

# Responsibility, Fraternity, and Sustainability in Law

A Symposium in honour of Charles D. Gonthier

## The Man, The Jurist: His Beliefs and Principles

9:10-10:30, Friday May 20, New Chancellor Day Hall, Maxwell Cohen Moot Court

Chair: The Honourable Michel Bastarache, Heenan Blaikie, Ottawa

### Introduction

The panel opened with a brief address from the chair, retired puisne justice of the Supreme Court, Michel Bastarache. Justice Bastarache served on the bench with Charles Gonthier and remembered his colleague and friend as a serious and quietly confident jurist who was able to converse intelligently on a wide range of subjects. Despite Justice Gonthier's profound yet discreet religious convictions, he was consistently respectful of others and eager to listen to all points of view. In addition to his generosity with others, Justice Gonthier also served as an anchor point on the bench for all things civil law.

### L'homme derrière le juriste

Professor Jacques-Yvan Morin, Professor Emeritus, University of Montreal

The first panellist, professor Jacques-Yvan Morin explained that both socially and judicially, Justice Gonthier was a model person. Professor Morin noted that it was clear early on that Justice Gonthier was a committed and responsible student who took an interest in philosophy in the otherwise Christian environment of Collège Stanislas. His curiosity and ability to listen to others served him well later on at McGill University, where professors F.R. Scott, Louis Baudouin and Maxwell Cohen ensured that a wide range of perspectives were shared with the students. Professor Morin noted that even though Charles Gonthier was an assiduous and prodigious student, he nevertheless took the time to enjoy folk dancing with some friends. With connections to prominent Quebecois artists and intellectuals, Charles Gonthier waltzed and worked on various dances *du terroir*.

### L'avocat et le juge avant sa nomination à la Cour suprême

The Honourable Lawrence A. Poitras, Borden Ladner Gervais, Montreal

The second panellist, Justice Lawrence A. Poitras, shared with the audience the extensive list of Charles Gonthier's accomplishments. Among them were his graduation with first class honours, his term as president of the Jeune Barreau du Québec, his formal participation in the revision of the Civil Code of Quebec, nomination to the Supreme Court, and his time as partner at McCarthy Tétrault. Charles Gonthier also raised five sons of diverse occupations with his wife Mariette Morin.

Lawrence Poitras was first welcomed by Charles Gonthier to Laing, Weldon, Courtois, Clarkson, Gonthier, and Tétrault (later to become McCarthy Tétrault). Only one month after Charles Gonthier was appointed to the Superior Court, Lawrence Poitras followed him there. During their shared time as colleagues at the firm and then on the bench, Justice Poitras came to know Charles Gonthier as a good friend with a great legal mind. While perhaps penning longer decisions than some, Justice

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Gonthier was always able to clearly distinguish and analyze the legal issues of a case, however numerous they may have been.

## **Témoignage d'une collègue à la Cour suprême**

The Honourable Claire L'Heureux-Dubé, Quebec City

The third panellist was retired justice of the Supreme Court and former colleague of Charles Gonthier, Claire L'Heureux-Dubé. When asked by Chief Justice Dickson who should replace Justice Beetz, Justice L'Heureux-Dubé recommended Charles Gonthier, and Chief Justice Dickson agreed. His nomination, she noted, probably came as a surprise to very few. Charles Gonthier had made a name for himself as a talented jurist earlier on in his career. No one doubted his skill or his ability to serve on the country's highest court. It may have been a surprise, however, that once on the bench Justice Gonthier was liked by all; this, Mme. Justice L'Heureux-Dubé noted, is rare! Despite his brilliance, Justice Gonthier was not intellectually imposing. His openness to dialogue combined with his legal wisdom invited others to appreciate his opinion so well that they would adopt it as their own.

He bravely wrote opinions for the most difficult cases and never shied away from engaging with the highest principles of law. Justice L'Heureux-Dubé made clear that while some may have erroneously cast him as a conservative judge, Justice Gonthier was above all else a humanist who knew the law so well that he could ensure its application in a just manner.

## **Justice Gonthier as a Colleague**

The Honourable Frank Iacobucci, Torys, Toronto

The fourth panellist was another former colleague who shared the bench with Charles Gonthier, Justice Frank Iacobucci. Echoing some of the earlier panellists, Justice Iacobucci framed his presentation with the themes of Justice Gonthier's brilliance and his humanity—the two regularly combining to inform his legal thought and judgments. While he maintained strong religious convictions, Justice Gonthier did not allow his faith to colour his opinions. Justice Iacobucci recalled that Charles Gonthier's level of bilingualism was without peer. His skill in French and his generosity would make him support Justice Iacobucci in his effort to improve his own skills with the French language.

As a proud McGill alumnus, Charles Gonthier returned to his alma mater after retiring from the bench. This did not surprise Justice Iacobucci, who felt that Justice Gonthier never really left McGill. His early years at the Faculty of Law were formative: even as an adept contributor to the development of the civil law, he knew the common law equally well.

While he was never afraid to disagree, he also never wished to offend anyone, no matter who they were. Justice Iacobucci noted that while he carried a high esteem for those with whom he worked and he always paid his respects in solemn fashion, Justice Gonthier knew how to laugh as well as anyone. Justice Iacobucci shared an anecdote to support this claim. He and his colleague were to attend a western-themed reception. It was Charles Gonthier's idea to attend wearing giant, floppy

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cowboy hats. At the reception, Chief Justice Lamer introduced his colleagues as judges of the Ottawa municipal court. Always good for a laugh, Charles Gonthier knew how to have a good time.

## **Une justice fraternelle**

Professor Fabien G  linas, Faculty of Law, McGill University

Finally, professor Fabien G  linas reflected on the man he knew through a chance encounter. Justice Gonthier, G  linas said, inherited the law clerks selected by Justice Beetz. When G  linas and Justice Gonthier first met, the young law clerk had long hair. Some time later, he got it cut. Justice Gonthier, with his usual, quiet wit remarked, "nice hair cut." During their time together the young and confident G  linas had many things to say about the law to his judge. Gonthier patiently listened; while appreciating his generosity, Professor G  linas wished it had been the other way around.

After a brief memorial on his time clerking with the late Justice Gonthier, professor G  linas proceeded to offer a brief analysis of the legacy of Charles Gonthier's legal work. Professor G  linas noted that a couple of propositions, legal and philosophical, emerge from a consideration of Justice Gonthier's writings. For one, the division between liberalism and communitarianism is false. Secondly, while law is not a tool to impose the majority's view of the good life, law is imbued with morality; otherwise, what reason would people have to obey it? As one of the leitmotifs of the conference, fraternity is what helps explain social cohesion and the law's role: "I will be coerced only if you agree to do the same." Professor G  linas nuanced the concept of fraternity by illustrating its compatibility with self-interest. Neither a question of altruism, nor pure egoism, fraternity expresses how individuals pursue their own interest by cooperating with others on shared terms.

## **Conclusions**

All the panel's speakers shared the view that Charles Gonthier's marks both in law and in life with those who knew him were immeasurable. But these were not marks of two different men, nor skills at his disposal to be deployed at different times. His great ability to listen and share his time with others no doubt reflected his profound conviction that part of law's aim is to guarantee a measure of social cohesion.

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