

**Remarks by Chief Justice J. Derek Green  
On the occasion of the administration of oaths of office to  
Newly-appointed Masters of the Supreme Court**

**Court of Appeal  
St. John's, NL  
December 15, 2009**

Before commencing the regular business of the Court this morning, we will be administering the oaths of office to four newly-appointed Masters of the Supreme Court. They are: **Robert B. Andrews, Q.C., Dennis McKay, Q.C., David Mills, Q.C. and Stephanie Newell, Q.C.**

I welcome on the Bench with me this morning, Chief Justice David Orsborn of the Trial Division. Although the appointment of Masters is the prerogative of the Chief Justice of the Court of Appeal, the fact is that most of the work done by Masters is Trial Division work, so I felt that I would give Chief Justice Orsborn a ringside seat so he can eyeball the merchandise, so to speak, as the new Masters are being sworn in.

I will now ask the Registrar, as Chief Master, to read the Commission appointing the four Masters in question.

[The Registrar reads the Commissions]

I will now ask the Registrar, assisted by the Deputy Registrar, to administer the oaths or affirmations of allegiance and of office.

[The Registrar and Deputy Registrar administer the oaths of allegiance and of office]

Congratulations. This is the first time, I believe, that the oaths or affirmations of office of newly-appointed Masters have been administered in a public ceremony in court. As noted, the appointment of Masters is the prerogative of the Chief Justice and I felt that given the importance of the office of Master, it was fitting that some public recognition be given to the persons who have agreed to undertake the responsibilities associated with the office. Let me also recognize and welcome several existing masters – Robert Sinclair, David Eaton, Glenda Best and Chesley Crosbie – and thank them for their presence in the Court this morning.

Let me say that I am very pleased that each of you has agreed to undertake these responsibilities in the service of the administration of justice in the province. I think it is safe to say that – notwithstanding the reference to ‘profits and emoluments’ in the Commission that was read - a person does not agree to occupy the office of Master for the remuneration that will result. The fees that are chargeable to litigants for the work masters do are not nearly sufficient to compensate for the lost opportunity of earning regular legal fees when performing legal work for clients. By giving of their time and expertise in performing very important quasi-judicial functions, masters provide a very important service and we are grateful for the sacrifice they make in assisting the court system to run smoother and more efficiently than it otherwise would.

The office of master of the court is a very ancient one. Its origin is to be found in England in the Royal clerks who staffed the office of the Lord Chancellor. They have existed probably as far back as Norman times but at least since the reign of Edward the Confessor. Originally they were priests who knew something about civil and canon law. It was not until the Reformation that they ceased to be clerics and, as a result of a statute enacted in 1522 they were allowed to marry and still hold office.

Their duties were not exclusively of a legal nature. They were involved in matters of foreign affairs, did work for the King’s Council and for Parliament. The office, of course, evolved over time. As the Court of Chancery developed under the Lord Chancellor, the clerks – or masters as they eventually came to be called – became assistants to that developing court. Eventually, they took over functions performed by the Lord Chancellor arranging proceedings and settling preliminary matters prior to the hearing of causes. This was the beginning of the work masters now do in some jurisdictions dealing with interlocutory applications. They also took work from the courts on references to inquire into matters, take evidence and report back to the court on matters of fact. This was especially so in the area of taking accounts in estates and commercial matters.

Slowly, the office moved away from the notion of assisting the judge to become more of an independent decision-making office in certain defined areas.

There is much more to the history of the office of Master than what I have just recited. But that's all we are going to get this morning. Suffice it to say that today, the office in Canada varies in the functions it performs. In some places like Ontario and Alberta, masters are full-time office holders who work in the court. They perform many of the functions a judge could do in Chambers, ruling on all sorts of pre-trial applications. In others, like this province, masters have traditionally had a more limited role involving, primarily, taxing bills of costs and lawyers' accounts. Occasionally, however, masters in this jurisdiction are also involved in taking accounts in estate matters and mortgage foreclosures, assessing damages and acting as referees under Rule 43 of the rules of court, to name a few functions. In fact, I believe that masters can be put to greater uses under existing court procedures than they are presently doing.

In short, the office of master can – and in my opinion should – involve a host of quasi-judicial functions within the court system. One writer described the characteristics of a master as follows:

He [or she] needs not only the judicial skills but becomes in turn an administrator, a spiritual advisor, an accountant, a conveyancer, an auctioneer and a detective.<sup>1</sup>

While that may be overstating the case a little, nevertheless it can safely be said that the master plays an important part in our system. I am glad we have four more individuals – to join the existing 18 – who have undertaken the task.

**Robert Andrews** is a senior partner in the St. John's firm of Ottenheimer Baker and has 34 years of litigation and court experience to bring to the office. **Stephanie Newell**, a partner in the St. John's firm, O'Dea Earle, has 20 years of experience, including considerable expertise in the area of family litigation. Together, they will strengthen the master complement within the Avalon area, which has recently lost two very experienced masters, Charles White and Mark Pike, to the bench.

**Denis McKay** is a senior official with the Legal Aid Commission in Labrador and has had 27 years of litigation experience in all levels of courts in the province. At the moment, there is no master resident in Happy-

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<sup>1</sup> R. E. Bells, "The Chancery Master" (1961), 77 L.Q.R. 331 at 352-353.

Valley/Goose Bay. His appointment will improve access to masters' services in this important area of Labrador. **David Mills**, of the Mills & Gallant firm in Stephenville, has been practicing for 26 years and has extensive litigation experience. Like, Mr. Mckay in Labrador, Mr. Mills' appointment will fill a void in masters' coverage on the west coast, as there is presently no master resident in the Stephenville area.

Let me once again express my appreciation to each of you for agreeing to become a Master of the Supreme Court. Go forth and do justice!

We will adjourn for five minutes before dealing with the regular business of the court, who knows, one of these days, it may be masters who will be performing these functions!).