

a busy practice, but also of coaching his children's various teams over the years, be it softball, baseball or hockey. His dedication can be seen in the story Marilyn Sanford tells of her time as co-counsel with Mark in the trial of Korody and Nuttal for allegedly trying to bomb the provincial legislature, when Mark spent breaks in the trial dealing with calls from parents of kids whose teams he coached.

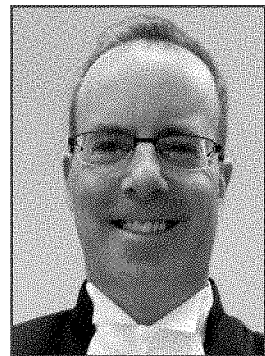
Mark was always a diligent practitioner, well organized and with a comprehensive knowledge of the case. He was courteous but relentless in cross-examination. He was a master of strategy and tactics. He always had the end of the case in mind and never lost sight of the forest for the trees. He was a skilled trial lawyer.

Mark has given back to the legal community, lecturing at CLE seminars and events organized by the CBA, TLABC, BCIT and the National Judicial Institute, which teaches judges how to be judges. In recent years, Mark has been an adjunct professor at Allard Law, teaching trial advocacy.

That this worthy man is now a Provincial Court judge is a loss to the bar and a boon to the bench. He will serve the people of this province well.

The Honourable Judge Peter Whyte

"Tom Hurley," recounted then Chief Justice John D. Richard of the Federal Court of Canada, "a colourful legal personality who graced our courts with Irish-Canadian humanity, skill, oratory and humour from the 1920s to the '50s ... once remarked that no one should be a judge who hasn't been thrown out of a beer parlour."¹



We do not know, with certainty, of any judge who has actually been thrown out of a beer parlour. We do not think that Hurley had actual ejections from drinking establishments in mind when he made the above statement. What we think he meant was that the ability to make compassionate judgments is a key attribute in a judge, and compassion comes from practical life experience, both favourable and adverse.

And so we turn to the case of Peter D. Whyte, appointed to the Provincial Court of British Columbia on January 3, 2018 and assigned to sit in Williams Lake. Does he possess this critical attribute?

The historical record is cause for optimism.

Born in Victoria in 1968, Peter was a child of immigrants. His formative years were spent in a West Vancouver household which was never quite stereotypically Canadian, yet was not stereotypically anything else either. He did not learn to play hockey, but instead became a tennis ace. He was exposed early to the delights and the burdens of excruciatingly correct English grammar which, as we will discuss below, has found its way into his formal writing style. Oh, the things up with which he had to put!² Does one yet detect a vestigial British lilt in his occasional word? Those who appear before him will have to decide.

Law school did not beckon early. Peter graduated from UBC in 1991 with a B.A. in psychology. He then began his real education working out of Chicago as a chapter services consultant for the Alpha Delta Phi Fraternity, a position which saw him take to the roads of the northeastern United States, visiting fraternity houses in small and obscure American college towns to address the peculiar issues which sometimes arise in these settings. After a few more years of employment in Vancouver, notably (for our developing theme) with the St. Leonard's Youth and Family Services, Peter began work on a master's degree in social work at Wilfrid Laurier University in Waterloo, which he completed in 1997.

Even before graduation, he started work as a child protection social worker with what was then the Ministry for Children and Families, based in Burnaby and New Westminster. Child protection work is often a first job for social workers. Peter was assigned to various intake and assessment teams, which made him a first responder to allegations of abuse or neglect of children. Occasionally escorted by the police, he would quickly have to assess a difficult and emotion-drenched situation and make the decision in the best interest of our society's most vulnerable members. It was important and fulfilling work, but not long-term work.

His social work interests began to point toward the legal field. In 1999 he started work with the Forensic Psychiatric Services Commission – Vancouver Community Services Clinic. In this position he was tasked with the assessment, treatment and case management of mentally ill criminal offenders, particularly with respect to bail, probation and NCRMD designations.

It was his introduction to the seriously mentally ill. He worked with many people who had committed horrific crimes while operating under psychoses or delusions. Some of his work with an inter-ministerial street-

level team took him to the most difficult situations of the Downtown East-side, where the clients struggled with the twin burdens of mental illness and rampant drug addiction. He had the opportunity to work with and get to know these clients, and he learned that there is a human story behind even the worst outrage. Here, too, his work intersected with the legal system: some of the success stories in this work involved the granting of absolute discharges from the forensic system.

Exposure to these issues, which are not for the faint of heart, stirred rather than deterred his interest in our profession. In 2002 he entered law school, first at the University of Alberta, then in his last two years at UBC. In his articling year he became one of the first, if not the first, student in this province with two concurrent principals in different offices. He received his instruction in the many issues, practical and ethical, which arise in criminal law from eminent Vancouver practitioner Michael D. Sanders, while learning the realities of the role of the prosecutor, of civil litigation and of the solicitor's practice at North Vancouver's Lakes, Straith & Whyte LLP, as it was then called. He was called to the British Columbia bar in 2006.

At the time, Lakes, Whyte LLP, as it is now called, was responsible for a large volume of criminal prosecutions as agent for the Public Prosecution Service of Canada. Peter found his niche in this work and soon became a familiar face in the Provincial Court in North Vancouver and nearby communities. He quickly developed a reputation amongst the local bar and (we believe) the bench as a hard-working, careful, reliable and fair-minded prosecutor. Perhaps it was his experience in counselling people whose illnesses or addictions had led to their involvement in the criminal justice system, but he became known as a prosecutor with some understanding of the personal challenges faced by accused persons. As he would not abandon a proper position, he would also not take an unreasonable one, and was prepared to listen to and consider the other side of the story.

As the *situs* of this work expanded beyond the North Shore, Peter's exposure to the far-flung reaches of British Columbia expanded with it. It is here that another theme of our story enters: that of his connection with the north of our great province. He became a frequent visitor to Fort St. John, Dawson Creek and Fort Nelson. Something in the dynamism of those communities attracted his attention, and so he accepted a position in Fort St. John with the Criminal Justice Branch in February 2015.

Prosecuting assault and sexual assault charges is the bread and butter of a provincial Crown prosecutor's work in Fort St. John. It was there that his experiences in social work came to the fore. In its wisdom the Criminal Jus-

tice Branch drew upon this background when it appointed him to the Vulnerable Victim and Witness Resource Counsel Group, charged with developing best practices and providing advice to Crown counsel dealing with child witnesses and victims of crime. He quickly stood out in his ability to develop a rapport with young victims and witnesses in the most trying of circumstances. His success was such that shortly before his appointment to the bench, the Criminal Justice Branch promoted him to the position of administrative Crown counsel for Fort St. John and Fort Nelson.

In Fort St. John, he stood out in other ways. He became perhaps the best-dressed citizen of that hardhat-and-overalls town, and was frequently to be seen strolling down 100th Street in one of its few three-piece suits, pocket square at the ready and adjusted to just the right angle. His unorthodox golf swing with the softball bat astonished the Crown softball team and discomfited its opponents. And, of course, he continued to live out the action, if not the plot, of *Borg vs McEnroe* on the city's tennis courts. There are even those who claim that, in the summer, Peter could be seen paddling his kayak on Charlie Lake, though such reports remain uncorroborated.

Among members of the local bar he developed a good rapport and the reputation he first earned in his travelling prosecution days for common sense in his sentencing positions. There, too, he became known for the formality, clarity and exquisite grammatical correctness of his writing style. He eschewed “c u l8r” and other such pleasantries of our vulgar age in even his most informal written communication. We look forward to seeing his attention to the integrity of the written word in the judgments which he will soon be producing.

Judge Whyte will shortly (at the time of this writing) be assuming a new judicial position in Williams Lake. Williams Lake is not Fort St. John, the North Shore or the Downtown Eastside. We have no beer parlour ejections to report: have we yet shown that Judge Whyte meets Hurley's precondition for success?

We are confident that the experience and the compassion garnered from his social work background and social work-inspired legal work, in disparate communities, have earned him just the sort of life experience which will serve him well in his new role in a new community.

ENDNOTES

1. “The Role of the Judiciary in Canada” (2000), online: <cas-cdc-www02.cas-satj.gc.ca/portal/page /portal/fca-caf_eng/speeches-discours_eng/speech-discours-sep2000_eng>.
2. Attributed, more or less, to Winston Churchill, who is said to have exclaimed, in response to a hypercorrective memo: “This is the kind of tedious nonsense up with which I will not put.”