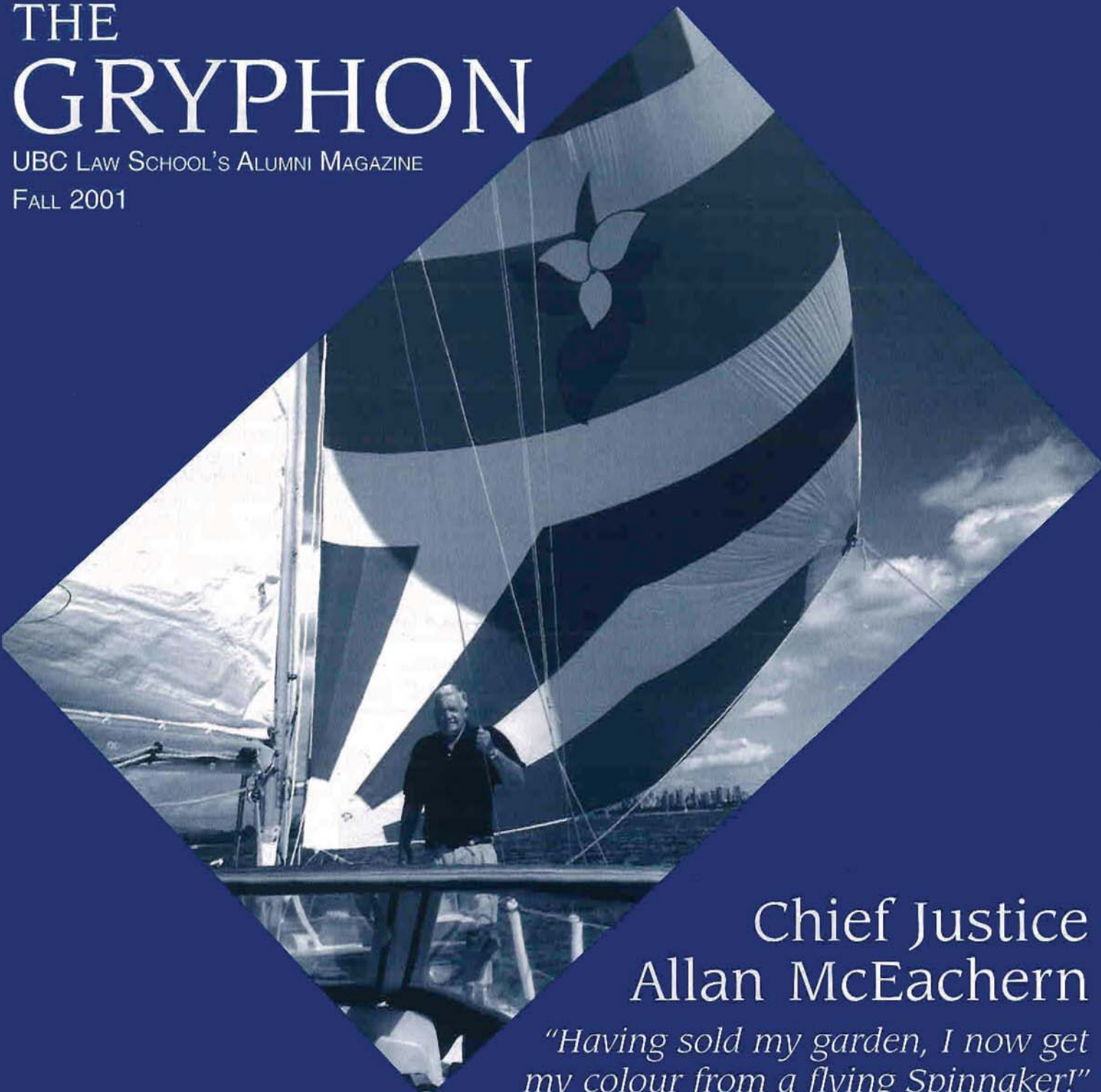


THE GRYPHON

UBC LAW SCHOOL'S ALUMNI MAGAZINE

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Chief Justice Allan McEachern

*"Having sold my garden, I now get
my colour from a flying Spinnaker!"*

FACULTY FORUM

Professors Bakan and Sarra on the Corporation

LEAKY CONDOS

A Soggy Tale in Dispute Resolution

Win a Night for Two at the Four Seasons!

Chief Justice Allan McEachern '50

In March of this year, the UBC Law Alumni Association hosted a Distinguished Speakers Breakfast in honour of Chief Justice Allan McEachern, who retired in May. President Peter Burns of the Alumni Association sends this report.

Chief Justice of British Columbia Allan McEachern displayed intellect, humour, and charm in speaking from his heart to approximately two hundred members of the judiciary and practising bar at a breakfast at the Terminal City Club sponsored by the University of British Columbia Law Alumni Association. The chief justice shared some of his thoughts regarding the profession, his experiences in the law, and changes he has observed over the years.

He graduated from UBC Law School in 1950. In those post-war years classes were large and it was difficult to find articles. However, Douglas McKay Brown, a distinguished barrister and senior litigation partner at Russell & DuMoulin (which then numbered eight lawyers) had a keen sense of duty to the legal profession and to those who aspired to enter it. He convinced his partners to take on twelve articulated students. The law school dean at the time, George Curtis, selected twenty-five graduating students and placed their names in a hat; one of the twelve drawn was Allan McEachern, who accordingly was articulated to Russell & DuMoulin. In those days some students articulated over three summers, but he put in a full year. After his call to the bar, he practised for twenty-eight years before becoming Chief Justice of the Supreme Court of British Columbia in 1978.

Chief Justice McEachern said that his legal career had passed very quickly, and likened it to a train journey. When young lawyers get on the train, time seems to pass slowly and there are leisurely stops. One gets to enjoy the ambience of practice. However, as time goes on the stops become less frequent and the train seems to speed up. In time, the train is rushing towards the journey's end; the lawyers retire and get off the train. As they leave the station they notice young lawyers boarding the train, and once again, the train leaves the station slowly. He indicated that he had very much enjoyed practising law, and said the best part was working on cases, arguing and socializing with other lawyers. He urged everyone present to ensure that they cultivated a network of friends amongst lawyers so that there would be nourishment and assistance throughout one's career. He cautioned against becoming a workaholic; instead, do the things you want to do, and don't get addicted to "the sound of battle." It's exciting, but there has to be balance.

"Unfinished Business"

Mr. Justice McEachern's topic was "Unfinished Business." He indicated that many things had been accomplished in the judiciary

since he first became a judge. Rule 18A proceedings—he said he was perhaps not their father but grandfather—have made the system more efficient. Dramatic changes have occurred with regard to social issues and matters of gender and race. In 1988 there was one woman on the bench; now the trial bench has approximately twenty-one female judges and the appeal court has eight (a majority). As well, the demeanour of the bench has changed dramatically: judges are aware of the need to be sensitive and responsive not



In the speech to the throne of July 24, 2001, the Honourable Garde Gardom, then Lieutenant Governor of BC, made special note of the chief justice's retirement. "His extraordinary intellect, insightful and even-handed application of the law, and remarkable leadership will forever be an inspiration to all British Columbians."

only to litigants and their causes, but to the bar. Change comes slowly, though. There is much conservatism amongst both the bench and the bar—he likened the process of judicial change to the ship Queen Elizabeth II, which takes ten miles to turn and twenty-five to stop.

But for all the change he has seen, Chief Justice McEachern's one regret was that the court was not yet fully electronic. He began writing judgments by computer in 1988, and believes that more could be done to encourage the practice. Still, judgments are now online and are available summarized and edited for the public. There is also a courts home page (www.courts.gov.bc.ca) and an informative Chief Justice of B.C. web page started by him (www.courts.gov.bc.ca/CJBC/welcome.htm) where the public can learn more about the law

and about the workings of the judicial system. He emphasized the importance of ensuring the public understands law, the legal profession, and the strong positive force that the judicial system represents in society. Although polls indicate that the

public holds courts in high esteem, we still need a concerted effort to educate the public.

As for unfinished business he would particularly like to highlight, the chief justice emphasized the need for the profession to give greater financial support to the law faculty at UBC. In Toronto, the law alumni has raised in the order of fifty million dollars; contributions in British Columbia, while much appreciated, have been, to say the least, more modest. Pressures on law schools are great, and graduates could help.

Throughout his talk Mr. Justice McEachern offered entertaining anecdotes and thoughtful musings. His presentation reflected his sharp intellect, his dedication to the law, and his generosity of spirit. His presence and his work have enriched the profession, and we wish him well in his future endeavours.

— Peter Brown

There is no simple or adequate way to take stock of the accomplishments of a man who has offered 21 years of outstanding service on the bench, including 10 years as Chief Justice of the Supreme Court and 11 as Chief Justice of the B.C. Court of Appeal. During those years Chief Justice McEachern was involved extensively in public service, including long-standing service on the Canadian Judicial Council and as Chairman of the Order of British Columbia Advisory Council.

His commitment to public service and the integrity of the profession is evident in so many ways. While president of the B.C. Legal Aid Society in the late 70s he called attention to how funding shortfalls were affecting access to justice. He still makes time for Continuing Legal Education (in April he gave a seminar on appellate court practice, and he will be presenting material at an advocacy conference in November of this year). As well, the former chief justice is the principal author of a Compendium on Law and Judges, a major work available online (www.courts.gov.bc.ca/LegalCompendium/Index.htm). The Compendium includes general information for the public as well as detailed information for those more experienced with the law, and it provides links to case authorities.

This commitment to making the law accessible and utilizing technology to that end is one of the things Chief Justice McEachern is known for. He came to the bench when computers were a novelty and retires in an age when judgments are distributed worldwide over the internet. He has been a leader in using technology to make the courts accessible. As Law Society President Richard Margetts, Q.C., points out, "He pushed the courts to develop a website so the public could have instant, cost-effective access to judgments. Then he went a step further by hosting his own website and inviting the public to e-mail their questions about the legal system. He was certainly the first judge in Canada—if not the world—to make himself accessible to everyone through the internet."

Chief Justice McEachern launched the Chief Justice of British

Columbia home page (www.courts.gov.bc.ca/CJBC/welcome.htm) in January 2000. It quickly became a wealth of commentary on legal and judicial matters of public interest. The site is being maintained by the new appointee, Chief Justice Finch.

It was fitting that the Chief Justice, known as a champion of judicial independence, convened and addressed a conference on the topic as one of his last public duties in office. The conference

marked the 300th anniversary of the 1701 *Act of Settlement*, the first statutory expression of judicial independence. Held at the Wosk Centre for Dialogue in Vancouver, the conference drew together 25 chief justices from seven countries, and over 100 other superior court judges, academics and legal counsel from around the world.

Retirement isn't likely to mean inactivity. Since June, the former chief justice has been leading the arbitration process between the Government of B.C. and B.C. doctors. On the table are pay and benefits for physicians, as well as provisions to address physicians' availability and specific areas of medical practice, such as practice in rural communities.

Wherever the indomitable energy and commitment of the Honourable Allan McEachern leads him, we all want to thank him for the judicial legacy he has left us and for the spirit of public service he has demonstrated so effectively.

The UBC Law School owes a special debt of gratitude for the generosity he has shown in so many ways to his old *alma mater*. Students and alumni will remember the time he has taken in speaking to incoming law students, answering questions and offering guidance. Faculty will remember his gracious collegiality. And the school is better for the ways in which he has touched us all.

The Right Honourable Beverley McLachlin is unstinting in her praise. "He's been a great chief justice," she says. "He has an enormous passion for justice, seeing that all Canadians are treated fairly. And he has worked absolutely tirelessly for the 22 years I have known him." While he is clearly identified with law in the province, Madam Justice McLachlin adds, "what British Columbians may not appreciate is that he has also worked on the national scene. He made enormous contributions through his more than two decades on the Canadian Judicial Council."

The Honourable Allan McEachern is widely known for the quality of his jurisprudence. President of the Law Society of B.C., Richard Margetts, Q.C., paid tribute to him as "one of Canada's greatest jurists." Presiding over the Court during a period of intense change, the chief justice "earned a reputation as an intelligent and insightful judge." This is no small feat, and has inevitably involved controversy. However, the chief justice's compassion, integrity, and commitment to justice have steadily won him admirers from all sides of the issues.

The Honourable Mr. Justice Donald reflects on the retirement of Chief Justice McEachern:

My association with Allan McEachern began as an articling student at his firm in 1968, and resumed in 1994 as a Justice of Appeal. Among his many attributes, I think his boundless energy is the most remarkable. He focused that energy when he was at the bar for the benefit of his clients and the legal profession. When he went to the bench as Chief Justice, he directed that energy for the benefit of the public and his judicial colleagues.

He is a most unpretentious man. While he approached his work with confidence, he always did so with a sense of balance and humour. I would put it this way: he was sure of himself without being full of himself.

Over the past twenty-two years he wrote many lucid decisions and contributed to the jurisprudence in virtually all areas of law. I think his judgments will stand the test of time. With his retirement, the Court loses a skilled administrator and a thoughtful jurist.

The Honourable Allan McEachern has been appointed a Douglas McK. Brown Visiting Professor and Peter Wall Distinguished Fellow in the Faculty of Law, and will deliver special lectures on topics such as advocacy.