

# Reprint **Island Tides**

Visit [www.islandtides.com](http://www.islandtides.com) to read the current edition and more find more interesting articles on other BC, national & international topics in our extensive archive of newspapers and articles.

Reprint from Volume 21 Number 11

June 4, 2009

## **BC Rail judge changed?**

The never-ending pre-trial maneuvers in the Basi-Virk court case have a new source of delay—the possibility of an entirely new judge. Madame Justice Elizabeth Bennett, who has presided over the case for some three-and-a-half years and through two complete provincial elections, has been promoted to the BC Court of Appeal. The appointment was made by the federal Minister of Justice on March 15.

Special Prosecutor Bill Berardino says he wants a new judge as soon as possible. Defence counsel Michael Bolton wants her to complete the case and preside over the actual trial, whenever it occurs.

There are currently over 300,000 pages of evidence, and the defence is still asking for more disclosure, getting closer and closer to the involvement of cabinet ministers and possibly the premier in a scheme which may have given CN Rail an unfair advantage in the bidding for BC Rail.

Meanwhile, the Special Prosecutor has taken his request for secrecy over the testimony of an unidentified witness to the Supreme Court of Canada, and Madame Justice Bennett has

indicated that the decision on this may not be brought down until the end of October.

But she says that if she were replaced, this would lead to a further delay of the trial, and she ‘would not be prepared to do that.’ ‘I’m the only person who knows best how to proceed,’ she said. It appears that the rules of court leave that decision up to the judge herself.

It seems unlikely that the Minister of Justice would have made the decision to promote Madame Justice Bennett without being aware of her ongoing involvement in the complex and politically sensitive BC Rail case. Her performance through over 100 days of pre-trial hearings could have had some bearing on her promotion.

Whatever happens with the BC Supreme Court trial, the eventual judgment may well be appealed to the BC Court of Appeal, raising the question of whether Madame Justice Bennett would then have to recuse herself from Appeal Court hearings.

She has been put in a most difficult position. ☞

---

© Island Tides Publishing Ltd. This article may be reproduced with this attribution, in its entirety, with notification to Island Tides Publishing Ltd.

This article was published (June 4, 2009) in 'Island Tides'. 'Island Tides' is an independent, regional newspaper distributing 17,500 print copies throughout the Gulf Islands and the Canadian Strait of Georgia from Victoria to Campbell River to Howe Sound.

Island Tides, Box 55, Pender Island, BC, Canada. Phone: 250-629-3660. Fax: 250-629-3838.  
Email: [islandtides@islandtides.com](mailto:islandtides@islandtides.com). Website: <http://www.islandtides.com>

---