

Members of the B.C. Court of Appeal

Chief Justice

The Honourable Chief Justice McEachern

January 1, 1979 (Chief Justice of the Supreme Court)
September 7, 1989 (Chief Justice of British Columbia)

Chief Justice

The Honourable Chief Justice Finch

May 5, 1983 (Supreme Court)
May 28, 1993 (Court of Appeal)
June 6, 2001 (Chief Justice of British Columbia)

Justices of the Court of Appeal

The Honourable Mr. Justice Lambert*

July 14, 1978 (Court of Appeal)
June 30, 1995 (Supernumerary)

The Honourable Mr. Justice Esson*

February 20, 1979 (Supreme Court)
May 5, 1983 (Court of Appeal)
June 30, 1989 (Chief Justice of Supreme Court)
October 2, 1996 (Court of Appeal)
February 12, 2001 (Supernumerary)

The Honourable Madam Justice Southin

March 11, 1985 (Supreme Court)
September 8, 1988 (Court of Appeal)

The Honourable Mr. Justice Cumming*

April 10, 1985 (Supreme Court)
June 30, 1989 (Court of Appeal)
May 1, 1998 (Supernumerary)

The Honourable Madam Justice Proudfoot*

October 1971 (Provincial Court)
March 21, 1974 (County Court)
September 20, 1977 (Supreme Court)
October 4, 1989 (Court of Appeal)
March 13, 1993 (Supernumerary)

The Honourable Mr. Justice Hollinrake*

June 1, 1988 (Supreme Court)
February 16, 1990 (Court of Appeal)
September 1, 1999 (Supernumerary)

The Honourable Madam Justice Rowles

March 31, 1983 (County Court)
January 1, 1987 (Supreme Court)
October 11, 1991 (Court of Appeal)

The Honourable Madam Justice Prowse

January 1, 1987 (County Court)
September 8, 1988 (Supreme Court)
June 24, 1992 (Court of Appeal)

The Honourable Madam Justice Ryan

May 26, 1987 (County Court)
July 1, 1990 (Supreme Court)
January 28, 1994 (Court of Appeal)

The Honourable Mr. Justice Donald

June 30, 1989 (Supreme Court)
January 28, 1994 (Court of Appeal)

The Honourable Madam Justice Newbury

July 9, 1991 (Supreme Court)
September 26, 1995 (Court of Appeal)

The Honourable Madam Justice Huddart

September 4, 1981 (County Court)
May 26, 1987 (Supreme Court)
March 19, 1996 (Court of Appeal)

The Honourable Mr. Justice Braidwood*

December 5, 1990 (Supreme Court)
December 19, 1996 (Court of Appeal)
December 29, 2000 (Supernumerary)

The Honourable Mr. Justice Hall

July 11, 1991 (Supreme Court)
December 19, 1996 (Court of Appeal)

The Honourable Mr. Justice Mackenzie
May 5, 1992 (Supreme Court)
June 23, 1998 (Court of Appeal)

The Honourable Madam Justice Saunders
December 23, 1991 (Supreme Court)
July 2, 1999 (Court of Appeal)

The Honourable Mr. Justice Low
March 31, 1977 (County Court)
July 1, 1990 (Supreme Court)
July 28, 2000 (Court of Appeal)

The Honourable Madam Justice Levine
Appointed to Supreme Court September 26, 1995
Appointed to the Court of Appeal February 6, 2001

The Honourable Mr. Justice Smith
Appointed to the Supreme Court May 31, 1993
Appointed to the Court of Appeal October 1, 2001

The Honourable Mr. Justice Thackray
Appointed to the Supreme Court February 16, 1990
Appointed to the Court of Appeal December 19, 2001

* supernumerary

Staff of the B.C. Court of Appeal

| | |
|-----------------|--|
| Jennifer Jordan | Registrar |
| Meg Gaily | Law Officer |
| Cecilia Low | Administrator and Deputy Registrar |
| Carol Ensor | Assistant Administrator and Deputy Registrar |
| Barbara Taylor | Executive Assistant to Chief Justice McEachern |
| Alix Going | Executive Secretary to Chief Justice McEachern |
| Alix Going | Executive Assistant to Chief Justice Finch |
| Julie Warren | Executive Secretary to Chief Justice Finch |

Law Clerks 2001 - 2002

Ean Ackerman
Ormonde Benson
Kathryn Bromley
Jasmine MacAdam
Sanjeev Patro
Delia Ramsbotham
Karen Shields
Sara Smyth
Michael Steinberg
Gibran van Ert
Jill Yales

Judicial Admin. Assistants

Torri Enderton
Susan Devenish
Jackie Helmersen
Mary Jurijew
Meorah Kassem
Margaret Lewis*
Lorraine Maze
Charmaine McBride
Cherry Mills
Stella Phillip

Registry Staff

Christopher Bailey
Jeannette Rigby
Diane Schwab
Moira Syring*
Sue Thompson
Wendy Weitzel **
Pat White *
John Wilk**
Janice Wilson

Ushers

Bill Deans
Don Ellam
Ron Knorr

Webmaster

Torri Enderton

* Victoria

** Kamloops

Superior Courts Judiciary Staff

Judicial Administration

| | |
|------------------|-------------------------------------|
| Delia Moran | Director, Judicial Administration |
| Pat Davis | Manager, Finance and Administration |
| Phillip Dong | Manager of Finance |
| Margaret Neuhaus | Manager, Support Services |
| Tammy McCann | Director's Secretary |
| Yvonne Samek | Finance and Administration Clerk |
| Michelle Sam | Judicial Administration Clerk |
| Melissa Schade | Judicial Administration Clerk |

Judges Library

Anne Rector
Leaellen Gurney
Myrna Hawes*
Diane Lemieux

Statistician

Shihong Mu

Information Officer

The Honourable Lloyd G. McKenzie

Information Technology Consultant

Steve Blanchard

*Victoria

Report by the Honourable Chief Justice Finch

THE COURT'S COMPLEMENT

There were a number of changes in the court's complement in 2001, which I will outline chronologically.

Early in 2001 Mr. Justice Esson elected to serve as a supernumerary judge, and was granted a leave of absence to permit him to serve as an alternate commissioner on the "Bloody Sunday Inquiry" in Northern Ireland. In July, for personal reasons, Mr. Justice Esson decided to leave the Inquiry, and return to his judicial duties in B.C. He resumed sitting as a judge in the Court of Appeal in October 2001, and all members of the court were delighted at his early return. No appointment to fill the vacancy created by his election for supernumerary status was made until September 2001. The result was that for about nine months of the year the court was one judge short.

On 17 May 2001 Chief Justice McEachern reached the mandatory retirement age of 75, and was obliged to leave office. It is impossible to exaggerate the contributions that he made to legal and judicial life in British Columbia and in Canada, and it is difficult to express the sense of loss felt by all members of the court, and indeed of the broader legal community, upon his retirement. He was Chief Justice of the Supreme Court from 1979 to 1989, and

Chief Justice of the Court of Appeal from 1989 until his retirement, a judicial career as Chief Justice spanning more than 22 years.

Chief Justice McEachern was a leader in every sense of the word, dedicated to the rule of law, the better administration of justice, and service to the profession and the public. In addition to his administrative duties, he sat as many or more days each year as the other judges of the court, wrote a large volume of thoughtful scholarly judgments, and made a significant contribution to the work of the Canadian Judicial Council. His energy and industry together with his restless inquiring mind, broad legal knowledge, and gift for expression both oral and written, made him a most creative and productive Chief Justice. He initiated publication of all the court's judgments on the internet, wrote and published the "Compendium of Law" that is posted on the internet, and established a Chief Justice's Home Page to receive questions about, and provide answers concerning, the law and the courts. He accomplished all of this in a way that made it look easy, and with an abiding cheerfulness and good humour that made him a real pleasure to work with.

No members of the court were surprised when, immediately after his retirement, he opened his own law office in downtown Vancouver and jumped into a busy practice of arbitration, mediation, and providing counsel. All judges of the court, including the Chief Justice, miss his presence very much.

Chief Justice Finch was appointed Chief Justice of British Columbia on June 7, 2001. He was previously a trial judge in the Supreme Court of British Columbia from 1983 to 1993, and a judge of the Court of Appeal from 1993 until his appointment as Chief Justice. The vacancy created by his appointment was not filled until December 2001. The result was that the court was short one judge for about nine months, and two judges for a period of about three months.

Mr. Justice Ken Smith was appointed a judge of the Court of Appeal on October 1, 2001. He filled the vacancy created by Mr. Justice Esson's election as a supernumerary earlier in the year. Mr. Justice Smith had been a trial judge since May, 1993. A native of Rossland, B.C., and a graduate of the University of British Columbia Law School, he was called to the bar of British Columbia on May 13, 1966. He had an active trial and appellate practice in both criminal and civil cases, and as well, had a wide range of experience as a trial judge. He is a most welcome addition to our court.

On November 21, 2001, the Honourable Mr. Justice George Stewart Cumming passed away after fighting a valiant battle with cancer. He was appointed a judge of the Supreme Court of British Columbia in 1985 and a judge of the Court of Appeal in June, 1989. He elected supernumerary status in May, 1998. Mr. Justice Cumming was an extremely hard working judge, always well prepared for the cases he heard, and prompt in preparing and delivering reasons for judgment. He was a fine colleague and is missed by all of us.

On November 7, 2001, Madam Justice Proudfoot sat as a judge in British Columbia for the last time. Her early retirement from the court was effective January 2, 2002. Her retirement brought to an end a judicial career spanning 30 years. She was appointed a judge of the Provincial Court of British Columbia in October, 1971, a judge of the County Court of Vancouver in March, 1974, and a judge of the Supreme Court of British Columbia in September, 1977. She was appointed a judge of the Court of Appeal in October 1989 and elected supernumerary status in March, 1993.

Madam Justice Proudfoot had extensive experience, both as a lawyer and judge, in family law matters, and broad general experience in all other areas of law as well. She has a real love of travel, and both before and after the loss of her late husband Arthur, enjoyed many visits abroad. She was a fine colleague and will be greatly missed by all.

On December 19, 2001, Mr. Justice Allan Thackray was appointed a judge of the Court of Appeal, filling the vacancy created by the appointment of Mr. Justice Finch as Chief Justice. Mr. Justice Thackray practiced for almost 30 years as a civil litigation lawyer with the firm, most recently known as Harper Grey Easton, specializing in medical malpractice cases. He was appointed a judge of the Supreme Court of British Columbia in February, 1990 and heard and decided a number of difficult cases. He is a most welcome addition to the court.

At the end of 2001 therefore, the court had a full complement of 15 full-time judges, including the Chief Justice, and 4 supernumerary judges. Of the 15 full-time positions, 8 are occupied by women. The unfilled vacancies for long periods in 2001 imposed substantial additional burdens on all members of the court. The court's rota is fixed one year in advance on the premise that it will have a full complement of judges, and that any vacancies will be promptly filled. The unfilled vacancies during 2001 made it necessary for other judges to fill in for the missing judge or judges on a volunteer basis. All judges of the court shared in this additional work in a most collegial and cooperative way. As a result, it was necessary to cancel one division of the court for only two weeks sitting time. Fortunately, the adjourned cases were accommodated with early dates due to the adjournment or abandonment of other pending appeals.

THE WORK OF THE COURT

Statistics

Civil and criminal law statistics for 2001 and comparable numbers since 1995 are attached to this Report as Appendices. I shall mention a few significant matters.

First, civil and criminal filings continue to decrease over the previous years, although there were 35 fewer criminal filings, while the decrease of 9 civil filings is small. The decrease over the last seven years is more dramatic, with a decrease in 366 civil filings as opposed to a decrease of 150 criminal filings. Filings are not an accurate measure of

the court's work, however, because many of the appeals filed never reach the hearing stage. In contrast, there has been a smaller decrease in the total dispositions of appeals heard by the Court (33 appeals) and a similar decrease in summary dispositions over the previous year (32).

Civil Law Statistics

As can be seen from the attached statistics, total filings and dispositions are down marginally from the previous year, but it must be remembered that a significant factor in dispositions is cases that have been abandoned, which does not impact on the work of the Court

The number of cases where judgment was reserved is down, and the proportion of appeals reversed (43%) is up slightly over the previous year. As will be noted, the number of appeals reversed is within, but at the upper end of, the range which has been established over the past five years.

The decline in dispositions and abandoned appeals reflect fewer "purges" of dormant appeals. Such purges have been a priority with the Court for the past several years. The Chambers activity has also decreased, although the leave to appeal applications continues to remain about the same. Since the leave and stay applications take longer to hear, the actual decrease in chambers hearing time is small.

Dispositions as a percentage of filings are a significant statistic because anything around 100% means that the Court did not accumulate a potential backlog that could

become a problem in the future. 91% shown for 2001 is not as high as it has been in the past, meaning there is a small backlog of cases which has accumulated over last year.

Our Court reserved judgment on 58% of appeals heard in 2001. This is exactly the same percentage of reserves as last year.

The majority of the appeals heard by our Court come from Supreme Court chambers, with 40% of the dispositions of the Court of Appeal from trials. The most frequent type of litigation concerns commercial appeals, with family, motor vehicle, civil procedure and administrative appeals comprising the bulk of the Court's work.

Criminal Law Statistics

As can be seen, there is an 8% decrease in criminal law filings. Dispositions have remained relatively comparable to last year.

As with civil law cases, the total number of criminal law filings continues to fall within quite a narrow range. The major drop is in the filing of sentence appeals. These appeals come primarily from the Provincial Court. The number of criminal law appeals allowed has increased significantly over last year (over 10%). The "allowed-dismissed" statistics is a blend of conviction and sentence appeals. The higher percentage reflects the higher success rate of sentence appeals (50% in 2001).

Civil and Criminal Law Chambers

Civil Chambers work has decreased dramatically over 2000. Applications for

leave to appeal have stayed the same for the last two years, with the success rate similar as well. In both years, applications for leave to appeal were successful in 68% of the time. Criminal chambers motions increased 16% over 2000. Criminal Law Chambers Motions are largely applications by the Registrar to hurry dormant cases along, for bail and for the appointment of counsel where legal aid has been refused.

SITTINGS

In 2001, Division I sat for 43 weeks, including 2 weeks during the summer and an extra week in August; Division II sat for 32 weeks; and Division III sat 10 weeks. In addition, the Court sat for 10 weeks in Victoria and 1 week in the Yukon. The total number of sitting division/weeks was 96. This is an increase of 5 sitting weeks over the 2000 schedule.

There has been a substantial decrease in the number of appeals scheduled for hearing in Kamloops, Kelowna and Prince George. The scheduled weeks for these locations were cancelled for lack of work.

Court of Appeal Rules Committee

Members:

The Honourable Madam Justice Newbury (chair)
The Honourable Mr. Justice Cumming
The Honourable Madam Justice Prowse
The Honourable Mr. Justice Hall
The Honourable Mr. Justice Mackenzie
Jennifer Jordan
Meg Gaily

Meetings

The Court of Appeal Rules Committee meets regularly throughout the year to discuss proposals by the judges of the Court, the Registrar and lawyers for amendments to the Court of Appeal Act and Rules. The Committee reports to the full Court on recommendations for amendments. We consult with members of the bar when there is a proposal that significantly changes the practice and procedure of the Court. This year was a busy one for the Committee, which brought to fruition a complete revision of the Court's Rules as described below.

The membership of the Committee has remained constant since 1999. This year the entire Court was saddened by the loss of Mr. Justice Cumming, who had served on the Committee since 1999. Madam Justice Newbury, as chair of the Committee, Madam Justice Prowse and Mr. Justice Mackenzie are all retiring as members of the Committee at the end of December, 2001.

The Committee wishes to extend particular thanks to the Registrar, Jennifer Jordan and

Law Officer, Meg Gaily, for their hard work in overseeing the Rule amendments. The final product would also not have been possible without the dedication of Ken Downing, Senior Legislative Counsel and his staff.

Court of Appeal Act

In the fall of 2001, the members of the Committee considered several issues facing the Court related to the requirement of leave to appeal interlocutory orders contained in s. 7 of the *Act*, and whether an amendment (or amendments) to the *Act* would alleviate some of these issues. The members of the Committee met with two practitioners who had expressed concern that the profession needed more guidance in the area and that the Practice Note of the Registrar of June 15, 1998 (permitting the filing of a notice of appeal and an application for leave if in doubt as to the nature of the order) was not widely known. After considering several possible solutions in detail, the general consensus of the Rules Committee members was that the *Act* should not be amended at this time. The hybrid cases were found to

represent a small minority of appeals and the Committee agreed that the concern about the confusion between interlocutory and final orders was perhaps not so pressing an issue as to require an amendment which would create more difficulties in practice.

Court of Appeal Rules

The process of revising the Court of Appeal Rules, which began in 1999, was finally concluded in 2001. The Committee's overall objective was to consolidate the Rules in one document and to ensure that they covered all the procedures necessary to conduct an appeal, from filing to disposition. We also hoped to give more control to appellants in moving appeals along. Thus, for example, the Rules no longer require the approval of respondents for filing appeal books and transcripts. The Committee also wanted to reduce the bulk of paper being filed in the Court.

Order in Council No. 1075/2001, Regulation No. 297/2001 proclaims the new Court of Appeal Rules in force on March 1, 2002. A copy of the Rules may be found at www.courts.gov.bc.ca on the Court of Appeal's home page. A brief overview of the changes is as follows:

- The content of the Rules has been reorganized in order to make it easier for people using the Rules to follow step by step court procedure;
 - There are new definitions which allow litigants to file documents in any registry of the Court; The Rule amendments incorporate many practice directives of the Court,
- including the directives dealing with leave to appeal and stay provisions, books of authorities, electronic transcripts, factums (including the 30 page limit), reinstatement of an inactive appeal and review of an order of a justice. The practice of the Court has not changed, but the practice is now enshrined in the Rules;
- Changes have been made to try to reduce delays by doing away with the approval for filing the appeal books and transcripts and in allowing appellants to obtain dates for hearing when a Certificate of Readiness is filed.
 - There is a fundamental change to the way appeal books and transcripts are filed with the Court, which should reduce the bulk of paper being filed with the Court.
 - Appeal books are limited to a record book containing pleadings, orders and the judgment. Since a further appeal book is filed with the factum, litigants are given a chance to include only that material which is necessary to argue the appeal.
 - Only one paper copy and one electronic copy of a transcript is filed with the court. The material reproduced for the judges is limited to transcript extracts, which are filed at the same time as the factum.
 - Electronic copies of factums may now be filed with the Court and only a justice may grant permission to file a factum in excess of 30 pages;
 - New evidence motions are to be heard at the same time as the appeal, unless otherwise ordered;

- There is a new Rule for intervenors;
- Service procedures for documents are clearer and it is now necessary for a party to provide for an address for service within British Columbia;
- Additional forms, including the forms of orders used in the Court of Appeal, have been added to the Rules; and
- The initiating documents include a section where the type of appeal must be identified.

Planning Committee

Members:

The Honourable Chief Justice (*ex officio*)
The Honourable Madam Justice Prowse, Chair
The Honourable Mr. Justice Esson
The Honourable Mr. Justice Donald
The Honourable Madam Justice Newbury
The Honourable Mr. Justice Mackenzie
Ms. Jennifer Jordan, Registrar

While no new projects were undertaken by the Planning Committee in 2001, many of the projects commenced in earlier years are continuing to be monitored.

Family Law

The Committee continues to be concerned about family law appeals, especially those appeals involving custody of children. The Planning Committee has initiated a procedure for expediting family law appeals, and several Court of Appeal justices are available for pre-hearing conferences.

Once a family law appeal is identified, its progress is monitored in the Court. Letters are sent to the parties indicating that time limits for these appeals will be monitored and if a filing is missed, the matter will be referred to a justice.

Where custody is not an issue, the registry sets a four month prompt date for all materials to be filed and the appeal perfected. Four months is the established time lapse

under the rules. If the appeal is not perfected within four months, the file is reviewed for further action.

Where the appeal concerns the custody of children, the file is immediately reviewed by the law officer and those files which need particular attention will be identified. If further attention is needed, the file is referred to one of the justices participating in the program who decides whether the case requires a prehearing conference.

This procedure is working well and there is a definite improvement in expediting family appeals.

Orientation Package for new judges

Mr. Justice Donald was responsible for preparing a package of orientation material for new judges. The material consists of:

1. Memorandum of Understanding regarding the principles and guidelines for the operation of the Court;
2. Registry Procedures Memorandum
3. Information on Law Clerks
4. Miscellaneous memos from the Chief Justice's office on a variety of topics
5. Manual of Chambers Practice
6. Appellate Review Procedures
7. A copy of *The Criminal Lawyer's Guide to Appellate Court Practice* by Gil McKinnon, Q.C.

Electronic Filing and Access to Court Records

Members of the Committee expressed concern about the electronic filing project and the potential privacy issues which arise once court documents are made available over the Internet. Court documents are not covered under privacy legislation and it is important that the judiciary consider the implications of electronic access and to provide guidelines for access.

The Planning Committee initiated a meeting with Ministry officials to discuss the issues. The result is a committee devoted to access issues composed of Court of Appeal and Supreme Court legal staff, with Court Services assistance, which will prepare court policy proposals for consideration by the various court committees. The Provincial Court will be invited to participate. One of the issues to be discussed is criminal bans on publication.

Accommodating Persons with Disabilities

The Planning Committee has been collecting information on how Court Services accommodates persons with hearing disabilities. The Committee has collected information on the provision of assistance to litigants with hearing disabilities. To date, no similar facilities are offered for hearing disabled counsel. The Committee is pursuing this further.

Education

The Planning Committee agreed that it would be useful to have joint Supreme Court and Court of Appeal meetings periodically both for education and collegial purposes. The Committee met with the newly formed Education Committee (Madam Justice Huddart and Madam Justice Levine) to discuss proposals for ongoing in-house educational initiatives for the Court.

Hearing Time Reduction

The Planning Committee has continued to monitor the time estimate for appeals. Most appeals are set for one-half day and very few appeals exceed the time limits. This project has been successful in increasing the efficiency of the judges and the bar has been very co-operative in these efforts.

Motor Vehicle Appeals

The Planning Committee was interested in statistics from 2000 which indicated that motor vehicle appeals took substantially longer (19.3 months) to proceed through the Court of Appeal than any other appeal. Even where transcripts need to be ordered, other appeals took an average of 16 months to proceed through the Court of Appeal. Investigation could turn up nothing specific as the cause of the delay. This situation will continue to be monitored.

Court Fall Meeting

Members of the Planning Committee were responsible for the planning for the Court Meeting held in November, 2001. This was the first meeting for the new Chief Justice and was well-attended.

The members of the Committee would like to recognize the invaluable assistance provided to the Committee by Ms. Jennifer Jordan, with significant input also provided by Ms. Meg Gaily and Ms. Cecilia Low.

Law Clerk Committee

Members:

The Honourable Mr. Justice Finch (Chair)

The Honourable Madam Justice Newbury

The Honourable Mr. Justice Mackenzie

The law clerks' terms at the Court of Appeal commence in September of each year and finish at the end of June (for those serving a ten-month term) or the end of August (for those serving a twelve-month term). In September 2001, eleven clerks began their clerkships with the Court of Appeal for the 2001-2002 term.

The regular recruitment of law clerks for both the Court of Appeal and Supreme Court took place in February and March 2001. As in previous years, a notice describing the clerking program was distributed to all common law faculties across Canada. The Law Officers to the Court of Appeal and the Supreme Court, accompanied by current law clerks, conducted information sessions at the law schools at UBC and UVic in February 2001.

In March 2001, Meg Gaily, Law Officer to the Court of Appeal, and Kathryn Sainty, Law Officer to the Supreme Court, received seventy-five applications for the 28 law clerk positions at the Court of Appeal and Supreme Court. After reviewing the applications, the Law Officers interviewed most of these candidates during May 2001. Of these candidates, the Court of Appeal Law Clerk Committee interviewed 20 and selected eleven candidates for the law clerk positions for the 2002-2003 term.

Of the eleven law clerks who will commence their terms with the Court of Appeal in September 2002, six are graduates of UBC Law School, three are graduates of the UVic Law School, one is a graduate of Queen's, and one is a graduate of Dalhousie.

Since his appointment as Chief Justice of British Columbia, our Chair has, sadly, left the Committee. Madam Justice Newbury will serve as Chair in his place and Madam Justice Saunders has agreed to join the Committee for the coming year.

During the year, the Committee members, with the support of the Chief Justice and the other justices of the Court, sought an increase to the salaries of the law clerks. Unfortunately, the provincial government was unable to provide additional funding for the law clerk program given its efforts at fiscal restraint.

The Committee members wish to thank Ms. Gaily and Ms. Sainty for their assistance during the year.

Judges' Library Committee

Members:

The Honourable Madam Justice Newbury
The Honourable Mr. Justice Hood
The Honourable Madam Justice Humphries
The Honourable Madam Justice Smith
Ms. Delia Moran
Mrs. Anne Rector

In 2001 the Library Committee meetings were held as needed to consider acquisitions from time to time.

As in former years, the cost of subscriptions to law reports and looseleaf services continues to rise, using up a good portion of the budget. The committee did approve new acquisitions but found it necessary to cancel some subscriptions.

An Archive Committee has been struck consisting of Newbury, Huddart, and Saunders, JJ.A., Humphries, J. and Anne

Rector. The library staff will be assisting that committee with an archival project to identify and display historical photos and other memorabilia of interest to the Judiciary, first in the Vancouver Court House and ultimately elsewhere in the Province. The committee has received the kind funding support of a grant from the B.C. Legal Historical Society. We hope this project will be done largely this summer with the help of a student from the School of Library, Archival & Information Sciences at U.B.C.

Electronic Filing Rules Subcommittee

Members:

The Honourable Mr. Justice Mackenzie
The Honourable Mr. Justice Macaulay (Chair)
Nate Smith, Trial Lawyers Association of B.C.
Jennifer Jordan, Registrar, Court of Appeal
Katherine Wellburn, Registrar, Supreme Court
Kathryn Sainty, Law Officer, Supreme Court

This subcommittee was formed in response to the Electronic Justice Services Project (EJSP) and specifically the Court Services Online project relating to the electronic filing of court documents in both the Court of Appeal and the Supreme Court. This subcommittee is a subcommittee of both the Court of Appeal and Supreme Court Rules Committees. The project was put on hold in September, 2001, but the subcommittee had managed to prepare a set of draft rules to be considered by the respective Rules Committees.

The draft rules covered such issues as: electronic authentication of documents; when a document is filed, issued or sealed; the provision of an e-mail address for delivery; service by e-mail; proof of service or delivery; what happens when a document does not reach the intended party; and public access to electronically filed documents.

Since the project is suspended, work on these rules has also stopped. The E-filing Rules were approved in principle by the Court of Appeal Rules Committee but have not been approved by the Supreme Court Rules Committee.

Technology Committee

Members:

The Honourable Mr. Justice Mackenzie
The Honourable Mr. Justice Tysoe (Chair)
The Honourable Mr. Justice Pitfield
The Honourable Madam Justice Boyd
Delia Moran, Director Judicial Administration
Jennifer Jordan, Registrar, B.C. Court of Appeal

Membership in the Supreme Court Technology Committee was expanded in October, 2001 to include representatives of the Court of Appeal. The name of the Committee was changed to reflect the new membership. Three meetings were held at the end of the year which were attended by the new members.

The mandate of the Committee is to deal with the technology requirements of judges, including software and hardware, and security concerns arising from use of the judicial network, including the e-mail system.

The issues covered at these meetings were as follows:

- development of a new technology service delivery model for the judiciary
- providing details of a virus protection project which has updated the virus protection system with a proactive firewall and prevention system and plans for the development of further policies and procedures, including a virus awareness program

- preparation of a policy to deal with basic security issues, specifically a policy which deals with passwords, log out requirements, remote computer connections, mailbox size quotas and home drive size quotas
- reporting on the transition phase of the technology service, including help desk services, inventory of equipment, stabilising technology infrastructure, and review of service levels
- review of budget submissions

Report Of The Pro Bono Committee

Members:

Carman J. Overholt (Co-Chair), President, CBA (BC Branch)
Peter J. Keighley, Q.C. (Co-Chair), Bencher, Law Society of BC
Mr. Justice Ian T. Donald, Court of Appeal of BC
Mr. Justice Bryan F. Ralph, Supreme Court of BC
The Honourable Judge Margaret E. Rae, BC Provincial Court
Dugald E. Christie, Co-ordinator, Western Canada Society
to Access to Justice Pro Bono Program
Kelly Doyle, Lawson Lundell Lawson & McIntosh
Charlotte Ensminger, Policy Lawyer, Law Society of BC
Frank Kraemer, Executive Director, CBA (BC Branch)
Jim Matkin, Q.C., Executive Director, Law Society of BC
Robert W. McDiarmid, Q.C., Bencher, Law Society of BC
Anita Olsen, Bencher, Law Society of BC
John Pavey, Co-ordinator, Salvation Army BC *Pro Bono* Program
Professor Wes Pue, University of BC, Faculty of Law
John Simpson, Regional Director, Legal Services Society - Surrey
Professor Kim Hart-Wensley, University of Victoria, Faculty of Law
Brad Daisley, Public Affairs Manager, Law Society of BC
Caroline Nevin, Director of Communications, CBA (BC Branch)

The Committee was created by the British Columbia Branch of the Canadian Bar Association and the Law Society of British Columbia to foster and coordinate pro bono services.

All three levels of the judiciary were represented on the Committee as were the Legal Services Society, the two law schools, the Salvation Army, the Western Canada Access to Justice Society, and of course the sponsoring organizations.

The Committee last met as fully constituted in November 2001. It then resolved to carry on as a much smaller working group with a view to transferring

responsibility to an operating society and a fund raising society, both to be incorporated federally in early 2002. A final report to the profession is in preparation.

The activities of the Committee in the past year include a comprehensive survey of the legal profession on the subject of pro bono services, the development of a web site for coordinating pro bono activities modeled on a New York program, and a two-day forum at the Wosk Centre which brought together many participants who were knowledgeable and interested in the field. The Law Society has adjusted its professional liability scheme to extend coverage to exempt, retired and non-

practicing lawyers who do pro bono work.

It is hoped that the Committee's efforts over the last three years will bear fruit in 2002 and that tangible benefits will soon be enjoyed by those who cannot afford legal services.

Supreme Court of Canada

There were 79 applications for leave to appeal from decisions of the Court of Appeal filed with the Supreme Court of Canada in 2001. There were 49 leave applications pending for a total of 128 applications for leave to appeal.

The Supreme Court of Canada considered 87 applications for leave to appeal from B.C. decisions. Of these 71 were refused and 16 were granted. There were 41 applications for leave to appeal pending at the end of 2001.

In 2001, the Supreme Court of Canada gave judgment in 17 appeals from B.C., allowing 6 and dismissing 11 appeals. There were 6 appeals discontinued in 2001.

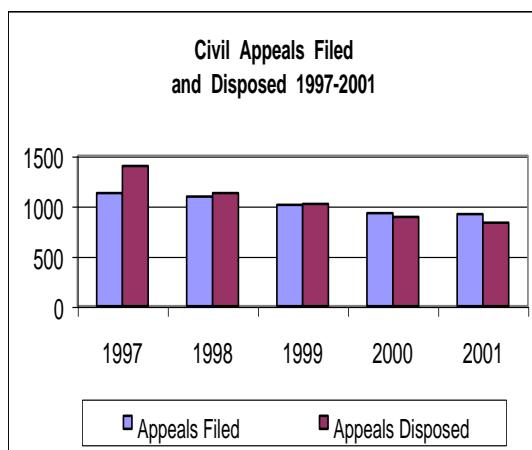
Volume of Litigation*

The charts on this page show the volume of litigation and compares the number of appeals filed, both civil and criminal, and the number of appeals disposed for the years 1997-2001.

Civil

Figure 1 demonstrates the decline in the number of civil appeals filed over the last five years. This figure also shows that 2001 continues the trend from 2000 where the number of filings exceeded the number of dispositions. As Appendix 1 indicates, dispositions were 91% of the filings for civil appeals.

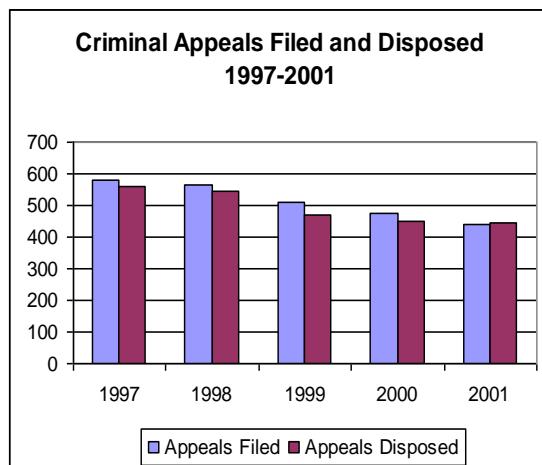
Figure 1



Criminal

Criminal filings remain at about half the number of civil filings. Figure 2 shows that the number of criminal appeals filed continues to exceed the number of appeals disposed, resulting in a slowly increasing backlog of criminal appeals.

Figure 2



For a more complete picture of total court activity, Figure 3 combines the civil and criminal filings and dispositions. As is evident, there has been a marked decrease, since 1998, of both filings and dispositions in the Court of Appeal.

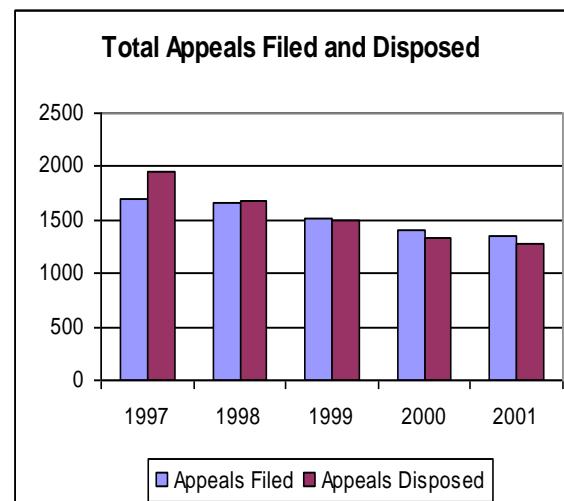


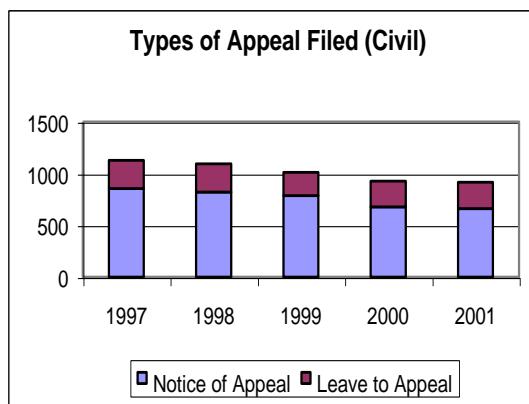
Figure 3

*Please refer to the appendices for the actual numbers in these charts.

Types of Appeals Filed

About 27% of the civil appeals filed in 2001 were applications for leave to appeal. These appeals require the permission of a justice before they can be heard by a panel of three judges. In 2001, about 68% of the applications for leave to appeal were granted. Figure 4 shows the comparison of applications for leave to appeal with appeals as of right.

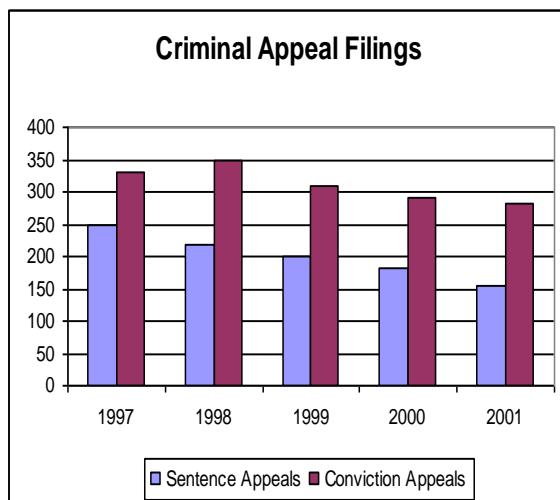
Figure 4



Criminal Case Types

In criminal appeals, appeals from convictions and acquittals take up most of the hearing time of the court, while sentence appeals and summary conviction appeals require less time. Figure 5 gives a comparison of criminal appeals filed between 1997 and 2001. There are consistently 30% more conviction type appeals filed than sentence appeals.

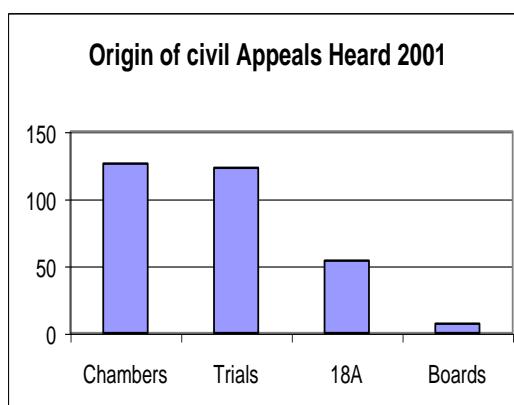
Figure 5



Origin of Appeals

Another way to categorize the civil work of the court is to look at the type of proceeding which gave rise to the appeal. The majority of appeals arise from chambers matters or summary trials. The 2001 figures show appeals from trial judgments were almost 40% of the total number of appeals heard by the Court of Appeal. Figure 6 shows the types of appeals according to the initiating proceeding.

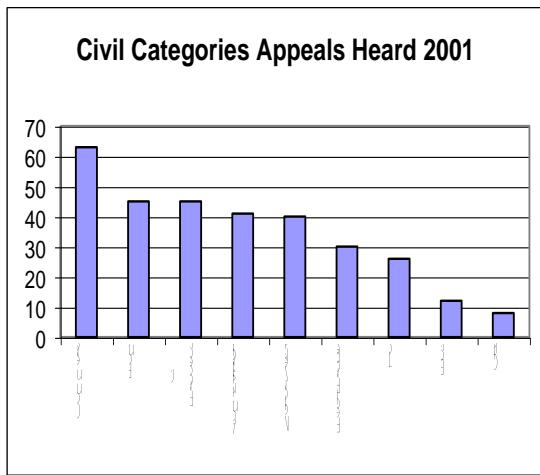
Figure 6



Civil Case Categories

In addition to the origin of civil appeals, there are nine broad categories of civil appeals. Figure 7 gives a flavour of the variety of cases which are heard by the Court of Appeal.

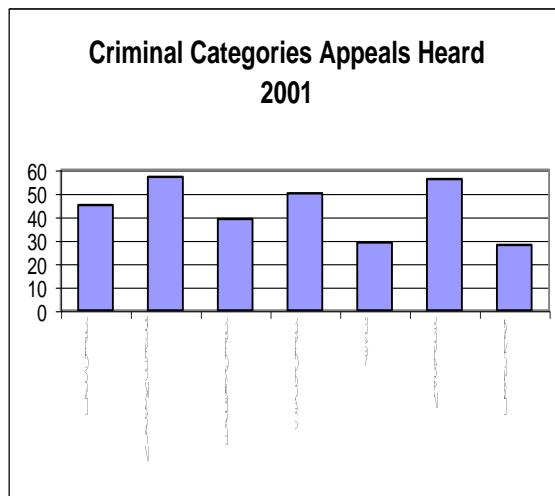
Figure 7



Criminal Case Categories

Another interesting breakdown is for the types of criminal cases which are dealt with by the Court. Miscellaneous offences, which is the largest category, covers offences which are infrequent in the Court (such as arson, kidnapping, mischief and fraud). Figure 8 gives the top seven distinct categories, showing the murder and manslaughter appeals as well as the sexual offences (primarily sexual assault) accounting for almost 35% of the criminal appeals being heard by the Court.

Figure 8



Appeals Allowed

The rate of civil and criminal appeals allowed over the past five years has remained relatively constant. Figure 9 shows the success rate of civil appeals and Figure 10 shows the same rate for criminal appeals. The tables are shown as percentages rather than numbers so that there can be a comparison between the civil and criminal decisions.

Figure 9

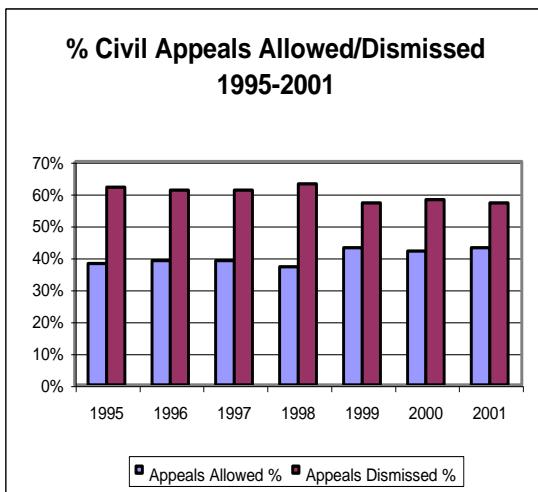
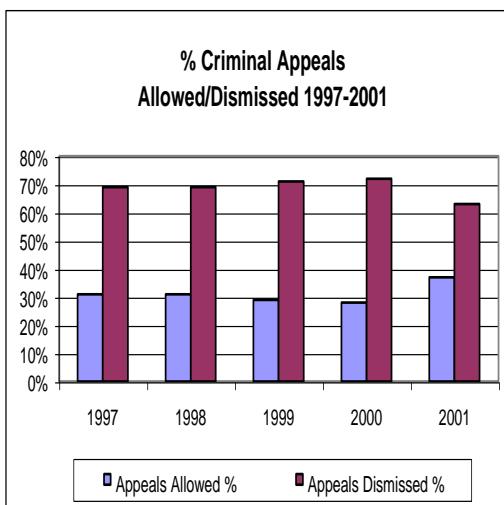
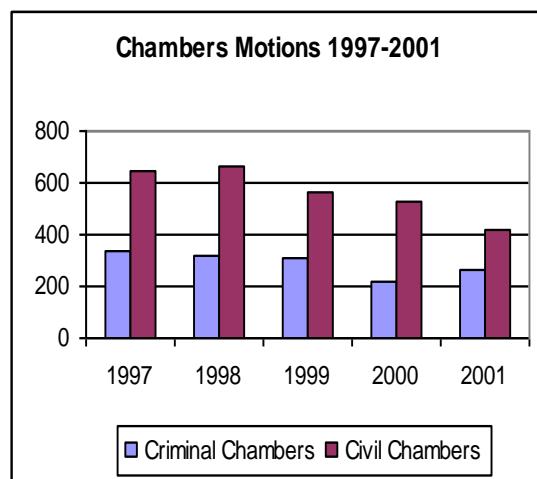


Figure 10



chambers applications over last year. It is important to note that there was also an increase in the number of applications for leave to appeal. These applications usually take a larger portion of a chambers justice's time to hear.

Figure 11



Chambers Work

Aside from the regular work of the Court, there is also a justice sitting daily in Vancouver chambers for both civil and criminal matters. Figure 11 shows that there has been a decrease in the number of