

THE CANADIAN BAR ASSOCIATION – NEWFOUNDLAND & LABRADOR BRANCH

# SQUID PRO QUO

SUMMER 2022

## THE RELAUNCH ISSUE



THE CANADIAN  
BAR ASSOCIATION  
Newfoundland & Labrador Branch



**2021 - 2022 CBA-NL  
EXECUTIVE COMMITTEE**

---

**PRESIDENT**

**Andrew Wadden, Q.C.,**  
Browne Fitzgerald Morgan  
Avis & Wadden

**VICE PRESIDENT**

**Joe Thorne,**  
Stewart McKelvey

**TREASURER**

**Travis Payne,**  
Curtis Dawe

**SECRETARY**

*Vacant*

**PAST PRESIDENT AND CENTRAL REGIONAL  
REPRESENTATIVE**

**Greg J. French,**  
Mills Pittman & Twyne Law Offices

**YOUNG LAWYERS CHAIR**

**Eugene Chao,**  
Department of Justice and Public Safety

**PROFESSIONAL DEVELOPMENT CHAIR**

*Vacant*

**LABRADOR REGIONAL REPRESENTATIVE**

**Mikhaela Hearn,**  
Miller & Hearn

**WESTERN REGIONAL REPRESENTATIVE**

*Vacant*

**EXECUTIVE DIRECTOR**

**Ashley Woodford**

**SQUID PRO QUO**

Published by the Canadian Bar Association  
- Newfoundland and Labrador Branch

107-55 Elizabeth Avenue  
St. John's, NL A1A 1W9  
Phone: (709) 579-5783  
Email: [cba-nl@cba.org](mailto:cba-nl@cba.org)  
Web: [www.nl-cba.org](http://www.nl-cba.org)  
Twitter: @CBA\_NL

# TABLE OF CONTENTS

- 3** President's Report
  - 4** Legislations and Law Reform Committee Reviews The *Lands Act*
  - 5** Reforming the Law on Adverse Possession Proposed Changes to the *Lands Act*
  - 6** Rule 6 Changes
  - 7** National Update
  - 9** Professional Development
  - 10** Days Gone By
- 

Opinions expressed herein are not necessarily those held by CBA-NL. *Squid Pro Quo* is a publication of CBA-NL and is intended to provide a service to members by informing them of Branch activities and matters of general interest.

Members are encouraged to submit articles for publication, though articles submitted may, at the discretion of the magazine committee, be edited for brevity and clarity, in which case the author will be consulted prior to publication.

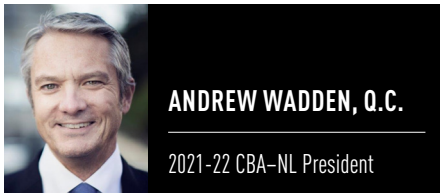
*Squid Pro Quo* will accept advertising, though space for this purpose is limited. Advertisers or members wishing to purchase advertising space should contact the CBA-NL office, by email at [cba-nl@cba.org](mailto:cba-nl@cba.org), or by phone at (709) 579-5783 for more information.

*Squid Pro Quo* can also be found on the CBA-NL website at [www.nl-cba.org](http://www.nl-cba.org).

## LETTERS TO THE EDITOR

*Squid Pro Quo* welcomes letters to the editor from CBA-NL members wishing to express observations, opinions, corrections, brief reports, or comments on previously published articles. Letters to the Editor must not exceed 250 words in length. Published letters will be edited for clarity and length without the prior approval of the author. Unpublished letters will not be returned. Signatures of all authors are required, together with the author's contact information. Pen names and anonymous letters will not be published. CBA-NL will not accept responsibility for statements made by contributors.

# PRESIDENT'S REPORT



It is a pleasure to offer the President's Report in the re-launched *Squid Pro Quo*.

CBA-NL began publishing a member newsletter over thirty years ago. Originally called *Newfoundland Newsletter*, the publication was renamed *Squid Pro Quo* in 1996. Past issues can be found on our website, [www.nl-cba.org](http://www.nl-cba.org). To mark our re-launch, we hope that you enjoy some "throwback" photos of past CBA events in this issue.

*Squid Pro Quo* will now be published twice per year and will contain familiar features like *In Personam* and *Beyond the Overpass*, along with information on CBA activities, and news and information on issues that impact the legal community in Newfoundland and Labrador. In this issue, you will find an update on the Law Society Rule 6 Changes, a summary of our significant Legislation and Law Reform initiative on proposed changes to the *Lands Act*, greetings from the CBA National President, and more.

Building community and connection is an important part of the work of the CBA. While the pandemic has been challenging, we have been thrilled to safely return to in person programming.

In October I had the honour to attend and speak at the swearing in of Justice Philip W. Osborne. It was a wonderful ceremony

attended by many, including family and friends of Justice Osborne.

On November 19, we were pleased to host the 2021 Bar Admission Course Reception. Over 70 bar admission course students, their principals, course instructors and members of the judiciary were in attendance.

On April 29, CBA-NL held a CLE program with special guest the Honourable Russell Brown, Supreme Court of Canada. Many thanks to Justice Brown, Justice William Goodridge (Court of Appeal of Newfoundland and Labrador), Associate Chief Justice Rosalie McGrath (Supreme Court of Newfoundland and Labrador), and Minister John Hogan, Q.C. (Minister of Justice and Public Safety, Attorney General), and Jennifer Reid (McInnes Cooper), for joining us and speaking at the event.

On June 10, I had the pleasure of bringing greetings on behalf of CBA-NL at the Administration of the Oaths of Office of Associate Chief Justice Rosalie McGrath. It was another marvelous ceremony, attended by many family and friends, and members of the bar.

In late June, I attended a CBA strategic planning session and President's dinner in Ottawa, along with Branch Presidents and the National Board of Directors. It was a pleasure to represent the Branch at these meetings and to connect with CBA leadership from across the country. We focused on the future of the CBA. Follow up meetings which I will attend virtually, are scheduled for August.

As I write this, the Branch is preparing

for the 2022 President's Reception, taking place on Thursday, August 18 at the Emera Innovation Exchange, Signal Hill. During the President's Reception, *The Honourable Robert Wells, Q.C. Award*, will be presented for the first time. This CBA-NL award, previously known as the *Distinguished Public Service Award*, has been renamed after the late Honourable Robert Wells, Q.C.

The award recognizes and celebrates the valuable contributions CBA-NL members make to community and charitable causes. Be sure to check out the fall issue of *Squid Pro Quo*, which will include photos of the event, and an *In Personam* with the recipient of the 2022 Honourable Robert Wells, Q.C. Award.

CBA-NL activities and operations would not be possible without the support of our many volunteers, and our diligent Executive Director, Ashley Woodford. As we approach a new CBA year (September 1) I hope that you will consider getting involved, as a member of the Branch Executive Committee, as a Section Chair, or contributor to *Squid Pro Quo*. Please make the CBA part of your legal career.

It has been a privilege to serve as CBA-NL President. We have continued to promote and advance the interests of our profession, in part by way of education offerings, and continued dialogue with our provincial government. As always, we welcome suggestions and feedback. I will soon hand over the leadership to Joe Thorne, and I am confident our branch will be in skilled and attentive hands. If there is any way we can assist you as a member, please get in touch.

# LEGISLATION AND LAW REFORM COMMITTEE REVIEWS THE *LANDS ACT*



**GREG J. FRENCH**

2021-22 CBA-NL Past President

In May of 2021, the CBA-NL Legislation and Law Reform Committee released its report into recommended changes to the Lands Act and adverse possession against the Crown.

The Report is the first of its kind issued by our Branch's new Legislation and Law Reform Committee. The Committee reached out to the membership for positions in November 2020 and released a discussion paper for further comment by

the membership in January 2021.

The Committee of five volunteer members reviewed the membership's comments and a report was drafted. This report was submitted to government, including to provincial political party leaders and to cabinet ministers for the responsible departments.

Discussions remain ongoing with government on this matter, and the CBA-NL continues to pursue the recommendations of the report.

On May 9, 2022, Bonavista MHA Craig Pardy presented a petition in the House of Assembly recommending changes to section 36 of the Lands Act, based on constituent complaints, some of which were identified

in the course of the Committee's work. Mr. Pardy's recommendations echoed those of the Committee. Other MHAs expressed their concerns regarding issues in their own districts, similar to those identified by our Report. Debate in the House suggests that the Minister and government are aware of our members' concerns, and that review remains ongoing with the Crown Lands Administration. Our Branch has extended its offer to assist the Minister and to the Department in the course of their review, to ensure that any reforms address the concerns expressed in our review.

The full report, *Reforming the Law on Adverse Possession, Proposed Changes to the Lands Act*, can be found at [www.nl-cba.org](http://www.nl-cba.org).



## CBA TRUTH AND RECONCILIATION

Our work in understanding and acknowledging Canada's true history, and engaging in reconciliation, is an ongoing process. We invite you to explore the CBA Truth and Reconciliation Toolkit for law firms and read about the work the CBA is doing to advocate for the rights of Indigenous peoples in the Canadian legal system. To learn more visit [www.cba.org/Truth-and-Reconciliation](http://www.cba.org/Truth-and-Reconciliation).

# REFORMING THE LAW ON ADVERSE POSSESSION PROPOSED CHANGES TO THE *LANDS ACT*

## EXECUTIVE SUMMARY

Based on the historical root of title in Newfoundland and Labrador and the volume of possessory land claims in existence to the current day, the CBA-NL Legislation and Law Reform Committee recommends action be taken to amend section 36 the Lands Act.

The status quo is unsustainable and has resulted in a disconnect between law and practice, which is increasingly becoming an obstacle to the proper functioning of real estate law in Newfoundland and Labrador. This has real implications for economic development and government control over public lands. The current system is actively inhibiting economic realization on property rights, particularly in rural areas, by tying up land title indefinitely.

The problems identified in this report are not theoretical. Examples have been provided of instances where these problems have occurred in practice. People in this province have been dispossessed of their legitimate land

holdings by government's intervention and by failures of formal title.

We recommend a running limitation period of 40 years of open, notorious, continuous, and exclusive use and occupation, in order to allow land title to vest for those already in possession. This will allow a confirmation of existing title, which has continued undisturbed for many years, which will improve Crown Lands' goals of land use management and planning control. This limitation period should also take into consideration historically-registered title documents at the Registry of Deeds, payment of municipal taxes, and other indicia of bona fide claims.

We also recommend that government undertake a reconciliation process to harmonize existing and legitimate private property claims into the Crown Lands records. This would give certainty to both the Crown and the public of title claims, and the scope of private land ownership in this province. This would

also assist in the modernization of our land tenure system in Newfoundland and Labrador toward the Land Title system that predominates throughout the rest of Canada. We recommend an administrative body be established, separate from the Crown Lands Administration, to process lawyer-certified title for entry into the Crown Lands system.

We also recommend working cooperatively with the Law Society of Newfoundland and Labrador to establish a uniform standard for divesting the Crown on possessory claims.

We also recommend amendments to municipal legislation to give greater power to towns and cities to dispose of occupied Crown Lands through tax sale procedures. We believe this will improve revenue generation for municipalities and assist in straightening out land title generally.

### *Congratulations!* 2022 QUEEN'S COUNSEL APPOINTEES

CBA-NL extends congratulations to the senior lawyers recognized for their achievements and contribution to the legal profession with the honorary title of Queen's Counsel. As announced on January 21, 2022: **Renée Appleby, Geoff Budden, Andrew A. Fitzgerald, Michael Ladha, Carey Majid, Chris Peddigrew, Randall (Randy) Smith, Tauna M. Staniland, Lloyd Strickland and Rosellen Sullivan**, and as announced on July 20, 2022: **Kenneth J. Brothers, Denis Mahoney, Beth McGrath, Gary P. Mooney and Stacey O'Dea**.

# RULE 6 CHANGES

## CHRISTIAN HURLEY

Director of Admissions and Education,  
Law Society of Newfoundland and Labrador

In 2018, the Law Society's Education Committee struck a subcommittee to thoroughly review the existing rules related to admissions and education and to propose such amendments as deemed appropriate. The intent of this endeavour was to implement new rules that would modernize and enhance the regulatory framework, address outdated provisions and inconsistencies, and create administrative efficiencies.

The revised rules, which came into effect on January 1st, 2022, were approved by Benchers on June 4th, 2021. Notable changes include the following:

**Rule 6.06(1)(b): An applicant seeking admission to the Law Society as a student must have graduated from an approved law school or obtained their Certificate of Qualification from the National Committee on Accreditation not more than 3 years prior to the date they propose to commence their articles.**

As a result of this revision, the Law Society will no longer admit students following their second year of law school. This revision promotes a more consistent articling experience and brings Newfoundland and Labrador in line with the approach taken by other Canadian jurisdictions.

**Rule 6.06(5): Students will now**

**commence their articling term on either June 1st or January 30th and there are deadlines for applications to be filed.**

Requiring applications to be filed by one of two deadlines ensures a more consistent articling experience for each cohort of students, creates administrative efficiencies, and reduces the number of Call to the Bar ceremonies held each year from four to two.

Complete applications for admission to the Law Society as a student must be submitted to the Law Society no later than:

- a. the second Monday in May, for admission to the articling term commencing on June 1st; or
- b. the second Monday in December, for admission to the articling term commencing on January 30th.

**Rule 6.07(1)(c): Proposed principals must not be, or have been, subject to restrictions or proceedings that would impair their ability or fitness to act as a principal.**

This revision gives the Education Committee the authority to make further inquiry into a proposed principal's suitability to mentor a student. Where the Committee has concerns, it may conduct or authorize an investigation and impose such conditions, restrictions, or requirements as it determines advisable.

**Rule 6.08(4): Articles may be completed on a part-time basis.**

In an effort to be more inclusive and accommodating, the Education

Committee may permit a student to complete their articling term on a part-time basis. Requests to complete articles on a part-time basis must be approved by both the Education Committee and the student's current/proposed principal and the applicant must provide the Committee with a detailed description of the working arrangement. As with full-time articling students, students completing their articles on a part-time basis must be called to the bar within 3 years from the date they commenced their articling term (see below).

**Rule 6.08(5): A student who has not been called to the bar within 3 years from the date they commenced their articling term shall be removed from the register of students.**

This provision is intended to address the situation where a student has failed to complete their articling term or pass their bar admission examinations and has not rectified the issue in a reasonable period of time.

**Rule 6.09(2): Students must receive such experience and instruction during their articling term as the Committee may direct.**

Rather than including a rigid enumeration of subject areas and skills in the Rules that may become irrelevant or incomplete over time, the Committee shall now provide students with details regarding required experience and instruction, in writing, upon their admission as a student. This enables the Committee to review and update these requirements regularly and ensures that they are front of mind for

**CONTINUED ON NEXT PAGE**



**CONTINUED FROM PREVIOUS PAGE**

students and principals before the articling term commences.

**Rule 6.10: Appearances by Students Before Courts and Tribunals**

The previous list of permitted appearances before courts and tribunals has been clarified and expanded upon. Prior to making their appearance, students must obtain the client's consent, in the required form, which shall be filed with the Director of Admissions and Education as well as the presiding judge, board, commission, tribunal, or similar body, as the case may be.

**Rule 6.12(1): Student are permitted to write no more than two supplementary bar admission examinations. Students must obtain the Committee's permission to write a supplementary examination in a subject in which they**

**scored less than 40%.**

The proposed revision reflects the Education Committee's longstanding approach, which was not previously reflected in the Rules.

**Rule 6.17: Mandatory Continuing Professional Development**

The Mandatory Continuing Professional Development Requirements, previously set out in a standalone document, have been incorporated into Rule 6 for ease of reference. The term "continuing legal education" has been changed to "continuing professional development", which is more commonly used by professional regulatory bodies and more accurately captures certain activities that enhance the competence of lawyers but may not be necessarily legal in nature such as: office technology, mindfulness, and intercultural

competency.

**Rule 6.18: Admissions and Education Hearings**

The Committee has used the authority conferred pursuant to s. 35(6) of the Law Society Act, 1999 to guide its hearings related to the character and fitness of applicants seeking admission as a student or enrollment as a member; however, the procedures related to such hearings were not reduced to writing. The procedures relating to such hearings can now be found at Rule 6.18.

Anyone with questions related to the above-noted Rule amendments, or any matter related to admissions and legal education, is encouraged to contact Christian Hurley, Director of Admissions and Education by email ([churley@lsnl.ca](mailto:churley@lsnl.ca)) or phone (709-722-4898).



CBA-NL PROFESSIONAL DEVELOPMENT  
**LUNCH & LEARN**

Have a topic suggestion, or interested in presenting at an upcoming professional development seminar or lunch and learn? Let us know by email at [cba-nl@cba.org](mailto:cba-nl@cba.org).

# NATIONAL UPDATE

## STEPHEN ROTSTEIN

2021-22 CBA National President

What a pleasure it is to be writing for the inaugural edition of the relaunched *Squid Pro Quo*, the CBA-NL Branch magazine. I am delighted to offer my congratulations on this achievement.

Over in the National office, employees have been busy delivering value to our members in the form of webinars and professional development programs. In these uncertain and constantly changing times, belonging to the CBA is more valuable than ever. Among other benefits, members can count on their Association to keep them up to date with information that is both interesting and relevant.

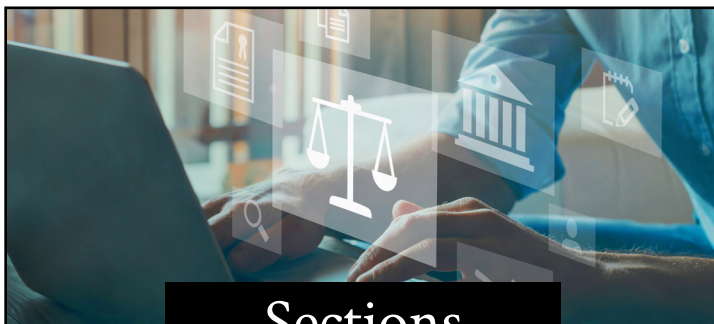
I am pleased to report on our advocacy work and the strong relationships the CBA maintains with legal and justice system partners in Canada and internationally. I was delighted to represent our more than 36,000 members at the Opening of the UK Courts in September, at the first Duty Counsel Day in October, and to wish Justice Mahmud Jamal the best on behalf of every CBA members at the Supreme Court.

With proper precautions and following public health directives, I have been able to travel and meet in person with CBA members in various branches across the country. I always look forward to meet our members where they are, in three full dimensions.

I look forward to ongoing collaboration between the National office and the Newfoundland and Labrador Branch as we continue providing value to our CBA members.



CBA National President Stephen Rothstein, speaking at the 2022 CBA Annual General Meeting



## Sections

To keep our records up to date and to ensure you receive notices tailored to your practice and/or interest area(s), please complete the online Section Registration Form available at [www.nl-cba.org](http://www.nl-cba.org).

## PRO BONO INITIATIVES

Since 2005, the CBA National Immigration Law Section has offered pro bono services in times of natural or political disaster. These initiatives aim to provide services, without charge, to individuals affected by ongoing crisis who wish to come to Canada.

Currently, pro bono services are available for individuals affected by the crisis in Afghanistan and the crisis in Ukraine. Information on these initiatives, can found at [www.cba.org](http://www.cba.org).





# PROFESSIONAL DEVELOPMENT

The CBA is excited to announce we are going in-person this fall! Join us on October 20 & 21, 2022, for the **National Competition Law Fall Conference**, on November 18, 2022, for the **National Insolvency Law Conference** and on November 18-19, 2022, for the joint **National Administrative Law and Labour and Employment Law Conference**. Visit [www.cba.org/Professional-Development](http://www.cba.org/Professional-Development) for more details!



## EDI SERIES

(Equality, Diversity and Inclusion)

Recordings of the Spring 2022 CBA **Equality, Diversity and Inclusion (EDI) series** are now available, along with the Fall 2022 series schedule.

The EDI series explores a range of equality issues in the Canadian legal system and the legal profession and sheds light on the systemic challenges the legal profession needs to confront to address racism and all forms of discrimination. It also helps participants enhance their cultural competence and offers practical advice for promoting equality in the legal profession.

## FALL 2022 EDI SERIES WEBINARS

Sep. 26, 2022	<b>Diversity on the Bench</b> (Part 1) 12:30 pm - 2:30 pm ET
Oct. 3, 2022	<b>Diversity on the Bench</b> (Part 2) 12:30 pm - 1:30 pm ET
Oct. 4, 2022	<b>FSM Topic TBD</b> 12:30 pm - 1:30 pm ET
Oct. 17, 2022	<b>Indigenous Legal Traditions - Professional Obligation to Learn: Practical Implications for Lawyers and Judges</b> 12:30 pm - 1:30 pm ET
Oct. 31, 2022	<b>Overcoming Barriers in the Profession Series</b> Panel 1: Indigenous Lawyers 12:30 pm - 1:30 pm ET
Nov. 14, 2022	<b>Overcoming Barriers in the Profession Series</b> Panel 2: Disability & Mental Health 12:30 pm - 1:30 pm ET
Nov. 28, 2022	<b>Overcoming Barriers in the Profession Series</b> Panel 3: Internationally Trained Lawyers 12:30 pm - 1:30 pm ET

For more information and to register, visit [www.cba.org/Professional-Development](http://www.cba.org/Professional-Development).

# CBA-NL TODAY AND DAYS GONE BY



**FROM TOP:** (1) CBA-NL Past Presidents, representing years 1959-1996, at the CBA-NL Celebration of the 100th Anniversary of the founding of the CBA (St. John's, November 1996); (2) Judges Panel at the April 29, 2022 CBA-NL CLE Program (left to right: Justice Rosalie McGrath, Supreme Court of Newfoundland and Labrador, Justice Russell Brown, Supreme Court of Canada, Justice William Goodridge, Court of Appeal of Newfoundland and Labrador, Andrew Wadden, Q.C., CBA-NL President); (3) Sheri Wicks presenting Chris Pike with the 2012 CBA-NL Distinguished Public Service Award; (4) Andrew Wadden, Q.C., CBA-NL President, and Christian Hurley, Director of Admissions and Education, Law Society of NL, speaking at the 2021 Bar Admission Course Reception, hosted by CBA-NL; (5) Andrew Wadden, Q.C., President, Ashley Woodford, Executive Director and Greg French, Past President, attending the CBA President's Dinner, June 2022 in Ottawa.





**FROM TOP LEFT:** (1) Administration of the Oath of Office Ceremony for The Honourable Philip Osborne, Supreme Court of Newfoundland and Labrador, October 5, 2021; (2) The Honourable John Hogan, QC, Minister of Justice and Public Safety, Attorney General, speaking at the April 29 CBA-NL Luncheon, Delta Hotel, St. John's; (3) The Honourable Russell Brown, Supreme Court of Canada, speaking at the April 29th CBA-NL CLE Program, Delta Hotel, St. John's; (4) 1996-1997 CBA-NL Executive Committee; (5) The Honourable Derek Green speaking at a 2009 CBA-NL Luncheon; (6) The late Justice Seamus O'Regan and Justice Lois Hoegg at the 2010 Bar Admission Course Reception hosted by CBA-NL; (7) Susan Gover with The Honourable Thomas Cromwell at the 2012 CBA-NL Mid-Winter Meeting; (8) John Hoyles (right), former CBA CEO presenting archival material to CBA-NL on behalf of the Hoyles family. The materials donated belonged to Sir Hugh W. Hoyles, former Prime Minister and Chief Justice of Newfoundland.





THE CANADIAN  
BAR ASSOCIATION  
Newfoundland & Labrador Branch