

# NEW JUDGES



*The Honourable Madam Justice Elizabeth Arnold-Bailey*

Elizabeth Arnold-Bailey was sworn in as a justice of the Supreme Court of British Columbia on May 4, 2005.

Madam Justice Arnold-Bailey leaves a large void to fill on the Provincial Court of British Columbia, where she has presided for the last 15 years. She brings a great deal of ability to the Supreme Court of the province.

Elizabeth Arnold-Bailey was born in Calgary, Alberta, and grew up on a ranch in the Crowsnest Pass area near a very small town called Lundbreck. In fact, Lundbreck is such a small town that it is not even mentioned in the Official Alberta Accommodation Guide!

Lundbreck is a little west of Pincher Creek and a little east of the famous Frank Slide. The area is not unknown for producing legal talent; Chief Justice Beverley McLachlin grew up near the town of Pincher Creek.

Judicial blood was also apparent in Elizabeth's family, as her father, Ross McBain, was a justice of the Alberta Court of Queen's Bench in Calgary, retiring just before his death in 2002.

At the tender age of 16, Elizabeth began her university days at Mills College in Oakland, California, a short distance down the road from Berkeley. This was in the late 1960s, and Elizabeth's special experiences at the time served her well in the future in becoming a well-rounded judge.

Elizabeth transferred to the University of Calgary and then to UBC to obtain an honours bachelor of arts degree with a major in Russian language (of all things!).

Elizabeth attended law school at UBC, graduating in 1978. She articulated with John Conroy, Q.C., and was called to the bar of British Columbia on May 14, 1979.

Elizabeth practised law with John Conroy in Abbotsford in a variety of areas until 1980, when she accepted the position of general counsel to the Legal Services Society of British Columbia in Vancouver. In that capacity she worked closely with Stephen Owen, who became the executive director of the Legal Services Society and now is the federal minister of state for sport and the minister of western economic diversification.

Elizabeth was seconded to the law faculty of the University of British Columbia from 1986 to 1988. There she taught criminal law, legal writing and clinical legal skills.

In 1988 Elizabeth accepted a position as general counsel to the province's ombudsman, Stephen Owen. In that capacity she played a major role in the investigation of the financial regulation in B.C. of certain companies related to the Principal Group Ltd., which was the subject of the Code Inquiry in Alberta.

In the midst of a busy legal career, Elizabeth married Stephen Schachter, Q.C., in 1984. The couple had three children: Lauren, Claire and Joel, now aged 19, 17 and 13 respectively.

On July 5, 1990, Elizabeth Arnold, as she then was, was appointed a judge of the Provincial Court of British Columbia. She was assigned to preside at the Criminal Courts at 222 Main Street in Vancouver.

Relations between Elizabeth and the writer began on an unhappy note when the writer addressed her by an incorrect name when the two first met. This error was firmly corrected by Elizabeth, and this set the tone for what was to follow. What followed was 15 years of dedication to the task at hand by a person of great ability. With Elizabeth you get the whole "package"—the firmness, the humour, the compassion and the simple desire to do what has to be done, as well as it can possibly be done.

Elizabeth presided over countless trials and sentence proceedings. Crown and defence counsel alike were happy to have Judge Arnold-Bailey deal with their matters.

Judge Arnold-Bailey's crowning achievement as a Provincial Court judge came with the incredible saga of *R. v. Hatley et al.*

There were nine defendants charged with importing 12 tonnes of cannabis resin into Canada. There was an ocean rendezvous off Thailand, and the vessel *Blue Dawn* was tracked via satellite by the RCMP from Crete.

The case began in May 2000 with motions by the defence seeking disclosure orders. The trial ended almost five years later, with all of the defendants convicted and sentenced to prison terms ranging up to six years in the penitentiary.

The trial was the longest in the history of the Provincial Court of British Columbia. It involved 103 witnesses, hundreds of exhibits, numerous disclosure motions, wiretap evidence, foreign law evidence, search issues, applications for publicly funded counsel and so on. Judge Arnold-Bailey delivered thirty significant rulings on these matters before the final judgment.

In the course of the trial, all participants became quite familiar with each other. The male defendants especially became quite enamoured with "their" judge. Some months after the trial was concluded, rumour has it that one of the defendants showed up at the front door of 222 Main Street on his motorcycle. He asked a court clerk from the trial if a message could be passed on to Judge Arnold that he wanted to take her for a ride. His offer was politely and wisely declined. It turns out that the defendant in question was at large on bail pending appeal at the time.

In Calgary, Judge Arnold-Bailey recently married Robert Bailey, who she apparently knew in Grade 9. Her passions are her children, her husband, her garden and her work. If she has a fault, it is that she works too hard.

The Supreme Court is getting a gem!



### *The Honourable Madam Justice Loryl Russell*

The appointment of Loryl Russell to the Supreme Court of British Columbia is not an occasion of unalloyed joy, either for members of the bar of British Columbia or for her former clients. Both naturally will be pleased that her ambition to go to the bench has been realized, but both will miss her enormously. Loryl has been as engaging a colleague at the bar as it has been possible to know. As well, she has been a tenacious and highly effective advocate for her clients. What the bar and her clients lose, the bench and those who appear before her will gain. It can confidently be predicted that her fellow judges will enjoy her company.

Loryl began her working career as a teacher of French, among other topics. She then left teaching and went to law school at UBC, and articulated with Fraser, Keller, Sigurdson, Watts and Gudmundseth. She then spent a year or so with Jordan & Gall and, beginning in 1982, practised for a few years with Bull, Housser & Tupper. There she was engaged in labour and employment law, but in 1987 she was instructed to act in a major Aboriginal land claim case. This case became one of those life-consuming briefs that some barristers occasionally encounter during the course of their careers. Loryl's abilities are such that she had several large briefs of various kinds in her time at the bar. It is a tribute to her intelligence, industry and balance of mind that she managed to survive each of these briefs with her clients well served, her reputation enhanced and the rest of her practice intact. This was no easy feat to accomplish.

To achieve that outcome, among other things, one needs friends. Loryl has friends in abundance. She has a gift for friendship. Not all of us have managed to keep lifelong friends from early school days, but Loryl has managed to do so and as well has acquired many more along the way. The bench is a good place for an able lawyer with the advanced understanding, regard and sympathy for people that Loryl possesses.

Loryl benefits from a capacity for hard work, organized thought and careful judgment. She also has courage in the expression of her thoughts and judgments.