

# Obituary: Roderick Macdonald had profound impact on Canadian legal community

BY MONIQUE MUISE, THE GAZETTE JUNE 13, 2014



Canada's legal community is mourning the loss of one of its greatest minds, Roderick A. Macdonald, who died Friday at the age of 65

**Photograph by:** ., Gazette file photo

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*There's no place in this world where I'll belong when I'm gone*

*And I won't know the right from the wrong when I'm gone*

*And you won't find me singin' on this song when I'm gone*

*So I guess I'll have to do it while I'm here*

— Phil Ochs

MONTREAL — When he sang them to a room full of Quebec's superior and provincial court judges several years ago, the lyrics to the folk song When I'm Gone seemed to perfectly capture the lesson Roderick A. Macdonald wanted to impart: everyone gets one shot at life, and it's important to remain true to your values while you're here.

A legal expert who was first and foremost a teacher and mentor, Macdonald earned a standing ovation for his impromptu performance of the Phil Ochs tune.

Today, the lyrics resonate once more as Canada's entire legal community mourns the loss of one of its greatest minds.

Macdonald died Friday after a lengthy battle with cancer. He was 65.

Musical, whimsical and fiercely devoted to his work, Macdonald began his teaching career straight out of the University of Toronto's law school. After teaching at the University of Windsor in the 1970s, he moved to McGill and served as dean of the Faculty of Law from 1984 to 1989. From 1989 to 1995, he was head of the Law in Society program at the Canadian Institute for Advanced Research, and from 1997 to 2000, he was president of the Law Commission of Canada. He was appointed an officer of the Order of Canada in December 2012 — just one of many awards he received during his lifetime.

"He wasn't someone who ever bowed to the pressures of fitting in," said Kim Brooks, a former colleague of Macdonald's who is now dean of the Schulich School of Law at Dalhousie University. "It's not that he was rebellious, but he was not someone who ever deferred to authority."

Rarely seen without his trademark bow tie (a sartorial choice made in response to McGill's strict dress code), Macdonald lectured widely across Canada, the U.S., Europe and Australia. He held visiting positions at Osgoode Hall Law School, the University of Toronto, the University of British Columbia, the Australian National University and the London School of Economics.

While his credentials were impressive, Macdonald's real-world influence on the legal profession and, by extension, life in Canada, will undoubtedly be his true legacy. His involvement in the inquiry into Canada's residential schools paved the way for the 2008 apology from Prime Minister Stephen Harper to the country's aboriginal peoples. He is also credited for laying the groundwork for same-sex marriage in this country.

Thousands of Canada's legal professionals (including Brooks and Supreme Court Justice Rosalie Abella) have Macdonald to thank for their education. His approach to the law — not as a top-down system imposed on citizens but as a two-way dialogue — has been adopted by some of Canada's top Justices and lawyers, and his teaching style has been described by many as unique and effective.

"He had a very different way of thinking," Brooks explained. "If I went to Rod and said, 'I'm dealing with problem X,' instead of giving suggestions about problem X, he'd say: 'Well why aren't you thinking about problem Y?'"

"That way of thinking is so helpful in terms of shifting the way you approach the world."

McGill's current dean of law, Daniel Jutras, told the McGill Reporter in late May that "everything we do here, from teaching to scholarship to community engagement, is informed by Rod's legal imagination." On Friday night, Jutras remembered Macdonald as "my friend and my guide."

His appointment to the Charbonneau Commission in late 2011 would be one of Macdonald's last major roles in the public sphere. His illness made it impossible for him to attend the hearings in person, but he contributed behind the scenes. When the final report is issued next April, his influence on the document is expected to be apparent.

For a man who spent his life speaking out, the slow but steady loss of his voice beginning in 2011 was a difficult reality to face, Brooks said, but her former teacher faced that loss with a positive attitude.

"He said to me that he could no longer eat, but he was enjoying how his sense of smell had been enhanced," she recalled. "His personality was so consistent with someone who would be furious, but

his response was that there are some things in life that you just have to take as a given.”

By February, when McGill hosted a symposium in his honour that drew 100 of Canada’s top legal professionals, Macdonald’s rapidly deteriorating health made it impossible for him to address the crowd. He did, however, grant a series of interviews to CBC Radio, telling host Paul Kennedy that he was proud of what he had accomplished.

“It’s been a fabulous life,” Macdonald said, his words reduced to a near-whisper. “You know, it sounds silly, (but) I wouldn’t have it any other way.”

Macdonald is survived by his wife and two adult children.

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