

# AGAINST THE ODDS

## INDIGENOUS RIGHTS CASES OF THOMAS R. BERGER

BY DREW ANN WAKE

Foreword, Hamar Foster, KC

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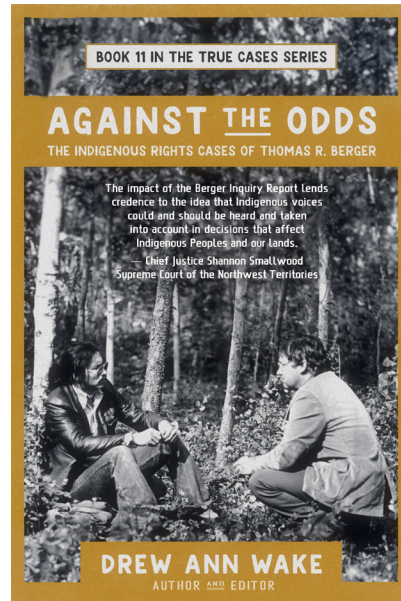
Thomas Berger's earliest cases astonished the legal community by asserting Indigenous rights that had not been considered previously by Canadian courts. The success of these cases, over only a decade, encouraged First Nations across Canada to take a more assertive stance in the years that followed. Mid-career, Justice Thomas Berger accepted the challenge of leading the Mackenzie Valley Pipeline Inquiry. He organized the inquiry to give northern First Nations an equal voice in the proceedings by holding thirty community hearings in which all were invited to participate. Berger's careful, reasoned arguments prevailed time after time. His Indigenous cases pushed the margins of the legal debate: they demanded that governments take greater accountability for honouring their commitments to Indigenous communities. Thomas Berger's primary gift was to see the law not as a rigid, inflexible structure, but as a framework that could adapt to different circumstances through changing times.



### ABOUT DREW ANN WAKE

Drew Ann Wake is a filmmaker and new media artist who began her career with CBC North and the National Film Board in Yellowknife. She covered the Berger Inquiry from 1975-1977 and then worked on the independent documentary, *The Inquiry Film*, which won the

Canadian Film Festival award for Best Documentary. Drew Ann has also works as a museum designer, developing exhibitions in Canada as well as in the US and the UK.



“For many, the impact of *The Berger Inquiry Report*, *Northern Frontier*, *Northern Homeland* lent credence to the idea that Indigenous voices could and should be heard and taken into account in decisions that affect Indigenous Peoples and their lands. More than 40 years later, development on Indigenous lands continues to be a challenging issue facing Canada and Indigenous People are regularly consulted throughout the process.

—Chief Justice Shannon Smallwood  
from *Indigenous Justice*

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