



ON THE FRONT COVER

THE HONOURABLE ASSOCIATE
CHIEF JUSTICE
ANNE WINTER MACKENZIE

By the Honourable S. David Frankel

On April 23, 2010, the Prime Minister announced the appointment of Anne Winter MacKenzie as Associate Chief Justice of the Supreme Court of British Columbia to “replace” (if such is possible) the Honourable Patrick D. Dohm, who retired after serving in that role for 15 years. She is the first woman to occupy that position. The appointment marks the beginning of another chapter in a professional life filled with accomplishments. Her appointment was universally greeted with approval by the members of the Supreme Court and the larger legal community.

Born in New Westminster, Anne grew up in Mission with her two younger brothers, one of whom is now an economist at the University of British Columbia’s Sauder School of Business. Anne majored in French at UBC and also studied English and psychology. She completed her undergraduate studies at the University of Calgary, where she took a bachelor of arts degree in 1973. Shortly afterward, she returned to Vancouver.

Banking and numbers were in Anne’s blood—her father was a banker by profession. She secured a job as a teller, although it was short-lived. Seeking more challenge, she applied to UBC Law, where she began her studies in the fall of 1974. After graduating in 1977, she articulated with Guild, Yule and Company in Vancouver. Her principal, Ronald R. Holmes, later became a judge of the court on which Anne now sits.

After being called to the bar in July 1978, Anne joined what was then the Criminal Law Section of the Department of Justice (now the Public Prosecution Service of Canada). She quickly earned the respect of judges, colleagues, defence counsel and investigators as a hard-working, firm but fair-minded

Crown counsel. She handled a broad range of federal prosecutions, taking on several difficult and, by the standards of the day, lengthy cases. She appeared at all levels of court, including the Supreme Court of Canada.

Anne's first court assignment, however, had unexpected results. Appearing before a County Court judge known for being exceedingly cranky with counsel, she brought an adjournment application. The advice of experienced counsel was to stand her ground because the judge, after expressing his displeasure with the application and with counsel, would nonetheless grant it. But upon her return to the office, Anne unhappily reported that things had not gone well: the application had been denied, and she had barely survived the experience. It was the first of a number of encounters with difficult judges. From these experiences, however, Anne learned the profound importance of a calm, courteous and respectful judicial temperament, which she strives to maintain in and out of the courtroom.

In 1990, Anne was appointed to the Provincial Court. The process involved an interview conducted by members of the Judicial Council. At the time, one such member was a very experienced and well-respected, but crusty, defence counsel ("Mr. R."). Anne prepared for the interview by trying to anticipate potential questions. As the following exchange in the interview reveals, it was time well spent:

Mr. R.: Ms. MacKenzie, given that you have spent your entire legal career as a prosecutor, how can we have confidence that you would recognize a reasonable doubt in cases that come before you?

Anne: Mr. R., you must remember that one of my responsibilities as Crown counsel is to decide whether there is sufficient evidence to even proceed with a prosecution. I have probably stayed far more charges for lack of evidence than you have obtained acquittals.

Needless to say, Anne made the right impression: in July 1990, she was appointed to the bench by the Attorney General of British Columbia. Quite pregnant at the time, she was the first judge of the Provincial Court to take maternity leave, but only for five weeks.

Although sitting mostly on criminal cases, Anne also dealt with family and small claims matters. Her colleagues soon recognized that they could turn to her for both advice and the ability to recall—almost instantaneously—the leading authorities on a point. Her door was always open. She was also one of only a handful of judges who could conduct a criminal trial in French. While on the Provincial Court, Anne served on the Judges Association and was active in legal education through her court's legal conferences and the Continuing Legal Education Society. Always seeking to enliven her presentations, in one talk she incorporated a clip from the 1992 movie *My Cousin Vinny*: the scene in which Mona Lisa Vito (played by Marisa Tomei) curtly

tells Vinny Gambini (played by Joe Pesci), “It’s called disclosure, you dick-head.” The moment was unforgettable.

Anne’s next move came in 1996. In June that year, the Minister of Justice called to appoint her to the Supreme Court of B.C. She welcomed her new position with characteristic enthusiasm and energy, sitting initially in New Westminster and later moving to Vancouver. As a Supreme Court judge, she presided over jury trials that presented some unusual situations. These situations included jurors holding hands and praying in the bathroom, and the presence of a clairvoyant juror who insisted on telling the others how they would later decide the case. A case of negligence by an “ejecting” toilet seat was, perhaps, the most memorable. A woman sued a major restaurant for injury caused by the errant toilet seat, and—in a rare instance of an overstimulating jury charge—a member of the jury, frantically waving her arm, interrupted with, “Oh my Lady, I am so sorry, but I just can’t hang on any longer. It’s all this talk about toilet seats. I’ve really got to go...” Temporarily suspending her summing up, Anne gave everyone a much-needed break.

In addition to carrying out her judicial duties, which continued to include French-language criminal trials, Anne served on the Supreme Court’s Criminal Law and Executive Committees. She has regularly participated in continuing education programs for both the bench and the bar. She is also a clarinetist who has performed (to much applause) in a trio at annual court conferences.

Anne’s achievements, however, are not restricted to the law. She is the proud mother of three: Mary Anne, currently a legal assistant in Vancouver and planning to attend law school; Guy Roland, who has a master’s degree from the London School of Economics and works in Oxford, England; and Ruaridh, who has just completed his third year in honours math at McGill University, where he is also on the varsity rugby team. Anne is also the stepmother of the two children of her partner, Ira Nadel: Ryan, who has a master’s degree in digital media and is president of his own media production company in Vancouver; and Dara, a graduate of McGill University who lives and works in New York.

A professor of English at UBC and an accomplished biographer, Ira met Anne at a “beginning of term” party in 2003. Music, art, travel and noir films are among their interests. Not surprisingly, mysteries are also high on their list.

There is also athletics. Anne loves to swim, and regularly power walks in the forest with friends. When unable to be outdoors, she resorts to a treadmill, where she has become adept at exercising while texting on her BlackBerry. Keeping in touch with her colleagues, family and friends is a constant activity. Indeed, since becoming Associate Chief Justice, Anne’s BlackBerry

is never out of reach, giving new meaning to the term “arm’s length”. She is also an avid reader but hates to finish a book.

Anne brings to her new position intelligence and high energy, supported by conscientiousness and a sense of humour. She deeply respects all those with whom she works in the administration of justice who strive, often under difficult conditions, to serve the public. She understands the need to work co-operatively with all members of the court. Those traits will be of great support as she assists Chief Justice Bauman in administering the Supreme Court with integrity and compassion.





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