

ON THE FRONT COVER



THE RT. HON. BEVERLEY McLACHLIN, PC

By Karen Dickson

It is hard to believe there is a lawyer in B.C. who does not know the history of the Rt. Hon. Beverley McLachlin, PC. There has been much written about Beverley over the years, and a veritable torrent of fittingly glowing tributes in the months since she retired as Chief Justice of the Supreme Court of Canada in December 2017. Many authors more insightful and skilled than me have summed up her myriad accomplishments as Chief Justice and the impact of the “McLachlin Court”. I have read many of those tributes, not as a chore, but because she has been my friend for over 36 years. My intent with this article is that you learn something more of the personal side of Beverley McLachlin.

My first fortuitous encounter with Bev occurred in the summer of first year law at UBC. I was a student employed for the summer of 1979 by Professors McLachlin and Jim Taylor to assist with the research for their well-known book, *British Columbia Practice*. I was privileged to meet and come to know Bev first as my employer, and in the next two years as a professor and advisor. Beverley and Jim became very good friends, as is evidenced by the beautiful tribute Jim wrote for the *Advocate* on the occasion of Bev’s appointment as Chief Justice of Canada ((2000) 58 *Advocate* 181). Sadly, Jim died in October 2016. I am confident, however, that he would be pleased that I will be relying on his prose in this article. As hard as I tried to make the story of Bev’s early years fresh, Jim said it best:

Her parents ranched and had a small logging operation. At the time Pincher Creek had an “urban” population of fewer than 2,000 inhabitants. Bev’s family lived 25 miles “out of town” (in the foothills). Bev had the fortune to be raised in a family that had little money but that was rich in all

the important things. Life was demanding, even hard. Nevertheless the home was marked by laughter and music, and the family was and remains a closely knit group. In addition, Bev's father promoted (perhaps too benign a word) a discipline that urged the children to be the very best they could.

Bev did her pre-university schooling in Pincher Creek. At the February 4 dinner here marking her appointment as Chief Justice, Bev's childhood friend Dianna Reid recalled the prediction in their high school graduation annual that Bev would grow up to be the editor of the women's page in the *Pincher Creek Echo*. Her classmates presciently predicted she would reach the top (as per the views of Pincher Creek in the late 1950s and early 1960s), which, in fact, she has, although in a way not then envisioned.

Bev was an outstanding student at the University of Alberta, where she took her bachelor of arts degree in honours philosophy, master of arts degree in philosophy and LL.B., graduating law as the gold medallist in 1968.

For a very small town in Alberta, Pincher Creek has produced an inordinate number of judges, most of them serving in the Ontario courts. In an interview of Beverley written in September 2016 by Katherine Ashenburg for *AlbertaViews*, the author asked about the view of Warren Winkler, a former Chief Justice of Ontario (and Pincher Creek-ite), as to whether there was one quality of Pincher Creek that was responsible for the number of judges hailing from that town. Winkler said: "It's the wind. It's the windiest place in the world, and it makes your mind work quicker." When asked if she concurred, Beverley replied: "Absolutely! And the wind makes you resilient. You learn to stand up against adversity."

In the article, Winkler went on to compare Beverley's talents for bringing people together to a consensus as akin to what a conductor of an orchestra does, bringing the individual musicians to play one piece in harmony. A very apt analogy, especially considering her love for music.

The UBC law school was lucky to have Beverley McLachlin as one of its professors from 1976 until 1981. As our professor, she exhibited many of the qualities she is known for today: intelligence, a natural teaching ability, a quick sense of humour and a keen interest in the law and in the people she was teaching it to. There was in her class one difficult student who seemed to make it his life's work, class after class, to give her a hard time. She handled his unwarranted heckling with aplomb. She laughingly remembers the student who noted on his evaluation of her teaching: "you have cute ears".

She was a presence, even then, to be reckoned with. Bev had been a practising lawyer, rare in those days at UBC. In addition to her new vocation as law professor, she was mother to young Angus (born in 1976) and wife to Rory (now deceased). Many of us who now juggle some of those roles had no idea

at the time just how skillful she was. We also did not appreciate her seemingly unlimited capacity for work, so evident now when we reflect on her accomplishments.

One incident when Angus was very young literally clouded Bev's vision, although she laughed about it at the time. One morning, preparing to shower, she carefully placed her contact lens on a tissue on the bathroom counter. Showering completed, she stepped out to the spectacle of Angus popping both contact lens in his mouth and swallowing, despite his mother's frantic pleas!

Nor was she immune to the perils of forgetfulness. Departing the house by car, she strapped Angus into his seat, jumped into the driver's seat and quickly reversed the car out of the garage. There was then a terrific crash and crunching. She had forgotten to shut the back door of the car, which completely ripped off and lay, somewhat accusingly, on the driveway.

Jim Taylor recollected their days at UBC:

We both came from non-legal families, ranching in Bev's case and theology in mine. (These backgrounds have more in common than you might think since, next to clergymen, farmers and ranchers undoubtedly spend more time in vocational prayer than any other occupation.) Our offices were close to one another, and we became friendly and eventually friends. When the present British Columbia Supreme Court Rules were adopted in 1976, we undertook research together that eventually yielded a book, *B.C. Practice*. Bev was a marvellous faculty colleague and a great partner with whom to work—bright, energetic, hard-working, engaging, even-handed. She was always willing to do more than her fair share of the dog work and anxious to take less than her fair share of the credit. She was a dedicated and popular teacher. One of the best things about teaching is preparing to teach—considering particular ways to deal with particular topics and, importantly, bouncing ideas off colleagues with similar interests. Bev was an energetic participant in this process—both as bouncer and bouncee.

She has been a lawyer, a law school professor, and for the past 36 years, as one wag put it, held basically the same job, as a judge of every court in British Columbia, a puisne justice of the Supreme Court of Canada and of course our Chief Justice. She accomplished many of these steps in the '80s! While she was experiencing this dizzying number of new challenges, Bev was also writing. Not just judgments, but a textbook, with Bae Wallace—the *Canadian Law of Architecture and Engineering*—and a novel suitable for publishing (subject to her agreeing to a book tour that was not possible once she was appointed to the Supreme Court of Canada). She was learning French by tutor, nursing her husband, Rory, through a terminal illness and moving with Angus as a single mom to Ottawa. (Ottawa was not as progressive as Vancouver in 1989. There was no grocery shopping on Sundays; all stores

were closed. This was no small inconvenience with a 12-year-old, a full-time job and no extra help.)

I was beyond thrilled to be invited to attend the ceremony in Ottawa on April 17, 1989 when Beverley was sworn in as a puisne justice of the Supreme Court of Canada. During a quiet moment that day, Beverley told several of us about a moment she had with Madam Justice Bertha Wilson, who leaned over to her and whispered (conspiratorially): "Three down ... six to go!" After the ceremony, there was a reception in the judges' dining room, where we had the chance to meet the other justices, and other guests, and then a formal luncheon in the Speaker's (John Fraser) private dining room, a sit-down meal for 40 at one long table, complete with liveried waiters.

Once settled in Ottawa, music continued to be an important part of Beverley and Angus's life. The house in Ottawa has a grand piano in the living room that is played regularly. Angus has a favourite childhood memory of stargazing outside in the street. He could hear his mother playing piano in the house as it drifted outside, specifically the songs "September Song" and "Summertime". Those songs have special meaning to him today, whenever he hears them.

Angus has gone on from his early mastery of the piano and a later stint in a band to study music and composition, achieving his masters of Music in Composition three years ago from UBC. In the mid-90s, when Angus was moving away to attend university, Bev wrote a self-published cookbook for family and friends, with all of her favourite recipes. Now in its second (still self-published) edition, this is a treasured and very well-used kitchen essential. Bev is an accomplished chef, particularly known for her ability to put together delicious meals in a very short period of time. And, true to Bev's nature, she takes delight in knowing that the recipes are a hit!

There are lots of examples of Bev's self-deprecating humour, which adds to her considerable charm. She does not take herself too seriously, and she loves to laugh.

I graduated from law school in May 1981 and was delighted when Bev was appointed a County Court judge in November of that year. (When I proposed a lunch to celebrate, little did I know that such celebratory lunches would be at least annual events!) We arranged to meet in the lobby of the courthouse. I sought advice from my great-aunt Kitty, a self-made protocol expert and wife of the Honourable Mr. Justice David Verchere, on the proper way to greet Judge McLachlin. "Hold out your hand to shake hers, and address her as 'Judge.'" I was counselled. "Don't make light of it. 'Judge' is her title now—she has earned it and deserves your respect." I dutifully followed Aunt Kitty's advice. When Bev emerged through the doors at the

courthouse, I extended my hand, smiled and said: "Hello, Judge!" Bev burst out laughing. Patting my shoulder, she protested: "Oh, you don't have to call me that!"

At one of the many tribute functions Bev has recently attended, she recounted making a last-minute reservation at a popular Vancouver restaurant. Because it was fully committed, she was encouraged by her companions to mention that it was Bev McLachlin requesting a table, and sure enough, that did the trick, and a table was booked. When Bev arrived at the restaurant and gave her name, the hostess was visibly disappointed. She confessed that she had thought it was Sarah McLachlan who made the reservation.

Bev married Frank McArdle in 1992. Frank has been a loving and supportive spouse and someone who, as Bev points out, always makes her laugh. Jim had this to say about Frank and Bev's relationship in 2000:

Frank (fortunately so because Bev's schedule requires that she travel a great deal) enjoys both her company and the rigours and variety of travel. The Roman Emperors had a functionary whose job it was to stand at the shoulder and periodically whisper, "Remember thou art mortal" ... From time to time the Chief Justice of Canada I am sure requires such assistance (hard as it is to imagine in Bev's case) and Frank is there for her at those times.

Bev and Frank share an enviable quality: they are fast walkers. As Gib van Ert, executive legal officer to the present (and immediately past) Chief Justice observed: "The Chief and Frank walk really fast in airports. Really fast. And they don't stop, either." It's remarkable considering their age, and a bit tricky for the hapless ELO trying to follow along (who is usually carrying a bag of protocol gifts for giving to foreign dignitaries and is therefore not quite as nimble as the Chief Justice and her athletic husband).

Gib added: "I can't think of anything she's not good at. I mean, I've never asked her how her tuba playing is, but my guess is it's better than most. She just doesn't seem to have the ordinary human limitations. It would be annoying if she weren't so nice."

It is true. Her abilities and accomplishments give her an "otherworldly" quality. But I have discovered an Achilles's heel, albeit a very minor one. Beverley does not, and cannot, play cards. At all. Does not know a jack from an ace. Card playing was not permitted in her household growing up, and while her sister Judi learned to play in university, Bev has never done so.

She has had a number of dogs over the years—always black labs—whose names are often taken from literature. There was Cas, short for Thomas Hardy's *The Mayor of Casterbridge*. Before Cas was Kyrie, which is Greek for "Lord". A few years ago, when there was some tension between the court and the then prime minister, she and her family were brainstorming names

for the newest puppy. "Harper", for the renowned author Harper Lee, was a favourite. It was tempting. Imagine Bev, disciplining the dog in public with a stern: "No, Harper!" "Bad, Harper!" Instead, she elected to go with "Darcy" from Jane Austen's *Pride and Prejudice*.

To her family, she is sweet and accommodating, a very generous and loving mother, aunt and sister who is always happy to be a welcoming host and share good experiences with friends and family. She has a *joie de vivre* that infuses all that she does. She is still writing judgments, until mid-June of this year, but we have already had notice that she is well into the next chapter of her life. Her novel *Full Disclosure* will be published in the next several months. (This is not to be confused with the novel she wrote in 1989. This is a second novel, with a third reportedly already under construction.) Her appointment to the Hong Kong Court of Final Appeal was recently announced. This is the first time a Canadian has been invited to sit on that court. It is expected to be a month or two of work a year, and her work there will not begin before 2019. She has also accepted an appointment to the International Commercial Court of Singapore for a period of three years commencing in January 2018. That court hears transnational commercial cases.

So her days of judging are not done. No surprise, given the obvious joy she has derived from her work. When she was first appointed to the SCC there was a poem by Robert Frost that she often quoted: "Two Tramps in Mud Time". The words resonated with her. The last eight lines are:

But yield who will to their separation
My object in living is to unite
My avocation and my vocation
As my two eyes make one in sight
Only where love and need are one
And the work is play for mortal stakes,
Is the deed ever really done
For Heaven and the future's sakes

The last word goes to Jim Taylor, who concluded his tribute to our then new Chief Justice, now simply Ms. McLachlin, or Beverley or Bev to those of us lucky enough to know her as such. Eighteen years old though it be, Jim could have written this yesterday.

[She] ... possesses a rare and prodigious intellect. She is, equally importantly, a practical, down-to-earth, tested, strong, principled, unaffected, decent person who laughs easily, readily admits her foibles ... and interacts as comfortably with plain folk as with those of apparent great eminence. We are fortunate to have a Chief Justice who is so intellectually gifted, but we are *blessed* to have one of Bev's character.