



**SUDBURY DISTRICT LAW
ASSOCIATION NEWSLETTER**

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SDLA Legal Briefs Newsletter

**MESSAGE FROM THE BENCH
SUPERIOR COURT OF JUSTICE**

On January 22, 2014 I was sworn in as Regional Senior Justice for the Northeast Region of the Superior Court of Justice. May I express my gratitude to the members of the Sudbury bar for their attendance at the ceremony and the many kind words spoken to me that day.

May I also publically express my gratitude to Justice Gauthier for her tireless work as RSJ and her many accomplishments in that role. Of particular importance locally has been her re-introduction of the bench and bar committees in family and criminal law, which have provided a ready forum for discussion of the issues of the day and best practices for both the bar and the bench.

I intend to continue the open door policy followed by Justice Gauthier and would welcome the opportunity to speak with members of the SDLA about issues encountered in our court and how they might best be addressed.

My term as RSJ is for five years, and it will be interesting to see where those years take us. On a provincial basis, there seems to be renewed interest in expanding the Family Court system and reducing the length of civil and criminal trials. In addition, I anticipate a strong push to introduce 21st century technology into the courtroom and greater efforts to make our court more accessible to our citizens.

On a regional basis, there will be several changes to our bench in the coming months. In April, Justice O'Neill will become a supernumerary judge chambered in Sudbury and Justice Koke will be moving from Sault Ste. Marie to Parry Sound to fill the vacancy left by him. Justice Riopelle has recently become a supernumerary judge in Timmins and Justice MacDonald has been transferred from Cochrane to fill the vacancy left by him. We are hopeful that new appointments will be made in Sault Ste. Marie and Cochrane in the very near future. In addition to these changes, Justice Hennessy will be taking an eight month leave beginning in September, during which she will undertake a course of study and research at Osgoode Hall Law School and Lakehead University. She will focus her work on justice education projects with aboriginal youth on Manitoulin Island and in Northwestern Ontario.

At the local level, it is gratifying to see new faces appearing before us, to see young lawyers taking on greater responsibilities, and to see senior lawyers offering the benefit of their experience.

Particularly impressive has been the Continuing Legal Education Conference (Colloquium) organized in October each year and the wide participation it has enjoyed. Its continued success and growth seems all but assured.

I feel very fortunate to be here in Sudbury, looking forward to the future with all of you. May you prosper in 2014 and the years beyond.

Robbie D. Gordon RSJ

ESQUIRE & OTHER HONORIFICS

Somehow, somewhen, around these parts, the use of the title 'Esquire' in written communications about or to lawyers has near vanished. I used to experience a little pick-me-up when I would get a letter, however perfunctorily, that was addressed to "T. Michael Hennessy, Esq." And this was a common event. In the early years of my law office work, end of the 70's and into the 80's, perhaps half or more, of the correspondence I received used this style of address. Most of these letters of course came from other law firms. And in like manner our office staff routinely addressed letters to other lawyers adding Esq. to the names of recipients.

Allow me to confess that for a number of years I had no idea about what this suffix to my name meant, or what its origins were. I surmised, somewhat correctly, that it had something to do with being a lawyer. When I first looked into it, I learned the following.

First there were no federal, provincial, or regulatory rules on the use of the honorific. In other words, it was simply a convention or practice with historical antecedents. Canada it seems carried the tradition from Great Britain. There, for many generations barristers were recognized by the form of title Esquire. Interestingly solicitors were not similarly treated.

The origins of the title are a little mushy. Some ranked the title above that of a mere Gentleman and below that of a Knight. In addition to Barristers a number of other groups, were able to use the title including Justices of the Peace.

In Canada, or more particularly Upper Canada, those learned in the law were both Barrister and Solicitor, and the use of Esquire became commonplace for all lawyers.

The practice also found its way to the United States, where it seems to have become more entrenched and pervasive. Indeed, in one court case it was held that the use of Esquire by a non-lawyer was held to be some evidence of the unauthorized practice of law. For those who are gender conscious, it is noteworthy that there is a published NY State Bar Association opinion(1955) that the use of Esquire for female lawyers was quite acceptable.

Lower Canada, now Quebec, with its strong connections to France, and the French language, took a different path. There, lawyers were addressed by the honorific Maitre. This convention is much stickier than the Esquire convention for Anglos in Ontario. Consider for instance the recent obituary of a Sudbury raised lawyer, who practiced in Hawksbury. The title of the obit was "Maitre Roger Lapalme".

With the honorific Esq., by common convention, a certain etiquette emerged as to its appropriate use. One such feature was that a lawyer not invoke the pseudo title self referentially in correspondence. As in don't be signing your name I.M. Lawyer, Esq. It is appropriate though to use it on professional cards.

Conversely, it was considered good mannered to refer to others in the profession with this title, in the salutation of a letter.

With the apparent loss of the use of the term among lawyers themselves in these parts, I feel a sense of loss. But there is good news. A new title has revealed itself to me that may assuage my damaged self esteem.

Give credit to the Senate of York University and the management at Osgoode Hall Law School. A few years back they voted to allow a change to the name of my law degree. Bachelor of Laws was still OK, but if I wanted, for a small fee, they would

change the degree name to Juris Doctor, and issue me a new sheet of faux parchment.

I bought in. I figured \$85 was a cheap price to pay to become a doctor.

So now that I have the degree framed and on my wall, the question naturally arose, might I legitimately identify myself in correspondence, or professional cards, as Doctor Hennessy, or its abbreviation Dr. Hennessy.

After some modest research, I now hold the view that indeed I may use this honorific. The only proviso being that I not give the appearance of holding myself out as a medical doctor. The issue has been considered a number of times by regulatory bodies in the U.S. with mixed results, but most recently with approval. As far as I know no Canadian authority has addressed the question.

So my current inclination is to follow the past protocols related to Esquire, and allow others to address me by this title, but not to sign with it myself. So, if it isn't too much of an inconvenience, the next time you correspond with me, give it a whirl and address that letter to Dr. Michael Hennessy.

T.M. Hennessy, J.D.

Principal history source: Wikipedia and pieces noted there.

Revised CPD Reporting Process

As of January 20, 2014, the Law Society has revised the process for reporting CPD Hours in response to your feedback.

When you login to the CPD section of the [LSUC Portal](#) and select 'Update My CPD' you will see a single reporting form into which you will enter all of your CPD programs and activities, including your Substantive and Professionalism Hours.

You will no longer need to search a list of accredited programs to enter Professionalism Hours.

Instead, you will use the free-form fields to enter details of each CPD program and activity you undertake.

The Portal will no longer include a list of accredited programs.

Be sure to keep records of the number of Substantive and Professionalism Hours in each of your CPD programs. Providers will note the number of Professionalism Hours contained in a program in their materials. You can also contact the provider.

Please [click here](#) for the LSUC Announcement regarding the changes.

LAWYER'S OATH - ONTARIO

Extract from **Bylaw # 4** , Law Society of Upper Canada (as at 2014.01.14)

section **21.(1)**

The required oath for an applicant for the issuance of a licence to practise law in Ontario as a barrister and solicitor is as follows:

I accept the honour and privilege, duty and responsibility of practising law as a barrister and solicitor in the Province of Ontario.

I shall protect and defend the rights and interests of such persons as may employ me.

I shall conduct all cases faithfully and to the best of my ability.

I shall neglect no one's interest and shall faithfully serve and diligently represent the best interests of my client.

I shall not refuse causes of complaint reasonably founded, nor shall I promote suits upon frivolous pretences.

I shall not pervert the law to favour or prejudice any one, but in all things I shall conduct myself honestly and with integrity and civility.

I shall seek to ensure access to justice and access to legal services.

I shall seek to improve the administration of justice.

I shall champion the rule of law and safeguard the rights and freedoms of all persons.

I shall strictly observe and uphold the ethical standards that govern my profession.

All this I do swear or affirm to observe and perform to the best of my knowledge and ability.



Let Right Prevail

INVITATION TO ATTEND IN PARRY SOUND APRIL 10TH 2014

Mr. Justice Stephen O'Neill is paddling off into the sunset.

Join us for cocktails to celebrate his work and his new adventures, at the Museum on Tower Hill,

17 George St, Parry Sound

on Thursday, April 10 2014

between 5:00 pm and 7:00 pm.

Tickets are \$20 each.

Please RSVP to Laura Gough, Trial Coordinator, by March 21, 2014:

laura.gough@ontario

LAW LIBRARY NEWS

We are pleased to announce the availability of online access to WestLawNext Canada from your law library. The access includes The Canadian Abridgment, The CED and all WestLaw (Carswell) case law.

The Library Committee approved this purchase for a one year trial period, during which statistics on usage will tell us which aspects of the subscription are being utilized along with value for money.

We are arranging training sessions during the month of April.

We encourage library users and all members to drop in to utilize the WestLawNext package.

As part of the LibraryCo Toolkit your law library has access to the QuickLaw package, including the electronic version of "Halsbury's Laws of Canada."



SDLA EXECUTIVE 2014

ALEX KURKE, PRESIDENT

CROWN ATTORNEY'S OFFICE
155 ELM STREET
SUDBURY, ON P3C 1T9
(705) 564-7698

EDMOND PAQUETTE, 1ST VP

PAQUETTE & PAQUETTE
2945 HWY 69 N
VAL CARON, ON P3N 1N3
(705) 897-7272

JAMES ROSS, 2ND VP

ORENDORFF & ASSOCIATES
1533 BELLEVUE AVE.,
SUDBURY, ON P3B 3G4
(705) 673-1200

SOPHIE MAGEAU, TREASURER

WEAVER, SIMMONS LLP
233 BRADY STREET SUITE 400
SUDBURY, ON
P3B 4H5
(705)674-6421

GRACE ALCAIDE JANICAS, SECRETARY

SUDBURY COMMUNITY LEGAL
CLINIC
40 ELM STREET UNIT 272
SUDBURY, ON
(705) 674-3200

JOHN MICHAEL BRAY

PAST PRESIDENT
ORENDORFF & ASSOCIATES
1533 BELLEVUE AVE.,
SUDBURY, ON P3B 3G4

“LIBRARIES ARE EVEN MORE IMPORTANT THAN EVER” American Libraries Association 2013 User Study

It would be easy to dismiss the ALA as a biased party, but its numbers were [confirmed by a study](#) from the Pew Research Center's Internet & American Life Project, released in December. It reported that 94 percent of 6,200 people surveyed said that a public library in their community improves quality of life. And this is more than just an amorphous endorsement of knowledge and communalism: of those who use their library, 81 percent said that they “provide many services people would have a hard time finding elsewhere.” A full 81 percent said that access to books and other media is somewhat or very important to them—compared to 58 percent of library users who said access to Internet and computer equipment is important.

The [assistance of librarians](#) was also cited as important to 76 percent of library users surveyed by Pew. About the same number said that the space of the library itself—as a quiet and safe

place—was meaningful to them. All but six percent agreed that “libraries are a welcoming, friendly place,” and a staggering 91 percent said they personally have never had a negative experience using a public library, either in person or online. Many people—including myself—have personal stories about libraries as deeply meaningful parts of our lives.

comments... public libraries receive this type of rave review, how would you, as a practicing lawyer, rate the value of information and resources you have access to at your local law library? Would your practice suffer without access to all the resources you currently have?

ALA—American Libraries Association
Pew—**The Pew Charitable Trusts** is an independent [non-profit, non-governmental organization](#) (NGO), founded in 1948. With over US\$5 billion in assets, its stated mission is to

serve the [public interest](#) by "improving [public policy](#), informing the public, and stimulating civic life".¹