



ON THE FRONT COVER

THE HONOURABLE
STEVEN L. POINT, OBC
Xwě lī qwěł těł

By Louise Mandell, Q.C.

People say to me, “What’s an Elder?” I tell them if you wake up in the morning and your teeth are in a glass, you are an Elder. I am only teasing, of course. It has to do with knowledge, respect, wisdom and love—that is an Elder... In the old days leaders were referred to as *si:yám*. The term is seeing a revival. It takes a lifetime to earn that title but only a minute to lose it... One of the strongest values we have is humility. When a *si:yám* walks into a gathering, he automatically sits in the back; if the others invite him to sit in the front, then he moves. That is humility. I watch Canadian politicians and I wonder if they have ever heard of that principle. Our leaders are expected to serve the people and be there for them. Our values and our systems are not European. However, the more I study Europeans and the more I learn about my own history, the more I find that in fact we are the same. You love your Elders, you love your God, you cherish your young people, and you have a strong sense of justice, just as we do. In fact, if you look long and hard enough, you will find that there are probably more similarities than there are differences... We have both paid too much attention to the differences between us, and I want to see that change. I hope you do, too.*

When Aboriginal people in British Columbia think of justice, many think of the Honourable Steven Point—a role model for First Nations youth and a leader of profound vision. He is now British Columbia’s 28th lieutenant governor.

Steven was born into a large and deeply traditional family, to the late Roy Point and to Rena (Point) Bolten, of the Skowkale First Nation, and into the ancient Sto:lo, whose traditional territory lies in the lower reaches of

* The Honourable Judge Steven Point (as he then was), from the Foreword to Keith Tor Carlson, ed., *A Stó:lō–Coast Salish Historical Atlas* (Vancouver/Seattle: Douglas & McIntyre/University of Washington Press, 2001).

one of the great river systems of the world. He was also born into the unresolved land question, which was simply and eloquently stated when the chiefs of the Interior presented a memorial to Prime Minister Sir Wilfrid Laurier in 1910. In words later cited by Steven in his submissions in *Delgamuukw v. B.C.*,¹ they asked how the province acquired ownership and jurisdiction over their ancient and fertile land, in the absence of treaty, and requested that justice be done:

We desire that every matter of importance to each tribe be a subject of treaty, so we may have a definite understanding with the government on all questions of moment between us and them.²

Steven grew up in Chilliwack, where there was considerable prejudice against Aboriginal people around that time. He was trained by the elders and leaders of the Coast Salish world from an early age to be a leader of his people. Immersed in his culture, he was taught the ancient teachings and stories that form a critical component of the Coast Salish legal system and illuminate the underlying principles and values through which his peoples' indigenous system of justice is articulated. He was also trained in the rich and textured ceremony and ritual of the Coast Salish world so that he could take up sacred responsibilities in the longhouse tradition. With this knowledge, training, worldview and experience, he grew to be a young adult with a deep appreciation and understanding of the Coast Salish perspective on Aboriginal title and rights.

Steven married Gwen Rose (Felix) Point, from the Chehalis First Nation, and together they began their family, which today includes four children and 11 grandchildren. He was soon elected by the Skowkale First Nation as the province's youngest chief, at just 23 years old (a position he held, off and on, for 15 years). He was elected to the executive of the Union of British Columbia Indian Chiefs ("UBCIC"). During this period he worked with the late Grand Chief George Manuel, then president of UBCIC and the World Council of Indigenous People.

I met Steven in 1977, when Leslie Pinder and I were in-house lawyers with UBCIC. Steven was among the chiefs who directed our legal work. In doing this he showed great curiosity as to how to approach the land question through the vehicle of the law. Interested in improving his skills and taking every opportunity to learn, he went to law school. He articulated with Mandell Pinder and was called to the bar in 1986. At his call ceremony, his community presented him with a gift of a suit, which he wore proudly. Thus began a legal career which, from roots formed in Sto:lo and Canadian legal tradition, reflects an abiding sense of justice and humanity.

Following his call to the bar, Steven returned home to help his people and, with Karen Shirley, opened up the law office of Point and Shirley.

Steven and Karen met this new challenge with their usual courage—and just a touch of madness, as Karen Shirley recalls:

Steven and I decided—some might say stupidly, some might say bravely—to become law partners and open our own law practice, on our own, from scratch, in Chilliwack, where Steven was from.

Karen tells a story, which shows so well Steven's ability to respond to the challenges of the moment, falling back when necessary on his great sense of humour:

One of Steven's first cases involved two Sto:lo men, up on fisheries charges. This was in the days before the *Sparrow* case was heard by the Supreme Court of Canada. In any event, Steven's case didn't seem to be a good case for an Aboriginal rights defence.

Steven and I were both in court in Chilliwack the morning when this case was on the docket. Steven was extremely busy that day, and I had reached a lull in events of the day. He found me in the courthouse, told me his clients had decided to plead guilty, and asked if I could help him out by taking particulars for their guilty plea.

I agreed, and the two men and I went looking for a quiet place in the courtroom to sit and do this. But every room was full and we couldn't find a quiet corner. I knew there was a restaurant only a few short steps away from the courthouse and I knew it would be quiet at that time of day. So we went there, and I started asking the questions and jotting down their answers: names, addresses, places of employment, living circumstances, whether they'd need time to pay a fine, the circumstances surrounding the charge... Well, I'd hit a hot button with that last question. It reminded them that they believed they had an Aboriginal right to fish for food, and they went on about it at some length.

Meanwhile back at the courthouse, the sheriff called their case and Steven stood up and explained to the judge that this would be a guilty plea and he had the case stood down for a few minutes until his law partner got particulars. Time stretched on. The sheriff went to round us up and we weren't to be found in the courthouse. Steven was puzzled and getting a little concerned.

At the restaurant, I thought I'd got the men calmed down and we were good to go. In the courtroom Steven looked relieved to see us. I gave him a nod that things were good and handed him my notes on the particulars.

The judge looked down, and said, "And how do you plead?"

His client hesitated only a moment then stood up tall and straight, and in quite a loud voice, he pleaded, "NOT GUILTY!"

Steven was astonished. I was surprised, too.

The court clerk looked up, also quite astonished, and said to no one in particular, "WHAT did he say?"

The judge kept his eyes firmly down on his notebook, scribbling away, as he responded, "He said, NOT GUILTY!"

Then, his co-defendant decided he'd better plead not guilty too, so he did. Steven was taken aback but quickly recovered. The matter was set down for trial.

After three years, Steven and Karen left their private practice together, but their friendship continued. Both went to work for the government.

Steven served for a year as a refugee adjudicator for the Department of Employment and Immigration in Vancouver.

Following the example and direction of the elders, he took up the role of teacher and adviser in many different contexts. He is an excellent teacher. Through his generosity, he shows younger people how much they are capable of achieving, and he encourages them and gives them courage to do the things they would like to do.

Steven left his federal post to teach law. He was the director of the Native law program at the University of British Columbia from 1991 to 1994. He was also an instructor of Native law at the University of Saskatchewan. In both positions he became a mentor to many young Aboriginal students in the study of law and shared with students the teachings he had received from his elders and from his own study at university. He also taught as an instructor of Sto:lo values at the University College of the Fraser Valley in the Social Work Department.

During this period he was one of the Aboriginal leaders instructing on two important fishing cases, *Sparrow*³ and *Van der Pelt*.⁴ Steven was passionate and clear about identifying fishing rights as essential to the continuation of the elaborate cultures and economies of the coastal and river First Nations of British Columbia. He was also a brilliant advocate. He represented UBCIC in its intervention in support of the Gitsxan and Wet'suwet'en First Nations at the Court of Appeal in *Delgamuukw*.⁵ A man who knows the power of words, he was eloquent in his submissions, which posed the land question in all of its simplicity.

Steven was involved in the changes which were occurring in the law. The courts were articulating the basic purpose of the inclusion of s. 35 into the *Constitution Act, 1982*, being reconciliation between Aboriginal communities and the broader populace, a principle close to Steven's heart.

In 1997, Steven was elected to be the Sto:lo Yewal Siyam (Peoples' Representative) for the Sto:lo Nation by his colleagues, the 19 chiefs of the Sto:lo Nation, to represent them in treaty negotiations.

In 1999, he accepted an appointment as a Provincial Court judge. He did so because he thought he could make change occur. He reflected on this in an interview after his appointment:

In every community, there is a small group of influential people who are very, very prejudiced—on both sides of Aboriginal issues. There is a group of people in both groups that are trying to fight that racism. And there is a huge lump of people in the middle who simply don't care about Aboriginal issues.

What I find is that the same situation exists in the justice system, in education, in any institution. The question is, "Do we take a big stick and force these people to get along? Or do we guide them along and show them a different way?"

I've learned that I am the only person who controls my emotions. I can't control other people, I can't control the weather, I can only control my behaviour.

What I found out from talking to people such as Aboriginal constables in the Royal Canadian Mounted Police is that change occurred not because they pointed out problems in the system and complained, but simply because they were there.

In just the same way, my becoming a judge—just being there—and my background as being Chief of my community and speaking on behalf of my community will make a difference.⁶

The appointment of Judge Point aroused great pride and expressions of respect, in both the Aboriginal and non-Aboriginal communities. In 2000, he received an honorary LL.D. from the University College of the Fraser Valley. In the same year, he was a recipient of the National Aboriginal Achievement Award.

Initially, Judge Point travelled all over the province to hear cases in places where the backlog was particularly severe. Later, he was appointed to sit in Prince Rupert, a unique and interesting city where members of four First Nations—the Haida, the Nisga'a, the Tsimshian and the Gitsxan—live in a large numbers. Judge Agnes Krantz expressed the influence Judge Point had on her and on the Prince Rupert community:

It was such a pleasure to work with Steven. He had such a wonderful sense of humour, and was someone who could always make me laugh—which is very rare. I was so happy to have him here in Prince Rupert. He brought an understanding to the bench as an Aboriginal person that I was very grateful for. I wish that he could be replaced with another Aboriginal judge—his presence really made a difference. In family law matters, Aboriginal people in the courtroom responded to him and related to him. He wanted everyone in his courtroom to be a great parent—as he was—and everyone understood that. He sang in the community choir here in Prince Rupert—he has a wonderful voice. His voice is missed here, it is very hard to replace such a voice and such character.

As a judge, Steven was never indifferent to injustice. He gave a respectful hearing, and considered the lives of those before him as a matter of supreme importance. He moved the courtroom to settings within the Aboriginal community so as to be more inclusive and to find solutions, drawing from both Indigenous and Western legal traditions. He thought a good deal before making decisions, but did not postpone making them. He used his power as a judge to attempt to restore order in the lives of the people who came before him.

In 2005, Steven was asked to take a leave of absence from the bench to become chief commissioner of the British Columbia Treaty Commission. Knowing the importance of this request, he willingly returned to the fray, facing many of the same old problems in Aboriginal/Crown relations for which no solutions had yet been found. He accepted the job, bringing to it renewed patience. He worked hard to achieve a respectful and honourable reconciliation. Steven's community gave him strength for this work and

bestowed on him their greatest honour: the appointment as a Grand Chief of the Sto:lo people.

Then, in 2007, Steven received an invitation from the Prime Minister to serve as the Queen's representative in and for the province of British Columbia, which he humbly accepted. In an interview following his installation as Lieutenant Governor, he reflected on what he thought he could offer:

I hope that what an Aboriginal person like myself can bring to this is just a different perspective, a view of a longer history, the perspective of our home Aboriginal communities.⁷

The public reaction to his appointment speaks volumes to the love and respect in which he is held by so many people in British Columbia. Premier Gordon Campbell said:

Steven Point brings to this prestigious appointment a wealth of wisdom and experience that will benefit all British Columbians...He is an exceptional man filling an exceptional role in a province well-served by his predecessor, the Honourable Iona Campagnolo, who was appointed lieutenant governor in 2001. I am certain Steven Point will serve B.C. likewise, with dignity and dedication, for years to come.⁸

Grand Chief Ed John of the First Nations Leadership Council described the appointment as "truly a milestone for First Nations people in British Columbia, especially in these times of reconciliation, recognition and relationship building". Hupacasath Chief Judith Sayers of the First Nations Summit described the new Lieutenant Governor as eloquent, a great storyteller and an inspiring role model for Aboriginal peoples. She said that the appointment of an Aboriginal person to the office of Lieutenant Governor was of monumental significance in the process of reconciliation between Aboriginal and non-Aboriginal Canadians.

Chief Judge Hugh Stansfield expressed personal loss because the appointment meant that Steven would not be returning soon to the bench:

First, let me say how terribly disappointed we all are at the courts to lose Steven as a judge. We were looking forward to his return after he completed his work as the Chief Commissioner of the British Columbia Treaty Commission. He is highly regarded and valued as a judge and more particularly, as a person. Having said that, the judges are really pleased for the people of British Columbia to have Steven as the "face of B.C."

And it is much bigger than that for me personally—it is hard for me to imagine anyone better suited to the role as Lieutenant Governor. He is a lovely man and he is a humble man. There is no pretension in him – not that he does not have cause, but he is a down to earth, self-aware human being who is a joy to be around. He is a wonderful storyteller.

Chief Judge Stansfield also identified what he astutely saw to be the personal sacrifice his friend and colleague was asked to make:

My sense is that this role comes at some cost to Steven—it might have been easier to return to judging—I don't know, I haven't talked to him about this—but I believe that he perceived an opportunity to advance the interests of First Nations in British Columbia and, at personal cost, has, as he has always done in the past, made a decision that is in the interests of the broader community...As a judge, he was always very inclusive and accommodating—he has a lovely balance to bring to the Lieutenant Governor's role.

It is true that Steven has accepted his public role with considerable personal sacrifices. But, when Steven suffers pain and frustration or confusion, which we all do, he has unwavering support from his remarkable family and from his wife, Gwen, who is a woman of great beauty and distinction.

Steven brings to the office of Lieutenant Governor his mastery of ceremony. The drums and songs of his relatives accompany him on his life's journey. He has transformed civil ceremonies into sacred space by the songs he sings and the words he speaks. He is an elegant host. Wonderful words, enlightened words, flow from Steven.

Chief Judge Stansfield had the honour to be present at a lunch hosted by the Lieutenant Governor for a guest of the province, Crown Prince Philippe of Belgium:

He recently invited me to a lunch that he was hosting that included as a guest Crown Prince Philippe of Belgium—it was great to see him in that role, he fills those shoes comfortably and impressively. Although he is down to earth, he always strikes a balance. At this lunch, he had invited a Coast Salish person to sing a song and drum—it was terrific. I'm just so excited to have him as the face of B.C.

Steven is truly a remarkable man: the youngest chief; the first Sto:lo lawyer; the first Sto:lo judge and now the first Aboriginal Lieutenant Governor in the province. Each time he was called to public service, he responded—even if he did not know quite why he was called. He is prepared to take risks. He has kept his heart full of love and compassion; he has never looked upon the misery of others with indifference. He knows the importance of trusting people, and he trusts himself. His personal humility, in balance with tremendous personal power, is obvious to those who work with him.

Steven uses the challenges which life brings as an opportunity to educate—to transform the culture around himself, and himself in the process. He brings to each task his presence of keeping the dialogue open. He teaches individuals and communities how to live together, how to exist in the same country in the full appreciation of our common humanity.

In closing, I recall the passage from the 1910 memorial, where Steven's ancestors had this to say:

With us when a person enters our house he becomes our guest, and we must treat him hospitably as long as he shows no hostile intentions. At the same time we

expect him to return to us equal treatment for what he receives. Some of our Chiefs said, "These people wish to be partners with us in our country. We must, therefore, be the same as brothers to them, and live as one family...We will help each other to be great and good."

The Honourable Steven Point, Xwě lī qwěł těł, helps us all to be great and good on the road to reconciliation. We have much to be thankful for in his life of service at the British Columbia bar, and beyond.

ENDNOTES

1. *Delgamuukw v. B.C. (Gov't)* (1987), 16 B.C.L.R. (2d) 145 (C.A.).
2. "Memorial to Sir Wilfrid Laurier, Premier of the Dominion of Canada, from the Chiefs of the Shuswap, Okanagan and Couteau Tribes of B.C.", presented August 25, 1910.
3. *R. v. Sparrow*, [1990] 1 S.C.R. 1075.
4. *R. v. Van der Peet*, [1996] 2 S.C.R. 507.
5. *Delgamuukw v. British Columbia*, [1993] 5 W.W.R. 97 (B.C.C.A.).
6. *First Nations Drum*, Winter 2000.
7. Article by Jeff Rud, *Times Colonist*, (Victoria), September 5, 2007.
8. "Press Release", Office of the Premier, September 4, 2007.



MICHAEL R. SHAPRAY
LAW CORPORATION

WITH OFFICES IN
VANCOUVER
AND
SURREY, BRITISH COLUMBIA.

CRIMINAL LAW

MICHAEL R. SHAPRAY, B.A., LL.B.
Criminal Defence Lawyer

*Protect the rights of your clients in
the Criminal Courts of British Columbia.*

Working with Referring Lawyers and
Law Firms to assist with the following matters:

- ♦ Criminal Trials and Appeals
- ♦ Police Investigations
- ♦ Execution of Search Warrants
- ♦ Defence of Discipline and Regulatory Charges
- ♦ Liaison with Police and Crown Counsel on Pending Charges

Tel: 604-725-4300

E-mail: michael@defencelawyer.net

Web: www.defencelawyer.net