

Benchers' Notes



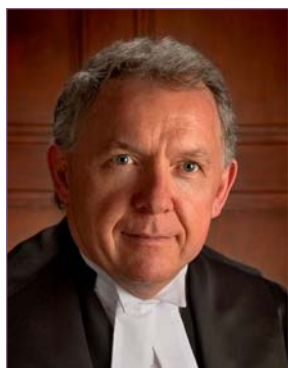
Spring 2014

Volume 15, Number 1

This issue of Benchers' Notes contains information on selected topics considered by Benchers at Convocation and other items of interest to the Bar. This edition of Benchers' Notes is available on-line at www.lawsociety.nf.ca.

The following report was prepared prior to Mr. Justice Murphy's appointment to the Supreme Court, effective 11 April 2014.

President's Report



George L. Murphy, QC,
President, Law Society of NL

Welcome to the 2014 spring edition of Benchers' Notes. It is with great pleasure that I write to you in the capacity of President of the Law Society of Newfoundland and Labrador. Since my term began in June of 2013 we have seen many positive developments in the Law Society and I am happy to have had the opportunity to be directly involved in the undertakings of this past year. The work accom-

plished by past president, Morgan Cooper has helped to make the adjustment relatively seamless and I would like to extend my gratitude to him for his support this past year.

I am happy to report that the Law Society's redesigned website is now up and running. Executive Director, Brenda Grimes and Library Director, Gail Hogan along with other Law Society staff worked diligently with Triware Technologies to update and enhance the site which had not been changed since it was first operational in January of 2000. The new site is modern and user-friendly and is a great resource for information. Easy navigation throughout the site was paramount in the design and we hope that lawyers and members of the public find it to be accessible and informative.

The Law Society recently approved funding to the Canadian Bar Association (CBA) to assist with the development of an online lawyers' wellness resource partnership with the Mood Disorder Society of Canada and Bell Canada. The goal is to develop a national self-learning program that will provide lawyers with education, support and resources to assist in understanding mental health issues. Once the program is up and running the cost of maintenance will be borne by the Legal Profession Assistance Conference and it will be available for all lawyers in Canada, not just members of the CBA. The Law Society saw this as an important initiative and fully supports the CBA in its efforts to develop this program.

As a continuation of our active involvement nationally through our membership in the Federation of Law Societies, we were honored to host the Federation of Law Societies' Annual Conference October 16-19, 2013. It was an incredibly successful event with topics and workshops which were relevant and thought-provoking. According to the feedback we received, attendees from out of province were pleased with the overall organization of the event and were happy to have experienced, first-hand, the hospitality and friendliness that we Newfoundlanders are known for. I believe we were able to present them with insight into our unique culture in the short time frame of the conference. One of the highlights of the conference was the signing of the new National Mobility Agreement by provincial law societies. This new agreement brings together



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Canada's two legal traditions, the common law and the civil law. I was honored to host the reception for the historic signing which was held at The Rooms; a perfect backdrop for this ceremony.

I had the opportunity, along with Executive Director, Brenda Grimes to meet with Chief Justice Orsborn, Pamela Ryder-Lahey and Andre Claire to discuss concerns regarding the e-filing of estates. During our meeting, Chief Justice Orsborn explained that there was some concern with respect to making orders on the basis of e-filed documents without having any mechanism for auditing. He indicated the Court was considering introducing a random audit of such files. Rather than introduce another auditing regime to the bar or see the e-filing program cancelled, the Law Society agreed to work with the Court on a two-year pilot project basis, and will review a random selection of estate files in which e-filing had taken place, during the Law Society's regular audit process.

One of the more enjoyable aspects of being President of the Law Society is that the position allows for the opportunity to attend various ceremonies and receptions to honor colleagues who are receiving awards or setting out on new career paths. I was delighted to attend and participate in swearing-in ceremonies and receptions for Mr. Justice Brian Furey (Supreme Court), Madame Justice Laura Mennie (Supreme Court) and Judge Mark Linehan (Provincial Court). I also participated in the Ceremonial Opening of Court on the Occasion of the Inaugural Sitting of The Honourable David F. Hurley in Corner Brook. In November of 2013, I was happy to attend the swearing-in of Queen's Counsel for Peter Alteen, Daniel Simmons, Mary Mandville, Irene

Muzychka, Derrick Watton, Donna Ballard, Frances Knickle, Gregory Pittman, Marcus Evans, David Bussey and Cillian Sheahan. I have been present for 3 Calls to Bar and witnessed a total of 38 students became lawyers; this is always an enjoyable experience and great opportunity to meet with the newest members of our bar.

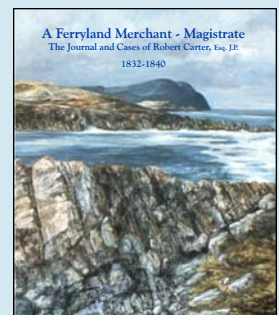
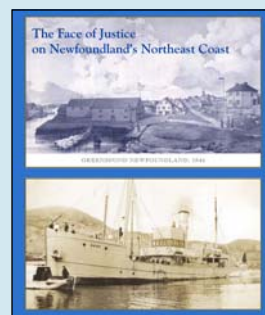
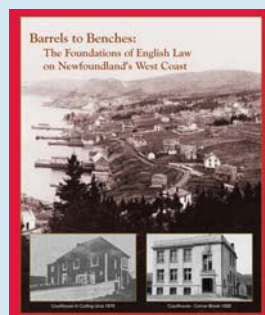
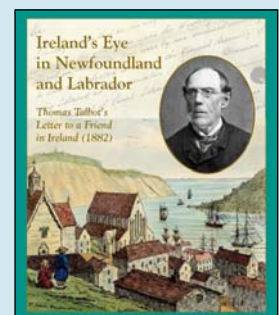
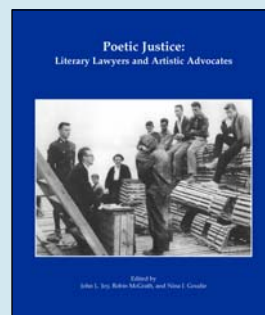
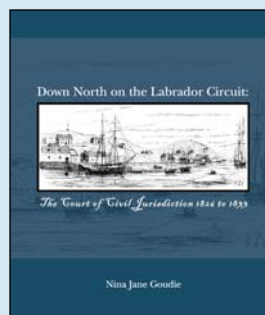
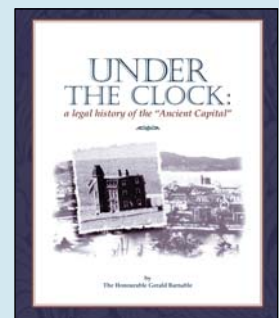
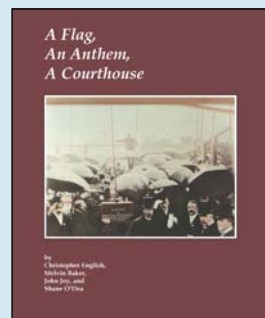
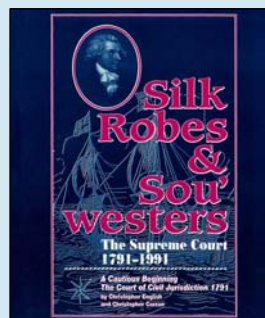
It is always a sad occasion to report on the passing of current or former members of our bar and such was the case in the passing of Mr.

Justice Kevin Barry. A Tribute was held for the late Mr. Justice Kevin Barry in November of 2013 at the Supreme Court of Newfoundland and Labrador. I would like to extend thanks to Vice-President, Kenneth L. Baggs, QC who attended and gave remarks on my behalf at this tribute.

I have thoroughly enjoyed serving as your President and as Bencher of the Law Society of Newfoundland and Labrador. ■

Daisy Committee Publications

The nine books shown here have been published in recent years by the *Daisy Committee*. They offer a varied and interesting look at the development of law in Newfoundland and Labrador over the last two centuries and more. Please call 722-4740 for details on how you can purchase a copy or several!



Note from Brenda B. Grimes

Executive Director

As your Executive Director, I am continually trying to find ways to reach out to our membership across the province and to look for ways in which to involve our younger members of the bar in the activities of the Law Society. This year I was pleased to see that our Winter Term Convocation of Benchers was held in Corner Brook. With a President from the west coast, we all thought it would be a great opportunity to hold a meeting outside of St. John's. In doing so, we were also able to offer a CLE titled: Update on Criminal Law, at the Glynmill Inn in Corner Brook. We hope to have the ability to offer similar opportunities of this nature in the future and I welcome your thoughts on how we can better reach out to our membership across the island.

In a later section of this issue of Benchers' Notes, you will find information on our new Professionals' Assistance Program. I strongly urge members to take the time to read up on this Program which exists in order to assist you,

our members, with a myriad of personal or family issues. While I realize that it may be difficult for some to reach out and seek help when feeling overwhelmed, distressed or in crisis, you should not hesitate to do so. Please take a moment to familiarize yourselves with the Professionals' Assistance Program as I am sure it can be of use to you should the need arise.

This has been my first opportunity, as Executive Director, to work with a President not residing in St. John's. You might think that this would present some geographical challenges but, with today's technology and travel options, it was not difficult at all. In fact, the President did not miss one meeting or ceremony during his term. I encourage members who live outside of St. John's to not let where they live limit the extent to which they participate in Law Society governance.

I would like to take this opportunity to congratulate our former President on his recent appoint-



Brenda B. Grimes
Executive Director

ment to the Supreme Court. We are all very proud of his accomplishments and wish him well in this next phase of his illustrious career. Justice Murphy exemplifies dedication, fairness, honesty and integrity - qualities we were all fortunate to have benefitted from during his 10 years as a Bencher and 10 months as President of the Law Society of Newfoundland and Labrador. As one of his associates at the firm Poole Althouse said, "Our loss is the bench's gain."

As always, I am open to listen to any of you who may have questions, concerns and/or suggestions about how the Law Society can continue to protect the public. ■

In Memoriam

Benchers and members were saddened to hear of the passing of our esteemed colleagues.

The Honourable Mr Justice Kevin J. Barry

September 3, 1921 - October 18, 2013
#205; called to the Bar June 29, 1946

Boyce Hayward Taylor

September 20, 1962 - April 22, 2014
#1019; called to the Bar July 2, 1996

Recent Appointees to Queen's Counsel

Peter Alteen, QC
Daniel Simmons, QC
Mary Mandville, QC
Derrick Watton, QC
Donna Ballard, QC
Frances Knickle, QC
Gregory Pittman, QC
Marcus Evans, QC
David Bussey, QC
Cillian Sheahan, QC
Irene Muzychka, QC

The *Canada Not-for-profit Corporations Act* replaces Part II of the *Canada Corporations Act*. Are you ready?

The new *Canada Not-for-profit Corporations Act* (NFP Act) presents a more modern, flexible and relevant legal framework for federally-incorporated not-for-profit corporations. The transition deadline of October 17, 2014 may seem far off, but corporations should be taking action now in order to meet the transition date.

To make the change to the new Act, not-for-profit corporations must replace their letters patent, supplementary letters patent (if any) and by-laws. Once this is complete, Corporations Canada can issue a Certificate of Continuance, which confirms that a corporation may “continue” as an incorporated entity under the new NFP Act.

Transitioning to the NFP Act is not as overwhelming as many people think. But it isn't quick either. The five-step process does take time, as it involves preparing new articles and by-laws and having them approved by members in accordance with the corporation's existing by-laws. Put simply: you need to start now.

The five steps to transition

1. Review your corporation's letters patent, supplementary letters patent (if applicable) and by-laws.
2. Draft the articles of the corporation.
3. Create by-laws.
4. Obtain members' approval.
5. Submit the required documentation to Corporations Canada.

Understanding the new *Act* is the key to a smooth transition. Corporations Canada has posted detailed information on its [website](#) and also offers a step-by-step [Transition Guide](#) to assist not-for-profit corporations through the

process. Corporations may want to seek legal advice if they have concerns about the transition.

What you may not know

- The NFP Act does not apply automatically to not-for-profit corporations. Every existing federally-incorporated not-for-profit corporation must take these five steps to make the transition to the new Act. To see if a corporation is federally-incorporated, *search for a federal corporation* online.
- Corporations cannot simply reuse all of the provisions of their letters patent and supplementary letters patent in the articles and use the same by-laws. The rules under the NFP Act are different, which means that the necessary articles and by-laws set out under the Continuance must be different as well.
- Obtaining members' approval can be a lengthy step. Not-for-profit corporations need to call a members' meeting and seek approval as per their current by-laws. If your members' meeting takes place only once a year, this can significantly delay your progress in completing this essential step.
- If a not-for-profit corporation doesn't make the transition to the new Act by October 17, 2014, Corporations Canada will issue a Pending Dissolution Notice informing it of its intent to dissolve the corporation.
- A further consequence after dissolution may be the loss of a not-for-profit corporation's registered charity status, if applicable. This could make it difficult for corporations to obtain and

maintain financial support through charitable grants and donations, and it could also mean paying a revocation tax equal to 100% of the value of the corporation's remaining assets.

Change is good

The new *Canada Not-for-profit Corporations Act* replaces Part II of the *Canada Corporations Act* that governed federal corporations for nearly 100 years. The new rules are clearer, modern and flexible, and much better suited to the needs of today's not-for-profit corporations. Not-for-profit corporations can better organize their activities and experience less red tape with the NFP Act's simplified processes.

Enhanced member rights, simplified procedures for adopting or amending by-laws, and a legal framework more closely aligned with the *Business Corporations Act* are additional benefits of transitioning to the new NFP Act.

Set things in motion

Remember, the steps to transition a not-for-profit corporation can take several months. And the clock is ticking. Avoid the significant and serious consequences of missing the transition deadline and begin your transition activities today.

How to reach Corporations Canada

By mail:

Corporations Canada
Jean Edmonds Building
South Tower, 9th Floor
365 Laurier Avenue West
Ottawa, ON K1A 0C8

General inquiries:

Tel.: 613-941-9042

Toll-free (*within Canada*):

1-866-333-5556

Fax: 613-941-4803

corporationscanada@ic.gc.ca ■

Decisions, Decisions, Decisions

Below is a brief summary of some of the decisions taken by Benchers during the period from February 2013 up to and including February 2014.

February 2013

The February 11, 2013 meeting of Benchers was called to order by the President, Morgan Cooper, at the Law Society Building at 9:30 a.m. The meeting began with a report from the President on his activities since the December 2012 meeting. He, Vice-President George Murphy and Executive Director Brenda Grimes met with the Minister of Justice, Darin King, the Deputy Minister, Paul Noble, and Assistant Deputy Minister Donna Ballard on December 11, 2012. The discussion at this meeting focused on a review of the Limitations Act, changes in the distribution of money to Legal Aid, and various issues affecting the Registry of Deeds. The group agreed to meet again in the New Year.

On December 19, the President and the Executive Director met with members of the Executive of the Law Foundation to discuss future funding that may be available to the society from funds disbursed by the foundation. The President chaired a meeting of the Executive Committee on January 28, 2013, where matters related to Québec mobility, national standards, and borrowing and lending were on the agenda. He also attended a meeting of the Insurance Committee and a joint meeting of the Education and Executive Committees.

The President was unable to represent the society at the swearing-in ceremony for Madame Justice Cecily Strickland to the Federal Court of Canada. Ian Wallace attended in his place and brought greetings on behalf of the society.

As well, the President informed Benchers that he had been asked to sit on a committee established by

Memorial University President Gary Kachanoski to look into the feasibility of a law school at the university. Bert Riggs, a lay Bencher and employee of the University had also been invited to serve on the committee. It is anticipated that there will be at least one member of the judiciary and possibly a member of the Bar who will be asked to join the committee before it begins its work.

Sheila Greene, who represents the Law Society of Newfoundland and Labrador on the board of the Federation of Law Societies of Canada, delivered a detailed report on recent Federation activities, including the application by Trinity Western University for accreditation of its proposed law degree program; amendments to the Federation's model code of conduct; the desire of the Québec Barreau to introduce full mobility for lawyers from other parts of Canada within the province and for Québec lawyers in the rest of the country. It was pointed out that if the mobility changes are implemented they would not apply to lawyers from France who have permanent mobility rights within Québec.

The society's accountant, Richard Yabsley, provided financial reports for the society, the Insurance Program and the Assurance Fund. It would appear that all expense claims against the society for the 2012 year have been received and there will be an excess of revenue over expenditures. No significant variance was anticipated in the Insurance Program and the surplus required by the Assurance Fund was in place. The annual audit of all three entities will begin in the coming weeks. Continuing on

financial matters, Barry Fleming, Chair of the Finance and Accounts Committee, presented information from ScotiaMcLeod, which handles the society's portfolio, indicating a quite positive return on investments during the past year.

Paul Burgess, Chair of the Insurance Committee, began his report by informing Benchers that the committee had advertised for a senior adjuster to work with Ray Walsh, who had filled the position for many years and who had informed the society of his plan to scale back and retire. CLIA matters dominated his report as there are major issues affecting the consortium. One is the potential withdrawal of Alberta and the impact that would have on the other members, especially Newfoundland and Labrador, including the possibility of higher premiums and what effect such a move would have on CLIA's stability. The committee is reviewing a number of options that might be available to it if Alberta decides to leave. However, he assured Benchers that the Insurance Program is in a very healthy financial state.

The President informed Benchers that the Executive Committee, in response to information that had come to its attention regarding members lending money to clients, had asked the Executive Director to attempt to discover the practices in the other jurisdictions and bring a report with recommendations back to the Executive Committee. Ms. Grimes gave an overview of the matter, indicating that such practices are allowed under the Federation's Model Code of Professional Conduct, but that modifications that we made to our rule on borrowing and lending do

not conform with those in the Model Code, particularly in the requirement that any client borrowing money from a lawyer should have independent legal representation and receive independent legal advice. She asserted that our rules need to be amended to reflect this principle; her advice was taken and Benchers, on motion duly seconded, approved the recommended changes.

Ian Wallace, chair of the Education Committee, advised that 17 individuals were eligible to receive Certificates of Fitness, enabling them to be called to the Bar of Newfoundland and Labrador at a ceremony scheduled for February 15, 2013. Benchers gave the necessary approval for these certificates to be issued. Benchers also approved requests from one member seeking to resume practice, from eleven members who wished to assume non-practicing status and from seven members who wanted to resign from the society. Benchers further approved a recommendation from the Life Membership Committee to grant life membership status to Reg Locke (#337), who was called to the Bar on December 14, 1972 and practiced law in this province for almost 40 years.

In response to overtures from a number of individual benchers, approval was given to a suggestion that unless a special occasion warranted it, Benchers would, in future, have a working lunch rather than a formal lunch break. There being no further business, the meeting adjourned at 12:30 p.m.

April 2013

The April 08, 2013 meeting of Law Society of Newfoundland and Labrador was held at the Law Society Building, with the President, Morgan Cooper, in the chair. The meeting began at 9:30 a.m. The President gave a summary

of his activities on behalf of the society since the last meeting: on February 15, he officiated at a Call to the Bar ceremony, which saw 17 new members admitted to the practice of law in this province; on March 08 he spoke at the swearing-in ceremony for Mr. Justice David Hurley; on March 20 to 22, in company with Vice-President George Murphy, Federation Representative Sheila Greene and Executive Director Brenda Grimes, he attended meetings of the Federation of Law Societies of Canada in Québec City; on March 26, he chaired a meeting of the Executive Committee; on April 01 he attended a meeting with the Education Committee to discuss the National Mobility Agreement and the Canadian Common Law Degree Implementation Report, both of which are on the agenda for this meeting; on April 04 he met with the Insurance Committee to discuss issues related to CLIA (see below). The President provided an update on Memorial University's committee to investigate the feasibility of a law school. Contrary to his earlier impression, that there would be one or more representatives of the Bar on the committee, this will not be the case. He is a member in his capacity as a senior administrative staff member of the University and the committee has been mandated to adopt a neutral stance on the matter, while it conducts research and seeks opinions from groups and individuals. He indicated to Benchers that he will step down from the ad hoc committee advocating for a law school, as it may place him in a conflict of interest position. As a member of the committee he has advised that consultations be undertaken with the Law Society, the Law Foundation, and the local branch of the Canadian Bar Association, as well as a number of other relevant and interested groups and associations.

Subsequent to the President's report, Benchers engaged in a discussion as to whether it should advocate for a position on the University's committee but the overwhelming conclusion was that it would be premature for the Law Society to be involved in any way other than the consultative process at this time.

The two major items on the agenda were the proposed changes to the National Mobility Agreement and the Canadian Common Law Degree Implementation Report; both provoked intensive discussion. The changes to the National Mobility Agreement, which would ultimately provide full mobility for Québec members within other provinces, had been under the scrutiny of the Education Committee, which provided an extensive report on the implications of the proposed changes. The committee chair, Ian Wallace, reported that the committee had been asked to provide observations regarding the changes. The committee report outlined a number of areas of concern with Québec lawyers being part of the National Mobility Agreement, including the lack of assessment of competency upon the exercise of mobility rights, implications for professional liability insurance, the requirement for lawyers practicing in Québec to be proficient in the French language, but noted that the opportunity to bring Québec lawyers into the agreement was a very important one, with a very small window.

The President agreed and indicated that, in spite of the certification of competency issue raised by the Education Committee, this was a very positive step in ensuring comprehensive national mobility. He then moved, seconded by the Vice-President, that Benchers ratify the Federation plan for inclusion of Québec within the National Mobility Agreement subject to an

amendment to address certain insurance issues, as noted by the National Mobility Policy Committee of the federation. After a full and spirited debate, Benchers agreed.

Then it was on to the Canadian Common Law Degree Implementation Report. The President indicated that there had been some disagreement between the Executive Committee and the Education Committee on the proposed common law degree, but that both groups had met in an attempt to reach common ground. He invited Ian Wallace, Chair of the Education Committee, to speak on the matter. Mr. Wallace expounded upon the Education Committee's belief that the national requirements were more focused on outcomes, with the distinct possibility that a person could complete a common law degree without a course in civil procedure, which the Education Committee felt was instrumental to a full understanding of the law. There were also some concerns regarding foreign law degrees and the suitability of graduates of these programs to practice law in Canada.

While the Executive Committee and the Education Committee were able to reach consensus on some matters, the ones outlined by Mr. Wallace remained unresolved. In addressing this, the President reminded Benchers that this law society was a signatory to the National Mobility Agreement, and had committed to making necessary changes in its own rules and regulations to bring conformity with the national standards, and that this must govern how we respond to this implementation report. He pointed out that the Federation's National Committee on Accreditation does apply national standards in its assessment of foreign law students and degree programs and that we are

represented on that committee and have a say in its processes. He reiterated that any Canadian students with foreign law degrees can be called to the Bar of another province and then transfer to the Bar of Newfoundland and Labrador by virtue of the National Mobility Agreement.

Mr. Cooper further stated that the Executive Committee believes in national standards, has confidence in the Federation and in the vigilance of the NCA, and did not support restrictions that would hinder the spirit and the effectiveness of the National Mobility Agreement in this province. He also pointed out that, while he agrees with the value to a lawyer of having adequate training in civil procedures, no Canadian law schools have been required to have a mandatory course in this area in some time. As well, given the comprehensiveness of our bar admission course and the articling requirement, such knowledge was available to students.

On a motion duly seconded, the President moved that *"Benchers accept the Canadian Common Law Degree Implementation Report, as recommended by the Education Committee, subject to the qualification that Benchers do not accept the Education Committee's recommendations that Newfoundland and Labrador retain Civil Procedure as a mandatory course and Benchers do not accept that Newfoundland and Labrador should retain the foreign law degree policy."*

The discussion which followed was lengthy, with all Benchers speaking on matters of concern. Some of the issues raised were that the Law Society can rely on the professionalism and sound judgment of the National Committee on Accreditation; that national standards are important and we should not create unnecessary impediments to their implementation; that substantive

knowledge of civil procedure is gained most effectively through practice rather than a text book; that we have extreme confidence in our bar admission program; we should not assume that students attending foreign law schools are less competent than those attending Canadian law schools; national standards with respect to national mobility is a new and constantly changing field and we need to be an integral part of all discussions and decisions in this area; that abandoning our foreign law degree policy will reduce standards, and may lead to other regressive steps such as the abolition of articles.

All Benchers having been heard from, the motion was put and carried, with 14 of the 18 Benchers in attendance voting in favour and four opposed.

The Society's accountant, Richard Yabsley, updated Benchers on the financial side of the society as well as the Insurance Program. The audit for the previous year has been completed, with the Assurance Fund being incorporated in the Law Society's Balance Sheet, from this point forward. Minor changes were reported in budget allocations for 2013. He indicated that he is awaiting information from CLIA regarding a premium credit, and that revenue had exceeded expenditures by approximately \$34,000, because budgeted expenses for claims-related costs were lower than anticipated. On motions, duly seconded, both financial statements were approved.

Barry Fleming, Chair of the Finance and Accounts Committee, circulated information on the investment returns over the year running from February 01, 2012 to February 01, 2013, which confirmed that the Investment Policy Statement previously approved by Benchers was being followed. He also advised

that a proposal has been received from Scotiabank proposing reduced rates and the possibility of increased revenue on cash balances. The committee has authorized Mr. Yabsley to initiate the changes.

On the insurance front, Insurance Committee Chair Paul Burgess indicated that there had been a number of applications to the advertisement for a Senior Adjuster but only one appeared to meet our requirements. The Executive Director and the Insurance Administrator will meet with this individual, with a view to instituting a trial period of employment.

Mr. Burgess also updated Benchers on CLIA matters arising out of meetings that have been held in the past few months to reach consensus on a new subscriber agreement. An annual meeting will be held at which subscribers will: review activities of the organization, appoint the board of directors and the auditors, approve the financial statements, receive reports on the performance of the board and management of the organization. It has been argued that if subscribers could perform these functions, then the move to skills-based board with the power to appoint a chief executive officer and manage operations of CLIA, could be introduced. Any movement in this area is subject to ratification by Benchers, as would the proposed new subscribers' agreement, which is in draft stages.

He reported that while this society would like a representative on the new governing board, it will not be a deal-breaker: how the new board will be selected is a key factor in negotiations on this issue. Another matter of concern involved how coverage issues would be brought to the new board. At this point he recommended that we stand firm and await developments. The over-

all consensus of Benchers was that a specific NL representative is preferred but it is important to review the subscribers' agreement before making any decision.

Phyllis Weir, on behalf of the Complaints Authorization Committee, reported that the committee's workload is extensive and shows no signs of slowing down. In addition to tribunals and written decisions that are open to the public, there are many deliberations by the committee that never reach Benchers.

Ian Wallace indicated that there were two applications for transfer under the National Mobility Agreement and that there were six candidates, including the two transfers, who needed Benchers approval for the issuance of a Certificate of Fitness. These approvals were forthcoming and all six will be called to the bar in a ceremony to be held on April 19. Benchers also received notification of the approval from the Education Committee for four members who wished to resume practicing status, and gave its sanction to seven members who wished to take non-practicing status and three members who wished to resign.

In his capacity as Chair of the Life Membership Committee, Mr. Wallace informed Benchers that four members had been approved for Life Membership: Francis M. O'Dea, QC, Rosemary Dawson, Veva Moulton, and John Dawson. Benchers approved the granting of these life memberships.

Based on a straw poll by the President, Benchers decided to eliminate the dance component from the annual Dinner and Dance, allowing time following the dinner for conversation, if members desired.

Benchers also debated whether the Law Society should, or indeed had

the right within its statutory mandate, to make a formal response to the Provincial Government regarding recent government cuts to the Department of Justice and its subsequent decision to review these cuts. Opinions ranged from one end of the spectrum to the other and final decision on this matter was left to the Executive Committee. There being no further business, the meeting adjourned at 3:30 p.m.

June 2013

The June 7, 2013 meeting of Benchers was the last with President Morgan Cooper in the chair. It began at 9:30 a.m., with the President outlining his activities on behalf of the Society since the previous meeting of Benchers. These included: chairing meetings of the Executive Committee on April 16 and May 23; officiating at a Call to the Bar Ceremony on April 19; attending a meeting of the Federation's Special Advisory Committee regarding Trinity Western University's application for accreditation as a law school on May 21, which he found to be very informative and thoughtful in its deliberations; attending a meeting of the Insurance Committee on May 22; meeting with Richard Scott, President of the New Brunswick Law Society, via teleconference, regarding our position with respect to representation on the CLIA board, on May 30; an issue of Benchers Notes has been distributed and he thanked those involved in making that happen. At the end of his report, Bert Riggs, one of the Lay Benchers, expressed congratulations to Mr. Cooper, on behalf of Benchers, for his recent appointment as Associate Vice-President (Academic) for Faculty Affairs at Memorial University.

While Sheila Greene, the Society's representative on the Board of the Federation of Law Societies of

Canada, was unable to attend this meeting, she did provide a detailed report on the Federation's June 3 Board meeting. The major item arising out of her report was the revision to the relevant sections of the National Mobility Agreement 2013 regarding insurance issues, ones that had been flagged by Benchers at its last meeting. Given that the revisions reflect changes to the areas that caused concern, it was moved, duly seconded, and carried that the National Mobility Agreement 2013 (as revised) receive Benchers' approval.

A presentation by Gail Hamilton of KPMG on not for profit corporations followed and was incredibly informative, with the possibility of changes in operations being implemented by the Society.

One of the St. John's area seats on Benchers remained unfilled after the deadline for nominations leading up to today's annual general meeting. A call had gone out to members seeking expressions of interest in an appointment to this seat for a one-year term, after which the person could seek election to remainder (three years) of the term at next year's call for nominations. Benchers reviewed more than a dozen expressions of interest following which a vote was held and Ann Martin was announced as the new Bencher.

Paul Burgess gave his usual concise and informative update on CLIA matters, which included a summary of the draft subscribers' agreement that had been circulated to Benchers prior to the meeting. Only Newfoundland and Labrador and Prince Edward Island have not agreed to a non-representative board and he felt we do not have a strong bargaining position, even though we continue to advocate for a seat on the new board. If this does not happen one alternative is for

the society to sever its ties with CLIA and go it alone but doing this would probably result in an increase in the insurance premium from the current (CLIA) amount of \$1,300 to \$4,000 per member. The President felt our fallback position should be to advocate for inclusion on the Nominating Committee for members for the new board. Consensus was that we would have no choice but to agree to the new structure.

Mr. Burgess also reported on activities of the Insurance Committee. Our actuary, Andre Normandin, did not recommend an increase of the deductible from \$200,000 to \$300,000 this year because of the claims experience in Alberta. He did indicate that our premiums are on the lower end of the scale when compared to the rest of the CLIA members; however, in response to a question from a Bencher, he agreed to look into subsidies of insurance premiums in other jurisdictions. Gary Baird has been hired to assist Ray Walsh with adjusting.

At the invitation of Benchers, Justice A. E. Faour attended Benchers on behalf of the *ad hoc* committee chaired by Chief Justice D. Green to make a presentation regarding the establishment of a law school in this province. The committee has been successful in its original intent, which was to have Memorial University review the issue, which is going to happen. He presented a number of strong arguments why this was a propitious time to establish a law school in the province, including: indications of overwhelming public support; the number of students from Canada who attend foreign law schools because there are not enough seats in Canadian law schools to accommodate them; that a school would be of enormous benefit to the legal profession, particularly in areas of law unique to

Newfoundland and Labrador; academic research and commentary on matters related to the administration of justice and the practice of law in the province; ability for the school to work with the Law Society and other bodies on matters of mutual concern; providing legal services to rural areas; social advocacy; legal aid clinics; contribution to the public understanding of the rule of law; and, greater accessibility to legal education.

The President indicated that the Law Society has been invited to appear before the University Committee on the Feasibility of a Law School at Memorial as had other legal bodies and individuals involved in the profession. Various benchers expressed their thoughts on the matter, one advocating that the school would be a great boon to Memorial's Grenfell Campus in Corner Brook. The Law Society will follow developments and will review the committee's recommendations at a future meeting.

Accountant Richard Yabsley provided updates on the Society's financial status, indicating that budgeting appeared to be on target. He noted that recommendations from KPMG suggesting changes in some accounting practices are being implemented.

The Education Committee recommended the adoption of the National Competency Profile, which was approved, but acknowledges certain issues affecting implementation that will require time to rectify. Mr. Wallace also advised that there was one transfer under the National Mobility Agreement and six additional candidates who required Certificates of Fitness before they could be called to the Bar on June 14. Benchers agreed to both of these requests. The Education Committee further reported that it had

granted the requests of ten members to resume practicing status.

Mr. Wallace also introduced proposed changes to *Law Society Rules* as a consequence of approval of the Canadian Common Law Degree Implementation Report. Most of these were approved to go into effect immediately but the implementation of one rule change will not go into effect until the national standards take effect in 2015.

Benchers agreed to requests from seven members to take non-practicing status and to allow two others to resign their membership. Benchers then adjourned to allow the Law Society's Annual Meeting to take place. Following that meeting, Benchers reconvened, and approved the slate of officers for the coming year. George L. Murphy, QC, will be the new President, along with Kenneth L. Baggs, QC, (Vice-President), Morgan Cooper (Past President), and Susan M. Ledrew and Barry Fleming as members at large.

As his term as President was now at an end, Mr. Cooper addressed farewell remarks to the gathering. He expressed his gratitude for the support and co-operation that he had received from Benchers. He thanked the outgoing Past-President, Gus Bruce, for his readiness to assist and his sound advice over the past year. He also thanked Brenda Grimes, the Executive Director, *"for her pragmatic, business-focused approach"* and for her communications skills. He wished the new President much success in the year ahead, noting that he, too, was extremely pragmatic and very decisive, sound attributes in a leader. Mr. Murphy commented that he has enjoyed his ten years as a Bencher and expressed the hope that he would be equal to the task. He looked forward to working with Benchers and Law Society

staff. There being no further business, the meeting adjourned at 3:30 p.m.

October 2013

The October 7, 2013 meeting of Benchers was the first with President George Murphy, QC. It began at 9:30 a.m., with the President extending a warm welcome to everyone, especially Ann Martin, new Bencher. He then went on to outline his activities on behalf of the Society since the previous meeting of Benchers. These included the Call to Bar on 14 June 2013 where 7 new members were called; the Inaugural Sitting for Justice Hurley at the Supreme Court in Corner Brook on 9 September 2013; Executive Committee Meetings on 26 September 2013 and 1 October 2013 and regular discussions with the Executive Director, particularly with respect to CLIA as a result of Alberta's decision to withdraw. The President reminded Benchers that the Law Society of Newfoundland and Labrador was hosting the Federation of Law Societies Annual Meeting in St. John's the following week and invited them to attend a dinner being hosted by the Law Society at the Masonic Temple.

The Law Society's accountant, Richard Yabsley reported that revenue and expenses were in line with the budget for both the Insurance Program and the Law Society. With respect to the Insurance Program he noted that custodianship costs were significantly lower than budgeted. He advised that it appeared that investment income would exceed budget for both the Law Society and the Insurance Program.

Also on the financial picture, Barry Fleming, QC, Chair of the Finance and Accounts Committee, provided a chart showing the breakdown between equity, fixed income and

cash and confirming compliance with the Investment Policy Statement.

The Insurance Committee Chair, Paul Burgess, provided documentation showing statistical information regarding the current status of claims. Mr. Burgess indicated he believed claims were higher in 2013 because more notices had been circulated asking members to report if they think they have a claim. Mr. Burgess indicated that there was no trend up or down in the claims since joining CLIA. He also advised that the Insurance Committee would be looking at the formulation of a surplus policy for the Insurance Program.

With respect to CLIA, Mr. Burgess confirmed that Alberta gave informal notice of its intention to withdraw from CLIA as of the end of June 2014, at least with respect to Compulsory Insurance. It might continue to work with CLIA on the Voluntary Excess Insurance Program. Alberta's rationale for leaving was that, while they had received advice which underscored the fact that CLIA was a good option, it was not the best for their needs as Alberta's size meant there was no real homogeneity among the participants in CLIA and this is required for reciprocals to work best. Alberta would work with the Board and everyone else to ensure that the transition out is as seamless as possible. Consideration was being given to the consequences of Alberta's withdrawal and there would be premium implications for all, the specifics of which were unknown at the time. It was hoped that they would not be too significant for NL.

Mr. Burgess noted that other jurisdictions were assessing alternatives but had agreed that they remained committed to making CLIA work as long as it remained the most cost

effective alternative. As a result, restructuring plans for CLIA would proceed. A meeting between the subscribers and the Board was planned for November 2013. In the meantime, the subscribers are attempting to finalize the subscribers' agreement with the assistance of counsel. George Murphy, QC was going to be a member of the Nominating Committee for the Board. Regarding whether we should obtain information regarding alternatives, Mr. Burgess advised the Insurance Committee had discussed this with the actuary who felt it was premature to do so at this stage. The general impression was that insurance on the commercial market would be more expensive.

Information was provided to Benchers regarding the Transaction Levy in advance of budget discussions in December. Phyllis Weir, on behalf of the Complaints Authorization Committee, provided an update on its activities and there was discussion about the development of a new policy regarding publication of information in advance of a hearing and the availability of a member's disciplinary record on the website.

Ian Wallace, Chair of the Education Committee, indicated that there were eleven candidates (nine of whom were transferring under the National Mobility Agreement) needing approval for the issuance of a Certificate of Fitness. These were approved for the Call to Bar on 11 October 2013. He noted that five applicants for admission as students had been approved, while twelve members were approved to return to practice. Benchers approved twenty-three applications to take non-practising status and two applications to resign.

Frank O'Brien, Director of Legal Education advised that 38 students

were enrolled in the Bar Admission Course beginning the next day - up from an average of 30 to 32. He also reported that the Committee that prepared the Competency Profile is now looking at implementation issues to determine what should be tested and how it is to be tested. The company that did the initial analysis of the data has reanalyzed it to help assist in that determination and will soon file a report providing options. The Federation plans to do extensive consultation following the receipt of the report.

There was discussion about holding a Benchers' convocation in Corner Brook and it was determined that this would be desirable as long as it was feasible. It was suggested that perhaps it could be tied into a town hall type of meeting or a CLE program. Ms. Grimes indicated that she would do the costing and bring it forward at the next meeting.

There being no further business, the meeting adjourned at approximately 1:30 PM.

December 2013

The December 9, 2013 meeting of Benchers began at 9:30 a.m., with the President reporting on his activities since the last meeting. They included the Call to Bar on 11 October 2013; the Federation of Law Societies' Annual Conference which was held from 17-19 October 2013 in St. John's (the President noting that it appeared to be a success with relevant and thought-provoking topics); Executive Committee Meetings on 22 October 2013 and 5 December 2013; attendance at CLIA meeting in Toronto on 2 November 2013; attendance at the QC Swearing In Ceremony on 15 November 2013 (the President congratulated Marcus Evans, QC on receiving the designation); a meeting with Chief Justice Orsborn on 15 November 2013 to discuss con-

cerns raised by the judiciary about the e-filing of estates; attendance at the Law Society Christmas Reception on 5 December 2013 and regular discussions with the Executive Director. The President thanked Ken Baggs, QC for attending the ceremony to Honor Justice Kevin Barry on 1 November 2013 noting there was a personal connection between Mr. Baggs, QC's family and Justice Barry's family.

Prior to the meeting Benchers were provided with a report from an outside consultant addressing issues with respect to salary and benefits for those staff positions not considered by the Compensation Committee in 2009. Benchers were also provided with a draft Personnel Manual.

The report proposed the adoption of five-step scales for each of the positions assessed and further recommended that future annual adjustments to the salaries of any Law Society employees be determined based on what the government has negotiated with its employees. It was noted that the proposed scales did not reflect exactly the salaries associated with similar positions in government but were used as the best guidelines for what would be fair in the market. The proposed package was designed, overall, to provide competitive compensation and to provide certainty and consistency going forward.

With respect to the Personnel Manual, Benchers were advised that the intention was to provide a comprehensive handbook which would contain all of the information likely to be of importance to employees in one package for ease of reference. It was agreed that further discussion of the Personnel Manual would be deferred to the February meeting giving Benchers an opportunity to provide written

comments to the Law Society. Benchers went on to discuss and make decisions regarding recommendations from the Compensation Report with respect to job descriptions, compensation, group benefits, vacation entitlement, parking and grandfathering of current employees.

Ms. Grimes provided Benchers with an estimate showing that the additional cost of holding the Benchers' meeting in Corner Brook would be approximately \$11,000. Benchers agreed that the additional cost was relatively modest and that it was important for members outside of St. John's to know that their issues are important. Combining it with a CLE and a town hall style meeting would make it more productive.

Benchers approved a contribution of \$5,000. for the 2014 CIAJ conference dealing with "Privacy in the Age of Information" given its importance from the public education perspective. Law Society members would be eligible to register for the conference and have an opportunity to hear and participate in the discussions.

Benchers discussed the pilot project instituted by Justice LeBlanc to get lawyers involved in providing mediation services in conjunction with Family Justice Services and approved the use of surplus funds to support this access to justice initiative. The President intended to contact Justice LeBlanc to discuss the needs of the program.

Accountant, Richard Yabsley reported that he anticipated the Law Society and the Insurance Program would show an excess of revenue over expenses as a result of lower than budgeted costs in custodianship, building costs, discipline, CLIA premiums and salaries and higher than budgeted investment revenue. With respect to the

Insurance Program he also noted that it was also too early to know what the actual damages and defense costs would be as we did not yet have information from the actuary.

Regarding the 2014 Budgets for the Law Society and Lawyers' Insurance Program, he noted that the Law Society budget was based on the same members' fees as 2013 and was projecting a deficit of \$15,000. The budget for the Insurance Program was based on the same base insurance premium for members as 2013 but with a decrease in the transaction levy of five (5) dollars bringing it down to \$35. per transaction. Benchers reiterated their commitment to continuing to review the need for, and amount of, the transaction levy on an annual basis and approved both budgets.

Paul Burgess, Chair of the Insurance Committee reported that he, George Murphy QC and Brenda Grimes met with CLIA's board on 1 November 2013. While some jurisdictions reiterated concerns regarding board representation, it was clear that most simply wanted to move forward. Most subscribers reiterated their commitment to CLIA despite the fact that a couple had determined that, in the current soft market, they could get premiums less than what they paid to CLIA. Because of issues raised by Nova Scotia and with advice from CLIA's general manager, it had been agreed that the next underwriting period for CLIA would be three instead of five. The new Subscriber's Agreement had been reviewed by counsel and was being submitted to the Superintendent of Insurance in Alberta for review. The Nominating Committee was to meet on 18 December 2013 and the Expense Subcommittee was continuing to meet. A review of the management of CLIA was underway

using an outside consultant and a Committee had been struck to deal with Alberta's departure.

Ian Wallace, Chair of the Education Committee, indicated that two applications for transfer under the National Mobility Agreement needed approval and this was granted. He noted that one application for admission as a student had been approved, while five members were approved to return to practice. Benchers approved ten applications to take non-practising status.

He also reported on the Education Committee's review of the National Suitability to Practice Standard Consultation Report dated July 2013 noting that, while the concept is correct and the Law Society should conform, the process was incomplete because it did not deal with the concept of fitness. The Committee felt that the review should encompass both suitability and fitness and report on both and made a number of recommendations which Benchers endorsed.

Frank O'Brien, Director of Legal Education reported with respect to the National Admission Standards Project noting that consultants had made preliminary recommendations about the types of reliable assessment options after consultation with key members of the law societies. The consultants' report showed that, while reliability and validity are primary considerations in assessment, overall feasibility must be taken into account and left open the possibility that different methods might be utilized in different jurisdictions. The Federation is now seeking to meet with representatives of the law societies to have a broader discussion.

The President reported that, in an effort to address concerns raised by Chief Justice Orsborn regarding the e-filing of estates and to avoid an

additional audit, a tentative agreement had been reached which would see a random selection of estate files in which e-filing had taken place reviewed during the Law Society's regular audit process. Benchers agreed that the Law Society should work with the Court on a two-year pilot project basis.

Benchers appointed Geoff Aylward, QC and Sherri Wicks to the Board of Governors of the Law Foundation and approved Aubrey Bonnell as Chair effective 1 January 2014.

Ms. Grimes explained that, following the Newfoundland and Labrador Medical Association's withdrawal from the Professionals' Assistance Program effective 31 August 2013, the Law Society had obtained quotes from five different potential providers and these were presented to Benchers. Ms. Grimes indicated that many of the other law societies were using Homewood Human Solutions (all of the other Atlantic provinces) and appeared satisfied with the service. Following a discussion, Benchers agreed that it would be appropriate to retain Homewood and begin the transition.

Benchers were provided with a memo from the Code of Professional Conduct Review Committee recommending that the Law Society adopt the Limited Scope Retainers Rule approved by the Federation of Law Societies and include it in the Code of Professional Conduct. The Law Society was made aware that some lawyers already represent clients under limited retainers, particularly at Unified Family Court, and have been doing so without any guidance. The concept of allowing limited scope retainers is directed towards access to justice issues. Benchers were advised that the

Committee was going to develop a Practice Note for the membership on how to avoid risks when engaging in these types of retainers. Following a discussion, Benchers approved the recommendation.

There being no further business, the meeting adjourned at approximately 5:00 PM.

February 2014

The 7 February 2014 meeting of Benchers was held at the Glynmill Inn in Corner Brook and began at 9:30 a.m.

The first item to be dealt with arose from the previous meeting. The President thanked those Benchers who had provided comments on the earlier draft of the Personnel Manual and indicated that the Executive Committee were recommending a revised version for approval by Benchers. Upon being satisfied that the introduction of the manual would not cause material changes for which notice was required (because of prior approval of grandfathering for existing staff), Benchers approved the manual for immediate adoption.

The President then reported on his activities since the last meeting which included lunch with the Law Foundation on 10 December 2013; an Executive Committee Meeting on 28 January 2014; the Retirement Dinner for the Honourable Alan Seaborn on 29 January 2014; and a CLIA Nominating Committee Meeting on 2 November 2013.

Benchers engaged in a general discussion in relation to the application by Trinity Western University and the controversy surrounding it following review of a substantial volume of material, including reports from the Canadian Common Law Approval Committee, the Special Advisory Committee of

the Federation and various letters and articles. It was noted that the main issue of contention is the community covenant that students are required to sign and that the Canadian Common Law Degree Approval Committee of the Federation had provided preliminary approval to TWU and the Special Advisory Committee had determined that there was no public interest reason why law societies should not accept graduates from that school. It was further noted that the current state of the law as set forth by the Supreme Court of Canada supports the approval of the school and that there are processes in place to assess each candidate from any school prior to admission. Benchers decided that, before making any decision, they needed a clearer understanding as to what the processes under our legislation are.

Benchers approved the payment of a levy for CanLII in the amount of \$36.19 per lawyer. This amount was factored into the 2014 budget.

Benchers approved changes to the Territorial Mobility Agreement to incorporate the extended mobility provisions of the National Mobility Agreement 2013.

Benchers were provided with a written report on the National Discipline Standards Pilot Project and Phyllis Weir, Legal Director reported that the Federation Council would likely approve the standards in April 2014 with an implementation date of 1 January 2015. All 21 standards appeared to be achievable for most jurisdictions. The standards with respect to publication and the inclusion of discipline history in the lawyer directory would require changes to the Law Society's processes.

A draft publication policy, designed to provide for openness,

transparency and accountability regarding discipline proceedings so that the Law Society's mandate of regulation in the public interest is fulfilled, was considered and approved.

On the financial side, Benchers were provided with the Internal Financial Statements for the Law Society for 31 December 2013 and Brenda Grimes, Executive Director, reported that the auditors were scheduled to begin work on 17 February 2014. Ms. Grimes stated that, subject to changes necessitated by further debits and a possible credit, it was expected that there would be an excess of revenue over expenses in the amount of approximately \$174,000., primarily as a result of greater than anticipated revenue from transfers and investments and lower than budgeted costs in custodianship, building costs, discipline, salaries and conferences.

With respect to the Insurance Program she noted year end financials had not yet been finalized as actuarial figures for damages and defense costs were not yet available but little had changed from the December report.

Barry Fleming, QC tabled a report on behalf of the Finance and Accounts Committee regarding the investments.

With respect to CLIA, Paul Burgess, Chair of the Insurance Committee, reported that the revised Subscribers' Agreement had been provided to the Insurance Committee and the Executive Committee for review. One issue to be determined was whether a departing subscriber should be entitled to a return of capital. A final version of the Subscribers' Agreement would be brought to Benchers for approval in the future. Mr. Murphy, QC reported that the Nominating Committee had met on 6 February

2013 and approved an email to go to the jurisdictions seeking nominations for the board. Benchers approved the nomination of Steve May.

Phyllis Weir reported on behalf of the Complaints Authorization Committee advising that it had met on two occasions since the last meeting and spent considerable time addressing matters. She noted that no file is dismissed lightly and that extensive investigation is done in advance of the meetings plus the Complaints Authorization Committee often directs further investigation and may pose specific questions to both the complainant and the member.

Frank O'Brien reported that the Education Committee was considering the subject of mandatory CLE and reviewing different approaches to CLE across the country and in different parts of the world. He noted that Newfoundland and Labrador is the only province that doesn't have some form of mandatory CLE program and indicated the Education Committee intends to bring a recommendation to the Executive Committee for presentation to Benchers. They are trying to devise an approach to mandatory CLE that will be achievable for members without causing too much of an administrative burden. There are a number of different approaches around the country but most involve a member being required to attend CLE programs for a minimum number of hours. Mr. O'Brien pointed out that there are studies that show that mandatory CLE, on its own, has no real positive impact on insurance or discipline issues but is of benefit in a remedial context.

The Education Committee is attempting to be pragmatic and tie any mandatory system to the practice that a particular lawyer

does. Benchers agreed a program needs to be introduced that will meet real, as opposed to perceived, needs and is structured to require interaction without being prescriptive.

Ian Wallace, Chair of the Education Committee, indicated that there were twenty candidates (four of whom were transferring under the National Mobility Agreement) needing approval for the issuance of a Certificate of Fitness. These were approved for the Call to Bar on 14 February 2014. He noted that one application for admission as a student had been approved, while three members were approved to return to practice. Benchers approved nine applications to take non-practising status and nine applications to resign. Benchers also accepted the recommendation of the Life Membership Committee and granted Life Membership to Michael Griffin.

Following the resignation of John Noseworthy from Benchers effective 5 March 2014, and a request for expressions of interest to the members, Benchers appointed Adrienne Edmunds as a Bencher representing Labrador.

There being no further business, the meeting was adjourned at approximately 3:00 PM.

During the Benchers' meeting, a CLE with respect to criminal law issues was held in another room which was well attended by members from Corner Brook and the surrounding areas. Other members of the local bar joined Benchers for lunch and members of the bar and the judiciary were invited to join Benchers at a reception following the meeting and CLE. ■

Loss Prevention

The Canadian Lawyers Insurance Association (CLIA), your insurer, publishes a variety of effective loss prevention information such as Safe and Effective Practice, a loss prevention handbook; Loss Prevention Bulletins which include claim prevention techniques to help lawyers minimize the likelihood for being sued for malpractice and Loss Prevention eBytes, which are short and snappy electronic notifications on issues of relevance and interest to practising lawyers.

You can subscribe to the Loss Prevention Bulletins and eBytes as an RSS feed or you can sign up to receive by e-mail at www.clia.ca

The following excerpt is from a recent Loss Prevention Bulletin, issue number 57:

Back to Basics: Competence in Communications

Communication-based claims against lawyers remain remarkably common despite the increased ease of communication with clients using modern media. For this reason, it is imperative that lawyers not forget to comply with the basic rules of communication.

Strong and effective communications between lawyers and their clients are an essential component of the lawyer-client relationship. Some of the issues that might be flagged as problematic in a communications based claim include:

- Failing to obtain and follow a client's instructions;
- Failing to keep a client informed of progress, or lack of progress in complying with instructions
- Failing to advise a client of all settlement offers

- Confusion as to the scope of the retainer
- Misdirected communications
- Misunderstandings as to legal advice provided

Not surprisingly, the recently developed, National Entry-Level Competency Profile for Lawyers and Quebec Notaries (the "National Competency Profile") produced by the Federation of Law Societies includes a number of communication-related skills among the wide range of competencies all new lawyers must possess on entry to the Bar.

For example, the National Competency Profile requires that applicants must demonstrate competency in oral and written communication skills including:

- Identifying the purpose of the proposed communication
- Using correct grammar and spelling
- Using language suitable to the purpose of the communication and the intended audience
- Eliciting information from clients and others
- Explaining the law in language appropriate to audience
- Obtaining instructions
- Effectively formulating and presenting well-reasoned and accurate legal argument, analysis, advice or submissions.

It seems safe to assume that competency in those same skills would be required of lawyers already called to the Bar, at the same standard if not higher. Yet, as claim statistics bear out, many lawyers continue to struggle in the area of

effective client communications. Law society complaints statistics would bear this out.

Challenges in communications are not limited to those between lawyers and their clients; issues can also arise in communications between counsel, and in communications with third parties, including witnesses, experts and service providers. Effectively communicating in the course of a legal practice is essential to avoid claims and complaints, no matter the medium of communication or the person with whom you are communicating.

Whether you're using the telephone, meeting face to face, corresponding by letter or email, following these ten simple tips will go far to enhance communications with your clients, your colleagues and others you connect with in the course of your practice:

1. Return phone calls and respond to voicemail messages within a reasonable time period. If you or your firm has an established practice in this regard, adhere to it rigorously.
2. Reply to email requests, even if only to acknowledge you're working on whatever is the subject of the request.
3. If you need some time or must first obtain instructions, provide a courteous follow-up to that effect and fix a date by which you'll respond fully.
4. Keep your client informed – about what is or is not happening on a file.
5. Speak your client's language, not the language of law –

(Continued on page 17)



How to Register for Homewood Human Solutions™ Member Services Area

1. Go to homepage: www.homewoodhumansolutions.com.
2. Once the homepage is displayed, click "Login" in the top right corner, and click "Register".
3. You will be requested to enter your Company / Organization name. If you are unsure of Company / Organization name you will be allowed to temporarily register without this information, however you will not have access to certain tools until your registration is validated by Homewood Human Solutions (within 24-48 hours).
4. Complete the profile section by selecting the proper information displayed in the text box(es) provided and click "Continue".

Trouble registering? Please call our Client Service Centre for immediate assistance at 1.800.663.1142

5. Fill in the required personal, address and system information on the form that is displayed, and click "Continue".
6. You have now created your member profile for access to the Member Services Area, providing you with seamless access to a number of online tools and resources. You will have the option of logging out or continuing on to the Member Services Area using the username and password you created. If you want to continue into the Member Services area, please click "Continue".

Note: A confirmation e-mail containing your username and password information will be forwarded to the e-mail address that you provided during the registration process. On subsequent visits, simply log in with your chosen username and password by clicking on "Login".

Trouble logging in? Please call our Client Service Centre for immediate assistance at 1.800.663.1142

Loss Prevention (continued from page 15)

- legalese confounds and confuses. Use language appropriate to your client's literacy and competency, not your own.
6. Ensure your communications are clear and to the point (see Bulletin #196). Don't obfuscate.
 7. Use retainer or engagement letters (see Bulletins #173 and #200) to inform your client about communication standards and practices and then adhere to those standards.
 8. Don't forget to pick up the phone and call when it is appropriate to do so.
 9. Use in-person and onsite meetings to make real human connections. Don't rely wholly on electronic communication tools and recognize that in some circumstances, in-person contact is necessary.
 10. Check, check & check again: spelling, grammar, address and terms of address should all be

reviewed and edited before sending out written communications, whether paper or electronic.

It is interesting to note that in Newfoundland and Labrador, 25% of our claims are due to communication issues. Clearly, adopting an effective communications policy is in the best interest of members and their law firms and, as a bonus over time, can reduce claims costs and the costs of insurance cover. ■

Our New Professional Assistance Program

Our Professional Assistance Program with **Homewood Human Solutions** is a comprehensive suite of services, available to help you and your family with issues that may affect your well-being. Whether you use *Counselling, Plan Smart Lifestyle and Specialty Counselling Services* or *Online Services*, all these services have been developed and are provided by professionals who are dedicated to improving your health and well-being. They use evidence-based practices to ensure that all of our programs and services will provide you with exceptional assistance concerning the following:

Resolving all kinds of personal, family and work-related issues that may affect your health and well-being.

Taking preventative and proactive steps in developing and maintaining healthy habits for a healthier lifestyle.

Counselling Services

When personal, family or work-related life presents more than you can handle, face-to-face, telephonic or online counselling can be arranged quickly. Professional service providers will help you in developing the skills and making the changes that are required for you to regain control of your life.

Plan Smart Lifestyle and Specialty Counselling Services

Whether it is because you are struggling with a legal or financial issue, have questions around parenting, have to care for an elderly person or relative or perhaps need health habits, *Plan Smart Lifestyle and Specialty Counselling Services* are there to make a difference in your life.

Online Services

Registration is easy at www.homewoodhumansolutions.com

Once you have completed your registration and have gained access to the secure Member Area, you will be provided with your own personalized home page. From there, you will be able to access a variety of different online services. Whether it is to consult health and wellness or life skills articles, or access the Health & Wellness Companion™ — an online health library, with health risk assessments and healthy habit development tools. Use the child-care or elder care resource locators or browse one of the many online *e-Courses*, you will find all you need to take control of your own health and well-being.

If you are not already registered, do it now!

Library News



FACT...OR...FICTION ?

1. The Library does not have any E-Books available to my desktop.

FICTION:

The library has recently subscribed to Irwin's E-Library which provides lawyers with access to over 120 different titles. Please contact the Law Library for login and password information lawlibrary@lawsociety.nf.ca.

2. The Law Society Library is on Twitter?

FACT:

Follow us: @lslibrarynl for library news, research tips and services.

3. I practice outside the greater St. John's area and can't use library materials.

FICTION:

Contact Library staff lawlibrary@lawsociety.nf.ca for free delivery of library books, cases, articles, statutes.... If we can access it you can have it!

4. I detest researching statutes!

FACT:

Most legal researchers loathe searching for anything statute related. Let your law librarians help you find current or historical statutes, we've had lots of practice.

5. I need an authoritative book on _____ (fill in the blank) but feel too obtuse to ask!

WHAT?!!

There is no such thing as a stupid question. We will send you a list of titles. If we don't have a list we will send you a title. If we don't have a title we will find a chapter. If we don't have a chapter we will find an article.....

6. The Law Society Library is open
Monday – Friday 9:00 - 1:00 and 2:00 - 5:00.

FICTION:

Yes, the Library is staffed during those hours. Access to the Library is available 24/7 with an access card. Don't have one? Please contact Renee Whalen lawlibrary@lawsociety.nf.ca

Contact

The Law Society Library for all your information needs

- Gail Hogan, MLIS
- Heather Myers, MLS
- Lauren Kean

lawlibrary@lawsociety.nf.ca
709-753-7770
toll free 1-800-984-7770

E-Books available through the Law Society Library

The Law Society Library has recently subscribed, on a one-year trial basis, to Irwin Law's E-Library, which gives members of the Law Society desktop access to e-book versions of all the titles in Irwin Law's Essentials of Canadian Law series as well as many other Irwin texts. Entering "ebook" in the keyword box of the online catalogue will retrieve a list of 62 titles available in print and through this resource. A complete list of the 120+ Irwin texts available through the E-library is available here: <http://www.irwinlaw.com/titles>

Contact the Law Library for login and password information - lawlibrary@lawsociety.nf.ca

Bar Admission Committee Report

The Bar Admission Course for Newfoundland and Labrador began on October 8, 2013 and continued until November 22, 2013. This year 39 students took the Course. The Bar Course is a 7 week intensive educational experience in which students cover practical material on provincial and federal law.

What follows is an overview of the Course:

Family Law:

Topics include divorce proceedings, parenting (custody and access), child and spousal support, matrimonial property, provincial family legislation, pensions, court procedure, child protection, support enforcement and tax implications of family law. There is also a panel discussion on the practice of family law.

Corporate/Commercial Law:

Topics include incorporation and organizing a business, registration issues, corporate procedures, corporate finance, the *Personal Property Security Act*, security opinions, purchase and sale of a business/shares and commercial insolvency.

Civil Procedure:

Topics include limitations of actions, fatal accidents, survival of actions, commencing proceedings, service, defences, counterclaims, third 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 mechanisms.

Practice Skills, Practice Management and Ethics:

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, a presentation on the Lamer Inquiry and a presentation on using the resources of the Law Society Library. There are also presentations on the Law Society Trust Accounting requirements and professional conduct and client complaints. There is a separate section on ethics and the Code of Professional Conduct, in which students complete a written assignment.

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 with judges on the topic of advocacy, and students prepare for and participate in a mock trial and sentencing exercises.

Administrative Law:

Topics include the Labour Relations Board, labour and commercial arbitration, municipal law, the Human Rights Commission, the Workplace Health, Safety and Compensation Commission, the professional discipline process, statutory appeals, judicial review of arbitration and a presentation on judicial review and other prerogative orders.

Real Estate and Wills:

Topics include the registry system and land tenure, the real estate transaction, the mortgage, professional responsibility in real estate issues, title insurance, sur-

vey/location certificates, taxation issues, crown lands, quieting of titles, possessory title, residential tenancies and title searches. There is 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 materials.

The goal of the Course is to give new lawyers a comprehensive overview of Newfoundland and Labrador and federal 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 judges, lawyers and other professionals whose contributions make the Course a success.

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

Law Society members or prospective members interested in obtaining further information about the Bar Admission Course should contact Mr. Francis P. O'Brien at (709) 722-4898 or by email francis.obrien@lawsociety.nf.ca. ■

Complaints Authorization Committee

The Complaints Authorization Committee, a statutory committee comprised of two lawyers and a public representative all of whom are Benchers of the Law Society, reviews the *allegation* to determine whether there are reasonable grounds to believe that the lawyer has engaged in conduct deserving of sanction. If the answer is no, then the Complaints Authorization Committee will dismiss the *allegation*. The *Act* prescribes that a complainant whose *allegation* is dismissed by the Complaints Authorization Committee, may file a notice of appeal, within 30 days, with the Registrar of the Supreme Court.

When the Complaints Authorization Committee's opinion is that there are reasonable grounds to believe that the lawyer has engaged in *conduct deserving of sanction*, there are two results:

- (i) the *allegation* is considered as constituting a Complaint; and
- (ii) the Complaints Authorization Committee may issue a letter of counsel or a letter of caution to the lawyer, or instruct the Vice-President to file the Complaint against the lawyer and refer it to the Disciplinary Panel.

Counsel is advice. Caution is a warning. Both are intended to assist the lawyer in his or her future conduct. A finding of guilt has not been made against the lawyer because a finding of guilt could only be made following a Hearing.

The following information is provided to inform members as required by Law Society Rule 9.06(5)

Letters of Caution

Letters of Caution were issued by the CAC with respect to the following Complaints.

Complaint that the member's conviction under sections 253(1)(b) and 255(1) of the Criminal Code does not comply with the standard of conduct contemplated by the Code. (*Code of Professional Conduct (2013), chapter 2, commentaries 2.1-1[1] and [2]*)

Complaint that the member's breach of an implied Undertaking with respect to the use of documentation provided in the course of litigation for discovery purposes, and the member's failure to properly supervise a legal assistant does not comply with the standard of conduct contemplated by the Code. (*Code of Professional Conduct, chapter XVI, commentary 7*)

Complaint that the member's representation of both parties in a real estate transaction, contrary to the Practice Restrictions imposed by the Complaints Authorization Committee and arising from Law Society file A12-014, does not comply with the standard of conduct contemplated by the Code. (*Code of Professional Conduct (2013), chapter 2, commentary 2.1-1 and chapter 5, commentary 5.1-6*)

Complaint that the member's presentation of the Will for execution by the client was not sufficiently responsive under the circumstances, given that a family member was providing information that suggested urgency, and that the member's disclosure of confidential information in a manner inconsistent with the proper tone of a professional communication from a lawyer, does not comply with the standard of conduct contemplated

by the Code. The Complaints Authorization Committee cautioned the member that given the circumstances in this particular file the prudent solicitor would have arranged to have the Will executed immediately. The Committee recommended that the member be alert to inadvertent disclosure of confidential information and the use of language otherwise inconsistent with the proper tone of a professional communication in future practice. (*Code of Professional Conduct, chapter II, rule (b) and commentaries 7(g) and 8, Chapter IV, rule and commentaries 1, 2 and 4, and Chapter XV, commentary 3*)

Letters of Counsel

Letters of Counsel were issued by the CAC with respect to the following Complaints.

Complaint that the member's failure to adequately explain an Order and its implications so as to ensure a reasonable level of understanding by the client, does not comply with the standard of conduct contemplated by the Code. The Complaints Authorization Committee counselled the member that effective communication with clients is paramount in achieving client satisfaction. Several options were available to the member including: obtaining the client's acknowledgment that the client was agreeing to the Order despite the lawyer's advice; preparing a detailed memo to the file that the client acknowledged the improvidence of the agreement but wished to proceed; and withdrawal from the file. The Complaint Authorization Committee recommended that the member be guided by this advice in future practice. (*Code of Professional Conduct, chapter III, rule (b) and commentaries 1, 4 and 5*)

Complaint that the member's use of inflammatory language in documents filed with the Court, and pertaining to another lawyer, which is inconsistent with the proper tone of a professional communication from a lawyer, does not comply with the standard of conduct contemplated by the Code. The Complaints Authorization Committee counselled the member that future communications should be consistent with the proper tone of a professional communication from a lawyer. (*Code of Professional Conduct (2013), chapter 7, rule 7.2-1 and commentary 3*)

Complaint that the member's conviction under sections 253(1)(b) and 255(1) of the Criminal Code does not comply with the standard of conduct contemplated by the Code. (*Code of Professional Conduct (2013), chapter 2, commentaries 2.1-1[1] and [2]*)

Complaint that the member's conviction under sections 253(1)(b) and 255(1) of the Criminal Code does not comply with the standard of conduct contemplated by the Code. (*Code of Professional Conduct (2013), chapter 2, commentaries 2.1-1[1] and [2]*)

Complaint that the member's correspondence to another lawyer was inconsistent with the proper tone of a professional communication from a lawyer and therefore does not comply with the standard of conduct contemplated by the Code. (*Code of Professional Conduct, chapter XVI, Rule, commentaries 1 and 2*)

Complaint that the member's failure to ascertain from the title search that the client did not have good title to an Access Road and, in acting on the belief that there was clear title to the Access Road, the member failed to obtain and register a Deed conveying any title or

interest in or to the Access Road to the client, does not comply with the standard of conduct contemplated by the Code. (*Code of Professional Conduct, chapter II, Rules (a) and (b) and commentary 7*)

Complaint that the member's continued representation of one party in a matter related to an earlier matter in which the member had represented both parties constitutes a conflict of interest and therefore does not comply with the quality of service contemplated by the Code. (*Code of Professional Conduct, chapter V, Rule, commentaries 1, 2 and 8*)

Complaint that the member's delay in responding to a client's inquiries, failure to disclose information, and the delay in providing information does not comply with the standard of conduct contemplated by the Code. (*Code of Professional Conduct, chapter II, Rule and commentaries 7 and 8*) ■

Custodianships

We would like to remind members that we currently have custodianship of the practices of the following firms or single practitioners:

- | | |
|------------------------|----------------------|
| - William Parsons | - R A Parsons/O'Neil |
| - David Sparkes | - Kent Morris |
| - Glen Bursey | - Claude Sheppard |
| - Christopher Sullivan | - Keith Rose |
| - Doug Harvey | - Fabian O'Dea |
| - Gerard Griffin | - William Browne |
| - Glube Jewell | - Hugh Coady |
| - Jody Saunders | - David Pitcher |
| - Gerard Gushue | - James Nurse |
| - Frederick R Bishop | - Ron Noseworthy |
| - Alan Carter | |

Members can contact the Law Society at 722-4740 for details on any of these custodianships.



October 17, 2013

George L. Murphy, QC, President of the Law Society of Newfoundland and Labrador signs the National Mobility Agreement (2013).

Changes in Status

The following changes in status were approved by Benchers sitting in Convocation between 2012 and 2014:

Resumption of Practicing Status

Judy Manning	December 20, 2012	Aaron Felt	July 10, 2013
Clyde K. Wells	February 13, 2013	Kristen R. O'Keefe	July 10, 2013
Malcolm MacKillop	February 21, 2013	Edward Langdon	July 12, 2013
Johnathan McDonald	March 14, 2013	Lori S. Williams	July 29, 2013
Emily R. Young	March 14, 2013	Stacey Feltham	July 29, 2013
Christina Perry	March 15, 2013	Jessica Grant	July 31, 2013
M. Alexandria Kindervater	April 01, 2013	John Duggan	August 22, 2013
Lisa J. Smith	April 01, 2013	Christina Kennedy	September 10, 2013
Logan Atkinson	April 02, 2013	Julia Smart	September 20, 2013
Beth McGrath	April 04, 2013	John Brown	September 27, 2013
Tammy Pike Farrell	April 10, 2013	Riley Moss	October 01, 2013
Diedre Badcock	April 18, 2013	Scott Beazley	October 2, 2013
Nicole Deveau	April 29, 2013	Tauna Staniland	October 10, 2013
Isobel O'Shea	May 01, 2013	Joanne Healey	October 11, 2013
Katrina Warren	May 23, 2013	Tracy Freeman	October 30, 2013
John Goodland	May 28, 2013	Erin Drover	December 13, 2013
Kimberley McLennan	May 29, 2013	Adam Sparkes	December 13, 2013
Avril M. F. Dymond	June 03, 2013	Karen Saweczko	December 20, 2013
Erin Matthews	June 20, 2013		

Practicing to Non-Practicing Status

Julia A. A. Smart	November 08, 2012	John F. Duggan	June 20, 2013
Jennifer M. Gorman	November 30, 2012	Daniel S. Murphy	June 22, 2013
Jennifer E. Barnes	December 17, 2012	Avril M. F. Dymond	June 28, 2013
Kevin H. O'Shea	December 17, 2012	Shane M. Hickey	June 30, 2013
John F. Dawson	December 31, 2012	Karen D. Saweczko	June 30, 2013
Jacqueline S. Walsh	January 01, 2013	Scott A. Harron	July 01, 2013
John W. Goodland	January 01, 2013	Aimee N. Rowe	July 19, 2013
Adam J. Sparkes	January 01, 2013	Vanessa J McCarthy	July 22, 2013
Stephen J. W. Penney	February 01, 2013	Lindsey K. Lawrence	July 31, 2013
Nicole Templeton	February 04, 2013	Kristen R. O'Keefe	August 23, 2013
Richard L. Deveau	February 14, 2013	Laurie C. Jones	August 16, 2013
Heidi Ann Wells	February 23, 2013	Donna E. Andrews	August 23, 2013
M. Francis O'Dea	February 28, 2013	Erin J. Drover	August 31, 2013
Christina R. Kennedy	February 28, 2013	Renee L. Tulk Moore	September 04, 2013
Larry D. Innes	March 01, 2013	Jerred L. T. Tulk Moore	September 04, 2013
John Frecker	March 01, 2013	Ronotta M. Thomas	September 10, 2013
Jane C. Hennebury	March 01, 2013	Deidre D. Badcock	September 16, 2013
Kate Fong Dearness	March 29, 2013	Lori S. Williams	September 18, 2013
Helen M. Ottenheimer	April 01, 2013	John L Hurley	September 19, 2013
Tracy L. Freeman	April 03, 2013	Nicole M. Hurley	September 30, 2013
Andrea L. Murphy McGrath	April 19, 2013	Judy M Manning	October 28, 2013
Robin A. R. Reid	April 20, 2013	J Logan Atkinson	October 24, 2013
Lori Williams	April 30, 2013	David J D'Intino	October 30, 2013
John M. Brown	April 30, 2013	C James Price	November 01, 2013
Brian F. Furey, QC	April 30, 2013	Susan M Sparrow	November 04, 2013
Margaret E. Noseworthy	June 01, 2013	Andrew J Collins	November 05, 2013
Riley M. Moss	June 03, 2013	Andrew C White	November 20, 2013
Kelly E. Curties	June 04, 2013	Raymond W Kuszelewski	November 27, 2013
Joanne B. Healey	June 14, 2013	Jodi D MacDonald	December 10, 2013
Kimberly S. J. Wilton	June 17, 2013	Laura J Brazil	December 16, 2013

Benchers' Notes

(Practicing to Non-Practicing Status *continued*)

Geoffrey E J Brown	December 31, 2013
Michelle E S Wilson	January 01, 2014
Donald G Sword	January 01, 2014
Philip B Sheppard	January 01, 2014

Donna L Strong	January 01, 2014
R Thomas Forsyth	January 10, 2014
Aaron L Felt	January 01, 2014

Members Granted Permission to Resign Membership

Michael N. Jones	December 31, 2012
Thomas G. Heintzman	December 31, 2012
Amber N. Penney	January 01, 2013
Tracey S. Primmer	January 01, 2013
Jeffrey W. Miller	January 01, 2013
Andrew Fitzpatrick	January 01, 2013
Blair Winsor	January 01, 2013
Danielle P. Evans	January 22, 2013
Krista-Dawn Harding	January 31, 2013
Silvia Surman	February 26, 2013
Kimberly D. Burrage	March 31, 2013
J. Kathleen Hogan	April 03, 2013

Kathleen Tremblett	April 15, 2013
Ashley R. Dresser	October 01, 2013
C Dean Glinos	December 31, 2013
Michael J Griffin	December 31, 2013
Michael W A Noseworthy	January 01, 2014
Bonita M Small	January 01, 2014
Daniel G Kutcher	January 01, 2014
David T R Parker	January 01, 2014
Stephen J W Penney	January 21, 2014
Alexander B S Baranowski	January 31, 2014
Allison C Oser	January 31, 2014

Annual Dinner 2013



Above: President, George Murphy, qc unveiling painting which was presented to outgoing President, Morgan Cooper.

Top Right: 2013 Award Winner: **Ms. Sophie St. Croix.**
Award presented by Susan LeDrew (Maxwell J Pratt Scholarship). Ms. St. Croix was also awarded The William J Browne Scholarship.

Bottom Right: 2013 Award Winner: **Ms. Lyndsey Lawrence.**
Award presented by Chief Justice Alex Hickman. Ms. Jessica Babb accepting the award on behalf of Ms. Lawrence (Award in Memory of Charles E. Hunt, qc and The Honourable Mr. Justice Douglas C. Hunt). Ms. Lawrence was also awarded The Provincial Court Judges' Association Award.

Other award winners included **Ms. Sandra Cahill.** (Award in Memory of Edward J. Penney and Award in Memory of Wayne F. Spracklin, qc.)
Awarded In Absentia.





SAVE THE DATE

5TH NATIONAL
ProBono Conference

PRO BONO 2014: JUSTICE4ALL

Welcome Reception, September 24, 2014
Conference Sessions & Award Banquet, September 25 & 26, 2014

Radisson Plaza Hotel Saskatchewan
Regina SK

probonoconference.ca

Reminder

The Law Society would like to remind members that estate money is actually trust money and should be handled as such. Law Society Rule 5.01(n) defines trust money as follows:

5.01(n) "trust money" includes

- (i) money received by a member in trust belonging in whole or in part to a client, or to be held on behalf of the client, or at the direction or order of the client;
- (ii) money advanced to a member for fees for services not yet rendered or for disbursements not yet made; and
- (iii) money over which the member has sole signing authority or control in any capacity with respect to the administration of an estate or a trust, as a guardian or under a power of attorney;

The estate bank account, like any other trust account, falls under the Maintenance of records section of the Uniform Trust Account Rules and is required to be maintained like all other trust accounts. Law Society Rule 5.02(2), prescribes:

5.02(2) The entries in the books, records, data sources and accounts required to comply with subsection 5.02(1)

- (a) shall be entered and posted forthwith, and the trust comparison required by subsection 5.02(1)(h) shall be made monthly within thirty days from the effective date of each comparison,
- (b) shall be entered and posted in ink or a duplication thereof, or electronically, and shall be preserved for at least seven years from the most recent fiscal year end of the member.

Benchers' Convocation - June 7, 2013



Back Row (l-r): Dr. Don Downer, Ian Wallace, Paul Burgess, Glenda Reid, Donovan Molloy, Bert Riggs, Donald Anthony, Leanne O'Leary, Liam O'Brien, Kenneth Jerrett, Linda Harnett

Front Row (l-r): George Murphy QC, Kenneth Baggs QC, Morgan Cooper, Susan LeDrew, Barry Fleming QC, Brenda Grimes, Shawn Colbourne, Kevin Preston

Officers

President: George L. Murphy, QC
(7 June 2013 to 10 April 2014)

Vice-President: Kenneth L. Baggs, QC
(7 June 2013 to 10 April 2014)

President: Kenneth L. Baggs, QC
(10 April 2014 to Present)

Vice-President: Susan M. LeDrew
(16 April 2014 to Present)

Elective Benchers

Eastern District:

Donald E. Anthony
R. Paul Burgess
Amy M. Crosbie
Barry G. Fleming, QC
Kenneth W. Jerrett
Ann F. Martin (*Ann Martin was appointed at the 7 June 2013 Benchers' Convocation*)
Donovan F. Molloy
Liam P. O'Brien
Leanne M. O'Leary
Ian C. Wallace

Central District:

Marcus A. Evans
Kevin T.A. Preston

Western District:

Shawn C. A. Colbourne, QC

Labrador District:

J. John Noseworthy (*resigned 5 March 2014*)
Adrienne S. Edmunds (*appointed by Benchers to serve the balance of the term to which J. John Noseworthy was elected prior to his resignation*)

Lay Benchers

Dr. Donovan Downer
Glenda Reid

Linda Harnett
Bert Riggs

Call to Bar 2012

February 17, 2012

1st row (l-r): L. Wroblewski, L. Hollett,
S. Tiller, D. Duchene, G. Holmes,
R. Marshall, R. Singleton
2nd row (l-r): R. Thomas, M. Walsh,
M. King, A. Baranowski, B. Curties,
3rd row (l-r): J. Collins, M. Noseworthy,
S. Penney, J. Cabot, A. Joyce



April 13, 2012

1st row (l-r): J. Pynn, K. Dearness
2nd row (l-r): D. Kutcher, J. Crosbie, A. Hollett

June 15, 2012

1st row (l-r): A. Penney, P. Day,
A. MacDougall, D. Badcock, S. Suman
2nd row (l-r): A. Baker, T. Hutchings,
A. Conway, P. Kennedy,
K. Moulton, S. Hickey



October 5, 2012

(l-r): G Demers-Brodeur, G. French

Call to Bar 2013

February 15, 2013

1st row (l-r): J. de Jong, A. Lannon, D. Butler, V. Northcott, A. Hiscock, C. Stack

2nd row (l-r): J. Hodder, K. Wilton, L. Lawrence, J. Babb, M. Royle, W. Wiseman

3rd row (l-r): S. Cahill, A. Rowe, J. Earle, K. Rees, M. Craig



April 19, 2013

1st row (l-r): S. Sparrow, K. Kiley, E. Matthews

2nd row (l-r): B. Brandon, M. Gillingham, D. Purchase



June 14, 2013

1st row (l-r): A. Dresser, J. Healey, D. Gillis, E. Lukawski

2nd row (l-r): S. Harron, D. D'Intino, J. Groves



October 11, 2013

1st row (l-r): A. Letto, K. Grabo, C. McMorow, K. McClain, S. Sarto

2nd row (l-r): J. Martin, M. Mills, J. Thorne, S. Kerr, C. Penney, C. Vaughan



Call to Bar 2014



February 14, 2014

1st row (l-r): K. Trask, S. Blackmore, J. Dunphy, C. Sheppard, E. Stockley, J. Andrews, P. Milley, D. Bennett
2nd row (l-r): J. King, M. Sheppard, M. Clarke 3rd row (l-r): H. Wicks, D. Rode, S. St. Croix
4th row (l-r): P. Whalen, C. Spurrell, A. Savinov 5th row (l-r): B. Barker, M. So
(missing from photo: K. Anderson)



April 14, 2014

1st row (l-r): E. Breen, S. Jones, S. Fitzgerald, T. Stagg, T. Skanes, C. Rudolph
2nd row (l-r): A. Wade, S. Lane, T. Kelly, M. Cassone
3rd row (l-r): P. Petkov, H. Feltham, R. Morrison