C.* [1950] 3 D.L.R. 173 (B.C.C.A.).

that the Legislature can lead public opinion and that, in any event, the acts fulfill the immediate purpose of controlling discrimination.[59] I believe it was in part under his persuasion that Alberta adopted accommodation practices legislation, now subsumed under broader measures.

However, Dean Bowker does not favour drastic and comprehensively general measures to deal with abuses that are not widespread and are susceptible to specific remedies. To take one example, he has not favoured the exclusion of illegally obtained evidence as a means for controlling improper police conduct, believing that probative evidence should not be suppressed to the advantage of the criminal when appropriate police behaviour should be (and largely is) secured by a public attitude that requires respect for individual dignity, traditions of responsibility and ethics in the force, an effective internal police discipline, and civil remedies. This is not an absolute position, but one to be reviewed regularly in the light of actual experience; if abuses of power are not being effectively controlled, then it may be necessary to resort to other measures including those (such as the suppression of evidence) that incidentally may in particular cases let the criminal escape justice. The community should be astute to notice any abuses, or failures of existing measures to remedy such wrongs, but should not without proved cause resort to the broader and more drastic measures.

Nor does Dean Bowker favour broadly drawn declarations of rights, whether constitutionally entrenched or only having peculiar status as interpretation acts, that subject both legislative and administrative measures to review by appointed courts. In his view, which he has argued urgently but moderately with full regard for opposing views,[60] it has not been established that sweeping declarations will provide stronger safeguards for liberty than informed and tolerant public attitudes and a tradition of responsible conduct by public officers, supported when occasion requires by specific remedies aimed at identifiable abuses; in view of the confusion and harm that such declarations may cause, the necessity for them must first be established. In his judgment, founded on an extensive knowledge of the current law, that need is not now shown. Broad measures may inadvertently compel the elimination of defensible and useful specific laws (such as those providing for *in camera* proceedings in certain kinds of matters) or preclude public discussion and parliamentary settlement of major issues (such as capital punishment, if held to conflict with prohibitions against "cruel or unusual punishment"). In any event, such Bills typically exempt from their operation many of the very matters that require frequent and close control, such as the regulations under the War Measures Act that provided cover for the Japanese-Canadian removals, general internments, and the espionage inquiry. Above all, bills of rights with the necessary concomitant of judicial review, are inconsistent with our tradition of parliamentary democracy,[61] in which the legislative authority has been left to experiment in working out realistic and acceptable solutions to difficult problems involving the complicated adjustment of competing values and interests. In applauding the goals of the recent decisions of the American Supreme Court in extending human rights, we must not forget that in other eras that same court invalidated a series of humane social and

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[59] *See* the articles referred to in note 55, *supra*.

[60] Such as those of E. V. Rostow, *The Sovereign Prerogative*, Yale University Press, 1962.

[61] Perhaps he might agree with the view that a democracy that continues to look to judicial review for protection is not unlike an evangelized primitive society that accepts the new deity but as insurance continues to honour its other gods. As Edward S. Corwin once said, "Judicial review represents an attempt by the American Democracy to cover its bet": (1942) 56 Harv. Law Rev. 437.

economic measures, nor that in some other countries without charters and judicial review, those very rights are as fully, or better, secured in practice than in the United States. These views were summed up by the Dean in an address (as I recall, to the Law Teachers in Calgary) which ended with the ironic reminder that the American people, having elected one man to the Presidency four times, then changed their constitution to prevent themselves from ever again being able to exercise their judgment in that way.

In 1968, resigning as Dean of the Faculty of Law, Wilbur Bowker was appointed Director of the Institute of Law Research and Reform, when it was created by agreement between the University, the Law Society and the Provincial Government.[62] He brought to this new career extraordinary credentials in both legal research and law reform. Indeed, curiously, he had once himself, in an open letter in the Alberta Law Review, proposed the establishment of some form of permanent committee charged with the continuous supervision and amendment of the law.[63] In retrospect, his whole earlier life in the practice, teaching, and critical study of the law may be seen as preparation for this great opportunity. The appointment was universally applauded, and the subsequent performance of the Institute has met, indeed exceeded, all expectations.

The Institute differs from many law reform commissions in two respects: it has complete freedom to select its law reform projects, and its reports thereon are to the public at large, not to the Government or legislature; and it has a mandate, not only to promote law reform, but to encourage general legal research. It has been faithful to both duties, and enjoyed outstanding success in law reform. Starting without experience, and with only limited resources, the Institute has to date made 17 Reports, and in almost every instance where it has proposed change, the Legislature has acted promptly; now, more fully funded and with an increased permanent staff, it has in train many more projects, some of very large size and difficulty (among them, revision of the Land Titles Act and of companies legislation, and review of the large realm of family law, including property divisions and court jurisdiction and procedures).[64]

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[62] For accounts of the genesis and early operation of the Institute, *see* Bowker, (1968) 11 Can. Bar Jo. 341 and (1969) 19 U. of T. L.J. 376.

[63] W. F. Bowker, letter, (1964) 3 Alta. L. Rev. 159.

[64] The recent history of organized law reform in Alberta deserves a note. In 1964 the Law Society established a Law Reform Committee with membership drawn from the profession, the judiciary, and the Faculty of Law. Working without full-time members, supporting staff, or funds, it prepared a set of recommendations concerning limitation of tort actions which were enacted in 1966 as Part 9 of the Limitations Act (now R.S.A. 1970, c. 209), drew the notice of the government to acts recommended elsewhere concerning personal property security, survival of actions, and perpetuities, and began a preliminary study of the law relating to occupiers' liability. It was soon recognized by the Committee and the Benchers that as constituted the Committee would not be sufficiently effective as a law reform agency. The University of Alberta and the Provincial Government were receptive to suggestions that a better-funded and more permanent research body should be established. On November 15, 1967, the Province, the University and the Law Society signed an agreement establishing the Institute of Law Research and Reform. The agreement has since been amended twice, on December 1, 1969, and on August 30, 1971. The original agreement covered the period January, 1968, to March 31, 1973. The 1971 agreement extended the period to March 31, 1977.

The Institute has several distinctive features, not common to all law reform bodies: it is constituted by agreement rather than by statute; it is independent of government, with freedom to select its reform projects and present its proposals in formats of its own choice; and its objects include not only matters of law reform, but the promotion of general legal research.

The Institute is funded by the Province and the University. The University provides accommodation in the Law Centre, proximate to the Faculty of Law and the Law Library. The Institute has a Board of eight members, with power to add an additional member. Each party to the founding agreement appoints one member; two members, the Director and the Vice-President (Academic) of the University, are on the Board *ex officio*; these members appoint the remaining members. The Vice-President (Academic) is not a lawyer, and generally restricts his participation to matters of planning and finance, and other questions of interest to the University. Under practices followed to date, the Board as a whole sets the research programme of the Institute and considers and approves reports recommending reform. It meets at least a full day twice each month, with a smaller Executive Committee meeting weekly to handle continuing business. It has the power to appoint

Dean Bowker will be the first to insist that full recognition be given to the members of the Board which Fate (in the unlikely guise of the Law Society and the Government of Alberta) has given him to work with, particularly the successive Chairmen, Mr. H. G. Field, Q.C., Mr. W. H. Hurlburt, Q.C., and Judge W. A. Stevenson. He will wish me to note particularly the imaginative and immensely efficient work of Mr. Hurlburt, first as Chairman and later as Associate Director. It gives Wilbur pleasure, and all of us confidence for the future, to know that Mr. Hurlburt will succeed him.

The Board, in their turn, will require that I speak (as indeed, I can from my own knowledge as a member of the first Board) of the enormous, indeed indispensable, contribution of the Director. This new position brought into play all of his scholarly and lawerly virtues. His massive knowledge of the law enabled the Board to choose projects and plan programmes; his knowledge and industry improved and enlarged every research paper,

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advisory committees. Serving the Institute, under the supervision of the Director, are the Board's Counsel (Mrs. M. A. Shone) and Legal Research Officers. Each summer the Institute engages a number of senior law students to conduct research assigned by the Director. The Board may engage outside lawyers, practising or academic, to conduct research and prepare papers on various reform projects, but the more recent trend has been to do more research "in house." As the Institute progressively acquires greater experience, and takes on a greater volume and variety of projects, it seeks to vary and improve its methods of selecting projects, scheduling work, supervising research, and soliciting relevant public opinion.

Professor Bowker was Director of the Institute from its inception to his retirement in 1975. He is now succeeded by Mr. W. H. Hurlburt, Q.C., an original member of the Board and for a while its Chairman, who served in 1974 and 1975 as Associate Director. The successive Chairmen of the Board have been Mr. H. G. Field, Q.C., Mr. W. H. Hurlburt, Q.C., and (currently) His Honour Judge W. A. Stevenson.

Special mention should be made of the part played in establishing the Institute by Dr. Max Wyman, who as Vice-President (Academic) of the University served on the Board and later, as President, gave it constant support. I believe it was at his suggestion that the University Governors made possible the creation of a working library for the Institute by directing the application for that purpose of substantial moneys from the Charles E. Merril Trust.

Although the Institute has given most of its attention to its law reform work, it has not neglected its more general mission to encourage legal research. In 1968 and 1969, and again in 1974 and 1975, it funded research projects conducted by professors at the University of Alberta. In 1971 and 1972, it sponsored research studies by summer students, including a survey of powers of search, seizure and arrest under various provincial statutes and an analysis of the legal position of "British subjects" under provincial legislation. In response to inquiries or suggestions from private groups, the Institute initiated several research studies, including one on the law governing cremation in Canadian provinces and another on restrictions on the use of land, particularly rural land. The Institute also established the J. A. Weir Memorial Lectures; in March 1972, the Rt. Hon. Sir Victor Windeyer, a distinguished member of the High Court of Australia, gave two lectures on "Some Aspects of Australian Constitutional Law" (later published by the Institute in a booklet) and a third lecture, "History in Law and Law in History," since printed in (1973) 11 Alta. L. Rev. 123.

In law reform, the Institute has developed from modest beginnings to become one of the most productive and successful such agencies in Canada. As of the date of its 1974-75 Annual Report in July 1975, it has issued 17 formal reports. The legislature has taken action on all of the first 13 subjects (except the Guarantees Acknowledgment Act, as to which the Institute recommended only some amendments); the other Reports were then under consideration by the Cabinet or Government Departments. The Reports have varied greatly in length and subject matter as is shown by the following table:

Number and Title of Report	*Legislation*
No. 1—Compensation for Victims of Crime (1968)	Criminal Injuries Compensation Act, R.S.A. 1970, c. 75
No. 2—Powers of Personal Representatives to Grant Options (1969)	Wills Act, R.S.A. 1970, c. 393, s. 30 Devolution of Real Property Act, R.S.A. 1970, c. 109, s. 13
No. 3—Occupiers' Liability (1969)	Occupiers' Liability Act, 1973, c. 79
No. 4—Age of Majority (1970)	Age of Majority Act, 1971, c. 1.
No. 5—Guarantees Acknowledgment Act, R.S.A. 1970, c. 173 (1970)	
No. 6—Rules Against Perpetuities (1971)	Perpetuities Act, 1972, c. 131
No. 7—Joinder of Divorce Proceedings with other Causes of Action (1971)	Rules of Court, (Alta. Reg. 315/71)
No. 8—Assignment of Wages (1971)	Wage Assignments Act, 1974, c. 61
No. 9—Rule in *Saunders* v. *Vautier* (1972)	Trustee Act Amendment, 1973, c. 13, s. 12
No. 10—Powers of Maintenance and Advancement (1972)	Trustee Act Amendment, 1974, c. 65, s. 9
No. 11—Common Promisor and Promisee: Conveyances with a Common Party (1972)	Common Parties Contracts and Conveyances Act, 1974, c. 20, amended 1975, c. 5 (2 sess.)
No. 12—Expropriation (1973)	Expropriation Act, 1974, c. 27
No. 13—Judicature Act, section 24 (1974).	Judicature Act Amendment, (1974), c. 65, s. 5(2)
No. 14—Minors' Contracts (1975)	
No. 15—Validity of Rules of Court (1975) (to be published Aug. 1, 1975)	
No. 16—Rule in *Hollington* v. *Hewthorn* (1975)	
No. 17—Small Projects (1975)	

however good; his sound practical sense averted many possible false steps; his good humour, and sense of reasonable compromise, gave meetings a pleasant tone, no matter how controversial the subject; and his great gifts of logical organization and clear expression gave the finished Reports clarity and impact. In a lifetime in universities, I never took part in seminars more truly educative than the meetings of the Institute Board.

Virtually nothing in law is assured permanence. Today's reforms may be tomorrow's problems. However, I believe that in leaving this office, Wilbur Bowker leaves a lasting legacy, not only in the statute books, but in the example he has given of progressive, reasoned, effective reform.

Wilbur Bowker's solid virtues and achievements have not gone unnoticed. In 1951 he was made Queen's Counsel, and in 1972, in an extraordinary recognition of one of its own sons, the University of Alberta awarded him (along with Mr. Justice Bora Laskin, as he was then, and Lord Diplock) the honorary degree of Doctor of Laws. When he resigned the Deanship in 1968, an issue of the Alberta Law Review was dedicated to him, and his students and the Bar joined *en masse* to tender him a dinner in testimony of their affection and gratitude. This year, at his last attendance at their Conference, the Uniformity Commissioners recognized his outstanding service in a most unusual and apt way, by presenting him a memento of the legendary "Casey at the Bat," whose sad epic he often recounted at their enthusiastic request.

He now enters his formal retirement. It is purely nominal. He proposes to work still on the major Institute projects, has two articles in preparation, wants to write the full account of the extraordinary case of *Re Sproule*,[65] and then, with those details out of the way, to prepare what will be a *magnum opus*, a book that really only he can do, the legal history of Alberta.

We join in wishing him the continued vigour and enthusiasm these works will require. At the same time, selfishly though we may urge their completion, as friends we want him to have the leisure to enjoy fully life with his family, now enriched by grandchildren. For I have left to this moment to mention the greatest event of his life, his marriage in 1940 to Marjorie Hope Montgomery. His home life with Mrs. Bowker and their three children, has been the stable centre of a busy life, and in all his work he has enjoyed the companionship and support of a remarkable

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The latter report, "Small Projects," dealt with a miscellany of small defects in the Alberta law.

As of June 30, 1975, the Institute had some fifteen other projects, some of them very large, well underway. Among them are review of the decisions of administrative tribunals, a revision of the Alberta companies legislation, confidentiality of government documents, exemptions from execution and garnishment, the Alberta labour law, revision of the Land Titles Act, the law as to residential tenancies, a complete examination of the Limitation of Actions Act, consent of minors to medical treatment, legislation governing partition of concurrent property interests, the law governing sale of goods and services, a review of the Statute of Frauds, and the liability of vendors for defects in houses sold. An excellent working paper on the Contributory Negligence Act and Joint Tortfeasors Act has now been published. A series of very important reform projects are being conducted under the general heading of "family law." Research is well advanced on the Family Relief Act, the law as to support, guardianship, custody and wardship of children, the status of illegitimate children, and miscellaneous topics such as actions for seduction, and the status of "common law" spouses. In 1972, the Institute published a Working Paper proposing a family court supported by necessary counselling services and unifying various powers and procedures now dispersed between different courts; this has been followed by further reports and experimental projects by law reform agencies elsewhere. A major component of the Family Law studies has been a study of the law of matrimonial property. A survey to ascertain community attitudes was conducted, and a working paper, outlining different possible approaches, was widely circulated in 1974 and followed up by a series of meetings with interested groups throughout the Province. The final Report, making definite recommendations, will have been published by October, 1975.

In recent summers, students have been engaged to do research relating to these projects, or on other topics, such as the admissibility of extrinsic evidence in the interpretation of statutes.

Perhaps a law teacher may be permitted to mention the general benefit provided to legal studies by the Institute's thorough and scholarly reports. Its studies of perpetuities, occupiers' liability, covenants with a common promisee, infants' contracts, and family property law have become texts of use to many students outside, as well as within, Alberta.

[65] *Re Sproule* (1887), 12 S.C.R. 140 (S.C.C.).

woman, who in her own right and with his full encouragement, enjoys a distinguished career in voluntary public service and the Law.[66]

That is the formal history of our guest, spanning three distinguished careers in Law. It alone justifies our gathering here to honour him. But you know, as do I, that there are other ties that bind us to Wilbur Bowker.

We love the man for himself—for his warm human qualities, his companionability, his loyalty, his sense of fun, the colour of his personality, and even for his various frailties and eccentricities. We have been fortunate enough to know him well, and to have penetrated that reserve which shyness and a "sense of the proprieties" sometimes (though only briefly) raise as a barrier in the presence of strangers. We, as friends and former pupils—and there is no distinction, for no one has ever known Wilbur Bowker without being in some sense his pupil—know him for the most clubbable of men, the most loyal of friends, an enthusiastic appreciator of the variety of human character and affairs. To us all, he has been an abundant source of life, a creator who has made his friends partly what they are.[67] He is an original, of a distinctive type and tone. To all of us, he is a friend and mentor, and all of us probably will ever see the Law and our professional duty in the lights he has exposed.

There is a theory that men may be judged by their heroes. I don't know about that. We do know the kinds of people and accomplishment Wilbur admires. We have heard him speak with respect of men with outstanding records in military or civil service, who in other spheres disclaimed all recognition of that service; with some contempt, of those who mistook social standing for personal merit; with disappointment, of graduates culpable of some unethical or incompetent conduct; with grief, of a confidence misplaced or a trust violated; with pride, of a graduate who did some particularly creditable work or in the best professional tradition took on some unpopular or difficult cause. He cared about these things, and we have seen in him the qualities he admires in others. Once, speaking of a work of history, he regretted its tendency to exaggerate the flamboyant and notorious, at the expense of "the quiet, dependable, dedicated, ethical types of builder" in the profession. No one should be condemned out of his own mouth, but that phrase of his own seems to me to catch the essence of the man, not least because it is too modest.

In a recent book[68] by a former clerk to Mr. Justice Powell of the U.S. Supreme Court (like Wilbur, a great fan of baseball), the author tells how the Justice once regretted he could not have been a major league player. The clerk argued that it was much better to be a judge: no injuries, no training camp, and a no-cut contract. "Perhaps," said Mr. Justice Powell, "but they never retire your number."

When Wilbur retires, the number is retired.

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[66] Her Honour, Judge M. M. Bowker, received her LL.B. in 1938 and articled thereafter with Mr. George H. Steer, Q.C. She married W. F. Bowker on October 12, 1940; they have three children, Blair, Lorna, and Keith. Among many volunteer activities Mrs. Bowker has been Parliamentarian for the National Conference of the Y.W.C.A. (1965), a member of the National Council of Girl Guides of Canada, a member of the Vanier Institute, and a trustee of the University of Alberta Hospital. In 1967 she presented an important brief on mental retardation to a Committee of the Alberta Legislature considering preventive health services; and in 1965 wrote a supplemental or independent report by a Committee considering adoption in Alberta. She will be particularly remembered with gratitude by foreign students she met and helped through the University Women's Club. In 1967 (with Margaret Mead) she received the honorary degree of Doctor of Laws from Ewha Women's University, Korea. Mrs. Bowker was made a Judge of the Alberta Juvenile and Family Court in 1966, and since has achieved national recognition for her leadership in developing the Family Court Conciliation Project; see *Reader's Digest*, September, 1975.

[67] A phrase by Noel Annan, of another, in *Maurice Bowra*, 1974, at 48.

[68] J. H. Wilkinson, *Serving Justice: A Supreme Court Clerk's View*, 1974, at 113.

It is altogether appropriate that his friends in the profession should honour him tonight. In this company, one may recall words once spoken by an English barrister of his Circuit:[69]

> There are welded, if we will, honour, generosity, tolerance, liberality, promptness to recognize the merit of a rival, to praise with alacrity, to censure with respect; and to learn to prize that salutary clash and criticism betwixt whose endless jar good nature resides.

These seem to me to have special meaning, as we join to recognize one who has proved, what Holmes said, that a "man may live greatly in the Law."[70]

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[69] Quoted by Leonard W. Brockington, (1948) 26 Can. Bar Rev. 1399 at 1409.

[70] O. W. Holmes, jnr. *The Profession of the Law*, lecture to Harvard undergraduates on February 17, 1886. *Speeches* (1913), 22.