

BERTHA WILSON: LAW AS LARGE AS LIFE By Ellen Anderson. Toronto: University of Toronto Press, 2001. Pp. 528 (\$50.00)

This is an exceptional book about an exceptional judge and dear friend with whom I shared some of the most satisfying years of my professional career. To have the opportunity to serve on the Supreme Court of Canada is a special privilege as well as a responsibility. To do so during the advent of the *Canadian Charter of Rights and Freedoms* was a challenge without precedent in Canadian legal history.

The Honourable Bertha Wilson met that challenge and she did so with industry, dignity and courage. She was a kind and gentle colleague, and she had great depth as a legal scholar as well as fortitude as a decision-maker. Her sense of justice was not merely felt, but also it was also principled. However, I must remind myself that this is a book review and not my personal tribute to Bertha Wilson.

The author, Dr. Ellen Anderson is an associate with the law firm of Gibson and Adams in Innisfil, Ontario. Her achievements as recipient of the Viscount Bennett Fellowship and the University of Toronto Jurisprudence Prize help to explain the depth of her scholarship in the analysis of her subject. Her industry is evident in her obvious reading of everything that Bertha Wilson wrote as she read not only her judgements, but also speeches, articles and reports. She interviewed countless persons both in Scotland and Canada. The quality of the author's prose also suggests that she might have pursued a successful career as a writer. These features have culminated in one of the best biographies I have ever read.

Dr. Anderson's interest in Bertha Wilson was no doubt stimulated by Bertha Wilson's status as the first woman to become a judge of the Supreme Court of Canada. However, the story is not merely of a judge, but also of a person. The story starts, as it does in most Canadian families with the immigration of a couple to Canada, in this case from Scotland. The Honourable Bertha Wilson did not begin her career as a judge, nor as a lawyer, but as "the wife" of a Scottish Presbyterian clergyman, the Reverend John Wilson. As her professional horizons expanded, she always continued to cherish her relationship with John. As her star rose in the legal and judicial galaxy, no one was more supportive or proud to become "the husband" than John. Their story is of the love of a wonderful couple.

For jurists interested in her jurisprudential contribution, I would encourage them to read Chapter 6 entitled "A Canadian Philosophy of Judicial Analysis." Indeed, Chapter 6 offers a succinct, but profound comparative analysis of the modernist principles of objectivity and neutrality. Through the context of contemporary post modernism, Chapter 6 offers an explanation of the gradual introduction of modernist principles into Canada's legal system, which Anderson states is based upon the immigration of Scots who had been immersed "in a culture shaped by Scottish Enlightenment philosophy."¹

When I read what follows the chapter, I went back and reread the first five chapters (diagonally I must admit). I was able to flag with more precision those events, which took place in Scotland and Canada that assist in an explanation and understanding

¹ Anderson, Ellen. *Bertha Wilson: Law as Large as Life*. Toronto: University of Toronto Press, 2001, P.134.

of the contribution that Bertha Wilson made to the Supreme Court. Anderson says:

A biography is a narrative account of an individual's life, with events unfolding in time; Wilson's story, like the account of any life, can be told only in fragments. What I am attempting here is to suggest how those personal and professional fragments fit into our evolving understanding of the story of Canada as a political and legal and historic entity. Interjected into the narrative of Bertha Wilson's life these observations and speculations constitute a kind of theoretical interlude. It was in 1982, with the advent of the Charter, that the covert postmodernism of Canadian Law (reflective of the developing postmodernism of Canadian society) first became explicit; and 1982 was also, of course, the very moment when Wilson was about to shoulder her duties at the Supreme Court. That is why this seemed the right time to offer a summary of the postmodern elements in Wilson's life and work up to and including her work at the Ontario Court of Appeal, to sketch out some of the historical antecedents and defining characteristics of postmodernism, and to consider in a preliminary way why and how the Charter is a uniquely postmodern constitution requiring and rewarding postmodern interpretation.²

The selection, thoroughness and importance of the personal and professional events prior to her joining the Supreme Court provide great insight into the shaping of her judicial philosophy. I happen to agree with that philosophy and while the author refers to detractors, I expect them to be few.

My good friend, former Justice Bill McIntyre was absolutely right when he observed: "she takes very, very strong positions and she can be as stubborn as a mule and that is a virtue when you have a solid base that she had got."³ Indeed, she confided to the author that her courtship with that wonderful person, John Wilson, had met strong objections on the part of her mother. Convinced he was the right person for her, she married him. Dean Read of Dalhousie Law School called her a dilettante and told her: "Why don't you go home and take up crocheting,"⁴ yet she graduated a prize-winner. Later Dean Read is reported to have said of her and another woman graduate, also a prize-winner, "they all did extremely well"⁵.

Much of the book deals with issues such as whether Justice Wilson, was a judge who merely brought to the Court her life experience as a woman or whether she came to the court with a preconceived feminist agenda? The author's analysis and selection of events from Bertha Wilson's childhood up to her post-retirement activities appear to be mainly visited by the foregoing question, which as many know, was for a while the object of much comment. It caused even an unsuccessful complaint against Bertha Wilson to the Canadian Judicial Council's Conduct Committee. This adds an interesting analysis of the extent to which Justice Wilson's Scottish background contributed to her post-modernist approach to the law.

I must admit that from reading *Law as Large as Life*, I learned more about Bertha Wilson than during my many years interacting with her on the Court. I was and

² *Ibid* Page 147.

³ *Ibid* Page 279.

⁴ *Ibid* Page 38.

⁵ *Ibid* Page 48.

am of the view that she was a wonderful person and judge. I now know that I am not always wrong.

The Right Honourable Antonio Lamer, P.C., C.C.