

# ON THE FRONT COVER



## RICHARD C.C. PECK, Q.C.

By William B. Smart, Q.C., and Jeff Campbell

A 1945 issue of the *Canadian Bar Review* described the role of a lawyer as being the "medium through which the law reaches the people, and the highest honour and integrity must mark the calling which deals with the rights, privileges and liberties of the people". These words capture the core ideals of practising law as a member of a profession requiring the highest standards of conduct. Although he would never speak about himself in those terms, they reflect Rick Peck's 40-year career in the law.

Rick's practice has focused on criminal defence, and his professional life's work has been rooted in the firm belief that defence counsel fulfills a vital function in society. It is a role that can be carried out in a way that not only serves the client, but also befits a noble profession and enhances the administration of justice. He speaks frequently and passionately about the importance of an independent bar, civility and professionalism, and he practises what he speaks.

Rick was born in Victoria and spent his early years in Sidney, B.C., before moving to West Vancouver as a young teenager. His father, Ed Peck, was a leading figure in labour relations and served as vice-chair of the original Labour Relations Board. Rick, or "Rocky", as he was then known, was a talented athlete who participated in rugby, football and boxing as a young man. He spent the first part of his final year of law school touring England and Wales with the UBC rugby team. He left for this trip a few days after his wedding, in lieu of a honeymoon. This decision, and other aspects of the life of a varsity rugby player, probably helped prepare him for a defence prac-

tice, understanding that young people sometimes show poor judgment but may be deserving of a second chance.

Rick started law school in 1971 at UBC. His first-year class included many who went on to become respected judges, including Justices Mary Ellen Boyd, Mary Saunders and Mary Newbury. Rick did not provide the three Marys with much academic competition, but was a much better rugby player than any of them.

After graduating from UBC law in 1974, Rick articulated with the late Harry Rankin, Q.C. This formidable law firm included Terry Robertson, Q.C., Ian Donald (now Justice Donald), Romano Giusti and Russ Chamberlain, Q.C. Rick describes his time at Rankin and Company as the ideal learning environment for a young lawyer. The work day usually began at a Gastown diner at 6 a.m., where Harry would hold court over breakfast and Rick would absorb the stories and wisdom of the great legal characters of that era. There was a strong tradition of camaraderie and mentorship at Harry's firm, and Rick learned by osmosis from many of the leading counsel of those times.

Upon his call to the bar, Rick began conducting trials before juries at the old courthouse on West Georgia Street. Criminal trials in the pre-*Charter* 1970s and early '80s were very different from those of today. Judges had almost no power to exclude relevant evidence, and murder and other serious charges were often tried in a week or two. In this environment, Rick quickly gained a reputation for his willingness to take on difficult cases. He also learned that he would not be measuring his forensic skills by wins and losses. As Wally Oppal has observed, Kent Institution needed a new wing to hold all of the inmates that Rick had represented at trial.

After several years at Rankin and Company, Rick and Terry Robertson left to set up their own firm. They were excellent lawyers but lousy businessmen and later moved their practice to Harper Grey Easton, where they learned the business side of the practice. Armed with this skill, Rick struck out on his own again, establishing a small criminal law firm with his close friend Michael Tammen, Q.C. Under Rick's guidance, his firm has grown to become the leading criminal law firm in this province and one of the leading firms in the country.

Over the course of the last 40 years, Rick has acted as defence counsel or prosecutor on some of the most complex and challenging criminal cases of our times. He is as comfortable and effective in the Court of Appeal as in a trial court. He possesses determination, good judgment, common sense and a keen understanding of human nature. He is inherently fair but, like most barristers, enjoys the competitive side of counsel work. He takes great care

with the words he uses in court, and can be counted on to provide reasoned advocacy as to how the law should evolve.

Former Chief Justice Finch wrote that the administration of justice depends upon counsel taking on difficult cases without fear of personal consequences. There is no better example of this than Rick's performance in the *Regina v. Sharpe* case. The trial judge, Shaw J., had struck down the child pornography provisions of the *Criminal Code*. The ruling was met with widespread controversy. It was the type of case where people angrily confront defence counsel about how they can act for such people and sleep at night. Several lawyers declined to represent Mr. Sharpe due to the nature of the case. Rick (along with Gil McKinnon, Q.C.) accepted the brief, believing it was their professional responsibility to do so and to provide the client with fair and effective representation.

Rick's performance in the *Sharpe* appeal to the Supreme Court of Canada is a compelling example of effective appellate advocacy. In his oral argument he forcefully pointed out the ways in which the offence was drafted too broadly, and how it could be used to prosecute private acts that should not be considered criminal. The spirit of his argument was ultimately accepted by the court, which upheld the legislation but agreed that many of the concerns identified by Rick should be constitutionally exempt from prosecution.

The Air India trial (*R. v. Bagri and Malik*) was likely the most Herculean task of his career. Rick led a team of nine lawyers representing Bagri on trial for the 1985 bombings that had resulted in 331 deaths. The police investigation spanned almost 20 years and was said to be the largest police investigation in Canadian history. The disclosure involved millions of pages. The case consumed the lives of the legal team for the better part of four years. It was an enormous undertaking, made manageable by a remarkable co-operative relationship between senior counsel for the defence teams and Crown counsel. Realizing the unique challenges of the case, Rick and other senior lawyers for the defence and the Crown forged what lead prosecutor Bob Wright, Q.C., called an "administrative partnership". They co-operated wherever possible within the context of the adversarial process in order to streamline the trial. This led to hundreds of admissions of fact which ultimately reduced the Crown's witness list to 83 witnesses, down from the initial estimate of 1,185. Through their co-operative efforts, the trial itself was completed in approximately one and a half years. It otherwise would have taken years to complete. It is noteworthy that Rick's reasonable and thoughtful approach, which sought to simplify the trial, did not undermine the successful result that was ultimately obtained for the client.

While he is a vigorous and formidable advocate for whichever party he represents, he has always been known for courtesy, integrity and civility. Above all, he is respectful to others, whether it is a junior lawyer, opposing counsel or a hostile witness. He maintains a calm demeanour even in the tensest moments. He reminds young lawyers that it takes years to build a reputation, which can be destroyed by a momentary lack of judgment.

Rick is passionate about words and language, both in his own work and in the work of others. One of his greatest pleasures is correcting others for grammatical mistakes, spelling errors and incorrect language in written work. He keeps a massive edition of the *Oxford English Dictionary* near his desk and refers to it often. He microscopically scrutinizes other counsel's work for misplaced commas and the improper use of words such as "penultimate", "irregardless", "fulsome" and "paradigm". If there are any errors in this article, they will undoubtedly be found by Rick and brought to the authors' attention promptly and repeatedly in the future, but always in good humour.

Rick's contributions to our profession and our justice system have been profound. His long-term service includes service as a bencher (for 10 years), a three-time member of the advisory committee on federal judicial appointments, co-chair of the Federation of Law Societies National Criminal Law Program, co-chair of the UBC Law School Advanced Advocacy Course, co-chair of several CLE Advocacy Courses that brought together judges and lawyers from across the country, and chair of a Canadian Bar Association task force which produced a major report calling for comprehensive reform to the *Criminal Code*. In a typical year, these types of contributions are supplemented by numerous speeches and papers.

Rick's dedication to the profession, however, is best illustrated by the ways he provides assistance to other members of the bar. Rick has been, and continues to be, an invaluable source of advice and guidance to counsel. This can range from consultations on a complex legal or ethical issue to helping guide counsel through a personal or professional crisis. Rarely a day goes by that he does not help counsel wrestle with a troubling issue or help a lawyer who has stumbled to get back on his or her feet. He is truly a "lawyer's lawyer". This work is typically unpaid and done outside of the spotlight, but is of invaluable benefit to its many recipients.

He has acted as a mentor to countless articulated students and lawyers, many of whom have become respected counsel and judges. He has often insisted on taking on an extra student, whether or not the firm could afford to pay their salary, in order to give someone an opportunity that they might not otherwise have. Without fail, he will make himself available to talk to

young lawyers about their cases. He has selflessly given thousands of hours to others, understanding that the profession depends on senior lawyers sharing their experience and judgment with the newer members of the bar.

Behind every successful professional is usually the invaluable support of another. In Rick's case, it is his spouse, Mary Peck. Mary has been the bedrock of his professional and personal life since they started dating as young undergraduates in 1971. He continually emphasizes that without her, he would not be where he is today. This point is inarguable.

His daughters, Kathryn, Shauna, Cydney and Devon, are a great source of pride for Rick. They have all grown to become successful and vibrant women, with careers in business, education and the law. Pictures of Mary and their daughters surround his office desk. Rick's family has been crucial to his accomplishments and his happiness.

Rick does not use or understand computers, the Internet or cell phones, and takes pride in this. His life outside the law is most often spent reading literature and books of poetry. In the basement of the family home, Rick has built one of the most extensive personal libraries in western Canada. He spends his evenings in the solitude of his den, with his dog and his books and the occasional legal memo. This is Rick's version of work-life balance.

Last November, Rick became the first lawyer outside of Ontario to be awarded the G. Arthur Martin Award, given by the Ontario Criminal Lawyers Association for outstanding contribution to the criminal justice system. His advocacy skills only partly explain this and other accolades. There are many skilled lawyers. What sets Rick apart are the countless ways in which he has helped others and dedicated himself to the profession. He consistently sets the standard by which counsel in this province are measured, and he invites us, both explicitly and by example, to elevate our craft.

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