



ON THE FRONT COVER

THE HONOURABLE CAROL BAIRD ELLAN, CHIEF JUDGE OF THE PROVINCIAL COURT OF BRITISH COLUMBIA

By Associate Chief Judge Ellen M. Burdett

At just past halfway through her five-year term as chief judge of the Provincial Court of British Columbia, Carol Baird Ellan cannot be said to have had an uneventful tenure so far. In a rare moment of quiet contemplation recently, we shared some reflections on those first 30 months and thoughts about the second half.

Carol became the eighth chief judge of Provincial Court on July 6, 2000—its first woman chief judge and its second youngest, at 43. In this respect her appointment mirrors that of both former B.C. Provincial Court Chief Judge Bruce Josephson, also 43 at his 1988 appointment, and that of B.C.'s other female chief judge, the Honourable Beverley McLachlin, who was appointed Chief Justice of the B.C. Supreme Court in 1988 at age 45. However, while Chief Judge Josephson ascended a few months later to the County Court, and Chief Justice McLachlin moved on to the Supreme Court of Canada in the same year, Carol asserts that the professional resemblance stops there, claiming that this position is a pinnacle for her. She finds few who will listen, though, most preferring to point to her heretofore unstoppable climb.

Knowing Carol as I do, I recognize her ambivalence as genuine. She points out that she is the beneficiary of strides taken by great but frequently unheralded women who went before; she is one of that next generation who found doors

COASTAL TRADEMARK SERVICES®

BOX 12109
SUITE 2200, 555 WEST HASTINGS STREET
VANCOUVER, B.C. V6B 4N6
TEL. (604) 687-7432
FAX (604) 687-3478

TRADE MARK SEARCHES & REGISTRATION
CANADIAN & FOREIGN
COPYRIGHT & INDUSTRIAL DESIGN
TRADEMARK SELECTION & LOGO DESIGN

REG'D TRADE MARK AGENT: PARTNERS, RON RICHES & COASTAL TRADEMARK SERVICES LTD.

opening before they were quite ready to pass through them. And so I expect I am not talking out of school in confiding that in accepting her appointment as chief judge, Carol perhaps got more than she bargained for. I hasten to add that she has risen to the challenge and in fact surpassed it, but she has clearly been something of a reluctant quarterback in this first half.

Carol was welcomed to her new position in a ceremony on July 14, 2000, presided over by Associate Chief Judge Dennis Schmidt. He conveyed to her the traditional Chinese blessing: "May you live in interesting times." In retrospect, she believes this to have been something of a curse. He also made a curious reference to a chainsaw that may have aptly foreshadowed certain ensuing budget cuts.

Carol's huge capacity for work is well known. It is not unusual to receive a lengthy e-mail from her at 1 A.M. She occasionally blames her legendary late-night work habits on either the unavailability of "computer time" (competition with five children) or on sleeplessness intensified by the sonorous reverberations of her husband, Tim. Those who know her well recognize that it is Carol's indefatigable energy that is the cause of her tireless efforts on behalf of the Provincial Court. The first six months of her term saw Carol revising the complaints and appointment processes of Judicial Council, revising the court's website <www.provincialcourt.bc.ca>, and advancing a supernumerary program for senior judges. In the fall of 2000 and spring of 2001, two Supreme Court decisions regarding independence of justices of the peace resulted in the Office of the Chief Judge creating a Justice Centre, staffed by judicial justices of the peace with totally revised assignments of duties, appointed through the Judicial Council process. A flurry of interviews and appointments of judicial justices resulted in 10 new appointments by the end of the summer. At that same time, the supernumerary or "senior judges program" was legislated as a pilot project.

As chief judge, Carol Baird Ellan has presided at appointment ceremonies for 12 new judges, to Smithers, Vancouver, Kelowna, Prince Rupert, Williams Lake, Dawson Creek, Quesnel, Surrey and Prince George. She has supervised three courthouse openings, presided in court sittings in more than 20 locations in the province, overseen 11 retirements and, sadly, presided at one memorial ceremony. These of course are the anticipated, routine activities of a chief judge.

Less anticipated were the tumultuous events of spring 2002, which saw the closure of 24 Provincial Court courthouses, owing to government spending cuts. The court's challenge to those closures, spearheaded by Chief Judge Baird Ellan and taken up in legal form by the Law Society, was attended by close media scrutiny. This proved a difficult time in the history of the court. Thankfully, relations between government and the court have been largely repaired. Many courthouses have reopened as circuit courts, and the events of those months have resulted in the development of several written protocols defining the respective roles of government and the judiciary in decisions of this type. They also gave rise to the Justice Review Task Force, a collaborative committee consisting of the chief judges of the Supreme and Provincial Courts, the deputy attorney general, the assistant deputy minister (Justice Services Branch), and representatives of the

Law Society and Canadian Bar Association, with the mandate of identifying a wide range of reform ideas and initiatives to help make the justice system more responsive, accessible and cost-effective.

Commencing in the fall of 2001, Chief Judge Baird Ellan initiated an internal strategic planning process for the court, resulting in the publication of a three-year strategic plan in February 2003. This process represented the first such effort on the part of a provincial court in Canada, and consisted of a wide-sweeping review of all aspects of the court's justice delivery, conducted from a judicial perspective. The plan contemplates a further phase of public consultation on issues such as access to justice, public legal education, the judicial complaint process and the appointment process, to name a few. The three-year plan is posted on the court's website.

Carol is quick to point out (and insistent) that her achievements (and foibles) as chief judge "...must be shared equally with those who have assisted me; notably, Associate Chief Judges Schmidt and Stansfield in the first two years, and more recently, Associate Chief Judges Tony Spence and Ellen Burdett, and Administrative Judge Conni Bagnall, who have all been invaluable sources of support. I have also worked closely with members of the Judges Association in developing the senior judges program, particularly Judges Higinbotham, Neal and Threlfall, and with members of the Planning Committee in developing the strategic plan. And of course the Office of the Chief Judge staff are all unbelievably helpful and supportive."

Most who know Carol also know her family, the other half of her busy life. To Carol, balance means being as busy at home as she is at work. Her five children, Nick, 18; Charlotte, 17; Becky, 15; Jen, 13; and Sam, 11, keep her and her beloved husband, Tim Ellan, both busy and exceedingly proud. Most weekends, Tim and Carol can be found at soccer fields, riding stables or baseball diamonds. Carol somehow found time to coach Jen's volleyball team in the fall. Aged just one through eight at the time of her appointment to the court 10 years ago, the kids have learned to be independent and largely responsible, with the exception of a few recent incidents of property damage and the occasional unannounced, but thankfully brief, disappearances on the part of the teenagers. One of the remarkable things about Carol and Tim as parents is their unflappability regarding what they see as the normal childhood antics of their children, and their ability to maintain faith (some would say in the face of unlikelihood) that "it will all work out." Some of this philosophy comes from a keen perception that life is short, owing to the loss of a close friend in the spring of 2000. They are acutely aware that the trials of family life should be the subject of celebration, not dismay. Their faith has been rewarded: the two eldest children will soon pursue undergraduate degrees at UBC, and likely, UVic, and the younger three perform well academically, are active in sports and have never been arrested.

Before joining the Provincial Court in 1993, Carol spent two and a half years at the Provincial Criminal Appeals Office, appearing for the Provincial Crown before the Court of Appeal and on one memorable occasion (while seven months

pregnant), in a case called *Regina v. T. (V)*, before the Supreme Court of Canada. That case resulted in a decision of the nine Supreme Court judges, in favour of the Crown, written by Madam Justice L'Heureux-Dubé. It was accordingly all the more memorable (with the fondest of respect) for the delivery by L'Heureux-Dubé J. of a unanimous decision.

Carol graduated from the UBC Faculty of Law School in 1979, along with Tim Ellan and a remarkable eight or nine of her judicial colleagues. She articulated with Macrae, Montgomery, Spring & Cunningham and then with Ladner Downs as it then was. She was called to the bar with Tim in September 1980. They were married in 1981. Carol spent her first two years of practice at Thorsteinssons doing tax law, while Tim worked for the provincial Crown. Carol, envying his life as a barrister, jumped ship in April 1983 and has never looked back. She spent the next 10 years with the Crown, reveling in the intricacies of criminal law and motherhood. After her appointment to Small Claims Court, Carol moved to Adult Criminal Court at 222 Main Street in 1995 and became an administrative judge in 1996 and associate chief judge in 1999.

As for what comes next, Carol is hopeful for a comparatively uneventful remainder of her term. The court's strategic plan, along with the written protocols for government relations that she has overseen, will no doubt pave the way for a smooth passage into a new and more autonomous realm of judicial administration. It is clear that with Chief Judge Baird Ellan's leadership, the Provincial Court will continue to lead Canada with an innovative, responsive and accessible provincial justice system.

http://www.activebailiff.com

ACTIVE Bailiff Service Ltd.

8540 Greenall Ave. Burnaby, BC V5J 3M6
24 Hour Service From Vancouver Island To Hope

Court Bailiff
Court Order Enforcement
Supreme Court
Federal Court
Provincial Court
Under Contract with
The Ministry of the
Attorney General

Phone: 604-434-7279
Fax: 604-431-7202

Bailiff
Commercial Rent Distress
Repossessions Of All Types
Remarketing Services
Certified Property Appraisers
Secure/Insured/Heated Storage
Government Licensed and Bonded
Process Serving

Phone: 604-434-2448
Fax: 604-437-7322

www.activebailiff.com info@activebailiff.com

Court Order Enforcement and Rent Distress Specialists