

ON THE FRONT COVER



THE HONOURABLE CHIEF JUSTICE CHRISTOPHER HINKSON

By Bernie Buettner and Joe Battista, Q.C.*

On November 8, 2013, the Honourable Mr. Justice Christopher Hinkson was sworn in as the sixteenth Chief Justice of the Supreme Court of British Columbia. His appointment was universally well received by the court, the bar and the public. Indeed, many of the readers of this publication will feel that they are already familiar with the Chief Justice and that they could contribute far more entertaining stories about him than are found in the modest biography that follows. One of Chris's most endearing traits is that he is approachable: people quickly feel comfortable with him and are drawn to him.

Of course, being merely approachable and likeable is not enough to catch the eye of a Prime Minister looking for a new Chief Justice. Not surprisingly, Chris's list of legal accomplishments is simply too long to set out in great detail. However, this article provides at least a synopsis.

Born on December 15, 1951, Chris obtained his LL.B. from UBC in 1975. He articulated at Guild Yule before practising as a civil litigator for 31 years at Harper Grey. In 1990 he was appointed Queen's Counsel, and in 2007 he became a fellow of the American College of Trial Lawyers. He was a true barrister, appearing in almost 200 trials, about 100 appeals in British Columbia and 14 appeals in Ottawa. He was perhaps best known as counsel for defending physicians in medical malpractice claims, but Chris tried a remarkably broad range of cases.

* Messrs. Buettner and Battista deserve particular credit for compiling so much new material—including, surprisingly, a new dance story—relatively soon after the publication of the also entertaining “New Judges” feature found in (2007) 65 Advocate 399.

One of the key issues faced by chief justices across the country is ensuring access to justice. When he was a practising barrister, Chris devoted a truly remarkable number of hours to pro bono files. For over a decade, he worked tirelessly and successfully on a trio of cases in an effort to secure appropriate health care and education for children with autism and autism spectrum disorder. He also committed countless hours to representing more than 100 lawyers before the Law Society of British Columbia, never issuing an account for his services. Less readily identifiable were the many, many pro bono cases he took on simply because he thought it was the right thing for a member of the legal profession to do.

In March 2007, Chris was appointed to the Supreme Court. Almost exactly three years later, in March 2010, he was appointed to the Court of Appeal. He served as a justice of the Court of Appeal until returning to the Supreme Court as Chief Justice in November 2013.

No one previously writing a cover story about a new Chief Justice has used the opportunity to express criticism of that judge's legal knowledge or written judgments, and these authors have neither the inclination, nor the source material, to be the first to do so. By all accounts Chris has been a pleasure to appear before, courteous to counsel and lay litigants while ensuring that the cases and appeals moved along as expeditiously as possible. Chris's reasons for judgment have focused on the issues to be decided and have used clear and uncomplicated language to express his decision. While respectful of the proceedings, Chris has always held the view that good humour has its place, and he has often lightened the tension during hearings with a well-timed comment from the bench.

It is unlikely that any reader is surprised to learn that the new Chief Justice possesses a law degree, was an excellent lawyer and has been a strong and well-respected judge. And these writers confess that despite considerable research and some personal familiarity with the man, there shall be no revelation in this article of a trait or characteristic that Chris possesses that would be surprising in a Chief Justice. Nevertheless, there is certainly more to the man than his titles and professional accomplishments.

First, and undeniably most importantly for Chris, there is his family. His wife, Pat, is truly his partner in life, and the two share the same generous spirit and unquenchable sense of humour. Chris is justifiably proud of his children, Tim, Stacey and Chelsea, and of his grandchildren. No matter what is on his professional schedule, he stays close to them and is always available when they need a hand. Chris has recently been seen changing diapers again, with his two new grandchildren. While he no doubt enjoys the experience itself, it would not be surprising if he were keeping a stopwatch on his efforts, always looking to set a new speed record. Perhaps

it is from a lifetime of athletic endeavours, but Chris can be a little competitive.

Many who have seen Chris will not be surprised that he was, during high school and university, a top-level rugby player, and specifically a prop (a player in that mash of players known as the scrum). Perhaps they would not have guessed he was also a winning hurdler, a sport in which gravity would certainly have been less friendly to him. He also excelled at basketball. Much later in life he continued to demonstrate considerable skill and grace on the softball diamond, with the Harper Grey team, and on the tennis court with friends and colleagues.

Chris remains a sports fan. Strangely for someone who has enjoyed some personal success, at athletics and otherwise, he is a diehard fan of the Chicago Cubs, a team which has not won a World Series since 1908. His holiday plans include an annual trip to Chicago to watch his beloved Cubs. When asked how he could be such a devoted supporter of such an unsuccessful team, he optimistically replied, "Anyone can have a bad century."

In addition to undertaking these visits to Chicago, Chris enjoys travelling internationally with Pat and their friends. His recent trips have included England, Ireland, France, Spain and Italy, among other destinations. While on tour, he takes every opportunity to satisfy his passion for history. That passion dates back to his undergraduate studies at UBC. Museums, especially those dealing with historic military campaigns and events, are always on his itinerary. And don't get him started on Winston Churchill.

Of course, one must sample the local cuisine and wines while travelling, and perhaps connected to these international culinary experiences is the fact that Chris is becoming a good cook himself. No meal seems to be too daunting for him to prepare, provided he has a good recipe to follow or some sound, usually unsolicited, advice from his friends to guide him on the finer points of preparing a particular dish. Leaving nothing to chance, Chris always ensures that his guests are well supplied with fine wine throughout the evening, guaranteeing rave reviews for his efforts by the time the dinner is concluded.

Chris is also a talented pianist and has revived that talent since his appointment to the bench. Well, he is in any event talented enough to play the piano in the Judges' Band, whose performances are private and not open to outside critical scrutiny. He has been invited to play with the band every Christmas, which suggests either that his musical talents are improving or that the musical expectations of his judicial colleagues are modest. Vocally, Chris's musical talent seems to be limited to the first two lines of lyrics from "Some Enchanted Evening", which he finds appropriate to croon in the most bewildering situations.

It is not surprising that an athletic musician would love to dance. It has been reported that Chris's mental agility in the courtroom is rivalled only by his physical agility on the dance floor. This became apparent on a recent trip to San Francisco with Pat and friends, when it was decided to make a late-evening stop at a country and western cabaret on the way back to their hotel. When no one in his party accepted Chris's invitation to dance, he was able to prevail upon a young woman at the next table to dance with him on the previously empty dance floor. Chris introduced his dance partner and the others in the establishment to a "Bingo" dance, a concept unknown to this much younger, arguably more hip generation. Before long, he had many others up dancing and the evening was made. One word of advice: if you don't want to dance, don't find yourself standing next to Chris when "YMCA" begins to play.

Chris's taste in film and television is no more grandiose than his taste in music. Skip the Oscar winners; instead, find an old rerun of *Ferris Bueller's Day Off*. Equally appealing would be a rerun of one of the television classics, such as *Columbo*, or perhaps *The Rockford Files*. Counsel may take some comfort in that, whenever possible, Chris will prepare for the next day's proceedings the night before by reading counsel's materials and submissions, quite possibly with the soothing sounds of George Peppard as Banacek playing in the background.

Chris will never be accused of being pretentious. He will never ask a sommelier for something from the west side of a particular valley in Sonoma. He has, however, been heard to ask for "a red, something big ... a little spanky". He is down to earth. He puts great stock in common sense. As Chris's son Tim, himself a lawyer and a partner at Guild Yule, said at the welcoming ceremony for the new Chief Justice, "He believes the right answer is usually the common sense one, and if the answer is not common sense then there is probably a flaw in the analysis. His logic can be frustratingly simple and direct, but is usually correct."

Chris's common sense will serve him well as Chief Justice of the Supreme Court. He couples his common sense with a true gift for understanding people, for identifying their objectives, needs, strengths and weaknesses, and for communicating with them in a way that makes them feel respected and valued. This is not an act Chris puts on; it is just something to which he is naturally sensitive, and it has been a great asset throughout his career.

In private practice, Chris was skilled at identifying all his clients' interests, not just solving the discrete legal issues that were the clients' main concern. Any lawyer who served as Chris's junior counsel raves about his abilities and gifts as a mentor. He gave young lawyers wonderful opportunities to develop their skills, and he supported them whenever they stum-

bled along their career paths. He was unfailingly civil with opposing counsel, never taking inappropriate advantage, such that they usually finished even very hotly contested trials on friendly terms.

As a judge he is well aware of the pressures on counsel, and he does not expect the practice of law to be as easy for others as he made it seem to be. He understands how important the process is for the litigants. Chris has always valued efficiency. As Chief Justice, dealing with the various pressures to preserve access to the judicial system, he certainly has the tools and inclination to pursue changes to increase the efficiency of the court process.

Anyone with illusions that the job of Chief Justice is easy need only look to the April 3, 2013, memorandum of understanding signed by the Minister of Justice and Attorney General, the Chief Justice of British Columbia, the Chief Justice of the Supreme Court and the Chief Judge of the Provincial Court. This document, among other things, sets out in s. 5.1 the role of the chief justices in managing the judicial administration in their respective courts. The list of responsibilities is daunting, to say the least. It is also somewhat boring, as administrative matters tend to be, so no quotations from it will be included here. Suffice it to say the Chief Justice of the Supreme Court will be very busy with these administrative tasks alone; a sense of efficiency will be helpful.

Throughout his career, the Chief Justice has made a point of helping his colleagues whenever they asked. As a lawyer, he would agree to take on a trial on very short notice to help a colleague who had a scheduling issue. If that meant a series of very late nights of intense preparation, well, that was just part of a barrister's life. As a judge, he has always been quick to volunteer to take out-of-town assignments when the need arose. His past travels sitting in most, if not all, "Supreme Courthouses", will serve him well as Chief Justice, where his responsibilities will be provincial in scope.

This province has been fortunate to have had a series of strong leaders in the role of Chief Justice of the Supreme Court. Chris will continue that tradition. He will lead by example, as he has always done. Most importantly, he will be accessible, and he will make time to listen to the talented people around him at the Supreme Court: not only the judges, but also the court staff, sheriffs and law clerks. Finally, Chris will maintain a close relationship with the members of the bar. He is, after all, a barrister at heart.

Some people seem destined to become judges, and Chief Justice Hinkson is certainly among them. However, very few become Chief Justice. In the case of Chief Justice Hinkson, he did not seek the position; rather, the position found him, which is a tribute to the many fine qualities that make him ideally suited to be the sixteenth Chief Justice of the Supreme Court of British Columbia.