

Working Within the Dickson Court

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I HAD THE PRIVILEGE AND HONOUR of working closely with Chief Justice Dickson for two-and-a-half years as the Supreme Court of Canada's Executive Legal Officer. In that capacity I witnessed first hand the personal, moral and intellectual qualities of this great judge, and in this paper I will attempt to describe some of those characteristics as I saw them in his day-to-day work.

The first characteristic is one Chief Justice Dickson has demonstrated throughout his career. He is extraordinarily hard-working and exhibits total dedication to duty. When I arrived at the Supreme Court of Canada to assume my duties as Executive Legal Officer, I was astounded to find that in fact the Chief Justice had several jobs. He was, of course, a judge of the Supreme Court and he sat on a regular basis. That certainly constitutes one very full-time job. In addition, however, the Chief Justice is required to assume responsibility for the administration of the affairs of the Court and with a staff of over 100 and all the complexities of arranging the Court's docket and sittings, this is not an inconsiderable administrative burden. Thirdly, he had to perform the many external functions attached to the office of Chief Justice which are more fully described in the paper written by my predecessor as the Court's Executive Legal Officer, Jim MacPherson. It is worth remembering that Brian Dickson assumed those onerous responsibilities at an age when most people have already retired.

To say that he is extremely hard-working would be an understatement. Most Friday afternoons he left the office for the weekend taking with him all the books and documents one, and often two, library carts could contain, all to be read and digested by Monday morning. As he happily bid the office staff "Have a good weekend," we had little doubt how he was going to spend his.

Part of the Chief Justice's dedication to duty is reflected by his very high degree of organization. If you worked for him you soon realized the he was at all times supremely and sometimes frighteningly well organized. A seemingly casual comment: "We must look into x" would inevitably be followed up within a day or so with "how are we coming

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with x?" As an active and involved Chief Justice he had a huge number of difficult issues and problems before him at all times and through his level of organization and efficiency he managed to stay right on top of all of them.

The second quality I wish to mention is that of leadership. Chief Justice Dickson was a strong leader but, in my view, what is noteworthy is the manner in which he led. Many who occupy powerful and influential positions are tempted to use the weight of their office, even cajole or abuse their position, in order to get their way. Never once did I see Chief Justice Dickson do anything of this kind. His leadership had a high moral quality. He led by example and by consensus. He always demonstrated a genuine respect for the other side and always exhibited a genuine willingness to listen. He never used the weight or the power of his office to advance any personal goals or to further his personal agenda. He genuinely saw it as his role to lead towards the best as well as most widely accepted solution to the problem confronting the Court.

Another significant characteristic of the Chief Justice is his intellectual curiosity and openness to new ideas and new approaches. He is a good listener and has a genuine respect for ideas. He recognized and emphasized to those who worked with him that the ultimate authority of the Court rested entirely on the intellectual integrity of the arguments advanced in support of any judgment or administrative decision. He took good ideas seriously whatever their source and equally rejected bad ideas from wherever they came. He is justly reputed for his willingness to read, consider and even cite in his judgments academic writing, as he is for his eclectic but careful approach with respect to the jurisprudence of non-Canadian courts.

One perhaps saw his intellectual curiosity best displayed in Chief Justice Dickson's relationship with his law clerks. He enjoyed seeing their new faces and he enjoyed listening to their analysis of legal issues. He was anxious to learn from their conversation the latest thinking from the law schools. He listened patiently, but asked probing questions which inevitably sharpened and focussed the contribution the law clerk was making. At first most of the clerks were astounded to realize that this legal legend and jurisprudential giant was actually taking them seriously. Indeed, he was. Chief Justice Dickson's open-mindedness, curiosity and willingness to consider new ways of thinking and new approaches is, in my experience, unique for a man of his station and age.

A related quality of the Chief Justice is that he was an innovator. Others have described the many innovations he made in the realm of

jurisprudence. Let me mention a few in the area of court administration. He led the Supreme Court into the computer era and during his tenure the operations of the Court were entirely computerized so that case docketing as well as the production and publication of judgments was accomplished with state of the art technology. He introduced many procedural reforms which enabled the Court to cope more efficiently with its work load. These included the one-hour limitation on oral argument, the disposition of leave to appeal applications on the basis of written material and a simplified manner for delivery of judgments. He was always on the look-out for ways to simplify the Court's rules and procedures and one of his most predominant and prevalent goals was that of making justice more accessible to the ordinary Canadian. That he was able to eliminate entirely the backlog of cases during his tenure is surely a remarkable achievement, particularly when one considers that during those six years he was frequently deprived of a full complement of nine judges due to retirements, illness and death.

Another striking characteristic of Chief Justice Dickson is his dignity. He was from that perspective, as well as from all others, the perfect Chief Justice. He demonstrated then as he does now a marvellous sense of occasion and ceremony without ever being overbearing. Whether presiding at the swearing-in of a new judge, a special sitting to mark the retirement of a former judge or receiving foreign dignitaries visiting the Court, Chief Justice Dickson exemplified dignity in his bearing and in his conduct of ceremonial functions. More important, counsel who appeared before the Chief Justice greatly appreciated his no-nonsense, firm, business-like approach. They knew that their reception would be fair and open. The dignity of the Chief Justice, I am convinced, greatly contributed to that perception.

Another quality one could not help but notice in observing the Chief Justice at work was decisiveness. During my time at the Court he faced a very long list of tough problems, both legal and administrative. When faced with making a decision he would invariably consider meticulously every possible angle to the problem, read every case, review every authority and dissect every argument. The care he exhibited in considering the merits thoroughly was matched by a firm resolution once he had made up his mind. Then it was on to the next problem without second-guessing and without regret. That is not to say that he never looked back and he is certainly not insensitive to criticism. He reads the law reviews like a hawk, anxiously on the watch for any arguments or considerations that might have been missed. But the considerable time and effort devoted to this reading

was future-looking, directed at finding a way to do it better the next time, and certainly not with any sense of indecision or regret about a past result.

The next characteristic I wish to mention could be described as tough but fair. Chief Justice Dickson is tough-minded and demanding. He is hard on himself and he expects others around him to give their very best. In the office he was extraordinarily focused upon his work. There was little small talk. This may sound forbidding but it was not, for he somehow combined a toughness of mind with a warmth of spirit and a profound sense of fairness and decency. This remarkable combination of qualities attracted a well-deserved and very widespread admiration and total dedication from the court staff and others who worked with him, court attendants, security guards, commissionaires, secretaries, law clerks and fellow judges. The warmth which existed between the Chief Justice and those who worked for him is perhaps best demonstrated by the birthday parties given annually for his law clerks. This now substantial group of former clerks, their spouses and children assembles once a year in Ottawa from all parts of the country. It is evident at these gatherings that each of his clerks is to the Chief Justice a niece or nephew, if not a daughter or son.

The final quality I wish to mention is Chief Justice Dickson's wisdom and compassion. He has a remarkable range of experience and commonsense which he brings to bear upon his judicial work. He has led a rich and varied life, and is not a narrow bookish lawyer. He enjoys travel, social occasions and meeting new people. He knows the meaning of personal sacrifice for a cause. He has lengthy experience as a judge at all levels. All of this experience affects his outlook and is brought to bear upon his day-to-day work.

One of his most unique and important qualities as a judge is a capacity to put himself in the place of the person he is judging and to understand in a vital way that individual's plight. It has been remarked that a perusal of his judgments demonstrates quite clearly that Chief Justice Dickson hears the voices of the disadvantaged, of linguistic minorities, of women, of native Canadians and of religious minorities. That compassion so evident in his judicial product is also evident in his day-to-day work. It was clear to all around him that he viewed his task not as a barren intellectual exercise but as one which would actually affect the hopes and aspirations of ordinary Canadians. Working for the Chief Justice and watching him work gave one a sense of serenity, of calmness and security. Indeed, even if one might not always have agreed at the time with the direction he was taking,

one had a profound sense that in the end, the Chief Justice was probably right.

To have had the opportunity to work for a man of such stature and of such quality, was a marvellous experience which enriched not only my view of the law but of life itself.