



Ontario Justice Education Network

Handout: Traditions of the Courts

The Canadian judicial system has inherited many traditions from the English court system. All of the traditions that accompany the court process serve to lend dignity to the judicial proceedings, to distinguish the courts from other decision-making tribunals, and to remind people that the administration of justice is central to the court system.

The Coat of Arms

There are a variety of coats of arms on display in Ontario courtrooms. In many of the Superior Courts the 'Royal Coat of Arms' is found. This coat of arms identifies the person who is the head of the state. The Superior Court judges sit under the Royal Arms to show that they represent the monarch, as appointees of the federal government.



Older Ontario courtrooms display the 'Royal Arms of the Monarchs of England', with the English 'Lion' and the Scottish 'Unicorn' supporting a shield with a Royal Crown above it. The shield shows various Royal Emblems of the UK (the three Lions of England, the Lion of Scotland and the Harp of Ireland). The Shield is surrounded by a garter bearing the motto "evil to him who thinks evil" in Latin, which symbolizes the Order of the Garter, an ancient order of knighthood of which the Queen is sovereign. Below the garter and the shield is a banner with the motto "God and My Law" (a statement of the rule of law). The official plant of the United Kingdom - the rose, thistle, and shamrock, are displayed beneath the Shield. Courtrooms of the Court of Appeal for Ontario in Osgoode Hall, the historic courtroom at Old City Hall in Toronto, and some other pre 1931 Ontario courtrooms display this coat of arms.



When Canada became sovereign from the UK in 1931, the "Arms of Canada" began to appear in courts. The banner surrounding the shield in this coat of arms reads "they desire a better country" in Latin (the motto of the Order of Canada). The design reflects the importance of the four founding nations of Canada – the Royal Lions of England, the Royal Lion of Scotland, the Royal Fleur-de-lis of France, and the Irish Harp of Tara. These symbols are set above three maple leaves. The flags that appear in the Arms of Canada are a Royal Union flag and the flag of Royal France.

ONTARIO

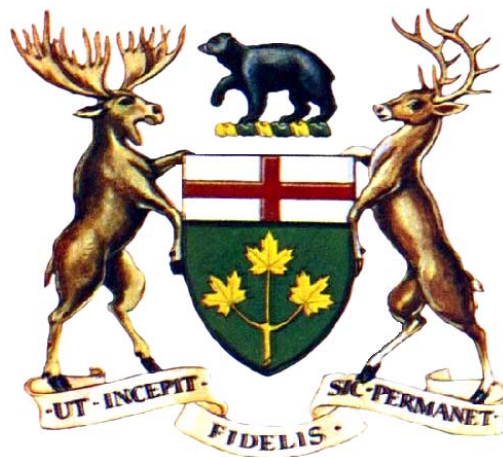


In many Superior Courts of Justice, the coat of arms on display features a black shield with gold scales of justice. Above the scales is a gold maple leaf and Royal Crown. This coat of arms also features a Shield of Arms of Ontario and underneath the word "Justitia". The Chief Herald of Canada assigned this coat of arms to the Superior Court on 11 January 1992.

At the same time as this coat of arms was granted, a badge was granted "...to be used to distinguish the judges of the said court and by such other judges as are appointed by Her Majesty's letters patent under the Great Seal of Canada...". Superior Court judges wear this badge on their red sash. It features a gold sun with a Royal Crown. On the sun is a maple leaf with a gold Scales of Justice.



Ontario Court of Justice judges are appointed by the Province. Ontario Court of Justice courtrooms might display the Royal Coat of Arms or the Arms of Canada, depending on the age of the courthouse; they also display the Ontario Provincial Coat of Arms. This coat of arms displays the Shield of Arms that was granted to Ontario by Queen Victoria in 1868. It consists of three maple leaves on a green background below the Cross of St George. The crest is a black bear standing on a gold and green wreath, with a moose and a deer supporting the shield. The Latin motto reads "Ut inceptis Fidelis sic permanet" which translates as "loyal she began, loyal she remains".





Courtroom Attire

Judges wear grey and black striped pants or skirts, black waistcoats or jackets with heavy cuffs and buttons, and long black silk gowns (robes) that are open at the front - Supreme court judges' robes are red. Robes are worn for various reasons: they identify an individual as a judge; they are a historical symbol of a system that has endured over time; they also remind the judge that when s/he is robed s/he is sitting as judge and must act in a certain way.

A sash hangs over the judge's right or left shoulder (depending on the court the judge sits in) and is fastened on the other side. Judges wear white shirts with wing collars, and hanging down from the neck are "tabs" or "bands", which are two little pieces of white fabric that hang down from a band attached around the collar. Some have suggested that they represent the Old and New Testaments or the tablets of the Ten Commandments as a reminder of the responsibilities of judges and lawyers. Lawyers first began wearing them in the 17th century. Some say that the winged collar shirts and tabs became the standard in the 20th century so that it was certain that lawyers would look neat and presentable when appearing before the courts.

In most Superior Court hearings, lawyers wear gray or black striped pants or skirts, black waistcoats and knee length robes, white shirts with winged collars and tabs. This ensures the lawyers appear as equals before the judge, and shows that they belong to the profession. Lawyers appearing in other Ontario courts and administrative tribunals wear professional attire, such as a suit, and do not wear robes. Lawyers do not wear sashes.

The Judicial Sash

All judges in Ontario courts wear red sashes over their robes. Judges of the Ontario Superior Court wear the sash over their right shoulder, with the ends attached on the left side, while judges of the Ontario Court of Justice wear their sash over their left shoulder with the ends attached on the right side. The Superior Court judges also wear a badge on their sash. The badge features a gold sun with a Royal Crown. On the sun is a maple leaf with a gold Scales of Justice.



Ontario's justices of the peace also wear sashes, but they are dark green. They wear their sashes over the left shoulder, with the ends attached on the right side.

The sashes that Ontario's judges wear are remnants of the English legal system, as are other parts of judges' and lawyers' dress. While judges' black gowns only go back to 1685 (before that counsel and judges wore coloured gowns) the red sash can be traced back to well before 1635. The sash was once known as the serjeant's tippet, because senior English lawyers were known as Serjeants-at-Law. In England the sash has also been called the "Gun Case" because it has the size and shape of a gun case, a woollen container for storing a rifle or shotgun. One theory behind the sash is that the Serjeants-at-Law and judges in early times, who were mostly old men, added this scarf or hood (sash) in order that they might wind them round their necks for warmth when riding from one court town to the next.

In England there are elaborate rules for wearing the sash. It is worn at Nisi Prius courts (trial courts), at afternoon church services, when attending the House of Lords or Privy Council, when attending on the King or Queen, and when dining with the sheriff. It is to be worn on the right side and pinned towards the left shoulder, secured near the waist. In Canada, judges and justices of the peace wear their sashes and robes when presiding over court or when undertaking formal judicial responsibilities.



The Oath

Traditionally, the oath has served various functions within the justice system. Individual judges swear an oath upon their appointment to the bench as part of their promise to fulfil their judicial duties. The oath was also used by those asking the courts to accept their evidence as the truth. Before the use of contracts, individuals relied on oaths to get others to accept their word that they would fulfil their part of a bargain. Today oaths are regular part of the court process when entering evidence. There is the understanding that certain witnesses might lie if their evidence was not given under oath. The brief ceremony of asking a witness to take an oath is a way to convey the seriousness of giving evidence and to signal that lying under oath can result in a criminal charge of perjury. When affidavits are sworn under oath, the court is assured that special care was taken in the preparation of the affidavit and that the person swearing the affidavit believes what is written inside it to be the truth. Witnesses can choose whether they would like to swear on a bible, or a holy book of another religion, or to solemnly affirm they will tell the truth.



The Bow

A counsel bows both when entering a courtroom, and upon the judge entering the courtroom, as a sign of respect for the judicial office. A judge represents the Queen and the embodiment of sovereignty, and for this reason is accorded such respect. A court bow resembles a dignified nod. Technically it is called a "neck bow" during which the individual makes a slight inclination at the waist and drops his/her eyes.