

## On the Front Cover The Honourable Mr. Justice John C. Bouck

The Honourable Mr. Justice Bouck is the second Senior Puisne Judge of the Supreme Court of British Columbia having been appointed on the same occasion as Toy, J.A. and the Honourable E. Davie Fulton on January 17, 1974.

Merely surviving long enough to become the second senior serving judge would not be enough to qualify for enshrinement on the front cover of *The Advocate*. It is the contribution of Bouck, J. to the legal profession and the Bench which marks him as an outstanding member of the legal community.

The ordinary statistics disclose that he was born in Calgary, Alberta on May 9, 1931. His father was a general medical practitioner in and around Calgary. Bouck, J. graduated from the Calgary Central High School and then from the University of B.C. in 1955 a BA and LLB. He articulated to R.T. DuMoulin and was called to the Bar of British Columbia in September, 1956. For sometime he practised alone in the old Vancouver Block until 1965 when, with Jack Edwards he founded the firm of Bouck, Edwards, Kenny & Bray. From 1965 - 1968 he was Executive Secretary of the Vancouver Bar Association. From 1968 - 1974 he was a Bencher of the Law Society. From 1984 - 1988 he was a Director of the Legal Services Society of British Columbia (Legal Aid). In 1987 he was appointed to two committees on which he still serves, the Canadian Judicial Council Committee on Computers for Judges and the Advisory Committee for Alternative Dispute Resolution of the British Columbia International Commercial Arbitration Centre. He has been a member of the Editorial Board of *The Advocate* for longer than we can remember. Like his old partner, Jack Edwards, Q.C., he was a member of the Royal Canadian Auxiliary Air Force, attaining the rank of Squadron Leader and Commanding 442 Squadron, City of Vancouver, eventually flying T33 Silver Stars, Vampires and F-86 Sabres. For many years he held a commercial civilian pilot's licence and flew his own aircraft around British Columbia. He says he plays the harmonica, but we have yet to meet anybody who has heard him do it.

He is a noted athlete and played football, basketball and hockey at high school and University. He was the Alberta Men's Singles Badminton Champion in 1953 and the B.C. Men's Singles Badminton Champion in 1954. By coincidence he and the Senior Puisne Judge of the Supreme Court of British Columbia, Meredith, J., both excelled at the same game, (Meredith, J. winning the Canadian Doubles Championship). Bouck, J. now plays squash and golf.

As a trial judge he has written more notable judgments than most judges. Not every one has been welcomed by the Bar as being the most sound example of revealed wisdom. **Skender v. Baker** (1987), 18 B.C.L.R. (2d) 57 at 79; 44 D.L.R. (4th) 106; 24 C.P.C. (2d) 147 (S.C.), is studiously ignored by the profession and only survives in memory by being included in the B.C. white book, of which, of course, Bouck, J. is one

of the authors. He decided that counsel, by calling an adverse party as hostile witness under Rule 42 (?), vouches for the veracity of the witness. Although Bouck, J.'s reasoning is utterly logical and based upon sound legal historical research, the proposition tends to defeat the purpose of the Rule. It was given an appropriate funeral in obiter, on appeal (1989) 41 B.C.L.R. 227 at 237. This decision, however, is a curious aberration in a long series of scholarly judgments rendered in the 17 years Bouck, J. has been on the Bench. In **Greater Vancouver Sewerage and Drainage District v. Ambassador Industries Ltd.** (1982) 41 B.C.L.R. 292, the British Columbia Court of Appeal specifically adopted Bouck, J.'s test for the process by which a judge should reach his decision whether or not to exercise his discretion to grant an interim injunction. His reasons are a model of brevity and lucidity. That decision eliminates the need to collect up and analyze the principles to be extracted from a dozen of the older cases. Bouck, J. did it for us. Recently he laid out the proper approach to the taxation of costs under the new rules, in **Bradshaw Construction v. Bank of Nova Scotia** Vict: Registry #84/02135 25 Feb: 1991.

But it is for his extra-curricular endeavours that Bouck, J. will be remembered best. His restless energy has produced an astonishing volume of papers, lectures, books and articles. He is the co-author, with Gordon Turriff and Janice Dillon, since May, 1988, of the British Columbia Annual Practice, a yearly book containing annotations on the British Columbia Rules of Court. In 1987 he and Professor Gary Ferguson published the Canadian Criminal Jury Instructions (CRIMJI) which went into its second edition in 1988. This is a two volume, 1,600 page book of criminal jury instructions for use by the legal profession and judges across Canada and it is so used. In 1989 he and Professor Lynn Smith published Civil Jury Instructions (CIVJI). This is a one volume, 800 page book on civil jury instructions also for use by the legal profession and judges. It serves as a useful starting point for research into the law on a number of subjects and the profession is beginning now to use it as a research tool.


For the Continuing Legal Education Society he prepared in 1978 a paper on the Preparation of Evidence for a Civil Trial, in 1981 a paper on Jury Trials, in 1982 a paper on Practical Advice on Practice and Procedure in the Supreme Court of British Columbia, in 1985 a paper on The Role of a Judge in a Jury Trial, in 1988 a paper on Chambers Practice from the viewpoint of the Bench and in 1988 a paper on The Importance of Style in Criminal Practice. For *The Advocate* he has written, in 1964, Observations on Legal Reform, in 1976 on the Planning and Presenting of a Civil Case, in 1981 The Civil Jury Trial in British Columbia, in 1983 his famous article on The Trial Brief. Despite initial reaction against it from some quarters it provided the impetus for rather more efficient counsel work in British Columbia. In 1984 he wrote on article about Written Presentations in Civil and Criminal Proceedings and in 1986 an article on Included Offences - Attempted Murder.

He has also produced a miscellany of articles and papers. He and Darrell W. Roberts, Q.C., produced, in 1972, a proposal for the reform of the British Columbia Supreme Court Rules which was published by the Foundation for Legal Research in Canada and the Law Foundation. In 1979 the Canadian Bar Review published "Introducing English Law into the Provinces: Time for a Change?". For the trial Advocacy Workshop at U.B.C. in 1982 he delivered a paper on Expert Evidence followed in 1985 by a paper for the Trial Lawyers' Association on Expert Evidence in Criminal and Civil Trials. He wrote a paper for the Professional Legal Training Course on Legal Etiquette and in 1988 he delivered "Writing the Reasons" for the symposium on Assessments and Property Taxation in Toronto. In 1989 he delivered a discourse on the subject of Pattern Jury Instructions in Criminal Cases at the Superior Court Judges Seminar in Calgary, Alberta and another paper on Civil Jury Trials to the Alberta Judges Seminar in 1989. The

Supreme Court Judges Seminar in 1990 heard his lecture on Children's Evidence.

He is a passionate defender of the jury system. His fascination with juries, which has lead him to research the American system of Pattern Jury Charges and to produce CRIMJI and CIVJI, culminated recently in a paper he delivered to the Trial Lawyers Association of British Columbia entitled "The Civil Jury: Rescuing an Endangered Species". Those interested in the subject can find the paper in "The Verdict" published by the Trial Lawyers Association of British Columbia, issue 49, January 1991, page 28.



A number of people have, over the years, suggested that Bouck, J. should appear on the front cover, but it is only recently that he has finally given in to relentless pressure and consented to let us do it. It was overdue.



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