

New book highlights justice Thomas Berger’s quest for fairness

‘Against the Odds: The Indigenous Rights Cases of Thomas R. Berger’ documents judge’s precedent-setting litigation

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Northern News Services

In the 1970s, Drew Ann Wake was given an opportunity to work for someone that would lead to not only doing years of work she enjoyed but also give her a chance to author a book about the person from whom she learned so much.

That person was Justice Thomas R. Berger, a non-Indigenous man whose lifelong contributions to Indigenous rights still resonate with many people in Canada and beyond.

“One of the great shocks of my life was when I first went to work for Tom and I sat down in his office, and he asked me a number of very serious questions that were thoughtful,” Wake recalled. “He listened very carefully to my answers and he hired me at a time when there must have been 40 young men who would have given anything to have gone to work for him.

“And he, you know, he hired a young woman.”

That rare opportunity had a major impact on Wake, a former CBC North reporter, who came to admire the qualities and scruples that defined Berger’s personality, moral character, and his ground-breaking work for justice.

“So the fairness in a time when the workplace was not necessarily fair, still astonishes me, and it was an opportunity of a lifetime for me, and I cannot thank him enough for having given me the experience of researching and writing on issues that I cared very deeply about,” she said.

Near the end of his life, Wake said Berger called on her to revisit his many notes on cases that he had stored away and was planning to write about.

“We went through a lot of his research work, and he handed me some chapters and said, ‘This is a book I’m working on, but I know I won’t have time to finish it.’”

“And he said — his line that I always remember — ‘Do with it what you will,’” she said.

The result is now the newly-released book *Against the Odds: The Indigenous Rights Cases of Thomas R. Berger*.

A compilation of his lifelong work and fight for justice for Indigenous Peoples, Wake said the book is filled with examples of how Berger exemplified fairness and how he fought for those he felt were treated unfairly.

“I feel that’s who Tom Berger was. He felt that people had to act fairly and honestly and within the law, and so Indigenous rights mattered to him, because he felt that really in Canada, things have been routinely



Drew Ann Wake, a former CBC North journalist, authored a new book about the contributions made to Indigenous rights advocacy by Justice Thomas R. Berger. Photo courtesy of Lorene Shyba/Durville & UpRoute Books

unfair in the interpretation of Indigenous rights,” Wake said.

Berger’s name is associated not only with Indigenous hunting rights but also public hearings on the Alaska Native Claims Settlement Act, the Peel Watershed case, and the Manitoba Métis case, to name a few.

To build or not to build

In the Northwest Territories, the Mackenzie Valley Pipeline Inquiry, or the ‘Berger Inquiry,’ began in 1974 led by Berger as the royal commissioner.

During the extensive inquiry, the effects of having a pipeline built through the Mackenzie Valley and the northern Yukon were explored and examined for the impact it would have on the people, the environment and the economy, with Indigenous perspectives and knowledge at the forefront.

Norman Yakeleya, a Sahtu Dene and former MLA for the Sahtu, said he recalled first hearing about the Berger Inquiry when he was a teenager just out of residential school. At that time, he said nothing was taught about Indigenous rights or protecting their culture.

“And I was wondering, why are we standing up for our rights? Why are we talking the way we’re talking? And I was curious if we were stopping economic progress in our small communities, and why were we talking so strongly about our land and our way of life,” Yakeleya said.

“The residential school did a very good job in terms of assimilating our minds and our thinking that our way of life

was no longer valid, and we should turn to the modern day economic realities of the North, and that we need not to go back to what they call ‘back to the old way of living,’” he said.

Insight into challenges

Yakeleya said the impact Berger had on the North and during the inquiry was profound.

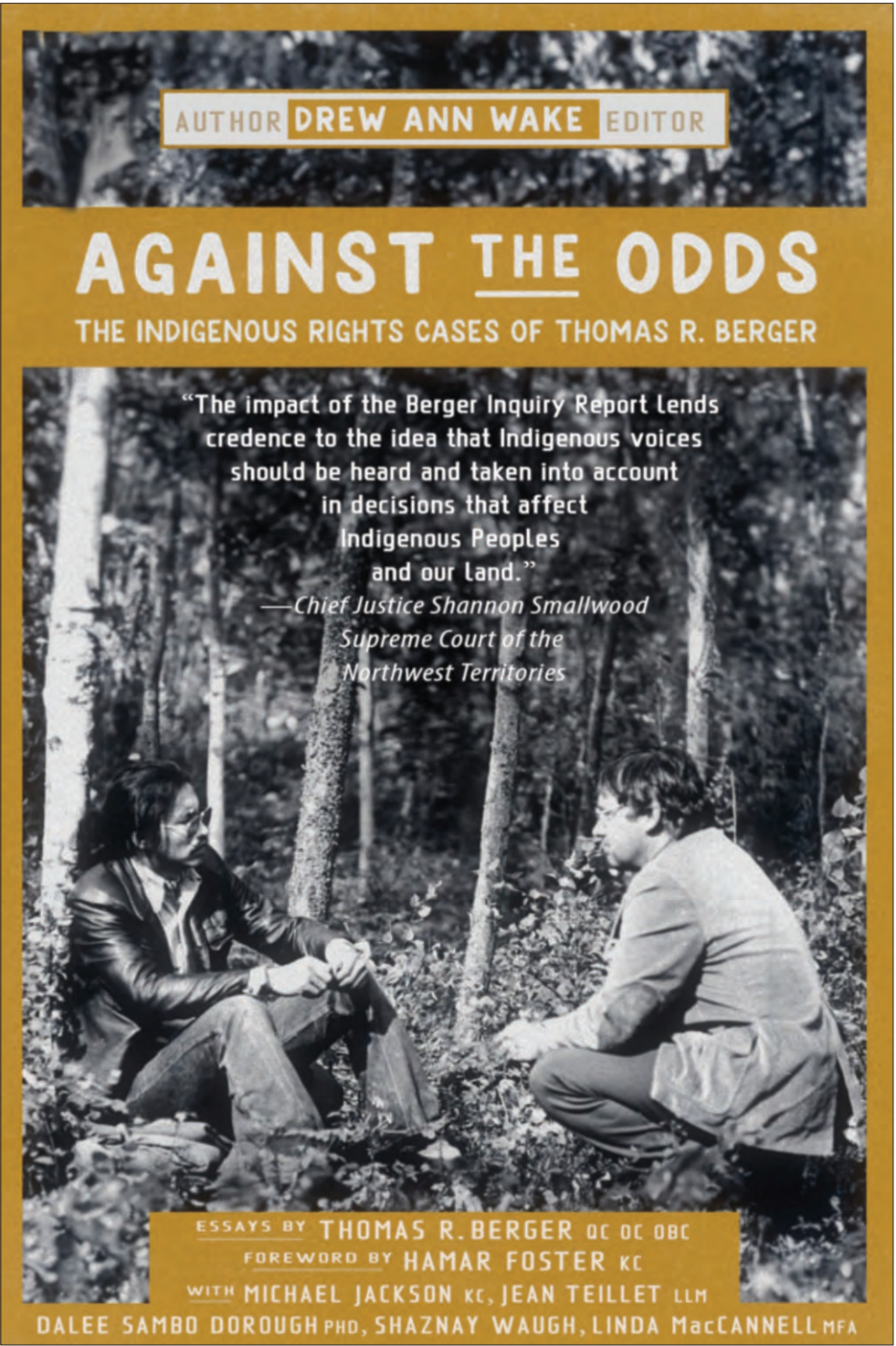
“Justice Berger saw the clear crystal ball of what Indigenous people were up against. I think he had that intelligent, intellectual law interpretation of what was right and what was not so right, and how the odds were stacked against the Indigenous people,” he said.

“I think people were taken aback by his kindness. He was willing to sit and listen to the Indigenous people ask questions, you know, and go to communities — someone that really got a lot of attention and respect from our people, because for the first time really, a white man, a judge at that, took the time to listen to the average people in regards to their way of life.”

Yakeleya said Berger worked from his heart as well as his strong legal mind.

“I think his legacy would be his kindness, especially around the elderly, the old people, and his patience to let the people speak in their language. He wasn’t insistent on just English.

“He really wanted to hear what the people said and the only way they could understand the people was to let them speak their language, and allow the interpreters to do their best



job to interpret what they were saying.”

Wake said the title of the book was inspired by the many cases Berger brought to court that “broke new ground.”

“Tom would always say, ‘We’re in the right, and so I think we can persuade the judges,’” she recalled.


“Because they broke new ground, it was against the odds that he would win. And yet, again and again and again, he won.

“I think he had a way of being a self-effacing man, you know, not pushing or putting himself forward. So there was real warmth when he returned as a lawyer to a case in the North.”

Wake said Berger’s very final case, the Peter Ballantyne Cree Nations case from Manitoba, was settled after he passed away. Berger prevailed in that case, too.

“So even after he passed away, his cases were successful,” she added.

The cover of the book *Against the Odds: The Indigenous Rights Cases of Thomas R. Berger*. Photo courtesy of Lorene Shyba/Durville & UpRoute Books



ANNUAL GENERAL MEETING

of 825 Elks Air Cadets Squadron Sponsoring Committee

Wednesday, October 9, 2024
7:00 pm (1900 Hrs)
Located at LHQ, Fieldhouse, 2nd Floor

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