

The Law Society of Newfoundland and Labrador

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## 2004 - 2005 Annual Report



The Law Society of Newfoundland and Labrador  
Annual Report 2004-2005  
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Gerald Squires, RCA, LL D

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**This Report covers the period  
May, 2004 to April, 2005**

The Law Society of Newfoundland and Labrador

**Annual Report**  
**2004 - 2005**



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## **BENCHERS**

President: Brian F Furey  
Vice-President: Edward M Hearn, QC

### **ELECTIVE BENCHERS:**

Eastern District: John D Brooks, QC  
Augustine F Bruce  
William A Cadigan  
Brian F Furey  
William H N Goodridge, QC  
Sheila H Greene  
Paul M McDonald  
Irene S Muzychka  
Stephanie L Newell  
Glen L C Noel  
Terry G Rowe  
Marina C Whitten

Central District: Karl R S Inder  
Jacqueline Jenkins

Western District: M Beverley L Marks, QC  
George L Murphy

Labrador District: Edward M Hearn, QC

**APPOINTED BENCHERS:** John P Greene  
Linda Harnett  
C Ted Janes  
Bert Riggs

***EX OFFICIO* BENCHER:** Barry R Sparkes, QC

**HONORARY BENCHERS:** Lewis B Andrews, QC  
Jeffrey P Benson, QC  
Reginald H Brown, QC  
V Randell J Earle, QC  
J David B Eaton, QC  
Francis P Fowler, QC  
J Vernon French, QC  
The Hon Chief Justice J D Green  
The Hon Gloria Harding  
Thomas R Kendell, QC  
R Barry Learmonth, QC  
Dana K Lenehan, QC  
Augustus G Lilly, QC  
Dennis C MacKay, QC  
G David Martin, QC  
M Francis O'Dea, QC  
Thomas J O'Reilly, QC  
Ernest G Reid, QC  
John F Roil, QC  
The Hon Mr Justice D Russell  
Robert M Sinclair, QC  
The Hon Mr Justice R Wells

**TREASURERS/PRESIDENTS  
OF THE LAW SOCIETY**

**SECRETARIES/VICE-PRESIDENTS  
OF THE LAW SOCIETY**

1834-1845 Records of the Society were destroyed in the Great Fire of June 9, 1846

1846 Hon Wm B Rowe, QC

1849 Bryan Robinson, QC

1852 E M Archibald

1855 F B T Carter

1866 Wm V Whiteway

1869 Robert J Pinsent, QC

1870 Wm V Whiteway

1879 Robert J Pinsent, QC

1881 J I Little, QC

1885 Robert J Kent, QC

1893 Sir Wm V Whiteway, KCMG, QC

1908 Sir James S Winter

1911 Daniel J Greene, KC

1912 Donald Morrison, KC

1919 J A Clift, KC

1923 P J Summers, KC

1927 W R Howley, KC

1941 C O'N Conroy, KC

1947 John G Higgins, QC

1958 R.S Furlong, QC

1959 G M Stirling, CM, QC

1971 R W Bartlett, QC

1974 Donald A Mercer, QC

1977 Robert Wells, QC

1981 Francis P Fowler, QC

1982 Ernest G Reid, QC

1983 Thomas J O'Reilly, QC

1984 M Francis O'Dea, QC

1985 Peter W Strong, QC

1986 David L Russell, QC

1986 G David Martin, QC

1987 J Vernon French, QC

1988 Lewis B Andrews, QC

1989 John F Roil, QC

1990 J Derek Green, QC

1991 R Barry Learmonth

1992 Thomas R. Kendell, QC

1993 Augustus G Lilly, QC

1994 V Randell J Earle, QC

1995 Reginald H Brown, QC

1846 E M Archibald

1847 H W Hoyles

1849 F B T Carter

1855 George Hogsett

1856 Henry A Clift

1869 M W Walbank

1866 Robert J Pinsent

1869 M W Walbank

1877 T J Keough, QC

1879 Prescott Emerson, QC

1885 Prescott Emerson, QC

1889 A J W McNeily, QC

1895 D M Browning

1914 C O'N Conroy

1916 C H Emerson, KC

1919 Rt Hon Sir Wm Lloyd

1937 J G Higgins, QC

1947 J A Barron, QC

1958 G M Stirling, CM, QC

1959 T A Hickman, QC

1967 D A Mercer, QC

1974 Noel Goodridge, QC

1976 Francis P Fowler, QC

1981 Ernest G Reid, QC

1982 Thomas J O'Reilly, QC

1983 M. Francis O'Dea, QC

1984 Peter W Strong, QC

1985 David L Russell, QC

1986 G David Martin, QC

1986 J Vernon French, QC

1987 Lewis B Andrews, QC

1988 John F Roil, QC

1989 J Derek Green, QC

1990 R Barry Learmonth

1991 Thomas R Kendell, QC

1992 Augustus G Lilly, QC

1993 V Randell J Earle, QC

1994 Reginald H Brown, QC

1995 Dana K Lenehan, QC

1996 Gloria Harding

1996 Dana K Lenehan, QC  
1997 Gloria Harding  
1998 J David B Eaton  
1999 Dennis C MacKay  
2000 Robert M Sinclair, QC  
2001 Jeffrey P Benson, QC  
2002 William H Goodridge, QC  
2003 Stephanie L Newell  
2004 Brian F Furey

1997 J David B Eaton  
1998 Dennis C MacKay  
1999 Robert M Sinclair, QC  
2000 Jeffrey P Benson  
2001 William H Goodridge, QC  
2002 Stephanie L Newell  
2003 Brian F Furey  
2004 Edward M Hearn, QC

### **LAW SOCIETY STAFF**

Executive Director: Peter G Ringrose  
Assistant to the Executive Director: Janice K Whitman

Legal Director: Phyllis E Weir  
Assistant to the Legal Director: Anne P Cross  
Professional Responsibility Administrator: Pamela Bursey

Director of Legal Education: Francis P O'Brien  
Assistant to the Director of Legal Education: Regina M Whitty

Accountant: Judith A Pardy

Receptionist: Tanya M Barrington

### **LIBRARY STAFF**

Librarian: Gail A Hogan  
Librarian: Harriet A Mercer  
Library Technicians: Renee Whalen  
Brenda Blunden



## MEMBERSHIP

Membership Statistics as of April 30, 2005:

Practising:	480
Practising Uninsured:	159
Non-Practising:	174
Life	12
<b>TOTAL</b>	<b>825</b>

The total membership figures for the years since Confederation with Canada are as follows:

1950 - 66	1951 - 64	1952 - 66	1998 - 706
1953 - 69	1954 - 72	1955 - 75	1999 - 728
1956 - 73	1957 - 76	1958 - 76	2000 - 750
1959 - 77	1960 - 81	1961 - 83	2001 - 767
1962 - 86	1963 - 86	1964 - 86	2002 - 772
1965 - 86	1966 - 86	1967 - 89	2003 - 798
1968 - 106	1969 - 110	1970 - 124	2004 - 808
1971 - 129	1972 - 129	1973 - 145	
1974 - 153	1975 - 179	1976 - 189	
1977 - 203	1978 - 237	1979 - 261	
1980 - 281	1981 - 316	1982 - 333	
1983 - 351	1984 - 371	1985 - 378	
1986 - 394	1987 - 408	1988 - 435	
1989 - 445	1990 - 477	1991 - 514	
1992 - 560	1993 - 588	1994 - 617	
1995 - 635	1996 - 669	1997 - 683	

Nine lawyers were called to the Newfoundland and Labrador Bar on June 18, 2004

### Roll #

1267	Gregory Alec Cramm Moores
1268	Dana Elizabeth Sullivan
1269	Peter Lawrence Chaffey
1270	Christopher James Peddigrew
1271	Mark Jason Garrett
1272	Catherine Elizabeth Boyde
1273	Alicean Denise Woodrow
1274	Edward Kenneth Brown
1275	David John Sinnott

Four lawyers were called to the Newfoundland and Labrador Bar on October 15, 2004

Roll#

1276 Jeffrey Howard Slade  
1277 David Gregory Coway  
1278 Colin Deon Feltham  
1279 Denis James Fleming

Thirteen lawyers were called to the Newfoundland and Labrador Bar on February 15, 2005

Roll #

1280 Janet Marie Christian-Campbell  
1281 Gary Patrick Mooney  
1282 Larry Dee Innes  
1283 Heather Margaret Clarke  
1284 John Joseph Hogan  
1285 Daniel Mark Glover  
1286 Glynne Bridget Pitcher  
1287 Susan Elizabeth Marsh  
1288 Brian Richard Gosse  
1289 William Garry Howse  
1290 Jonathan Edward Noonan  
1291 Patrick Owen Duff  
1292 Robert Roland Bradbury

Eleven lawyers were called to the Newfoundland and Labrador Bar on April 11, 2005

1293 Christopher Robert Quigley  
1294 Peter Ashton Benson Durant  
1295 Joseph Sterling Twyne  
1296 Nancy Lynn Furlong  
1297 Jason Neil House  
1298 Judy Marie Manning  
1299 Matthew James Clarke  
1300 Andrew Kelvin Parsons  
1301 Sharon Kathleen McKin-Ryan

Lawyers were first regulated in Newfoundland under a Royal Charter of 1826; the Law Society was incorporated on July 1, 1834.

The Barrister and Solicitor Rolls as of the April 11, 2005 Call to Bar reached 1301 enrolments.

The Benchers record with regret the death of the following members during the period from May, 2004 to April, 2005:

**Edmund J Phelan, QC**, Roll # 158, called to Bar, February 1, 1926

**Hon Fabian O'Dea, QC**, Roll #236, called to Bar January 28, 1949

**James A Nesbitt**, Roll #254, called to Bar, April 12, 1961

# **SOCIETY COMMITTEES**

## **EXECUTIVE COMMITTEE**

Brian F Furey, President  
Edward M Hearn, QC, Vice-President  
Paul M McDonald  
Stephanie L Newell  
Marina C Whitten  
Peter G Ringrose, *ex officio*

## **ADVISORY COUNCIL**

Stephanie L Newell, Chair  
Lewis B Andrews, QC  
Jeffrey P Benson, QC  
Reginald H Brown, QC  
J David B Eaton, QC  
V Randell J Earle, QC  
Francis P Fowler, QC  
J Vernon French, QC  
William H Goodridge, QC  
Thomas R Kendell, QC  
Barry Learmonth, QC  
Dana K Lenehan, QC  
Augustus G Lilly, QC  
Dennis C MacKay, QC  
David G Martin, QC  
M Francis O'Dea, QC  
Ernest G Reid, QC  
Thomas J O'Reilly, QC  
John F Roil, QC  
Robert M Sinclair, QC  
Mr Justice Robert Wells  
Peter G Ringrose, *ex officio*

## **STATUTORY COMMITTEES:**

### **COMPLAINTS AUTHORIZATION COMMITTEE**

Paul M McDonald, Chair  
Edward M Hearn, QC, Vice-President  
John P Greene, Lay Benchers  
Dana K Lenehan, QC  
Phyllis E Weir, *ex officio*

## **DISCIPLINE**

### **Law Society Members**

Augustine F Bruce, Chair  
John M Green, QC, Vice-Chair  
Phyllis E Weir, ex officio  
Denis G Barry, QC  
Jacqueline M Brazil  
Reginald H Brown, QC  
Wayne D Chamberlain  
S Bruce Chislett  
Paul J Coxworthy  
Jean V Dawe, QC  
Rosemary Dawson  
Brenda P Duffy  
V Randell J Earle, QC  
Bruce C Grant  
Gerard G Griffin, QC  
Lois R Hoegg, QC  
George P Horan, QC  
Deborah L J Hutchings  
David A King, QC  
R Barry Learmonth, QC  
Barbara A MacAdam, QC  
Mary J McCarthy Mandville  
John W McGrath, QC  
William G Morrow, QC  
W A Brock Myles  
James C Oakley  
Mary C O'Brien  
John V O'Dea  
D Richard Robbins  
Linda M Rose, QC  
Daniel W Simmons  
Lois J Skanes, QC  
Ellen E Turpin  
James E Vavasour, QC  
Elaine C Wychreschuk

### **Lay Representatives:**

Donald Crewe  
Clarence Galliot  
Brenda Genge  
Allistair Hann  
Don Johnson  
Marilyn Kinden

David E Locke  
Dr Melvin Regular  
Dr Marina Sexton  
C Randy Smith  
Gilbert Thomas  
Karen Viscount  
Keith Walters  
Domino Wilkins

### **EDUCATION**

Marina C Whitten, Chair  
Denis G Barry, QC  
David G L Buffett, QC  
J David B Eaton, QC  
Heather M Jacobs  
Irene S Muzychka  
Ian C Wallace  
D Bradford Wicks  
Francis P O'Brien, *ex officio*  
Peter G Ringrose, *ex officio*

## **RULES-BASED COMMITTEES**

### **BAR ADMISSION**

J David B Eaton, QC Chair  
Aubrey L Bonnell, QC  
V Randell J Earle, QC  
Augustus G Lilly, QC  
Christopher D G Pike, FIIC  
Francis P O'Brien, *ex officio*

### **LIBRARY**

Sheila H Greene, Chair  
Derek W Hillier, QC  
David F Hurley, QC  
Kimberly M McLennan  
James C Oakley  
Rebecca C Phillips  
Randolph J Piercey  
Peter G Ringrose, *ex officio*  
Gail A Hogan, *Librarian*  
Harriet A Mercer, *Librarian*

## **BENCHER APPOINTED STANDING COMMITTEES:**

### **STUDENT AWARDS**

Charles W White, QC, Chair  
Denis J Mahoney  
Joan F Myles  
Francis P O'Brien, *ex officio*

### **HONOURS AND AWARDS**

Stephanie L Newell, Chair  
Jeffrey P Benson, QC  
John D Brooks, QC  
Reginald H Brown, QC  
Christine A Fagan, QC  
Peter Ringrose, *ex officio*

### **INSURANCE COMMITTEE**

John F Roil, QC, Chair  
Gillian D Butler, QC  
Maureen P Greene, QC  
Edward P Hearn, QC, *ex officio*  
Ronald G Penney  
Raymond P Walsh, FIIC, Insurance Adjuster  
Peter G Ringrose, *ex officio*

### **LAW SOCIETY ACT & RULES COMMITTEE**

Glen L Noel, Chair  
Reginald H Brown, QC  
George L Murphy  
James L Thistle, QC  
Peter G Ringrose, *ex officio*  
Francis P O'Brien, *ex officio*  
Phyllis E Weir, *ex officio*

### **LEGISLATION**

Brian F Furey, Chair  
John D Brooks, QC  
James C Oakley, Court Rules Committee Representative  
John V O'Dea, Court Rules Committee Representative  
Tobias F McDonald, QC, Court Rules Committee Representative  
Glen L Noel  
Francis P O'Brien, *ex officio*

### **PRACTICE RULES COMPLIANCE COMMITTEE**

Terry Rowe, Chair  
Augustine F Bruce  
Annette M Conway  
Pauline Downer, CA(*Representative of CCA*)  
C Ted Janes, *lay Bench*  
David D McKay  
Edward M Hearn, QC, Vice-President *ex officio*  
Peter G Ringrose, *ex officio*

### **PROJECT DAISY COMMITTEE**

Christopher P Curran co-Chair  
John L Joy, co-Chair  
The Honourable Judge Gerald Barnable  
Thomas J Burke  
William A Cadigan  
Christopher English, Ph.D  
The Honourable J Derek Green, Chief Justice, Trial Division  
David W Jones, QC  
Peter G Ringrose, *ex officio*  
Janice K Whitman, *Committee Assistant*

### **PROPERTY MANAGEMENT COMMITTEE**

Tobias F McDonald, QC Chair  
Brian F Furey, President  
Edward Hearn, QC, Vice-President  
Paul McDonald  
Peter G Ringrose, *ex officio*

### **REAL ESTATE COMMITTEE**

Thomas W Fraize, Chair  
Graham A Wells  
Francis P O'Brien, *ex officio*

**UNAUTHORIZED PRACTICE COMMITTEE**

Edward Hearn, QC, Chair  
Beverley L Marks, QC  
James Thistle, QC  
Phyllis E Weir, *ex officio*

**ARCHIVES COMMITTEE**

Bert Riggs, Chair, Archivist, *lay Bench*  
Justin Mellor  
Veva Moulton  
Rebecca C Phillipps  
Peter G Ringrose, Executive Director  
Gail A Hogan, Librarian  
Harriet A Mercer, Librarian  
Janice Whitman, *Committee Assistant*

**BENCHER APPOINTED AD HOC COMMITTEES:**

**LIMITATIONS ACT SUBCOMMITTEE (LEGISLATION)**

Brian F Furey, Chair  
Lewis B Andrews, QC  
Glen L Noel  
Francis P O'Brien, *ex officio*

**LAW CORPORATIONS & LIMITED LIABILITY PARTNERSHIPS COMMITTEE**

Robert P Stack, Chair  
Jeffrey P Benson, QC  
Michael H Duffy  
Stephen J May  
Maureen E Ryan  
Bert Riggs, *lay Bench*  
Peter G Ringrose, *ex officio*



**JOINT LIAISON COMMITTEES:**

**LAW SOCIETY AND CANADIAN BAR ASSOCIATION,  
NEWFOUNDLAND BRANCH CONTINUING LEGAL EDUCATION**

Maureen Ryan - Law Society, Co-Chair  
Chris Pike - Canadian Bar, Co-Chair  
Peter Shea - President, Canadian Bar  
W A Brock Myles - Canadian Bar Representative  
Hon William J English - Law Society Representative  
Jeffrey P Keefe - Law Society Representative  
Roxanne Dean, Committee Assistant, CBA  
Francis P O'Brien - *ex officio*  
Peter G Ringrose - *ex officio*

**LAW SOCIETY AND NEWFOUNDLAND AND LABRADOR MEDICAL ASSOCIATION**

Gillian Butler, QC, Chair  
Daniel M Boone  
M Francis O'Dea, QC  
Edward P Noonan, QC  
Peter G Ringrose - *ex officio*

**PROFESSIONALS' ASSISTANCE**

Paul M McDonald  
Christopher Pike

**COURT STANDARDS COMMITTEE**

Dennis C MacKay, QC  
William A Cadigan  
William MacCullum

**PROVINCIAL COURT JUDICIAL COUNCIL**

Stephanie L Newell

**ATLANTIC PROVINCES LAW SOCIETIES REGIONAL COMMITTEE**

Stephanie L Newell  
Peter G Ringrose, *ex officio*

## **PRESIDENT'S ANNUAL REPORT**

**Brian F Furey**

It is an annual tradition for the President to report to members about his or her activities, and about those of the Law Society. Given my term of office, this report covers the period from June 2004 to June 2005. As members who read *Benchers' Notes* are aware, this 12 month period has included many pressures and many difficult decisions. Nevertheless, my term also provided a number of very pleasant occasions of ceremony. I will touch briefly on these different but individually important roles that the President fulfils.

### **Ceremonies**

During my term I took considerable pleasure in the ongoing traditions of the Law Society, including the Call to Bar of new members. There is permanence in these ceremonies, virtually unchanged in text and character during the last 179 years. In total, there were four Calls from June, 2004, to April, 2005, and 35 new members. Of this group, 10 were members called under the National Mobility Agreement, transfers from other provinces. Each call provided me the pleasant opportunity to meet new members and encourage them in the careers that lie before them. We are extremely fortunate to have exceptional men and women entering the practice of law in this province.

Other ceremonies are more recent in their history. On October 15, 2004, I had the pleasure to represent Benchers and award an Honourary Doctorate of Laws to the Hon Fabian O'Dea, QC, and the Gordon M Stirling, QC, Distinguished Service Award to Ernest G Reid, QC. Both members represented the finest values of public service over many years. Following the well-attended ceremony at Convocation Hall, there was a reception and the opportunity for photographs.

In my role as President I attended the Opening in September, 2004, of the Supreme Court of Newfoundland and Labrador, Trial Division. The Chief Justice intends to mark these particular occasions with a small ceremony and the Law Society is pleased to participate and encourage. With this in mind, I took particular pleasure attending the official opening of the new Supreme Court Courthouse in Happy Valley-Goose Bay on April 20, 2005, and to represent the Law Society and Benchers. I spoke to the occasion and later presented to the Court from the Society a mezzotint now placed on a prominent wall adjacent to the entrance of the building.

While ceremonial in nature and intention, the functions outlined above provide considerable insight into the role of the Law Society in the life of the province.

### **Decisions Taken, Meetings**

The Executive Committee and Benchers, and the Society's committees, have key roles in policy development and decisions. Together, all rely frequently and significantly upon the information and advice provided by our professional and support staff. Additionally, the Law Society participates as a signatory in the National Mobility Agreement and as a member of the Federation of Law Societies of Canada. In that national context, information and policy considerations are funnelled from the Federation by staff to appropriate committees. Benchers and staff act upon common decisions taken

by the Federation as a whole and for the benefit of the profession in Canada.

Two years ago and then again last year, my predecessors stated that decisions taken by Benchers during their terms of office would alter the future course of the Law Society. Even now, brief hindsight confirms their view. Nevertheless, and with no attempt to boast, my 2004-2005 term has seen some of the most dramatic decisions in many years. Principally, the William Parsons Custodianship made necessary a change in insurer from a long-standing and pleasant association with LawPRO to a new association with CLIA, the Canadian Lawyer's Insurance Association. Since the two types of policies differ somewhat in their concept and administration, and the CLIA policy soon will require a retained level of self-insurance to be administered in-house here in the province, starting up the new policy and planning for fiscal 2006 has required very considerable effort. Further with this, and because of the CLIA policy's expectation for retained risk, the Insurance Committee made presentations to Benchers early in the year recommending imposition of a Transaction Fee Levy to generate cash sufficient for a self-insurance capital pool.

Benchers' approval in principle that a Transaction Fee Levy was necessary and beneficial to the insurance program meant the Insurance Committee needed to conceptualize and draft Levy wording. Following that, the concept and draft were reviewed and approved by the Act and Rules Committee and then finally by Benchers at the April Convocation. Members were notified shortly thereafter and were not pleased with the Levy concept and requested a Special Meeting to discuss. At the Meeting, held April 27, 2005, and in response to the negative feedback from members, a decision was taken to delay start-up of the Levy until further discussion with members could be held during the Annual General Meeting in June.

Another outcome of the Special Meeting was the appointment by Benchers at a Convocation on May 2, 2005, of James Oakley with the request he review the operation of the Law Society in the run-up to the Parsons-Burse Custodianship and immediately thereafter. Benchers established the Terms of Reference of Mr Oakley's review, drawing heavily on Terms proposed by members themselves at the Special Meeting. Mr Oakley is conducting his review at this writing and will provide a preliminary report to members at the AGM, and a final report ready for the autumn.

I note with pleasure several meetings during my term as President. Most recently, on June 7, 2005, a courteous and productive meeting with the Hon Thomas Marshall, QC, the Minister of Justice and Attorney General at which there was a broad range of discussion of mutual interest. Earlier meetings include one with the Newfoundland and Labrador Medical Association, hosted at our offices, this to discuss common areas of interest and concern between the professions. Further, the Law Society worked with the Joint Committee comprising the Law Society and the Canadian Bar Association to monitor ongoing discussions about automobile insurance. And the Society participated with the Court Advisory Committee initiated by Chief Justice Green to review operations of the Supreme Court Trial Division.

In related activities, I am pleased to report that the *Law Society Act, 1999*, was amended on two

occasions at the request of Benchers. First, in December, 2004, a number of important housekeeping initiatives were realized with amendments, including the change of name of the Society to include Labrador, a long overdue correction. And in May, 2005, the *Act* was amended again following years of committee work to include provisions that now permit the incorporation of lawyers. At the June 10 Convocation Benchers will approve remaining amendments to the Rules that will complete the regulatory framework. Within days of this writing, members will be able to take the benefit of tax planning long permitted other professionals.

### **Federation of Law Societies**

Members are well advised to note the importance of the Federation in their daily practice. Many will recall that, three years ago, the Federation and its member societies across Canada initiated actions against the Government of Canada because of concerns arising out of the government's money-laundering legislation. The legislation as proposed undermined the solicitor-client relationship and required lawyers to report to government about certain types of financial transactions. As a direct result of the Federation's initiative and successful actions across Canada, the Government of Canada announced it would abandon the legislative proposals insofar as they impact upon solicitor-client privilege. Nevertheless, the Federation of Law Societies recommended that societies across Canada approve a no-cash rule that limits to \$7,500 the amount of cash a member can take from a client without reporting. Our Law Society approved that rule at the December 2004 Winter Term Convocation. What remains now is to place the new Rule in the broader context of our Rules overall; this should be accomplished by the Fall Term.

On several other fronts the Federation took initiatives that hold import for members. For example, the Federation developed a national paper about Law Office Searches to establish a model for adoption; CANLii continues in development and with skyrocketing use by members and the public; and there are efforts through the Federation to develop a National Defalcation Fund.

### **Law Foundation**

We are fortunate and grateful once again to have the continued financial support of the Law Foundation for law libraries. For fiscal 2005, the Foundation granted \$110,000 for the Law Society Library in St John's, \$9,000 for the Court House Library in Gander and \$20,000 for the Sir Richard Squires Law Library in Corner Brook. The Foundation's contribution provides a significant portion of each Library's acquisition budget and, in providing these grants, the Foundation serves the public interest by making better resource and research materials available to the bar provincially and, in St John's, to members of the public.

Even with the Foundation's generosity, the grants are alone insufficient to maintain the Law Library in St John's. The Law Society will add in 2005 a further sum exceeding \$400,000 for acquisitions and related operational expenses.

## **Volunteers**

Our commitment to our own personal goals and values should also entail a commitment to strengthening the professional community to which we belong. In this regard, every President has occasion to learn about and admire the work of the Society's many Committees. Every President has also remarked, as I now do, upon the number of members who volunteer their time and expertise to the work of the Society. These volunteers strengthen our professional community and protect the precepts of self-governance. By their contribution, our volunteers advance the integrity, credibility and future of the profession.

Benchers are volunteers, too, and they make significant contributions of time and expertise to the Law Society. Few members outside the Benchers' table realize fully the effort and energy necessary to be a Bencher. Old Minutes of Convocations note from time-to-time the statutory obligation to meet but, "...there being no business to discuss, Convocation adjourned." Today, we occasionally trim the Agenda to ensure its completion within the day and have on occasion extended Convocation into the evening or following day. Benchers work hard and deserve our commendation. I acknowledge my gratitude.

## **Conclusion**

I have enjoyed working with Benchers and Law Society staff during my term, and I have enjoyed the friendships and the sense of community found while attending meetings of the Federation of Law Societies and of our counterpart societies in Atlantic Canada. These experiences have been the reward and satisfaction for a year marked by hard work and many challenges. I have been honoured and pleased by the opportunity to serve the profession and our community as President. In closing, I want to thank and commend Executive Committee members, Benchers, individual members with whom I have consulted from time-to-time, and Law Society staff, all for their consistent support and assistance.

## **VICE-PRESIDENT'S ANNUAL REPORT**

**Edward M Hearn, QC**

The Vice-President, a Benchers responsible to oversee the regulatory process, reviews reports from the Legal Director and determines whether the matter constitutes an allegation of conduct deserving of sanction and will be investigated by the Law Society. Conduct deserving of sanction is defined in section 41 of the *Law Society Act, 1999*, (the *Act*) to include professional misconduct, conduct unbecoming a member of the Society, acting in breach of the *Act* or the Law Society Rules and failing to adhere to the Code of Professional Conduct. The Vice-President, either refers the allegation to consensual mediation or refers the allegation for investigation. If the allegation is resolved through mediation, the mediator confirms the resolution and the file is closed. However, if a satisfactory resolution is not achieved then the allegation is investigated. The initial assessment of an allegation is subject to the third party allegation policy.

A third party allegation is an allegation received from a non-client or a lawyer opposed in interest to the client of the solicitor against whom the allegation is made. Following a review of the allegation on the basis of specific factors, the Vice-President has discretion to decline or to defer the investigation pending the final determination of a proceeding. When an investigation is deferred, the Vice-President requests, from the respondent, a consent and a waiver of delay. When an investigation is declined, the complainant is advised that outstanding issues, if any, may be re-filed with the Law Society subsequent to the final determination of the proceeding.

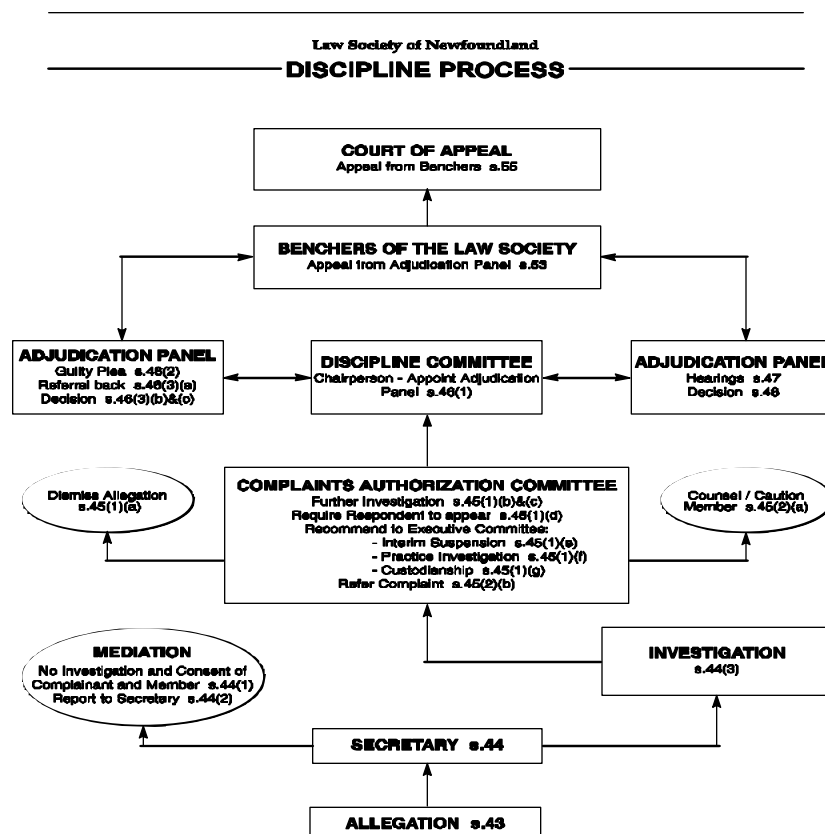
Investigation, consisting of an exchange of written correspondence, is conducted through the Legal Director's office. However, the Vice-President and the Complaints Authorization Committee may authorize additional investigative measures. The Vice-President submits the allegation to the Complaints Authorization Committee, a statutory committee consisting of three Benchers, at least one of whom is an appointed Benchers. The powers of the Complaints Authorization Committee are prescribed by section 45 of the *Act* and include the authority to conduct further investigation and to make recommendations to the Executive Committee concerning the respondent's practice. Subsequent to its final consideration of an allegation, the Complaints Authorization Committee will either dismiss the allegation or, where there are reasonable grounds to believe that a respondent has engaged in conduct deserving of sanction, the Committee will authorize the Complaint. Following authorization of the Complaint, the Committee may counsel or caution the respondent. The decision to issue a letter of counsel or caution is not a disciplinary action. There is no finding of guilt from which discipline can flow. Counsel is advice; caution is a warning. Both are intended to assist the member in his or her future conduct. Alternatively, the Complaints Authorization Committee may instruct the Vice-President to file the Complaint and refer it to the Discipline Committee.

The Discipline Committee is appointed pursuant to section 42 of the *Act*, and is composed of Law Society members and lay representatives. The latter are appointed by the Minister of Justice. For the purpose of dealing with Complaints referred and applications made to the Discipline Committee,

the Chairperson appoints an Adjudication Panel, consisting of two members and one lay representative, to hear the matter. The Hearing proceeds pursuant to either sections 46, 48, 51 or 52 of the *Act*. A party to the Hearing has the right to appeal a Decision or Order of the Adjudication Panel to the Benchers. A Decision or Order of the Benchers may be further appealed to the Supreme Court of Newfoundland, Court of Appeal. Four disciplinary Hearings were held within the past year. One Hearing has been adjourned pending an application to the Supreme Court, Trial Division. Three respondents were found guilty of conduct deserving of sanction and reprimands were imposed. An appeal was heard by Benchers in one matter. The decision of Benchers has been appealed to the Supreme Court, Court of Appeal.

The following statistical information relates to the 264 enquiries received in 2004. Approximately 37 percent of these enquiries were resolved through the office of the Legal Director. Requests for general information and questions concerning legal fees constitute 23 percent of the enquiries and are responded to directly by the office of the Legal Director. Approximately 23 percent of the enquiries were determined, by the Vice-President, to not constitute allegations. 4 percent of allegations were resolved through mediation. Allegations referred for investigation and considered by the Complaints Authorization Committee constitute 13 percent of the 2004 enquiries. To date the Committee has dismissed 14 allegations and authorized 18 Complaints. 3 letters of counsel and 7 letters of caution were issued. 8 Complaints have been referred to the Discipline Committee for Hearing.

Hundreds of hours of volunteer time are contributed on an annual basis, by members of the Complaints Authorization Committee and by members of the Discipline Committee, to the Law Society's regulatory process. The Vice-President sincerely thanks all those who assist the Society in the governance of its members.



## **BAR ADMISSION COURSE COMMITTEE REPORT**

**J David B Eaton, QC**

**Chair**

The Bar Admission Course for Newfoundland and Labrador began on October 5, 2004 and continued until November 19, 2004. This year 22 students took the Course. The Bar Course is a 7 week intensive educational experience which runs 9:00 - 5:00 daily and covers a tremendous amount of information on provincial and federal law.

What follows is an overview of the Course.

- Week 1 - The Course deals with Family Law. Topics include divorce proceedings, custody and access, child and spousal support, matrimonial property, provincial family legislation, pensions, UFC procedure, child protection and support enforcement.
- Week 2 - The Course covers Corporate/Commercial Law. Topics include incorporation and organizing a business, corporate procedures, corporate finance, the *Personal Property Security Act*, security opinions, purchase and sale of a business/shares and commercial insolvency.
- Week 3 - The Course deals with Civil Procedure. Topics include limitations of actions, commencing proceedings, service, defences, counterclaims and 3<sup>rd</sup> party proceedings, summary trial, expedited trial, discovery and disclosure of evidence, setting down for trial, the *Judgment Enforcement Act*, civil appeals, costs and alternative dispute resolution.
- Week 4 - The Course presents lawyering-skills workshops where students receive instruction in direct examination, cross-examination, negotiating settlements, interviewing clients, examination for discovery, risk management and how to avoid professional negligence claims. As well there is a session on maintaining a balance between professional and personal lives. There is a separate section on ethics and the Code of Professional Conduct, in which students complete a written assignment.
- Week 5 - The Course deals with criminal law and procedure. Topics include the court structure, presumptions and burdens, classification of offences, pre-arrest, arrest, charge, first appearances, judicial interim release, disclosure, elections and re-elections, solicitor/client matters, preliminary inquiries, pre-trial matters, Charter applications, trial by judge alone, jury trials, the sentencing process, types of sentences, criminal appeals, young offenders, evidentiary matters, *voir dire*s, search and seizure and defences. As well, in this section, students receive instruction on advocacy skills, there is a panel discussion among judges with respect to advocacy and students prepare for and participate in a mock trial and sentencing exercises.
- Week 6 - The Course covers Administrative Law. Topics include the Labour Relations Board,



labor and commercial arbitration, municipal law, the Human Rights Commission, the Workplace Health, Safety and Compensation Commission, administrative law in the Federal Court, the Law Society discipline process, statutory appeals, judicial review of arbitration and prerogative orders.

Week 7 - The Course deals with Real Estate and Wills. Topics include the registry system and land tenure, the real estate transaction, the mortgage, disabilities and title insurance, survey/location certificates, taxation issues, crown lands, quieting of titles, possessory title, landlord/tenant and title searches, a real estate transaction workshop and a separate section on wills, estates and probate.

To pass the Bar Course, students must pass examinations in Family Law, Commercial Law, Civil Procedure, Criminal Law, Administrative Law and Real Estate/Wills. Each exam is 3½ hours long and focuses on the lecture presentations, the Bar Admission Course materials and the approximately 80 provincial and federal statutes and regulations covered in the Course. The Bar Admission Course materials consist of 11 separate volumes and cover thousands of pages of text and forms.

The goal of the Course is simple; it is to give new lawyers a comprehensive overview of Newfoundland and Labrador law and procedure and transfer to them the necessary information to ensure entry level competence in the profession. The Course is intensive, practical and relevant to what a new lawyer will see in practice. We attempt to have the Course be an enjoyable experience for the students and the approximately 70 volunteer judges, lawyers and other professionals whose contributions make the Course a success.

The Bar Admission Course Committee and the Law Society is grateful to the generous contributions made by members of the profession in ensuring the Course remains vibrant and beneficial to our new lawyers.

## **CANADIAN LEGAL INFORMATION INSTITUTE (CANLII)**

**Francis P O'Brien, Director of Legal Education**

**CanLII Board Member for Newfoundland and Labrador**

The Law Society of Newfoundland and Labrador partners with all other Canadian Law Societies in a legal information project known as CanLII. CanLII is an acronym for the Canadian Legal Information Institute.

CanLII is a “virtual law library” containing caselaw and statutory materials from all jurisdictions across Canada. It was created by the Federation of Law Societies of Canada in 2001 as a non-profit organization, in collaboration with LexUM, the Public Law Research Centre at the University of Montreal (the same organization which created and maintains the Supreme Court of Canada website). The Federation of Law Societies initiated CanLII partly to respond to the rapidly increasing costs of obtaining commercial legal information.

Since 2001, CanLII has grown tremendously. CanLII's collection increases daily and presently contains federal and provincial statutes and approximately three hundred thousand (300,000) decisions from the Supreme Court of Canada, federal courts, courts of appeal, trial courts and administrative tribunals throughout Canada. This core offering is constantly expanding, with approximately 5,000-6,000 new decisions added every month. In May 2005, the CanLII site attracted over 200,000 visitors, viewing over 2.5 million documents in that month. In June 2004, primary and secondary legislation (statutes and regulations) from Newfoundland and Labrador were added to the site, complementing the caselaw which is on the site from the Newfoundland and Labrador courts.

A significant feature of CanLII is its cost. CanLII can be accessed, free of charge, by any lawyer who has internet access. As a result, CanLII has become the leading source of free access to Canadian caselaw and legislation. Notably, on May 17, 2005, the Canadian Association of Law Libraries awarded CanLII the Hugh Lawford Award for Excellence in Legal Publishing. This award was created to recognize and promote excellence in Canadian legal publishing and this was only the 7<sup>th</sup> time the award has been presented. CanLII Project Director, Daniel Poulin, was presented with a plaque and made a short but emotional speech on behalf of CanLII.

All lawyers are encouraged to use CanLII, which can be accessed at [www.canlii.org](http://www.canlii.org). You don't need a password to connect to CanLII and the database is constantly being updated with new cases. Any lawyer in Newfoundland and Labrador who has used CanLII should feel free to pass along comments, questions or suggestions with respect to the CanLII site to Francis O'Brien, the CanLII Board Member for Newfoundland and Labrador.

## **CONTINUING LEGAL EDUCATION COMMITTEE REPORT**

**Maureen E Ryan**

**Law Society Co-Chair**

Continuing Legal Education for members of the Newfoundland Bar is developed and delivered through a Joint Committee of the Law Society of Newfoundland and Labrador and the Canadian Bar Association, Newfoundland and Labrador Branch. This Joint Committee on Continuing Legal Education has, as its goal, the provision of high quality legal education programs which assist in keeping our members current and competent.

Recent continuing legal education programs have been offered to members of the Newfoundland and Labrador Bar in a variety of practice areas. These include:

- *Focus on Environmental Law*
- *Focus on Administrative Law, 2004*
- *Winning Through Cross-Examination*
- *New Criminal Proceedings Rules in the Provincial Court of Newfoundland and Labrador*
- *Mission Possible: Creating Balance in Our Lives*
- *The New Spousal Support Advisory Guidelines: How They Work and How They Might Work For You*
- *A Primer on Buying and Selling a Business*
- *Information Session on Transaction Levy (St. John's, Grand Falls, Corner Brook)*
- *Time Mastery for Lawyers*

Lawyers in Newfoundland and Labrador continue to be enthusiastic and interested in Continuing Legal Education and they continue to support our programming by their excellent attendance, positive feedback and suggestions for future programs.

The Joint Committee sincerely thanks our many volunteer lawyers, judges and other professionals who give freely of their time and talents, as presenters at our seminars, to enhance the knowledge and professional standards of other practitioners. The Committee is greatly appreciative of these contributions and impressed with the excellence and enthusiasm of our presenters.

In the coming year we will continue to offer relevant, practical and useful programs to benefit our members.

## **EDUCATION COMMITTEE REPORT**

**Marina C Whitten**

**Chair**

The Education Committee is responsible for all educational issues which arise concerning members and prospective members of the Law Society. The Education Committee deals with ongoing requests and queries of members and prospective members relating to the requirements in the *Law Society Act, 1999* and the *Law Society Rules* on educational issues.

As such, the Education Committee considers applications from law students for admission as a Student-at-Law, applications from members of other Law Societies who wish to practice in Newfoundland and Labrador, and applications from non-practicing or former members of the Law Society who wish to reinstate their status to practicing membership. In all of these cases, the Committee must ensure that the applicant has met the required educational standards.

From May 2004-April 2005, the Committee admitted twenty-two (22) applicants as Students-at-Law. In that same period, the Education Committee recommended to Benchers that twenty-five (25) students, having met the requirements as Student-at-Law, be called to the Bar in Newfoundland and Labrador. In addition, ten (10) applicants were Called to the Bar under the National Mobility Agreement.

Each year the Education Committee also reviews and approves the marks from the Bar Admission Course examinations and gives direction, where needed, with respect to the writing of supplementary examinations or the completion of further educational requirements before a Student-at-Law is eligible to be called to the Newfoundland and Labrador Bar.

The Committee also deals with the Rules respecting Articles of Clerkship. The Rules require that an Education Plan be filed by the Student-at-Law and the Principal, setting out the practice areas and skills areas that are to be covered in Articles. An Education Plan Progress Report is filed between six to eight months after articles commence, and this gives the Committee an indication of the progress being made in satisfying the Education Plan. Finally, a Certification of Education Plan is filed at completion of articles, certifying that the Education Plan has been successfully completed. The Rule is meant to provide guidance to Principals and Students-at-Law as to the practice areas and skills which must be covered during Articles of Clerkship.

## **INSURANCE COMMITTEE REPORT**

**John F Roil, QC**

**Chair**

### **Background**

The Law Society first made available an insurance program for professional liability errors and omissions in the mid-1970's, but it was only following a 1978 amendment to the Law Society Act that it became possible to implement a compulsory program.

By the early 1980's, premiums for the compulsory program were approximately \$9,000 2005 dollars, yet coverage was modest. For example, in 1982 coverage extended to approximately \$600,000 2005 dollars, with a \$19,000 2005 dollar deductible. In response to these high costs, the Insurance Committee determined it could reduce costs to members by self-insuring a portion of the risk.

In 1983, the Benchers agreed to a program that self-insured members for the first \$30,000 of a claim. Because of projected cost savings, under the new program the premium declined by \$200 and the deductible was reduced to \$5,000. Monies to cover anticipated claims against the self-insured risk were deducted from members' premiums and held in separate funds managed by the Law Society, with the balance paid as premium to an insurance company for coverage of the remaining risk.

In 1995, faced with a changing insurance market and on the recommendation of the Insurance Committee, Benchers determined not to continue with a self-insured component but opted instead for a retained risk. In that year, LawPRO, our insurer, retained 43% of the risk on the policy, and Benchers agreed that the Law Society would carry half of that, with the new provision that the insurer be responsible for payment of the full amount of any claim beyond the \$5,000 member deductible.

To and including the 2004 fiscal year, many of the features of the 1995 policy, including retained risk, were maintained, with coverage extended to \$1,000,000 per claim and a \$2,000,000 aggregate per member, with the insurer liable from "dollar one" beyond the deductible. Nevertheless, fiscal 2004 and the Parsons-Bursey Custodianship and resulting insurance costs made for exceptional strains on the program.

By mid-year 2004 it was evident to LawPRO that purchasing insurance in the international markets for the Law Society would pose considerable difficulty for fiscal year 2005; LawPRO recommended the Insurance Committee begin consideration of alternate insurers, specifically the Canadian Lawyers' Insurance Association, CLIA.

The Committee acted promptly to engage discussions with CLIA and met on a number of occasions for presentations by CLIA executives and then alone for discussions about the CLIA insurance model. With considerable effort, the Committee was ready by the Fall Term Convocation to inform Benchers a change of insurers to CLIA was not only prudent in the circumstances, but necessary also. Benchers approved the Committee's continued work toward this objective.

By the Special Term Convocation of December the Committee finalized a contractual relationship with CLIA and Law Society members were notified on several occasions of the pending changeover and necessity to report all existing claims. While the flurry of claims reported before deadline increased reserves, they did not carry overall responsibility for the fact that 2004 proved to be the worst insurance year on record. Parsons-

Bursey claims amounted to approximately \$5 millions, but additional and unrelated 2004 claims exceeded \$6 millions. Either figure alone would have constituted a record-breaking insurance year, together they represented more than a perfect storm.

The exceptional losses of 2004, coupled with the change to the CLIA model insurance program and its intention that member societies eventually self-insure a significant portion of their insurance risk, meant that our Society was cash-strapped to fund that risk. The Committee believed, and given the experience of 2004, that approximately \$10 to \$12 millions was required for a capital pool to underpin a future retained risk in the new CLIA policy. For this reason, the Committee set about the task to develop a plan that would raise that capital.

The Committee reviewed again earlier recommendations of LawPRO during recent years and in which they proposed the Society implement a Transaction Fee Levy based on the Ontario model. By collecting \$50 per designated transaction, the Society could accumulate perhaps \$2 million a year until the Levy was no longer required for accumulation and could then be turned to reduce insurance premiums directly, again as in the Ontario model where the Levy subsidizes premium by approximately \$1,800 per year per member.

At the Fall Term Convocation, Benchers approved the Levy concept in principle and directed the Committee to develop Levy policy in full detail. To this end the Committee worked over several months until a policy proposal and Levy wording was available for discussion at Benchers, and approved. The Levy was announced formally to members with a package of information during the week of March 28.

While a Transaction Fee Levy has been discussed on several occasions over the years in the Annual Report of the Insurance Committee, and in *Benchers' Notes*, members were not pleased with the Levy announcement and the proposed date for start-up. They insisted upon a Special Meeting for discussion, held April 27, 2005. The meeting provided an opportunity for the Insurance Committee Chair to make a full presentation about the challenges facing the program and the Society as mandatory insurer, and to respond to questions. One outcome of the meeting was a decision taken later by Benchers to delay implementation of the Levy to a future date and following further input from members. A date for implementation will be set following the Annual General Meeting of June 10, 2005.

### **Going into the Future**

Concerning claims to date, the first half of 2005 has been a very low claims year, a marked contrast to the most recent three years. This pause in claims activity allows the Insurance Committee and our Adjuster, Raymond Walsh, and the Executive Director, the opportunity to plan the insurance program for 2006 and beyond. Program policy issues immediately facing the Committee, and soon Benchers, include the management structure that other CLIA insured societies have created to manage insurance, a structure that includes a Claims Management Committee, and in-house staffing. These management structures will be the focus of the next six to 12 months. A challenging year lies ahead.

## **LIBRARY COMMITTEE REPORT**

**Sheila H Greene**

**Chair**

During the past year the Library continued to see growth in the use of on-line electronic products and e-mail. Out-of-town lawyers, as well as many in-town, also continue to avail of the services provided by the Library staff. The Librarians provide assistance with on-line research and training, updating law society members about new texts and journals and as well, they provide student orientation which includes teaching legal research skills. All services are provided free of charge, including the cost of sending texts, etc to out-of-town lawyers. Also, through the use of e-mail, law society members have been able to save on fax and photocopy charges.

The Library continues to add new Canadian texts and journals to enable law society members to keep abreast of increasingly specialized areas of law.

Gail Hogan had an exceptionally busy year as she chaired the annual national conference of the Canadian Association of Law Libraries. Planning began in May 2004 and culminated in a 4 day conference which was held in St. John's, May 15-18, 2005. 300 delegates gathered from across Canada as well as the US, Australia, Great Britain, Ireland and New Zealand. The conference provided a great opportunity to introduce regional, national and international librarians to issues of common interest and to highlight the Newfoundland and Labrador legal community.

The Law Foundation provided grants totaling \$110,000.00. The Law Library Committee express sincere gratitude for the continuing support provided by the Foundation.

## **PROFESSIONAL ASSISTANCE COMMITTEE REPORT**

**Paul M McDonald**

**Law Society Representative**

The Professional Assistance Committee is a joint committee of the Law Society of Newfoundland, the Newfoundland and Labrador Medical Association, the Newfoundland Dental Association and the Newfoundland Pharmaceutical Association. The Committee is responsible for the Professional Assistance Program which provides assistance to lawyers, physicians, dentists, pharmacists and their families affected by all types of personal problems. Problems may include, but are not limited to, stress, financial and career problems, depression, personal/marital/family difficulties and inappropriate use of substances.

In addition to services rendered directly to members, Professional Assistance Program makes presentations each year at the Bar Admission Course, and also conducts workshops and seminars from time to time aimed at helping members identify and deal with challenges in their professional and personal lives.

The Professional Assistance Program employs a clinical co-ordinator, Rosemary Lahey, MSW, a registered social worker with extensive experience working with individuals, couples and families dealing with a wide range of social and emotional problems. The co-ordinator, in strictest confidence, facilitates early recognition of problems, initiates active intervention and makes appropriate referrals for treatment and rehabilitation. Referrals are accepted directly from the member or from a concerned colleague or family member. Since its inception in 1994, the Program has provided assistance to over 641 professionals including more than 206 members of the Law Society.

Ms Lahey, the Co-ordinator, can be contacted in confidence by calling 754-3007 or toll free at 1-800-563-9133, or by electronic mail at [rmlahey@roadrunner.nf.net](mailto:rmlahey@roadrunner.nf.net)



## **STUDENT AWARDS COMMITTEE REPORT**

**Charles White, QC, Chair**

The Student Awards Committee deals with Law Society awards for Articled Students-At-Law. These are the Hunt Award, the Penney Award, the William J. Browne Scholarship and the Maxwell J. Pratt Scholarship respectively.

The Hunt Award is presented to the Student-at-Law who receives the highest overall average mark in the Law Society of Newfoundland and Labrador's Bar Admission Course. The recipient of the Hunt Award for the 2004 Bar Admission Course is Ms. Susan Marsh. Ms. Marsh served Articles of Clerkship at the firm Benson Myles and her principal was Mr. Geoffrey Spencer. Ms. Marsh was called to the Newfoundland and Labrador Bar on February 15, 2005, at which time she commenced practice with Benson Myles.

The Penney Award is presented to the Student-at-Law achieving the highest mark in the Family Law Examination of the Bar Admission Course. The recipient of the 2004 Penney Award is also Ms. Susan Marsh.

The William J. Browne Scholarship is presented to a Student-at-Law who has submitted the winning research essay on a legal issue of current public concern. The recipient of the 2005 William J. Browne Scholarship is Mr. David Williams who is presently articling with the firm O'Dea Earle. Mr. Williams' research essay is entitled "*Auton & the Uncertain State of the Law Regarding Comparative Groups*".

The Maxwell J. Pratt Scholarship is based on academic performance and is presented to a Student-at-Law who is a graduate of Memorial University of Newfoundland and a student at Dalhousie Law School. The recipient of the 2005 Maxwell J. Pratt Scholarship is Mr. Blair Rogers who is presently articling with the firm Roebbothan McKay & Marshall.

The above awards will be presented on June 10, 2005, at the Law Society of Newfoundland and Labrador Annual Dinner and Dance.

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**AUDITOR'S REPORT  
AND FINANCIAL STATEMENTS**

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**for the  
Fiscal Year Ended December 31, 2004**



# **Law Society of Newfoundland and Labrador**

Financial Statements  
**December 31, 2004**

April 1, 2005

## Auditors' Report

### To the Members of Law Society of Newfoundland and Labrador

We have audited the balance sheet of **Law Society of Newfoundland and Labrador** as at December 31, 2004, the statements of revenue, expenses and surplus and cash flows for the year then ended. These financial statements are the responsibility of the Society's management. Our responsibility is to express an opinion on these financial statements based on our audit.

We conducted our audit in accordance with Canadian generally accepted auditing standards. Those standards require that we plan and perform an audit to obtain reasonable assurance whether the financial statements are free of material misstatement. An audit includes examining, on a test basis, evidence supporting the amounts and disclosures in the financial statements. An audit also includes assessing the accounting principles used and significant estimates made by management, as well as evaluating the overall financial statement presentation.

In our opinion, these financial statements present fairly, in all material respects, the financial position of the Society as at December 31, 2004 and the results of its operations and cash flows for the year then ended in accordance with Canadian generally accepted accounting principles.

*PricewaterhouseCoopers LLP*

**Chartered Accountants**

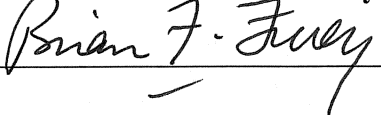
# Law Society of Newfoundland and Labrador

## Balance Sheet

As at December 31, 2004

	2004 \$	2003 \$
<b>Assets</b>		
<b>Current assets</b>		
Cash (note 3)	1,992	89,022
Short-term investments	714,962	700,379
Accounts receivable	263,070	164,413
Prepaid expenses	-	1,000
Current and deferred grants receivable	29,000	139,000
	1,009,024	1,093,814
<b>Capital assets (note 4)</b>	1,953,156	2,076,722
<b>General Assurance Fund (note 9)</b>	182,354	935,143
	3,144,534	4,105,679
<b>Liabilities</b>		
<b>Current liabilities</b>		
Accounts payable	52,092	36,401
Current and deferred grants payable	29,000	139,000
Due to Law Society - Self Insurance Funds (net)	190,189	13,495
Due to Law Society - General Assurance Fund	314,927	263,504
Insurance levy	352,313	352,260
Capital fund levy – net	242,018	242,251
Current portion of long-term debt	100,963	101,000
	1,281,502	1,147,911
<b>Long-term debt (note 5)</b>	1,626,229	1,725,718
	2,907,731	2,873,629
<b>Members' Equity</b>		
<b>Surplus</b>	54,449	296,907
	2,962,180	3,170,536
<b>General Assurance Fund (note 9)</b>	182,354	935,143
	3,144,534	4,105,679

Approved on behalf of the Society

 President

 Executive Director

# Law Society of Newfoundland and Labrador

## Statement of Revenue, Expenses and Surplus

For the year ended December 31, 2004

	2004 \$	2003 \$
<b>Revenue</b>		
Admission fees (note 7)	52,775	31,075
Annual fees - certificates	1,115,381	1,027,969
Bar admission course	46,900	52,650
Contributions from the Law Foundation of Newfoundland	139,000	139,000
Copy machines and other recoveries	22,169	28,035
Interest	152,427	144,513
Miscellaneous	171	221
Process fees	14,916	15,263
Seminars	46,974	40,107
	<hr/> 1,590,713	<hr/> 1,478,833
<b>Expenses</b>		
Bar admission course	15,446	20,009
Benchers' receptions	6,279	8,187
Committees	20,337	19,806
Continuing legal education	28,427	12,119
Contributions	15,276	15,737
Conventions	21,850	21,087
Convocations	34,798	37,986
Copy machines	37,134	39,812
Discipline	10,915	11,767
Interest and bank charges	9,345	10,162
Libraries	247,039	230,635
Miscellaneous and courier	9,772	13,795
Postage	15,254	11,435
Printing and publishing	10,109	4,127
Professional fees	60,099	45,565
Property costs - amortization	123,566	138,951
Property costs - operating	199,159	156,260
Rent	3,600	3,600
Salaries and employee benefits	660,674	601,100
Supplies and equipment	42,505	34,241
Telephone	19,688	19,753
Travel	27,097	18,156
	<hr/> 1,618,369	<hr/> 1,474,290
	(27,656)	4,543
<b>Costs associated with custodianship (note 8)</b>	<hr/> 214,802	<hr/> -
<b>Excess of revenue over expenses (expenses over revenue)</b>	(242,458)	4,543
<b>Surplus – Beginning of year</b>	<hr/> 296,907	<hr/> 292,364
<b>Surplus – End of year</b>	<hr/> 54,449	<hr/> 296,907

# Law Society of Newfoundland and Labrador

## Statement of Cash Flows

For the year ended December 31, 2004

	2004 \$	2003 \$
<b>Cash provided by (used in)</b>		
<b>Operating activities</b>		
Excess of revenue over expenses (expenses over revenue)	(242,458)	4,543
Item not affecting cash		
Amortization	123,566	138,951
	(118,892)	143,494
Change in non-cash working capital balances		
Decrease (increase) in accounts receivable	(98,657)	79,701
Decrease in prepaid expenses	1,000	-
Increase (decrease) in accounts payable	15,691	(137,711)
Increase in due to Self - Insurance Funds (net)	176,694	34,328
Increase in due to General Assurance Fund	51,423	29,945
Increase in insurance levy	53	1,823
Decrease in capital fund levy	(233)	-
Decrease in deferred insurance proceeds	-	(6,602)
	27,079	144,978
<b>Financing activities</b>		
Proceeds from long-term debt	-	280,000
Repayment of long-term debt	(99,526)	(53,282)
	(99,526)	226,718
<b>Investing activity</b>		
Purchase of capital assets	-	(281,567)
<b>Net change in cash during the year</b>	(72,447)	90,129
<b>Cash and cash equivalents – Beginning of year</b>	789,401	699,272
<b>Cash and cash equivalents – End of year</b>	716,954	789,401
<b>Cash and cash equivalents is comprised of:</b>		
Cash	1,992	89,022
Short-term investments	714,962	700,379
	716,954	789,401
<b>Additional information required</b>		
Interest paid	63,691	63,532

# Law Society of Newfoundland and Labrador

## Notes to Financial Statements

December 31, 2004

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### 1 Basis of presentation

These financial statements reflect the accounts and operations of the Law Society of Newfoundland and Labrador – General Fund and General Assurance Fund. The operations of the General Assurance Fund are not reflected in the statement of revenue, expenses and surplus of the Law Society of Newfoundland and Labrador – General Fund, but are disclosed in Note 9 to these financial statements.

On January 1, 1983, the Law Society of Newfoundland and Labrador established a Self-Insurance Fund for practising Newfoundland and Labrador lawyers. Each year, the Society assesses its members an amount which is paid to that year's Self-Insurance Fund. Separate financial statements are prepared for each year's Fund and their assets, liabilities and surpluses or deficiencies are not reflected in these statements.

### 2 Accounting policies

#### Accounts receivable

The Society performs ongoing reviews of its accounts receivable from its members and records an allowance for doubtful accounts receivable when accounts are determined to be uncollectible.

#### Amortization

Capital assets are carried at cost less contributions received and are amortized using the following methods and rates:

Assets	Method	Rate %
Building	Straight line	4
Furniture and fixtures	Declining balance	25

#### Management estimates

The preparation of financial statements in conformity with generally accepted accounting principles requires management to make estimates and assumptions that affect the reported amounts of assets and liabilities, disclosures of contingent assets and liabilities at the date of the financial statements, and the reported amounts of revenue and expenses during the reporting periods. Actual results could differ from those estimates.



# Law Society of Newfoundland and Labrador

## Notes to Financial Statements

December 31, 2004

### Fair value of financial instruments

The company has evaluated fair values of its financial instruments based on the current interest rate environment, related market values and current pricing of financial instruments with comparable terms. The carrying value of financial instruments is considered to approximate fair value, unless otherwise indicated.

### 3 Cash investment

The cash account earns interest calculated on the consolidated average daily balance at the Toronto Dominion Bank's weighted average prime lending rates less 2½%. This is the rate paid on investments of less than one year. Interest on the cash account is paid monthly.

### 4 Capital assets

	2004		2003	
	Cost \$	Accumulated amortization \$	Net \$	Net \$
Land	73,429	-	73,429	73,429
Building	1,935,376	194,104	1,741,272	1,818,687
Furniture and fixtures	246,142	107,687	138,455	184,606
	<u>2,254,947</u>	<u>301,791</u>	<u>1,953,156</u>	<u>2,076,722</u>

### 5 Long-term debt

	2004 \$	2003 \$
TD Canada Trust loan at prime, due in October 2008, repayable in monthly principal instalments of \$4,667 plus interest	214,667	270,667
3.25% unsecured advance from the Law Society of Newfoundland and Labrador – 1983 to 1987 Self-Insurance Funds, renewable in October 2005, payable in blended monthly payments of \$7,793	<u>1,512,525</u>	<u>1,556,051</u>
	1,727,192	1,826,718
Current portion	<u>100,963</u>	<u>101,000</u>
	<u>1,626,229</u>	<u>1,725,718</u>

# Law Society of Newfoundland and Labrador

## Notes to Financial Statements

December 31, 2004

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Aggregate annual principal payments on long-term debt for the next five years are as follows:

	\$
Year ending December 31, 2005	100,963
2006	102,000
2007	104,000
2008	96,000
2009	51,000

### 6 Obligations under operating leases

The following is an analysis of the future minimum lease payments on operating leases:

	\$
Year ending December 31, 2005	31,738
2006	25,153

### 7 Admission fees

Admission fees consist of the following:

	2004 \$	2003 \$
Articled clerks	6,900	9,000
Call-to-bar	22,425	20,125
Other	23,450	1,950
	<u>52,775</u>	<u>31,075</u>

### 8 Costs associated with custodianship

During the year, the Society incurred costs of \$214,802, which is net of a recovery from an insurer of \$92,388, related to the custodianship of a certain law practice and has estimated costs of \$160,000 relating to this custodianship for the next fiscal year. To assist in paying both current and future costs associated with this custodianship, the Society has charged a \$1,100 levy per practicing insured member in 2005.

# Law Society of Newfoundland and Labrador

Notes to Financial Statements

December 31, 2004

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## 9 General Assurance Fund

During the year, the following transactions occurred in this fund:

	\$
<b>Revenue</b>	
Contributions	29,927
Interest	23,733
	<u>53,660</u>
<b>Expenses</b>	
Miscellaneous	6,449
Provision for uninsured claims	800,000
	<u>806,449</u>
<b>Excess of expenses over revenue</b>	(752,789)
<b>Surplus – Beginning of year</b>	<u>935,143</u>
<b>Surplus – End of year</b>	<u>182,354</u>
<b>Comprised of:</b>	
Cash	4,130
Short-term investments	599,447
Accounts and interest receivable	3,850
Due from Law Society 1995 - 2004 Self-Insurance Funds	60,000
Due from Law Society of Newfoundland and Labrador	314,927
Provision for uninsured claims	<u>(800,000)</u>
	<u>182,354</u>

During the year, as a result of the custodianship matter explained in note 8, it was determined that there are claims from this custodianship that are not covered by the Society's insurance program. These claims and related costs have been estimated at \$800,000 and are recorded above.

**Law Society of Newfoundland and  
Labrador - 1983 to 1987  
Self-Insurance Funds**

Financial Statements  
**December 31, 2004**

April 12, 2005

## Auditors' Report

### To the Members of the Law Society of Newfoundland and Labrador - 1983 to 1987 Self-Insurance Funds

We have audited the balance sheet of the **Law Society of Newfoundland and Labrador - 1983 to 1987 Self-Insurance Funds** as at December 31, 2004 and the statement of revenue, expenses and surplus for the year then ended. These financial statements are the responsibility of the society's management. Our responsibility is to express an opinion on these financial statements based on our audit.

We conducted our audit in accordance with Canadian generally accepted auditing standards. Those standards require that we plan and perform an audit to obtain reasonable assurance whether the financial statements are free of material misstatement. An audit includes examining, on a test basis, evidence supporting the amounts and disclosures in the financial statements. An audit also includes assessing the accounting principles used and significant estimates made by management, as well as evaluating the overall financial statement presentation.

In our opinion, these financial statements present fairly, in all material respects, the financial position of the Funds as at December 31, 2004 and the results of its operations and its cash flows for the year then ended in accordance with Canadian generally accepted accounting principles.

*PricewaterhouseCoopers LLP*

Chartered Accountants

# Law Society of Newfoundland and Labrador - 1983 to 1987 Self-Insurance Funds

Balance Sheet

As at December 31, 2004

	2004 \$	2003 \$
<b>Assets</b>		
<b>Current assets</b>		
Cash (note 2)	-	107,729
Short-term investments	-	938,010
Due from 1988 - 1994 Self-Insurance Funds	410,671	410,671
Due from 1995 - 2004 Self-Insurance Funds (note 3)	1,304,218	-
Current portion of long-term receivable	45,000	45,000
	<u>1,759,889</u>	<u>1,501,410</u>
<b>Other receivable</b>		
3.25% unsecured advance receivable from the Law Society of Newfoundland	1,512,525	1,556,051
Less: current portion of long-term receivable	<u>(45,000)</u>	<u>(45,000)</u>
	<u>1,467,525</u>	<u>1,511,051</u>
	<u>3,227,414</u>	<u>3,012,461</u>
<b>Liabilities</b>		
<b>Current liabilities</b>		
Bank overdraft	136,014	-
Accounts payable	<u>7,750</u>	<u>7,750</u>
	143,764	7,750
<b>Surplus</b>	<u>3,083,650</u>	<u>3,004,711</u>
	<u>3,227,414</u>	<u>3,012,461</u>

Approved on behalf of the Society

Brian F. Finney President

[Signature]

Executive Director

# **Law Society of Newfoundland and Labrador - 1983 to 1987 Self-Insurance Funds**

Statement of Revenue, Expenses and Surplus  
For the year ended December 31, 2004

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	<b>2004</b> \$	<b>2003</b> \$
<b>Revenue</b>		
Interest	91,340	75,973
<b>Expenses</b>		
Interest and bank charges	799	13
Investment fee - TD Bank	7,290	7,251
Professional fees	4,312	4,025
	12,401	11,289
<b>Excess of revenue over expenses</b>	78,939	64,684
<b>Surplus – Beginning of year</b>	3,004,711	2,940,027
<b>Surplus – End of year</b>	3,083,650	3,004,711

# **Law Society of Newfoundland and Labrador - 1983 to 1987 Self-Insurance Funds**

Notes to Financial Statements

**December 31, 2004**

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## **1 Accounting policies**

### **Method of operations**

The 1986 and 1987 Funds insure all practising members up to \$30,000 (1983 to 1985 funds - \$20,000) after an initial deductible of \$5,000 per member per claim. Claims exceeding \$35,000 (1983 to 1985 Funds - \$25,000) are insured up to an additional \$65,000 (1983 to 1985 Funds - \$75,000) by a separate liability insurance policy purchased by the Funds.

This insurance applies to acts or omissions committed by an Insured in connection with his/her practice as a member of the Law Society of Newfoundland and Labrador provided the original claim or suit for damages is brought during the policy period.

The 1986 and 1987 Funds are responsible for total annual claims up to \$300,000 (1983 and 1984 Funds - \$175,000, 1985 Fund - \$200,000) after which the insurance company pays all claims in excess of \$5,000. The Funds are responsible for any adjusting and legal fees involved in settling claims.

### **Reserve for claims**

The adjusting company is responsible for consulting with the Chairman of the Self-Insurance Claims Committee in arriving at an estimate of the reserve required for claims outstanding. The reserve includes potential claims, legal and adjusting fees attributable to the outstanding matters minus any possible recovery.

Any changes in subsequent periods relating to these reserves is a result of:

- a) Indemnity and legal and adjusting fees paid; and,
- b) Adjustments as to the potential liability which would also increase or decrease the current period reserve expense.

Any cost, for which no reserve had been previously set up, is treated as a claims expense in the current period.

## **2 Cash investment**

The cash account earns interest calculated on the consolidated average daily balance at the Toronto Dominion Bank's weighted average prime lending rate less 2 ½%. This is the rate paid on investments of less than one year. Interest on the cash account is paid monthly.



# **Law Society of Newfoundland and Labrador - 1983 to 1987 Self-Insurance Funds**

Notes to Financial Statements

**December 31, 2004**

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## **3 Insurance program**

In December 2004, \$1,304,218 of funds held in the 1983 - 1987 Self-Insurance Funds were temporarily transferred to the 1995 - 2004 Self-Insurance Funds in order to pay the Society's 2005 insurance premiums. It is anticipated that these funds will be repaid during 2005.

## **4 Other matter**

During the year, the Society's 2004 Self-Insurance Fund insurance program, as a result of its claims development for the year, anticipates a deficit in excess of \$1,500,000 on that year's insurance program. The assets and related surplus of the 1983 - 1987 Self-Insurance Funds will be required to fund the above noted deficit.

**Law Society of Newfoundland and  
Labrador - 1988 to 1994  
Self-Insurance Funds**

Financial Statements  
**December 31, 2004**

April 12, 2005

## **Auditors' Report**

### **To the Members of Law Society of Newfoundland and Labrador - 1988 to 1994 Self-Insurance Funds**

We have audited the balance sheet of **Law Society of Newfoundland and Labrador - 1988 to 1994 Self-Insurance Funds** as at December 31, 2004 and the statement of revenue, expenses and deficit for the year then ended. These financial statements are the responsibility of the Society's management. Our responsibility is to express an opinion on these financial statements based on our audit.

We conducted our audit in accordance with Canadian generally accepted auditing standards. Those standards require that we plan and perform an audit to obtain reasonable assurance whether the financial statements are free of material misstatement. An audit includes examining, on a test basis, evidence supporting the amounts and disclosures in the financial statements. An audit also includes assessing the accounting principles used and significant estimates made by management, as well as evaluating the overall financial statement presentation.

In our opinion, these financial statements present fairly, in all material respects, the financial position of the Funds as at December 31, 2004 and the results of its operations and its cash flows for the year then ended in accordance with Canadian generally accepted accounting principles.

*PricewaterhouseCoopers LLP*

**Chartered Accountants**

# Law Society of Newfoundland and Labrador - 1988 to 1994 Self-Insurance Funds

Balance Sheet

As at December 31, 2004

	2004 \$	2003 \$
<b>Assets</b>		
<b>Current assets</b>		
Cash (note 2)	-	179,045
Accounts receivable	5,000	5,000
Due from 1995 - 2004 Self-Insurance Funds (note 3)	332,250	-
Due from Law Society of Upper Canada (schedule)	173,163	168,725
	<u>510,413</u>	<u>352,770</u>
<b>Liabilities</b>		
<b>Current liabilities</b>		
Bank overdraft	157,419	-
Accounts payable	8,500	8,500
Due to 1983-87 Self-Insurance Funds	410,671	410,671
	<u>576,590</u>	<u>419,171</u>
<b>Deficit</b>	<u>(66,177)</u>	<u>(66,401)</u>
	<u>510,413</u>	<u>352,770</u>

Approved on behalf of the Society

Brian F. Furey President

[Signature] Executive Director

# **Law Society of Newfoundland and Labrador - 1988 to 1994 Self-Insurance Funds**

Statement of Revenue, Expenses and Deficit  
For the year ended December 31, 2004

	2004 \$	2003 \$
<b>Revenue</b>		
Interest	3,668	7,222
<b>Expenses</b>		
Claims		
Legal and adjusting	3,664	16,760
Reserves		
Indemnity	5,000	(40,000)
Legal and adjusting	(16,458)	(32,104)
Other expenses		
Administration	4,319	22,118
Investment fee - TD Bank	289	260
Miscellaneous	17	18
Professional and consulting fees	6,613	8,050
	3,444	(24,898)
<b>Excess of revenue over expenses</b>	224	32,120
<b>Deficit – Beginning of year</b>	(66,401)	(98,521)
<b>Deficit – End of year</b>	(66,177)	(66,401)

# Law Society of Newfoundland and Labrador - 1988 to 1994 Self-Insurance Funds

Notes to Financial Statements

December 31, 2004

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## 1 Accounting policies

### Method of operations

Lawyers' Professional Indemnity Company (LawPRO) is an insurance company that is licensed to provide professional liability insurance and title insurance in numerous jurisdictions across Canada. This insurance applies to acts or omissions committed by an Insured in connection with his/her practice as a member of the Law Society of Newfoundland and Labrador, provided the original claim or suit for damages is brought during the policy period.

### 1988 to 1994 Insurance Program

The 1988 to 1994 Insurance Program insures all practising members up to a deductible amount of \$245,000 (\$145,000 for claims brought January to June 1988 which are included in the 1988 fund), after an individual deductible of \$5,000 per member per claim. Claims exceeding the deductible amount are insured by a separate liability policy purchased by the Insurance Program, up to an additional \$750,000 per claim, (\$450,000 for claims brought January to June 1988) to a maximum annual limit of \$2,000,000 per insured.

### Reserve for claims

The adjusting company in Newfoundland is responsible for consulting with the Chairman of the Self-Insurance Claims committee in Newfoundland in arriving at an estimate of the reserve required for claims outstanding. The reserve includes potential claims, legal and adjusting fees attributable to the outstanding matters minus any possible recovery.

Any changes in subsequent periods relating to these reserves is a result of:

- a) Indemnity, legal and adjusting fees paid, and
- b) Adjustments as to the potential liability which would also increase or decrease the current period reserve expense.

Any cost, for which no reserve had been previously set up, is treated as a claims expense in the current period.

# **Law Society of Newfoundland and Labrador - 1988 to 1994 Self-Insurance Funds**

Notes to Financial Statements

**December 31, 2004**

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## Law Society of Upper Canada

The insurance assessment from the annual fee is due to the Law Society of Upper Canada. The funds remaining with the Law Society of Newfoundland and Labrador pay certain administrative, operational and travel expenses.

The amount due to (from) the Law Society of Upper Canada includes reserves for indemnity, recoverable from members and other insurers, legal fees, adjusting fees, administration costs, and insurance premiums, less any advances made and interest earned thereon.

When all of the claim files have been closed and all indemnities have been settled, any monies remaining with, or owed to the Law Society of Upper Canada will be paid or refunded together with interest earned on these funds. Upon receipt of assessments from the Law Society of Upper Canada, the Law Society of Newfoundland and Labrador recognizes an adjustment to the estimated balance in the fund to which it relates.

## **2 Cash investment**

The cash account earns interest calculated on the consolidated average daily balance at the Toronto Dominion Bank's weighted average prime lending rate less 2 ½%. This is the rate paid on investments of less than one year. Interest on the cash account is paid monthly.

## **3 Insurance program**

In December 2004, \$332,250 of funds held in the 1988 - 1994 Self-Insurance Funds were temporarily transferred to the 1995 - 2004 Self-Insurance Funds in order to pay the Society's 2005 insurance premiums. It is anticipated that these funds will be repaid during the year.

## **4 Other matter**

During the year, the Society's 2004 Self-Insurance Fund insurance program, as a result of its claims development for the year, anticipates a deficit in excess of \$1,500,000 on that year's insurance program. The assets of the 1988 - 1994 Self-Insurance Funds will be required to fund the above noted deficit.

**Law Society of Newfoundland and Labrador -  
1988 to 1994 Self-Insurance Funds**

Due to (from) Law Society of Upper Canada

As at December 31, 2004

Schedule

	1988	Self-Insurance Funds					Totals	
	\$	1989	1990	1991	1992	1993	1994	2003
		\$	\$	\$	\$	\$	\$	\$
<b>Reserves</b>								
Indemnity claims	-	70,000	-	25,000	-	-	-	90,000
Recoverable from members	-	(5,000)	-	(5,000)	-	-	-	(10,000)
Legal and adjusting	-	6,616	-	13,319	-	-	-	36,393
	-	71,616	-	33,319	-	-	-	116,393
<b>Less</b>								
Advances and interest net of disbursements	305,334	361,041	(4,781)	(277,243)	133,419	(123,010)	(116,662)	285,118
	(305,334)	(289,425)	4,781	310,562	(133,419)	123,010	116,662	(168,725)



**Law Society of Newfoundland and  
Labrador - 1995 to 2004  
Self-Insurance Funds**

Financial Statements  
**December 31, 2004**

**PricewaterhouseCoopers LLP**  
**Chartered Accountants**  
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April 12, 2005

## **Auditors' Report**

### **To the Members of Law Society of Newfoundland and Labrador - 1995 to 2004 Self-Insurance Funds**

We have audited the balance sheet of **Law Society of Newfoundland and Labrador - 1995 to 2004 Self-Insurance Funds** as at December 31, 2004 and the statement of revenue, expenses and deficit for the year then ended. These financial statements are the responsibility of the Society's management. Our responsibility is to express an opinion on these financial statements based on our audit.

We conducted our audit in accordance with Canadian generally accepted auditing standards. Those standards require that we plan and perform an audit to obtain reasonable assurance whether the financial statements are free of material misstatement. An audit includes examining, on a test basis, evidence supporting the amounts and disclosures in the financial statements. An audit also includes assessing the accounting principles used and significant estimates made by management, as well as evaluating the overall financial statement presentation.

In our opinion, these financial statements present fairly, in all material respects, the financial position of the Funds as at December 31, 2004 and the results of its operations and its cash flows for the year then ended in accordance with Canadian generally accepted accounting principles.

*PricewaterhouseCoopers LLP*

**Chartered Accountants**

# Law Society of Newfoundland and Labrador - 1995 to 2004 Self-Insurance Funds

Balance Sheet

As at December 31, 2004

	2004 \$	2003 \$
<b>Assets</b>		
<b>Current assets</b>		
Cash (note 2)	1,403,062	32,930
Accounts receivable	10,000	10,937
Due from Law Society of Newfoundland and Labrador – General Fund	190,189	13,093
	<u>1,603,251</u>	<u>56,960</u>
<b>Liabilities</b>		
<b>Current liabilities</b>		
Accounts payable	67,585	5,500
Due to Law Society of Newfoundland and Labrador - General Assurance Fund	60,000	-
Due to 1988 - 1994 Self-Insurance Funds (note 3)	332,250	-
Due to 1983 - 1987 Self-Insurance Funds (note 3)	1,304,218	-
Provision for members' deductible on custodian matter (note 4)	300,000	-
Provision for 10% risk sharing on 2004 claims (note 1)	1,000,000	-
	<u>3,064,053</u>	<u>5,500</u>
<b>Deficit</b>	<u>(1,460,802)</u>	<u>51,460</u>
	<u>1,603,251</u>	<u>56,960</u>

Approved on behalf of the Society

Brian F. Jurey President

[Signature] Executive Director

# **Law Society of Newfoundland and Labrador - 1995 to 2004 Self-Insurance Funds**

Statement of Revenue, Expenses and Deficit  
For the year ended December 31, 2004

	2004 \$	2003 \$
<b>Revenue</b>		
Fees	2,303,809	1,954,471
Interest	520	869
	<u>2,304,329</u>	<u>1,955,340</u>
<b>Expenses</b>		
Insurance policy premium	2,490,390	1,954,032
Professional and consulting fees	2,875	2,875
Provision for doubtful accounts – expense (recovery)	18,100	(13,119)
Provision for members' deductible on custodian matter	300,000	-
Provision for 10% risk sharing on 2004 claims	1,000,000	-
Travel	5,226	5,708
	<u>3,816,591</u>	<u>1,949,496</u>
<b>Excess of revenue over expenses (expenses over revenue)</b>	(1,512,262)	5,844
<b>Surplus - Beginning of year</b>	<u>51,460</u>	<u>45,616</u>
<b>Surplus (deficit) – End of year</b>	<u>(1,460,802)</u>	<u>51,460</u>

# Law Society of Newfoundland and Labrador - 1995 to 2004 Self-Insurance Funds

Notes to Financial Statements

December 31, 2004

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## 1 Accounting policies

### Method of operations

Lawyers' Professional Indemnity Company (LawPRO) is an insurance company that is licensed to provide professional liability insurance and title insurance in numerous jurisdictions across Canada. This insurance applies to acts or omissions committed by an Insured in connection with his/her practice as a member of the Law Society of Newfoundland and Labrador, provided the original claim or suit for damages is brought during the policy period.

#### 1995 to 2004 Insurance Program

The 1995 to 2004 Insurance Program insures all practising members up to \$1,000,000 per claim, after an individual deductible of at least \$5,000 per member per claim, to a maximum annual limit of \$2,000,000 per insured.

- The 1995 Insurance Program is responsible for all claims and legal and adjusting expenses and has arranged for 57% quota share reinsurance above the members' deductible, retaining the other 43% for its own account. The Law Society of Newfoundland and Labrador has agreed to share equally in this 43% retention.
- The 1996 to 2002 Insurance Program is responsible for 100% of all claims and legal and adjusting expenses above the members' deductible.
- The 2003 and 2004 Insurance Program is responsible for all claims and legal and adjusting expenses above the members deductible and has arranged for 80% quota share reinsurance above the members' deductible, retaining the other 20% for its own account. The Law Society of Newfoundland and Labrador has agreed to share equally in this 20% retention. As a result of the significant increase in severity and frequency of claims reported during 2004, the Society has estimated a claims liability of \$1,000,000 for this retention for the 2004 Insurance Program at year end.

The determination of the provisions for unpaid claims and adjusting expenses requires the use of estimation and is subject to variability, and the variability could be material in the near term. The variability arises because all events affecting the ultimate settlement of claims have not taken place and may not take place for some time.

Any changes in subsequent periods relating to these provisions and any cost for which no provision has been previously recorded is treated as a claims expense in the current period.

# **Law Society of Newfoundland and Labrador - 1995 to 2004 Self-Insurance Funds**

Notes to Financial Statements

**December 31, 2004**

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## **2 Cash investment**

The cash account earns interest calculated on the consolidated average daily balance at the Toronto Dominion Bank's weighted average prime lending rate less 2 ½%. This is the rate paid on investments of less than one year. Interest on the cash account is paid monthly.

## **3 Insurance program**

In December 2004, \$332,250 and \$1,304,218 of funds held in the 1988 - 1994 Self-Insurance Funds and 1983 - 1987 Self-Insurance Funds, respectively, were temporarily transferred to the 1995 - 2004 Self-Insurance Funds in order to pay the Society's 2005 insurance premiums. It is anticipated that these funds will be repaid during 2005.

## **4 Other matters**

- a) Due to the deficit in the 2004 Self-Insurance Fund Insurance Program, as a result of its claims development for the year, the assets and related surplus of the Law Society of Newfoundland and Labrador – 1983 - 1987 Self-Insurance Funds and 1988 - 1994 Self-Insurance Funds will be required to fund the deficit.
- b) During the year, the Society obtained custodianship for a certain law practice, and other members of the Society became involved in various insurance claims related to this matter. The 2004 Self-Insurance Fund has agreed to pay the \$5,000 deductible per claim for members with claims arising from this matter, and has estimated a total cost of \$300,000 for these deductibles. In addition, it was determined that there are claims from this custodianship that are not covered by the Society's insurance program. These claims and related costs have been estimated at \$800,000 and are charged against the Law Society of Newfoundland and Labrador – General Assurance Fund.
- c) The Society has changed its insurance provider for 2005, and all claims and legal and adjusting expenses are now the responsibility of the Society.