

COURT OF APPEAL FOR BRITISH COLUMBIA

**MEMORIAL
MR. DUGALD CHRISTIE
SEPTEMBER 7, 2006**

Before:

**Chief Justice Finch
Madam Justice Prowse
Mr. Justice Donald
Madam Justice Newbury
Mr. Justice Hall
Mr. Justice Mackenzie
Madam Justice Saunders
Madam Justice Levine
Mr. Justice Smith
Mr. Justice Thackray**

Vancouver, B.C.

[1] **FINCH, C.J.B.C.:** Chief Justice Brenner, Associate Chief Justice Dohm, My Ladies, My Lords, members of the judiciary, Mr. Attorney, distinguished leaders of the Bar and family and friends of the late Dugald Christie. This special sitting of the Court is being held to recognize and to honour Dugald Christie, a member of the B.C. Bar who died tragically earlier this summer in a traffic accident near Sault Ste. Marie, Ontario. I especially wish to acknowledge the presence this morning of members of Mr. Christie's family, his sons Guy Christie and Oliver Christie, his daughter Katie Christie, his sister Janet Seely and her husband Tom Seely.

[2] Mr. Christie was an activist in the best sense of the word. When he saw something that he thought to be wrong he tried to put it right. His abiding passion was to improve access to justice for the poor. He tackled this problem with great vigour in a variety of ways. He established the Western Canada Society to Access Justice and through this agency he persuaded and helped lawyers all over British Columbia and beyond to provide free legal advice to those unable to pay. Mr. Christie was living proof that one person can make a difference.

[3] All of us involved in the administration of justice owe him a deep debt of gratitude. On behalf of the Court I offer to Mr. Christie's family our sincere condolences.

[4] I call on the Honourable Wallace Oppal, Attorney General for British Columbia.

[5] **THE HONOURABLE ATTORNEY GENERAL OPPAL:** Thank you, Chief Justice. Chief Justice Finch, Chief Justice Brenner, Associate Chief Justice Dohm,

My Lords, My Ladies, Your Honours, honoured guests, I am most honoured to take part in today's special sitting of this Court. At the outset I want to commend the Court for holding this special sitting. I don't think we take the time to honour those amongst us who have done so many good things and Dugald Christie was one of those unique individuals, as Your Lordship pointed out, who gave so much of himself for the greater good. He gave up a wonderful and a lucrative legal career in order to act for poor people. He was, in effect, a conscience of the legal profession, a conscience of all of us that those that are less fortunate than us and are deserving of access to the courts in a free and democratic society ought to have that access.

[6] This ceremony today is a very fitting way to honour Dugald Christie who unfailingly carried the torch to reform the justice system. I have had a number of dealings with Dugald Christie after I assumed this position and you could tell, obviously, by his commitment the passion that he had for the criminal justice system and the civil justice and particularly for poor people who he felt were disenfranchised. As Your Lordship pointed out he was the head of the Western Canada Society to Access for Justice. He established a number of *pro bono* clinics across Western Canada. He embodied the principles, the values of caring and inclusiveness and justice. Those were all principles that were a part of Dugald Christie's nature.

[7] I knew Dugald Christie for many years. I knew him first when he came here from Nova Scotia. In fact, Sanford Cohen, Crown Counsel who is in the courtroom, went to law school with Dugald Christie at Dalhousie. They had a close bond and a very close relationship. He told me recently that Dugald Christie was always

concerned about the welfare of others. He reminded the legal profession of the value of *pro bono* work and its duty to assist the less fortunate in their problems. He also reminded us that the profession had a duty to look beyond its immediate interests to those less fortunate who needed assistance. Dugald possessed a dignity of commitment that is an example to all of us. He continually reminded us that lawyers have a duty to uphold the principles of the rule of law in a free and democratic society. He was clearly an embodiment of living what you preach.

[8] Environmentally, indeed, he left a small footprint but in terms of advocating for the poor he was a giant in the business. I suppose the ultimate compliment is that I am here representing the Government and myself, even though he's suing me. I can't speak more highly of a person than that.

[9] I want to express my sincere sympathies to his family to Guy, Oliver and Katie. I met them when the trial lawyers honoured him with their annual award earlier in the spring.

[10] **FINCH, C.J.B.C.:** Thank you, Mr. Attorney. We call on Barbara Burns representing the Attorney General of Canada.

[11] **MS. BARBARA BURNS:** Chief Justice Brenner, Chief Justice Finch, Associate Chief Justice Dohm, My Ladies, My Lords, family members of Dugald Christie and honoured guests, it is a sad occasion for we are here to mourn the loss of an honoured and respected colleague, and a man with vision who led a very special life. It is also a time to celebrate his life and what he stood for.

[12] It has already been said on a number of occasions Dugald Christie has been described as the conscience of his profession. It causes me to stop and pause and think surely that is so, but have we lost our conscience in that case? It is so important that we do take this time to recognize what he stood for so that we can remember and so that we can remind ourselves as the opportunities come to each one of us in our professional lives to remember what he stood for and to ensure that his vision for us and that we shared will continue.

[13] As has been said, Dugald Christie was a man of principle and integrity and passion. It has also been said, as the head of the Western Society for Access to Justice, he began over 60 legal clinics across British Columbia and western Canada, and prevailed upon hundreds of colleagues to serve in those clinics. He himself did an enormous and tireless amount of *pro bono* or work at greatly reduced rates for clients with little means.

[14] I think, too, certainly I'm going to remember him, and I know many will, as a man who brought difficult questions before the Court. Difficult questions that, in my view as a member of the Bar and as a lawyer, are questions that need and must be debated in a free and open society. Although he has passed on, those cases continue and will be before the Supreme Court of Canada and, as my colleague from the Province has said, it is a matter of great interest to government. But at the same time it is a service that a member of our community would bring forward such important issues for open and free debate and discussion.

[15] Certainly, in the manner of his passing on a bicycle travelling across Canada to raise money and awareness for access to justice for those who cannot afford it, his passing reflected his life. As has been said, we are much the poorer for his passing. I know he will be sorely missed and I would like to give my deepest, deepest condolences to his family who suffered a great loss and have so much to be proud of. Thank you.

[16] **FINCH, C.J.B.C.:** We call on the president of the Law Society of British Columbia, Robert McDiarmid, Q.C.

[17] **MR. ROBERT MCDIARMID, Q.C.:** Thank you, My Lord. My Lords, My Ladies, members of Mr. Christie's family and guests, I first met Dugald Christie in the summer of 1998. He came to a Benchers' meeting to urge the Benchers to take a greater role in encouraging and facilitating *pro bono* work. He took the bus to the Benchers meeting, which was typical, and he made his pitch in his usual impassioned, sincere and forceful way, answered questions and then got back on the bus and went home. The Benchers meeting was in Smithers. It is about 1,000 kilometres from here. He spent about a day-and-a-half on Greyhound in order to push his point that our profession needed to make justice more accessible to all citizens, not just ones who can afford to pay.

[18] I got to know Dugald better later that year. The Law Society and the C.B.A. formed a joint committee to assist our profession to do more and better *pro bono* work. Shortly after that Dugald made his second bicycle trip to Ottawa and he stayed at my home in Kamloops on his way through. I learned a little bit more about

him. He didn't ride on Sundays. I'm in a bike group with some lawyers and judges and we were going to accompany him part way, but he spoiled those plans. He takes Sundays off. He went to church and then he wrote and he meditated. My teenaged children were just captivated by his enthusiasm and by his kindness. Those are qualities that are maybe a bit too rare sometimes in our profession.

[19] Over the years I saw first-hand the enormous energy he devoted to his causes. When I get to the Law Society there is a little flashing red light that sets out messages and almost invariably one of those messages was, "Hello, Dugald Christie here..." and then a pitch for funding or telling me how the Benchers were wrong-minded on some issue or other, wanting lawyers to staff clinics, requests to address the Benchers. He was relentless in the pursuit of noble goals. I never met somebody who stuck to his guns like Dugald. As we know, he was at times pretty pushy and, as we know, uncompromising to a fault at times when he thought he was right; of course, he often was.

[20] His efforts have probably made large and small differences to more people in this province than any lawyer in our history. I want to thank the Court for holding this sitting. I last saw Dugald in late June. He interrupted his bicycle trip to Ottawa to receive a much deserved reward from the B.C. Branch of the Canadian Bar Association for public service. Typically, he had taken the bus from Revelstoke to Vancouver and then after he got the award he returned by bus to Revelstoke and resumed his trip. As we know he planned on attending last month's Canadian Bar Association Conference in St. John's and he shaped much of the agenda, including

a workshop on how public sector lawyers can use their considerable expertise to assist clients at *pro bono* clinics.

[21] Dugald Christie was an exceptional lawyer and well deserving of this honour. I don't know of a lawyer who wasn't a judge who has had this honour, certainly not in my practice time. He exemplified the noble qualities of our profession. He was hard-working, took on difficult cases, and challenged authority when he felt that was needed. Yet he made time for spiritual reflection. He truly was the conscience of our profession.

[22] I would like to conclude my submission by urging those of my colleagues present to take advantage of the structures he created. Go to the clinics. Use your expertise and talents to help the people who need *pro bono* advice. If you do so, you will enrich your spirits and you will honour Dugald Christie's memory with your efforts.

[23] Thank you, My Lord.

[24] **FINCH, C.J.B.C.:** Thank you, Mr. McDiarmid. We will call on the president of the B.C. Branch of the Canadian Bar Association, Fritz Verhoeven.

[25] **MR. VERHOEVEN:** Thank you, My Lord. My Lords, My Ladies, distinguished guests, friends and colleagues, Dugald Christie's mission in life was access to justice. As those attending his funeral service at St. David's United Church on 5 August heard Dugald had missionary ancestors and he certainly brought a missionary zeal to his cause.

[26] Many would have regarded Dugald as at least somewhat eccentric. Sometimes eccentrics, however, can be more effective in bringing about change than those of us who are more constrained by notions of tradition and propriety. Dugald Christie was, indeed, spectacularly effective in bringing attention to the issues of access to justice, and in actually doing something about it.

[27] I will quote from Chief Justice Brenner's letter of support for Dugald's nomination for the C.B.A. of B.C.'s Harry Rankin, Q.C. *Pro Bono* Award that my friend, Mr. McDiarmid, has just mentioned, which Dugald received this past June. Chief Justice Brenner wrote:

Mr. Christie has worked tirelessly...for the cause of *pro bono* and he has achieved considerable success. He has helped make British Columbia a beacon for other jurisdictions to look to in providing *pro bono* assistance.

[28] As Mr. McDiarmid has mentioned, Dugald Christie interrupted his cross-Canada bicycle trip to return to B.C. to receive that award and that, as well in my case, was the last time I had the opportunity of speaking to him. I was very, very thrilled on behalf of the Bar Association to hear Dr. Janet Christie-Seely, his sister, say at the funeral service that the award of recognition from the organized Bar meant a great deal to Dugald.

[29] Dugald Christie's commitment to access to justice never wavered. As others have already said and, clearly, the Bar will never forget this, he was the conscience of the legal profession. He never tired of reminding us to do our part. I, too,

received those phone calls, “Dugald Christie here...”, and the call for money or for time. He was and will always remain an inspiration to all of us at the Bar.

[30] Access to justice was not only Dugald Christie’s mission. It was his message to the legal profession and to government and it was his example to all of us. Our challenge is to make sure that his mission, his message and his example are never forgotten.

[31] On behalf of the Canadian Bar Association, I wish to also express my sincere condolences to Mr. Dugald Christie’s family. Thank you.

[32] **FINCH, C.J.B.C.:** Thank you, Mr. Verhoeven. Darrell Roberts, Q.C.

[33] **MR. ROBERTS, Q.C.:** Chief Justice and Justices of the Court of Appeal, Chief Justice Brenner and Justices of the B.C. Supreme Court, family members of Dugald Christie, members of the Bar, honoured guests, may it please the Court, I am very pleased for this privilege to address the Court to honour the contribution of Dugald Christie to the law of British Columbia, and in particular his long steady work in facilitating access to justice.

[34] However, my presence here might be criticized as one of false pretences. Being his counsel in *Christie v. A.G.B.C.*, now on its way to the Supreme Court of Canada, I am really prevented by solicitor/client privilege and doctrines of confidentiality from saying very much at all, and nothing about the juicy inside stuff that others might like to hear.

[35] I can tell you that the appeal from the decision of this Court is to be heard by the Supreme Court of Canada on 21 March 2007, at least that is the tentative date, that eight provincial Attorneys General and the A.G. of Canada have intervened, and the Canadian Bar Association, I believe all other Attorneys General are arrayed against me and I am hopeful the C.B.A. is on my side. My task there is to support the majority reasons for judgment of this Court and the task of my learned friend, Mr. George Copley, is to attack the decision and support the minority decision of this Court. But you know all of that and for the interesting stories about Dugald Christie I rather expected that you would hear from our learned colleagues about all of that.

[36] There are, however, one or two things about Dugald Christie that I might offer to you to shed some light on this interesting man and his tireless work for average Canadians.

[37] First, Dugald did not always choose a gentle way to speak his mind, nor was it easy for him to say nothing at all when some provocation or other occurred. He had very strong moral and religious upbringing which left him with equally strong religious and moral beliefs and compass. He once said to me about events in the past, of which some of us, many of us are familiar, that when he saw something which he felt was wrong he felt compelled, indeed he could not help himself from standing up and saying or doing something about it. In this, he was a very uncomplicated and uncompromising person: wrong is wrong and right is right as he saw it, and it was his duty to keep it that way.

[38] Referring to what is right, leads me to a second point and I will close with this. Whenever Dugald saw something that was right, that he saw was right, that was a truth to him, he would pop out with the word “beautiful”. It was his most favourite word to express his appreciation for what he saw as the truth.

[39] In our many sessions, myself as his counsel, in fashioning arguments for presentation in the constitutional case that Mr. Attorney has spoken about, some sessions heavier than others, people being what they are, counsel having their views as we do, heels dug in sometimes with tempers and voices raised, when we finally reached agreement on the right phrase or the right word to express a point, Dugald would smile and say “beautiful” or “just beautiful”. Every time he did that I was reminded, when he used the word “beautiful” with respect to what he saw as a truth, I was reminded of the couplet in John Keats’s “Ode on a Grecian Urn”:

“Beauty is truth, truth beauty,” – that is all
Ye know on earth, and all ye need to know.

[40] And so, as I look back on Dugald Christie’s life and his uncompromising search for the truth as he saw it, in making justice more available and more affordable for all Canadians, I say to him, Dugald, “just beautiful”.

[41] **FINCH, C.J.B.C.:** Thank you, Mr. Roberts.

[42] I would like to thank everybody who has attended here this morning, members of the courts, of the Bar and of the public, your presence does great honour to the memory of Dugald Christie. I wish to thank all members of the Bar

who have spoken this morning so eloquently in his memory. I especially thank members of Mr. Christie's family for attending.

[43] Many of us are going off to court at 10 o'clock but we will have time for a little visit and some refreshments. If the family would care to join us in the Court of Appeal lounge and as many of you that are able to do so. We will adjourn.

ADJOURNED