

Berger says now, “Look, in this business, you win some, you lose some. You try not to become invested emotionally, but to some extent it is unavoidable. When you lose a tough case and your clients are deserving clients, yes you’re down and you can be down for a week or two. Perhaps you appeal, perhaps you’ve lost in the Supreme Court of Canada and there’s nothing left to be done. But you get over it, and swiftly.” Sometimes, though, even when you lose, you win. Berger’s stand had the effect of drawing public attention to the legal status of Aboriginal Canadians, and at the last moment, Aboriginal rights were reinserted in the Constitution.

Berger considered teaching and journalism before choosing law, and he made his choice without anticipating the kinds of cases he would take on during his career. “I was animated by a belief,” he writes in his memoirs, *One Man’s Justice*, “and now it is a profound belief—that the law as enforced in the courts can move us incrementally towards a just society.”

Aboriginal law wasn’t taught at UBC—or anywhere else—in the early ’50s, so his first cases involving Aboriginal rights and title constituted his first exposure to the issues. After resigning from the bench, Berger taught part time at UBC, leading classes in constitutional law and civil procedure and working with Doug Sanders, Michael Jackson, Robin Elliot and Joost Blom to “fill that gap.”

“I think [UBC has] been for some time now the leading law school in the country in the field of Aboriginal law, and I think UBC has had the largest number of Aboriginal men and women who have graduated from law school.”

Berger holds honorary degrees from 13 universities, received the Order of Canada in 1990, was granted the Freedom of the City of Vancouver in 1992, and in 2004 was awarded the Order of British Columbia. He is the author of several books, including *Northern Frontier*, *Northern Homeland*, his account of the Mackenzie Valley Pipeline Commission and the best-selling book ever published by the Government of Canada. He served as an MP for the New Democratic Party in 1962-63, and was leader of the provincial NDP before Dave Barrett won the spot and became Premier. “I’ve never become jaded because I’ve always taken time out to do other things,” he says. “Each time I’ve returned to the practice of law, I’ve always thought to myself, this is where I belong.”

Together with his daughter Erin, Berger now practises under the auspices of Berger & Company. The firm specializes in personal injury, medical malpractice, employment law and of course Aboriginal land claims. “I graduated 48 years ago,” Berger says, “and I still look forward to coming down to the office and discussing new cases. I’ve been lucky.”

Lucky—or willing to make the hard choices.

The Honourable Alfred J. Scow, OC, OBC

CLASS OF 1961



PROLOGUE: *There were 16 of us, eventually. I'm the eldest. I caught both my mother and father home and said, "Mom, dad, I'm going to quit school so I can help with the family finances." They said, "Okay." I was disappointed they didn't argue with me. So I carried on with my fishing and a week or so later I walked into the house ... and I could hear voices in the kitchen—my mother and father. My father asked, "Have you found a wife for Alfred yet? Now that he's not going to school, he must get married." I was 15. I knew that my parents' marriage was arranged. I tiptoed out of the house and went for a long walk and sat on the beach thinking about this unexpected turn of events. The following day, I said to my parents, "You know, I think I'm going to go back to school." They said, "Okay." I stayed in school for 20 years.*



"My wife leaned out the back window and said, 'Hi, Judge!' I thought she was kidding around. 'No,' she said, 'I heard it on the radio.'"

Alfred John Scow was born April 10, 1927 at Alert Bay, the first child of Chief William and Alice Scow of the Kwicksutaineuk Nation. His father (a self-educated engineer and later a provincial magistrate) and his mother were strong proponents of formal education. Scow attended St. Michael's Indian Residential School and then public schools in Richmond and Vancouver, announcing his intention to become a lawyer for the first time to the editors of the Kitsilano High School yearbook.

Scow fished with his father from the time he was six, and over time financed three years of arts and his law degree as a crewman on halibut and salmon boats. There were good years and lean, and the concepts of the western legal system felt at first like foreign territory to Scow. He was 34 when he graduated: "It was a real struggle for me to get through law school." His timing was nonetheless perfect. "If I had graduated before 1961," he explains, "I could not be called to the bar, because Aboriginal people in Canada were not citizens."

Scow was the first Aboriginal ever to graduate from UBC Law. His parents, three of his sisters and the head of the Indian Affairs Department for BC attended the ceremony. "For a long time," he says now, "it really didn't strike me as significant that I was the first." Graduation was significant enough in itself: "I want to do whatever I can to show my gratitude, because [it] really changed my whole life."

Scow began work in private practice in 1962, and married English-born Joan Heaton-Peterson in 1964 (by their own choice). With less than two years' practice under his belt, Scow was approached by a family from Fort Rupert whose daughter had been charged with murder. Scow advised them to find a senior lawyer, but they insisted on him. He tried twice, unsuccessfully, to engage senior counsel, and finally asked a top criminal lawyer whether he ought to proceed on his own. "You're a lawyer, aren't you?" the man asked. Scow replied in the affirmative. "Well then, take the [expletive] case!" He did, and his client was acquitted.

Scow beat out many more experienced candidates for the position of first full-time City Prosecutor for New Westminster, a job he expected he'd hold for the rest of his life. But in 1967, Ottawa called. "We have been led to believe you would be interested in [an] assignment to Guyana on the Amerindian Lands Commission," Scow recounts, "and I said, 'You have been very badly misinformed.'" But after several more phone calls and a trip to the library with Joan—"48 percent of the population were Indians from India and 38 percent were black, five percent were Amerindians and the rest were a mixture of Chinese, Portuguese, English, Scots and American. I said, 'There's one good thing: for the first time, I'll be in the majority!'"—Scow accepted the posting, and stayed until 1969.

He returned to take the Chairmanship of the Board of Review for the Workers' Compensation Board, and a short time later applied to the provincial government for a judicial appointment. "September 13 [1971], I took my dog sailing in English Bay," Scow recalls. "We came home and ... my wife leaned out the back window and said, 'Hi, Judge!' I thought she was kidding around. 'No,' she said, 'I heard it on the radio.'" It was news—Alfred Scow was the first Native in BC to be appointed as a legally trained judge.

Scow held the post until 1992. His subsequent roles have included membership on the Kemano Completion Project Commission and work on behalf of the Musqueam, Fraser Valley and Penticton Indian Bands, and he has served as a representative for the provincial Minister of Indian Affairs as well as a facilitator for the Department. When Judge Mary Ellen Turpel-Lafond spoke at UBC in 2004, she singled Scow out from the other attendees and told him simply, "You are our hero."

Retired for 11 years, Scow continues to serve the Native and the UBC communities. He was founding member and president of the Canadian Indian Lawyers Association; an elected member of the Board of Management of the UBC Alumni Association and of the UBC Senate; established a bursary fund with the Provincial Court Judges for needy law students at UBC and the University of Victoria; established the Scow Institute for Communicating Information on Aboriginal Issues; and is a current member of the management council for UBC's First Nations House of Learning. A lifetime member of the Vancouver Aboriginal Friendship Society, of which he was founding president, Scow has been awarded a Canada 125 medal, the Squamish Nation Aboriginal Achievement Award, UBC's Great Trekker Award and an honorary Doctor of Laws from UBC.

EPILOGUE: At a family gathering, my wife and I took my parents aside and said we wanted to find out something. "Many years ago, I overheard a conversation Did you know that I was there and could hear what you were saying?" In clear imitation of his parents, Scow dons a mischievous grin and nods, once. Yes.