

The Law Society of Newfoundland and Labrador

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## 2016 - 2017 Annual Report



The Law Society of Newfoundland and Labrador  
Annual Report 2016 - 2017  
ISBN 978-1-77220-033-1

Law Society Seal:  
Gerald Squires, RCA, LL D

Published by The Law Society of Newfoundland and Labrador

**This Report covers the period  
June 2016 - June 2017**

The Law Society of Newfoundland and Labrador

**Annual Report  
2016 - 2017**



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# BENCHERS

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## Officers

President: Barry G. Fleming, QC  
Vice-President: R. Paul Burgess

## Elective Benchers

### *Eastern District:*

Donald E. Anthony  
Amy M. Crosbie  
Robin L.M. Fowler  
John J. Hogan  
Ann F. Martin  
Donovan F. Molloy, QC  
Leanne M. O'Leary  
Suzanne M. Orsborn  
Ian S. Patey  
Ian C. Wallace

### *Central District:*

Renee L.F. Appleby  
Rebecca A. Redmond MacLean

### *Western District:*

James E. Merrigan, QC  
Trevor A. Stagg

### *Labrador District:*

Adrienne S. Edmunds

## Appointed Benchers

Donovan Downer  
Linda Harnett

Glenda Reid  
Bert Riggs

## Honorary Benchers

Lewis B. Andrews, QC  
Kenneth L. Baggs, QC  
Jeffrey P. Benson, QC  
Augustine F. Bruce, QC  
Morgan C. Cooper  
V. Randell J Earle, QC  
J. David B. Eaton, QC  
Francis P. Fowler, QC  
J. Vernon French, QC  
Brian F. Furey, QC  
Sheila H. Greene, QC  
The Hon. Mr. Justice W. Goodridge  
The Hon. Chief Justice J. D. Green  
The Hon. Gloria Harding  
Thomas R. Kendell, QC  
R. Barry Learmonth, QC  
Susan M. LeDrew

Dana K. Lenehan, QC  
Augustus G. Lilly, QC  
Dennis C. MacKay, QC  
G. David Martin, QC  
Paul M. McDonald  
The Hon. Mr. Justice George L. Murphy  
Irene S. Muzychka, QC  
Stephanie L. Newell, QC  
Glen L.C. Noel  
M. Francis O'Dea, QC  
Thomas J. O'Reilly, QC  
Ernest G. Reid, QC  
John F. Roil, QC  
Robert M. Sinclair, QC  
The Hon. Mr. Justice R. Wells  
Marina C. Whitten, QC

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## Officers of the Law Society of Newfoundland (and Labrador)

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

### Treasurers / Presidents

1846	Hon. Wm. B. Rowe, QC
1849	Bryan Robinson, QC
1852	E. M. Archibald
1855	F. B. T. Carter
1866	Wm. V. Whiteway
1869	Robert J. Pinsent, QC
1870	Wm. V. Whiteway
1879	Robert J. Pinsent, QC
1881	J. I. Little, QC
1885	Robert J. Kent, QC
1893	Sir Wm. V. Whiteway, KCMG, QC
1908	Sir James S. Winter
1911	Daniel J. Greene, KC
1912	Donald Morrison, KC
1919	J. A. Clift, KC
1923	P. J. Summers, KC
1927	W. R. Howley, KC
1941	C. O'N. Conroy, KC
1947	John G. Higgins, QC
1958	R. S. Furlong, QC
1959	G. M. Stirling, CM, QC
1971	R. W. Bartlett, QC
1974	Donald A. Mercer, QC
1977	Robert Wells, QC
1981	Francis P. Fowler, QC
1982	Ernest G. Reid, QC
1983	Thomas J. O'Reilly, QC
1984	M. Francis O'Dea, QC
1985	Peter W. Strong, QC
1986	David L. Russell, QC
1986	G. David Martin, QC
1987	J. Vernon French, QC
1988	Lewis B. Andrews, QC
1989	John F. Roil, QC
1990	J. Derek Green, QC
1991	R. Barry Learmonth, QC
1992	Thomas R. Kendell, QC
1993	Augustus G. Lilly, QC
1994	V. Randell J. Earle, QC
1995	Reginald H. Brown, QC
1996	Dana K. Lenehan, QC
1997	Gloria Harding
1998	J. David B. Eaton, QC
1999	Dennis C. MacKay, QC
2000	Robert M. Sinclair, QC
2001	Jeffrey P. Benson, QC

### Secretaries / Vice-Presidents

1846	E. M. Archibald
1847	H. W. Hoyles
1849	F. B. T. Carter
1855	George Hogsett
1856	Henry A. Clift
1869	M. W. Walbank
1866	Robert J. Pinsent
1869	M. W. Walbank
1877	T. I. Keough, QC
1879	Prescott Emerson, QC
1885	Prescott Emerson, QC
1889	A. J. W. McNeily, QC
1895	D. M. Browning
1914	C. O'N. Conroy
1916	C. H. Emerson, KC
1919	Rt. Hon. Sir Wm. Lloyd
1937	J. G. Higgins, QC
1947	J. A. Barron, QC
1958	G. M. Stirling, CM, QC
1959	T. Alex Hickman, QC
1967	D. A. Mercer, QC
1974	Noel Goodridge, QC
1976	Francis P. Fowler, QC
1981	Ernest G. Reid, QC
1982	Thomas J. O'Reilly, QC
1983	M. Francis O'Dea, QC
1984	Peter W. Strong, QC
1985	David L. Russell, QC
1986	G. David Martin, QC
1986	J. Vernon French, QC
1987	Lewis B. Andrews, QC
1988	John F. Roil, QC
1989	J. Derek Green, QC
1990	R. Barry Learmonth, QC
1991	Thomas R. Kendell, QC
1992	Augustus G. Lilly, QC
1993	V. Randell J. Earle, QC
1994	Reginald H. Brown, QC
1995	Dana K. Lenehan, QC
1996	Gloria Harding
1997	J. David B. Eaton, QC
1998	Dennis C. MacKay, QC
1999	Robert M. Sinclair, QC
2000	Jeffrey P. Benson, QC
2001	William H. Goodridge, QC
2002	Stephanie L. Newell, QC



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**Treasurers / Presidents**

2002 William H. Goodridge, QC  
2003 Stephanie L. Newell, QC  
2004 Brian F. Furey, QC  
2005 Edward M. Hearn, QC  
2006 Paul M. McDonald  
2007 Marina C. Whitten, QC  
2008 Sheila H. Greene, QC  
2009 Irene S. Muzychka, QC  
2010 Glen L.C. Noel  
2011 Augustine F. Bruce, QC  
2012 Morgan C. Cooper  
2013 George L. Murphy, QC  
2014 Kenneth L. Baggs, QC  
2015 Susan M. LeDrew  
2016 Barry G. Fleming, QC

**Secretaries / Vice-Presidents**

2003 Brian F. Furey, QC  
2004 Edward M. Hearn, QC  
2005 Paul M. McDonald  
2006 Marina C. Whitten, QC  
2007 Sheila H. Greene, QC  
2008 Irene S. Muzychka, QC  
2009 Glen L.C. Noel  
2010 Augustine F. Bruce, QC  
2011 Morgan C. Cooper  
2012 George L. Murphy, QC  
2013 Kenneth L. Baggs, QC  
2014 Susan M. LeDrew  
2015 Barry G. Fleming, QC  
2016 R. Paul Burgess

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## LAW SOCIETY STAFF

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Executive Director:	Brenda B. Grimes, QC	
Director of Legal Education:	Francis P. O'Brien	
Legal Director:	Phyllis E. Weir	<i>(until 12 May 2017)</i>
Director of Professional Responsibility:	Lori S. Chafe	
Library Director:	Gail A. Hogan	<i>(until 27 January 2017)</i>
Law Librarian:	Jenny E. Thornhill	
Accountant:	Richard T. Yabsley	
Administrators:	Pamela A. Marks	<i>Professional Responsibility</i>
	Janice K. Ringrose	<i>Insurance</i>
Administrative Assistants:	Anne P. Cross	<i>Professional Responsibility</i>
	Lisa E. Kennedy	<i>Custodianship</i>
	Erin C. Rowe	<i>Executive</i>
	S. Renee Whalen	<i>Office</i>
	Regina M. Whitty	<i>Education</i>
Library Technician:	Rosemary A. Myers	
Maintenance:	Donald T. Norman	

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# MEMBERSHIP

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Membership Statistics as of June, 2017:

Practising ( <i>Insured</i> ):	556
Practising ( <i>Uninsured</i> ):	207
Non-Practising:	232
Life:	37
<b>TOTAL</b>	<b><u>1032</u></b>

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

1950 - 66	1967 - 89	1984 - 371	2001 - 767
1951 - 64	1968 - 106	1985 - 378	2002 - 772
1952 - 66	1969 - 110	1986 - 394	2003 - 798
1953 - 69	1970 - 124	1987 - 408	2004 - 808
1954 - 72	1971 - 129	1988 - 435	2005 - 832
1955 - 75	1972 - 129	1989 - 445	2006 - 858
1956 - 73	1973 - 145	1990 - 477	2007 - 870
1957 - 76	1974 - 153	1991 - 514	2008 - 904
1958 - 76	1975 - 179	1992 - 560	2009 - 923
1959 - 77	1976 - 189	1993 - 588	2010 - 931
1960 - 81	1977 - 203	1994 - 617	2011 - 948
1961 - 83	1978 - 237	1995 - 635	2012 - 931
1962 - 86	1979 - 261	1996 - 669	2013 - 937
1963 - 86	1980 - 281	1997 - 683	2014 - 983
1964 - 86	1981 - 316	1998 - 706	2015 - 997
1965 - 86	1982 - 333	1999 - 728	2016 - 1018
1966 - 86	1983 - 351	2000 - 750	2017 - 1032

Ten lawyers were called to the Bar of Newfoundland and Labrador on June 17, 2016

Roll #		Roll #		Roll #	
1728	Clara A. Saunders	1731	Matthew D. Gough	1735	Anastasia M. Wadden
1729	Raymond G. Critch	1732	James I. Simpson	1736	Victoria Y. C. Yip
1730	Allison S. Conway	1733	Katie R. Phillips	1737	Colin P. Strapps
		1734	Andrew J. Clements		

Five lawyers were called to Bar of Newfoundland and Labrador on October 14, 2016

Roll #		Roll #		Roll #	
1738	Andrea L. Barnes	1740	Daniel J. Urbas	1741	Julia Tomson
1739	Kevin D. Gibson			1742	James R. Farrell

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Five Students-at-law were ceremonially called to the Bar and were conferred Honorary Degrees of Barrister-at-Law on October 14, 2016.

Cecil Bayly Clift  
John Clift

William Frederik Cyril Hutchings  
Janet Morison Miller

Harris Rendell Oke

Twenty lawyers were called to the Bar of Newfoundland and Labrador on February 17, 2017.

Roll #		Roll #		Roll #	
1743	Matthew M. Peyton	1750	Mark T. McWhirter	1756	S.B. Light Go
1744	Bryinne R. McCoy	1751	Andrew G. Hurley	1757	Geoffrey W. Boyd
1745	Allison J. Philpott	1752	Ryan M. Belbin	1758	Janet T. Coleman
1746	Shane R. Belbin	1753	Stephen G. Griffin	1759	Sean M. Pittman
1747	Amber M. Haighway	1754	James R.A. Locke	1760	Robert B. Hoskins
1748	Lindsey J. Wareham	1755	Tristan D. Carroll	1761	Brian A. Crane
1749	Sarah E. Evans			1762	Graham S. Ragan

Eleven lawyers were called to the Bar of Newfoundland and Labrador on April 21, 2017

Roll #		Roll #		Roll #	
1763	Justin F. Hewitt	1767	Alexander J. Gallichon	1770	Trevor S. Murphy
1764	Stacia R. J. Smith	1768	Jacqueline A. MacMillan	1771	Brittany N. Whalen
1765	Giles W. Ayers	1769	Elizabeth M. Zarpa	1772	David M. Brannen
1766	Vanessa L. Carroll			1773	Sabrina S. Bitton

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

The Barristers and Solicitors Roll, as of April 21, 2017, records that 1772 members have been called to the Bar since 1826.



*The Benchers note with regret the death of the following members and former members during the period from June 2016 to June 2017:*

**The Honourable P. Derek Lewis, QC**

Called as a Solicitor on October 14, 1947;  
Called as a Barrister on October 15, 1947,  
Roll #210

**Ronald Stewart Noseworthy, QC**

Called December 15, 1969,  
Roll #296

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# LAW SOCIETY COMMITTEES

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## STATUTORY COMMITTEES

### Executive Committee

Barry G. Fleming, QC, *President*  
R. Paul Burgess, *Vice-President*  
Susan M. LeDrew, *Past President*  
Donald E. Anthony  
Ian C. Wallace  
Brenda B. Grimes, QC, *ex officio*

### Complaints Authorization Committee

Donald E. Anthony, *Chair*  
J. David B. Eaton, QC, *Vice-Chair*  
Linda Harnett, *Appointed Bencher*  
Phyllis E. Weir, *ex officio*

#### Alternate Members

Amy M. Crosbie  
Robin L.M. Fowler  
Sheila H. Greene, QC  
Donovan F. Molloy, QC

Ian C. Wallace  
Marina C. Whitten, QC  
Glenda Reid, *Appointed Bencher*  
Bert Riggs, *Appointed Bencher*

### Disciplinary Panel

Glen L.C. Noel, *Chair*

John M. Babb, QC	Marcus A. Evans, QC	Olga R. McWilliam Benson	G. Todd Stanley, QC
Glen S. Belbin	Peter G. Fitzgerald	LeeAnn L. Montgomery	Lisa M. Stead
Glenda C. Best, QC	Gregory A. French	Lynn M. Moore	Darren C. Stratton
Katrina A. Brannan, QC	Donald J. Gallant, QC	Gregory A.C. Moores	Megan C. Taylor
Philip J. Buckingham	Bruce C. Grant, QC	Irene S. Muzychka, QC	Ellen E.M. Turpin, QC
Trudy L. Button	Mark J. Griffin	Todd S. Newhook	James E. Vavasour, QC
Sandra R. Chaytor, QC	Robert J. Hickey	James C. Oakley, QC	Andrew J. Wadden
S. Bruce Chislett	Keith J. Humphries	Mary C. O'Brien	Philip G. Warren
Dennis N. Clarke	Deborah L.J. Hutchings	John V.B. O'Dea, QC	Thomas E. Williams, QC
David G. Conway	David W. Jones, QC	Tracy Pasley	Rodney J. Zdebiak
Paul L. Coxworthy	Christina R. Kennedy	Stephen F. Penney	
Michael J. Crosbie, QC	David A. King, QC	Elaine M. Reid	<i>Appointed Representatives:</i>
Jean V. Dawe, QC	Barry C. Lake	Richard S. Rogers	Bernard Bolger
Joan M.B. Dawson	Raelene L. Lee	Linda M. Rose, QC	Angela Bowes
Paul D. Dicks, QC	Chantelle MacDonald Newhook	Peter D. Shea	Frederick Drover
Robert J. Dillon	Kimberly J. Mackay	Daniel W. Simmons, QC	Raymond Rose
Tamara L. Drover	John W. McGrath, QC	Neil R. Smith	Dr. Marina Sexton
Gladys H. Dunne			

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### **Education Committee**

Leanne M. O'Leary, *Chair*

Glenda C. Best, QC  
J. David B. Eaton, QC  
Robin L.M. Fowler  
Andrew Wadden

Ian C. Wallace  
R. Paul Burgess, *ex officio*  
Francis P. O'Brien, *ex officio*

### **Bar Admission Committee**

J. David B. Eaton, QC, *Chair*

Aubrey L. Bonnell, QC  
Sandra M. Burke, QC

Gregory M. Smith  
Francis P. O'Brien, *ex officio*

## **STANDING COMMITTEES**

### **Accounts and Finance Committee**

Ian S. Patey, *Chair*

Renee Appleby  
Glenda Reid

Brenda B. Grimes, QC, *ex officio*  
Richard T. Yabsley, *ex officio*

### **Library Committee**

Glenda Reid, *Chair*

Maeve A. Baird  
Benjamin J. Blackmore  
Daniel M. Boone, QC (*by invitation*)  
Andrew A. Fitzgerald  
Padraig J. Mohan

Liam P. O'Brien  
Rebecca C. Phillipps  
Angela M. Whitehead  
Bert Riggs, *Appointed Bench*  
Jenny Thornhill, *ex officio*

### **Honours and Awards Committee**

Amy M. Crosbie, *Chair*

Marcus A. Evans, QC  
Rebecca A. Redmond MacLean  
Christopher R. Quigley

Ian C. Wallace  
Bert Riggs, *Appointed Bench*

### **Insurance Committee**

Ann F. Martin, *Chair*

Gary L. Baird, *Adjuster*  
Thomas J. Johnson, QC  
Stephen J. May, QC  
Graham A. Wells, QC

Marina C. Whitten, QC  
Donovan Downer, *Appointed Bench*  
Janice K. Ringrose, *ex officio*  
Brenda B. Grimes, QC, *ex officio*

### **Claims Review Committee (CLIA Requirement)**

Thomas J. Johnson, QC, *Counsel*  
Lewis B. Andrews, QC

Gary L. Baird  
Janice K. Ringrose, *ex officio*

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### **SS Daisy Legal History Committee**

Christopher P. Curran, QC, *Co-chair*

The Honourable Judge John L. Joy, *Co-chair*

Melvin Baker, Ph.D.

Jerry Bannister

The Hon. Judge Gerald J Barnable

Thomas J. Burke, QC

Christopher English

The Hon. J. Derek Green,

*Chief Justice of Newfoundland and Labrador*

Frances Knickle, QC

Robert P. Pittman, QC

The Hon. Judge Milton R. Reid

Angela M. Whitehead

James E. Merrigan, QC, *Bencher Liaison*

Francis P. O'Brien, *ex officio*

### **Real Estate Committee**

Renee L.F. Appleby, *Chair*

Barry C. Lake

Trevor A. Stagg

G. Todd Stanley, QC

Graham A. Wells, QC

### **Access to Justice Committee**

Ian Wallace, *Chair*

Donovan Downer

Adrienne S. Edmunds

Donovan F. Molloy, QC

Glenda Reid

Francis P. O'Brien, *ex officio*

Brenda B. Grimes, QC, *ex officio*

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# PRESIDENT'S ANNUAL REPORT

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## **Barry G. Fleming, QC**

It is my privilege to present my annual report for 2016-2017 summarizing some of the significant events, accomplishments and activities of the Law Society during my term.

### **Call to Bar for New Lawyers**

One of the more pleasant tasks a President of the Law Society carries out is participating in the various ceremonies and celebrations of the Law Society, including the Call to Bar ceremonies. Four (4) of these took place from June 2016 to June 2017. The result of these was the admission of 46 new lawyers to our Bar. As is customary, the Law Society hosted receptions following these Call to Bar ceremonies at the Law Society offices.

While the practice of law is exciting and rewarding, it also brings with it much responsibility. It is important that all members of the Law Society continue to provide guidance and support to these new colleagues as they move forward on their chosen career path.

### **Judges**

Another notable ceremonial occasion is when a member of the Law Society makes the transition from the Bar to the Bench upon being appointed as a judge. Although this appointment marks the end of that person's membership in the Law Society, it is still an occasion to be recognized and celebrated by the members of the Law Society as it highlights the esteem in which this former member is held. On 12 May 2017 the Government of Canada announced the judicial appointments of Justice Sandra R. Chaytor, who was appointed to the Trial Division of the Supreme Court of Newfoundland and Labrador, in Grand Bank and, Justice Frances J. Knickle, who was appointed to the Trial Division of the Supreme Court of Newfoundland and Labrador, in Happy Valley Goose Bay. Their Swearing-in ceremonies will take place on 9 and 19 June

2017, respectively and the Law Society, in partnership with the Courts, will host receptions for the appointments of the new judges.

I was also privileged to be invited to speak at a Welcome Ceremony for Justice Malcolm Rowe as he made history by becoming the first judge from Newfoundland and Labrador to be appointed to the Supreme Court of Canada.

### **New Queen's Counsel**

I attended the Swearing-In of Queen's Counsel on 17 February 2017. Members appointed were: Janie Bussey, Felix Collins, Deborah Hutchings, Neil Jacobs, Stephen May, Jennifer Mercer, Judy Morrow, Peter O'Flaherty, Andrew Parsons, Kari Ann Pike and Darlene Russell.

This is a well-deserved honour and recognition for the members appointed and I was happy to attend on Benchers' behalf and to congratulate our new Queen's Counsel at the reception hosted by the Law Society following the ceremony.

### **Former Judges and Members**

On occasion, a President is asked to speak at a ceremony organized to pay tribute to a member or former member who is no longer with us. This year I was honored to be asked to participate in the ceremony held to commemorate the life of The Hon. Derek P. Lewis, QC. Regrettably, I was unable to attend this tribute and fellow Benchers, Ian Wallace spoke in my absence. While sadness is inevitably a part of such occasions, they are an important opportunity for those attending to learn of and celebrate the accomplishments of those no longer with us.

Benchers, Law Society staff and members were also saddened to learn of the untimely passing of member, Ronald S. Noseworthy, QC.

Both will be greatly missed by family, friends and colleagues.

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### **The Work of the Law Society: Benchers, the Executive Committee and Law Society Professional Staff**

As the governing body of the Law Society, the Benchers have the authority to regulate the practice of law and the legal profession in the public interest. The Benchers are 17 elected members of the Law Society and four lay members appointed by a Committee chaired by the Chief Justice of the Trial Division of the Supreme Court of Newfoundland and Labrador.

Members of our bar are often unaware of the work that is done behind the scenes by Benchers. Being a Bencher requires dedication, engagement and, sometimes, a significant commitment of time but it is also a very rewarding experience. In the course of regulating in the public interest, Benchers deal with many interesting issues and make decisions which can have a fundamental impact on individual members, the profession and the public. Members are encouraged to take the time to get involved in the Law Society, whether by running for election as a Bencher or by volunteering for one of the Committees.

Benchers, in conjunction with the Executive Committee, the Complaints Authorization Committee, the Insurance Committee and the Education Committee (to name a few) have important roles to play in policy development and legislative change, all with the objective of protecting the public interest. In order to successfully carry out these roles, significant reliance must be placed on the information, guidance and advice provided by the Law Society's senior professional staff under the leadership of the Executive Director, Brenda B. Grimes, QC.

The Law Society's professional and administrative staff are diligent in advising, informing and supporting Benchers and the Executive Committee in furtherance of our protection of the public interest mandate. Benchers look forward to continuing to work in collaboration with them in the continued discharge of our responsibilities as a Law Society, and the

successful regulation of the practice of law and the legal profession in the public interest.

### **Notable Positive Initiatives/Results Achieved this Year**

Benchers and Law Society staff work hard to ensure that the Law Society is operating effectively and efficiently. Members can be confident that our Law Society is well placed to carry out its public protection mandate. Some examples of positive initiatives/results include:

1. Maintaining a strong financial position - as the financial statements show, the Law Society (and all of its programs) is in a very strong financial position, in keeping with actuarial recommendations. The Law Society operated at a deficit in 2016 due mainly to significantly increased discipline expenses, but still remains in a very strong financial position. Operating results within the Lawyers' Insurance Programme have varied over the last few years with 2016 showing revenues exceeding expenses primarily due to a positive claims experience in 2016 and above expected investment portfolio returns. Because of this, the Law Society was able to maintain its member fee structure unchanged through 2017 for the sixth consecutive year while continuing its statutory mandate of public protection;
2. Development and approval of a Net Asset Reserves Policy;
3. Implementation of online filing of Mandatory Continuing Legal Education (CLE) Annual Report and Plan, effective 1 January 2017;
4. Code of Professional Conduct – Benchers approved recommended revisions to the Code of Professional Conduct;
5. New Federation Council Representative – Morgan Cooper was appointed as the Law Society's new Federation Council representative;
6. Free Law Day Clinics – Clinics were held on 19 November 2016 and 22 April 2017 to



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provide free legal advice to the public in areas of law that are relevant and amenable to assessment and advice in a short consultation;

7. Implementation of an Indigenous Law Committee – the first meeting was held on 29 March 2017. Terms of Reference are currently being developed for this Committee;
8. Supporting PLIAN – Benchers approved a \$150,000.00 contribution (to be provided over three years), to the Public Legal Information Association of Newfoundland and Labrador (PLIAN) in recognition of the important public service it provides;
9. Strategic Initiatives Work Plan – Benchers approved a Strategic Initiatives Work Plan;
10. Benchers approved amendments to Law Society Rules 9.07.1 and 9.31;
11. Ongoing review of policies and processes to ensure relevance;
12. Ongoing monitoring of our infrastructure requirements to ensure that the integrity and safety of Law Society information is protected and that we can effectively receive and deliver information; and
13. Ongoing oversight of management - Benchers continue to receive necessary information on key operations and programs on a regular basis.

### **Committee Work**

The work of Law Society staff and Benchers is often augmented by the work done by its various committees, many of whom have included summaries of their activities elsewhere in this Annual Report. The committees assist in a wide range of areas including education, accounts and finance, the library, discipline and professional conduct, admissions and insurance. As indicated earlier, this year Benchers established a new Indigenous Law Committee in recognition of the significant work which needs to be done in this area. The work of all committees is always challenging and often time consuming but it is invaluable to the success and effective opera-

tion of the Law Society. The dedication of these committee members must be recognized.

### **Federation of Law Societies of Canada**

Canada's fourteen provincial and territorial law societies govern over 100,000 lawyers and 3,500 Québec notaries in the public interest. The Federation of Law Societies of Canada is their national coordinating body.

As a member of the Federation of Law Societies of Canada, the Law Society has access to a broader range of resources to assist it in carrying out its mandate. Matters of national importance which are discussed at the Federation level quite often lead to the creation of and implementation of common policies in each jurisdiction. This commonality helps in the adoption of uniform best practices and provides for a larger pool of precedent on which to draw when interpreting matters locally. It also ensures that mobility between provinces is more seamless. All of this is of benefit to the profession and protects the public interest.

This past year the Federation has engaged in strategic planning in order to ensure that it is equipped to meet the needs of all jurisdictions in Canada and the public we serve. Council endorsed the following strategic objectives for 2017 – 2019:

- 1) Facilitate collaboration and the sharing of ideas;
- 2) Identify and promote best practices in professional regulation; and
- 3) Demonstrate excellence in governance and service delivery.

We derive much value from the Federation in many ways. Notable among these is the collaboration among staff from each Law Society (which is invaluable in terms of identification of issues and sharing of best practices) and the Federation's intervention in a number of Supreme Court of Canada cases the results of which had (or could have had) a significant impact on our members.

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The President and Vice-President, along with Ms. Grimes, QC and Mr. Morgan Cooper, attended the Federation's Annual Conference in New Brunswick in October, 2016 where the focus was on the roles of and relationships between law schools and law societies.

Ms. Grimes, QC and Mr. Morgan Cooper also attended Federation Business Meetings in Quebec in March, 2017 where the CanLII Board presented on its vision of CanLII in the future and issues with respect to budgeting and the Strategic Plan were addressed.

### **Law Foundation**

We are fortunate and grateful once again to have the financial support of the Law Foundation of Newfoundland and Labrador for law libraries. For the calendar and fiscal year ending 31 December 2016, the Foundation granted \$33,200.00 to law libraries in the province. This funding is allocated among the Law Society library in St. John's, and the libraries in Corner Brook and Gander which are managed by the Department of Justice and Public Safety.

The Governors of the Law Foundation are Daniel Boone, QC, Chair, F. Geoffrey Aylward, QC, Shawn Colbourne, QC, D. Gordon Woodland, QC and Sheri Wicks. Mr. Lawrence Collins is the Foundation's Executive Director. On behalf of Benchers and the Law Society, I would like to extend sincere thanks to the Law Foundation and its Board of Governors for its continued support, which is crucial to maintaining and upgrading the library resources so essential to the profession and the public.

### **Our Volunteers**

The dedication of numerous members and non-members who contribute, on a volunteer basis, to the important work of the Law Society does not go unnoticed. Whether they are contributing at the Benchers' level, on one of the Law Society's committees or in other ways, our volunteers strengthen our professional community, thus enhancing and advancing the integrity, credibility and future of the profession. On behalf of Benchers and

the Law Society, thank you for all of your hard work and commitment.

### **Conclusion**

The Law Society has an important mandate to fulfill in ensuring that the integrity of the profession is maintained and the interests of the public are protected. As the Bar grows larger and barriers to mobility disappear, new issues and challenges arise. Changes in the way legal services are delivered and increasing reliance on electronic communication contribute to the complexity of the Law Society's work. As a Bencher and President, it is easy to see how much the work of the Law Society has changed in response to our changing world. Many other changes will occur as time goes on, as the Law Society strives to ensure that its method of regulation is dynamic and responsive to the challenges of a changing profession. Being a Bencher is an important, sometimes onerous, always challenging but incredibly rewarding and enjoyable experience. Consideration to participating in the work of the Law Society at this level is encouraged.

Reflecting on this past year, I have thoroughly enjoyed the high level of commitment and involvement to the Society required as your President. In this role, I was offered the unique opportunity to witness and be a part of the numerous regulatory challenges facing our profession. As your President, I have had the opportunity to see first hand the incredible amount of effort and dedication that goes into ensuring that the mandate of the Law Society is met on a daily basis by those involved with the everyday tasks, as well as those who serve on the various Committees.

Benchers, Executive Committee members and the entire Law Society team are to be commended for their valued support and assistance. Best wishes to all involved in the Law Society for continued success.

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# VICE-PRESIDENT'S ANNUAL REPORT

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## R. Paul Burgess

The *Law Society Act, 1999* (the “*Act*”) prescribes the Vice-President’s role in the disciplinary process. The Vice-President receives reports from the Legal Director and submits allegations to the Complaints Authorization Committee. The Complaints Authorization Committee, a statutory committee consisting of three Benchers, at least one of whom is an appointed Bencher, screens allegations of conduct deserving of sanction. Conduct deserving of sanction is defined in section 41 of the *Act* to include professional misconduct, failure to maintain the standards of practice, conduct unbecoming a member of the Society, acting in breach of the *Act* or the *Law Society Rules* and failing to adhere to the Code of Professional Conduct.

The Vice-President, with the consent of the parties, may attempt to resolve an allegation or may refer the allegation to alternate dispute resolution. If the allegation is resolved the mediator confirms the resolution and the file is closed. Where a satisfactory resolution is not achieved then the allegation is referred to the Complaints Authorization Committee. The initial assessment of an allegation is subject to the third party allegation policy.

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

be re-filed with the Law Society subsequent to the final determination of the proceeding.

The powers of the Complaints Authorization Committee are prescribed by section 45 of the *Act* and include the authority to conduct investigation, conduct a practice review and require the member’s appearance before the Committee. The investigation/review is conducted through the Legal Director’s office. Following its final consideration of an allegation, the Complaints Authorization Committee will either dismiss the allegation or, where there are reasonable grounds to believe that a respondent has engaged in conduct deserving of sanction, the Committee will authorize the Complaint. A complainant whose allegation is dismissed by the Complaints Authorization Committee has a statutory right of appeal to the Supreme Court, Trial Division.

Following authorization of the Complaint, the Complaints Authorization Committee may counsel or caution the respondent, may instruct the Vice-President to file the Complaint and refer it to the Disciplinary Panel, make an application for appointment of a Custodian of the member’s practice, and suspend or restrict the member’s licence to practice.

The Disciplinary Panel, appointed pursuant to section 42 of the *Act*, is comprised of Law Society members and lay representatives, appointed by the Minister of Justice. For the purpose of dealing with Complaints referred and applications made to the Disciplinary Panel, the Chairperson appoints an Adjudication Tribunal, consisting of two members and one lay representative, to hear the matter. The Adjudication Tribunal is independent of the Law Society and derives its

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authority from the *Act* and in particular sections 47 through 51 thereof. A party to the Hearing has a statutory right of appeal of the Adjudication Tribunal's Decision or Order.

Information concerning Complaints processed during the current reporting period follows. The Complaints Authorization Committee has authorized ten Complaints; five resulted in letters of counsel; four resulted in letters of caution and one was referred to the Disciplinary Panel. Four Adjudication Tribunals have filed decisions wherein members have been found guilty of conduct deserving of sanction. The sanctions imposed were: disbarment; suspension and reprimand (decision is under appeal to the Supreme Court, Trial Division); reprimand and \$2,500 fine; and reprimand. The Complaints Authorization Committee suspended a member's licence to practice on a

interlocutory basis. The suspension arises from a determination by the Complaints Authorization Committee that the member's conduct is not compliant with the Code of Professional Conduct. Currently there are three ongoing Adjudication Tribunal Hearings. The Law Society is engaged in litigation before the Supreme Court Trial Division on six disciplinary related proceedings.

Hundreds of hours of volunteer time are contributed on an annual basis by members of the Complaints Authorization Committee and by members of the Disciplinary Panel to the Law Society's disciplinary process. The Society could not function without the dedication and volunteer time of committee members. Their contribution is significant and very much appreciated.

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# EDUCATION COMMITTEE REPORT

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## Leanne O'Leary, *Chair*

The Education Committee is responsible for educational issues which arise concerning members and prospective members of the Law Society. The Committee deals with all applications for admission and re-admission to practice, which applications generally involve an assessment of academic credentials, currency of legal knowledge, fitness to practice and good character elements. The Education Committee deals with requests throughout the year from members and prospective members relating to the requirements in the *Law Society Act, 1999* and the *Law Society Rules* on educational and admissions issues.

As such, the Education Committee considers applications from:

- law students regarding admission as a Student-at-Law;
- applications from members of other Law Societies who wish to practice in Newfoundland and Labrador on a temporary basis under the National Mobility Agreement;
- applications from members of other Law Societies who wish to transfer to Newfoundland and Labrador on a permanent basis pursuant to the National Mobility Agreement; and
- applications from non-practicing or former members of the Law Society who wish to reinstate their status to practicing membership.

In all of these cases, the Committee must ensure that the applicant has met the required standards, educational and otherwise.

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

From May 2016 - April 2017, the Education Committee:

- i) admitted 30 new applicants as Students-at-Law;
- ii) recommended to Benchers that 36 students, having met the requirements of a Student-at-Law, be called to the Bar in Newfoundland and Labrador;
- iii) approved the application of 10 transfer candidates to be called to the Bar of Newfoundland and Labrador under the National Mobility Agreement; and
- iv) approved a change from non-practicing to practicing status for 26 Law Society members.

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# BAR ADMISSION COURSE COMMITTEE REPORT

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## **J. David Eaton, QC, *Chair***

The Law Society requires all Students-at-Law to attend at the Bar Admission Course and successfully complete the Bar Admission Course Examinations as part of the Law Society's licensing requirements.

The 2016 Bar Admission Course began on October 4, 2016 and continued until November 18, 2016. The Bar Admission Course involves in-class teaching, generally scheduled from 9:00 am – 5:00 pm daily, and the Course runs for a period of seven (7) week in total. Daily attendance at the Bar Admission Course is mandatory for all Students-at-Law. There are approximately 150 scheduled hours of instruction in the Bar Admission Course, delivered through lectures, seminars and workshops. The instruction is primarily provided by Law Society staff, practicing lawyers, judges and other professionals and invited presenters.

In the 2016 Bar Admission Course there were 37 students enrolled. Students attending the Course are articling in a variety of legal environments. Approximately three quarters of students are articling with a firm in private practice, with approximately one quarter articling in a public sector placement, for example with the NL Legal Aid Commission, the Crown Attorney's Office or the Department of Justice (Civil Division). While the majority of students are articling in the St. John's metropolitan area, this year's Course also had a good geographical representation of students articling throughout the Province, for example in South Dildo, Gander, Stephenville, Springdale, Corner Brook and Happy Valley-Goose Bay.

To pass the Bar Admission Course, students must pass six Bar Admission Course licensing examinations in the following areas: Family Law, Commercial Law, Civil Procedure, Criminal Law, Administrative Law and Real

Estate/Wills. Each of these six licensing examinations exam is 3½ hours long and focuses on the lectures and in-class 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 content.

The goal of the Bar Admission Course is to give new lawyers a comprehensive overview of Newfoundland and Labrador and Canadian 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.

What follows is an overview, providing further particulars on each section of the Course:

### **Family Law:**

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

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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, the Law Society's professional liability insurance program, risk management and how to avoid professional negligence claims. As well there is a presentation on maintaining a balance between professional and personal lives, 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, eviden-

tiary matters, voir dres, 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, condominiums, professional responsibility in real estate issues, title insurance, survey/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.

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](mailto:francis.obrien@lawsociety.nf.ca).

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# CONTINUING LEGAL EDUCATION REPORT

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The Law Society of Newfoundland and Labrador develops and delivers a program of Continuing Legal Education for members of the Bar. This is achieved through the Law Society's education entity, Newfoundland and Labrador Continuing Legal Education.

Newfoundland and Labrador Continuing Legal Education has, as its goal, the provision of high quality legal education programs which assist in keeping our members current and competent.

Continuing legal education programs are offered to members of the Newfoundland and Labrador Bar in a variety of practice areas. Examples of recent programs include:

- Assessing Damages: How Much is it Worth? Calculating Damages for Pecuniary Losses in Personal Injury, Fatality Cases and other Economic Losses
- Ethics, Professional Responsibility and the Practice of Law: Advising Clients in Challenging Circumstances – Examples and Perspectives on Legal Ethics and Professionalism from a Military Legal Officer with General Lessons for the Bar
- New Court of Appeal Rules in Civil Matters
- Administrative Law 2016
- Family Law Update
- Nonverbal Communication and Credibility of Witnesses
- Maximizing Results in Examination-in-Chief and Cross-Examination
- New Family Law Rules in the Supreme Court, General Division and Family Division
- Business Valuation Basics: What's a Business Worth?
- An Introduction to the Truth and Reconciliation Commission, Aboriginal and Indigenous Legal Issues and the Practice of Law: A Panel Discussion

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

We appreciate our many volunteer lawyers, judges and other professionals who give their time and talents, as presenters at our seminars, to enhance the knowledge and professional standards of other practitioners. The Law Society greatly appreciates these contributions and we are continuously impressed with the excellence and enthusiasm of our presenters.

As Benchers approved a program of Mandatory Continuing Legal Education in 2016, the Law Society is looking forward to members engaging in meaningful continuing legal education opportunities in future to further promote professional competence.

Members with program suggestions should contact Mr. Francis P. O'Brien at (709) 722-4898 or by email at [francis.obrien@lawsociety.nf.ca](mailto:francis.obrien@lawsociety.nf.ca).



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# INSURANCE COMMITTEE REPORT

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## **Ann F. Martin, *Chair***

Under its Terms of Reference, the Insurance Committee is responsible for ensuring that the Lawyers' Insurance Programme is effectively administered and financially stable. It is also responsible to provide the best coverage to members and protect the public as effectively as possible. The Committee provides oversight to our participation as a subscriber to the Canadian Lawyers' Insurance Association (CLIA). In 2016, the Committee implemented a suite of loss prevention initiatives.

The Committee continues to benefit from the hard work and guidance of our Claims Review Committee consisting of Janice Ringrose, Tom Johnson, QC, Lewis Andrews, QC (alternate) and Gary Baird. Our past years claims history continues to be on par with previous years as we maintain a strong, stable financial position. The premium setting policy at the foundation of our premium setting process continues to provide stability and, as in 2016, we were able to maintain our 2015 insurance premium levels for 2017. Meanwhile, we are seeking a ruling from the provincial Department of Finance on the impact of recent changes to the retail sales tax on lawyers' insurance premiums.

Our insurer, CLIA, continues to transition its business model from a representative model

to a CEO based model. CLIA received a clean audit of their financial statements for 2016 and their new auditors, Price Waterhouse Cooper, have been appointed following an RFP process. Subscriber equity for all CLIA subscribers combined currently sits at \$32 million, a \$2 million increase over the previous year.

Following our 2015 review of the high rate of missed limitations in our jurisdiction, the Insurance Committee implemented a number of loss prevention initiatives including a mentoring program for lawyers, a self-assessment checklist, risk assessment visits, loss prevention tips, an updated insurance and risk management section on our website and annual presentations at the Bar Admission Course. The Law Society continues to provide Lawyer wellness and employee assistance services through its provider Homewood Health.

The Insurance Committee benefits greatly from the generosity of our members who devote significant time and effort to the success of the Lawyers' Insurance Program. The Programme continues to provide fair and reasonable insurance premiums to lawyers while affording effective protection of the public.

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# LIBRARY COMMITTEE REPORT

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## Glenda Reid, *Chair*

The Library Committee is a standing Committee of Benchers whose mandate is to recommend to Benchers a strategic direction for efficient and effective access to high quality legal information and library services.

The Library Committee serves as an advisory group to the Law Librarian on matters related to library services and resources, in order to:

1. enable the members of the legal profession to maintain professional competencies; and
2. promote access to justice for the general public. The Committee further advises on policy development related to the Law Library and brings forward relevant policies for approval by Benchers.

The Library Committee met five times during the year (September 14, 2016, November 8, 2016, February 21, 2017, March 21, 2017, and May 2, 2017).

A Library User Survey was conducted in November/December to inform strategic planning. The survey had a 24% response rate (235/991 registered practicing and non-practicing members) and provided feedback to the Law Library from members on the Law Library's services. Feedback was very positive with the majority of users indicating that the collection depth is very good and the knowledge and assistance of the staff is excellent.

The Law Librarian works very closely with the Committee in an *ex-officio* capacity. After many years of dedicated service, Gail Hogan announced that she was leaving her position in January, 2017. The Committee members thanked her for her valued contributions and

wished her well. In February, the Committee welcomed Jenny Thornhill as the new Law Librarian.

The Library Committee reviewed the existing *Law Society of Newfoundland and Labrador Rules*, in particular *Rule III - The Library*. As a result of this review, it was recommended to Benchers that *Rule III* be repealed as it no longer reflected the current operations of the Law Library or the Library Committee. A motion of Benchers in April, 2017, was unanimously supported and *Rule III* was repealed.

In accordance with the Library Committee's Terms of Reference, the appointments for those committee members who have completed two terms (or more) with the Library Committee are ending in June, 2017. Long serving members of the Committee were thanked for their dedication and service: Rebecca Phillips (14 years), Bert Riggs (8 years), Maeve Baird (6 years), Benjamin Blackmore (6 years), Andrew Fitzgerald (6 years), Angela Whitehead (6 years,) and Padraig Mohan (6 years). The continuing Committee members are Liam O'Brien and Glenda Reid (Chair). In accordance with the recent request for Expressions of Interest, the Library Committee is actively seeking new recruits.

During the period of January 2016 – May 2017, the Law Library provided many different types of reference service to both the members of the Law Society and members of the public. The chart which follows shows the different types of questions received, the location of requestors, and the formats in which the Law Library receives and replies to questions:

## Library Reference Statistics

Duration		Question Type		Asked by	
60+ minutes	43	Basic	903	In town	1028
0-15 minutes	897	Complex	608	Out of town	316
15-30 minutes	463	Directional	21	Public	87
30-60 minutes	129			ILL-lender	62
				ILL-recipient	39
Format		Location			
Email	87	Emailed	651		
Phone	62	Scanned & Emailed	199		
In-person	329	Library Materials	547		
Electronic	1054	Library staff	135		

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# HONOURS AND AWARDS COMMITTEE REPORT

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## Amy M. Crosbie, *Chair*

The Honours and Awards Committee determines the recipients of the following awards:

- Hunt Award
- Provincial Court Judges' Association Award
- Penney Award
- Spracklin Award
- William J. Browne Scholarship
- Maxwell J. Pratt Scholarship

The Committee also makes recommendations to Benchers regarding the conferring of the following Honours to Members, former Members or Benchers:

- Degree of Doctor of Laws
- Gordon M. Stirling Distinguished Service Award
- Jean Bruneau, QC, Certificate of Merit
- Life Membership

The Hunt Award is presented to the Student-at-Law who receives the highest overall average mark in the Law Society of Newfoundland and Labrador's Bar Admission Course. The recipient of the Hunt Award for the 2016 Bar Admission Course is Mr. Shane Belbin. Mr. Belbin served Articles of Clerkship at the firm *Curtis Dawe* and his principal was Mr. Liam O'Brien. Mr. Belbin was called to the Newfoundland and Labrador Bar on February 17, 2017, at which time he commenced practice with *Curtis Dawe*.

Mr. Belbin is also the winner of the Spracklin Award and the Provincial Court Judges' Association Award. The Spracklin Award is presented to the Student-at-Law achieving the highest mark in the Real Estate/Wills Examination of the Bar Admission Course. The Provincial Court Judges' Association Award is presented to the Student-at-Law achieving the highest mark in the Criminal Law Examination of the Bar Admission Course.

The recipient of the 2016 Penney Award is Mr. Giles Ayers. Mr. Ayers served Articles of Clerkship at the firm *Stewart McKelvey* and his principals were Ms. Maureen Ryan and Mr. Wayne Bruce. Mr. Ayers was called to the Newfoundland and Labrador Bar on April 21, 2017, at which time he commenced practice with *Stewart McKelvey*.

The William J. Browne Scholarship is presented to a Student-at-Law who has submitted a research essay on a legal issue of current public concern. The recipient of the 2017 William J. Browne Scholarship is Ms. Andrea Vizsolyi who is presently articling with the *Newfoundland and Labrador Legal Aid Commission*. Ms. Vizsolyi's research essay is entitled: "Silencing Mr. Big."

The Maxwell J. Pratt Scholarship is based on academic performance and is presented to a Student-at-Law who is a graduate of Memorial University of Newfoundland and a student at Dalhousie Law School. The recipient of the 2017 Maxwell J. Pratt Scholarship is Ms. Sarah Pinsent who is currently articling with the firm *Morrow, Morrow & Crosbie Law Office*.

The above-described awards will be formally presented on 9 June 2017 at the Law Society of Newfoundland and Labrador's Annual Dinner.

The Gordon M. Stirling Distinguished Service Award is open to members and former members of the Law Society and of the judiciary who have made a substantial contribution to the Law Society, the legal profession or the administration of justice, while at the same time making a significant contribution to the public or one's community. Francis Fowler, QC was approved for this award at the 5 December 2016 Benchers' Convocation. This award will also be formally presented on 9 June 2017 at the Annual Dinner.

Life Membership was awarded to the following members: Francis Fowler, QC, John Noel, QC, John Roil, QC and, Noel Clarke, QC.

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# SS DAISY LEGAL HISTORY COMMITTEE REPORT

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## Christopher P. Curran, QC, Co-Chair

The Committee met four times during the reporting period. All meetings were held at the offices of the Law Society of Newfoundland and Labrador over Fall 2016 and Winter and Spring 2017 with a quorum of Committee members in attendance. The purpose of the meetings was furtherance of the Committee's ongoing work, the principal aspects of which are as follows:

1. Completion of two ongoing book projects: The first of these involves publication of the essays presented at the Trinity Whitbourne Symposium 2015: *Discourse & Discovery*. Publication of this volume by Print Three occurred at the end of May 2017; the book has been edited for publication by Melvin Baker, Christopher Curran & Chief Justice J. Derek Green and is available for purchase from the Law Society offices at a cost of \$40 inclusive of HST. The second involves publication of the "Journals of George Simms JP and the Records of the Labrador Court (Civil and Sessions) 1826 - 1833." This book, in two volumes, will be available at a combined cost of \$60 inclusive of HST and is edited for publication by Augustus Lilly, former Treasurer of the Law Society, and Christopher Curran. The book contains an extensive introductory essay from archival sources by Augustus Lilly and throws new light on the development of Labrador's 19<sup>th</sup> century legal heritage. Its publication is planned for the end of June 2017. There will be an official book launch for both books early in the fall.
2. Labrador Boundary Case Presentation: Preparations are being made for a public forum and discussion to be held in November 2017 at the offices of the Law Society regarding the Labrador Boundary Case which came before the Privy Council in 1927. This presentation is conceived as part of the Bar Admission Course, will mark the 90<sup>th</sup> anniversary of this landmark decision and will be open to the general public. It will consist of two presentations: Christopher Curran and Melvin Baker will present a paper on P. T. McGrath who prepared the evidentiary volumes which made up the Newfoundland case. This will be followed by a re-enactment of the case by Augustus Lilly as Moderator with members of the Society in the roles of Counsel for Canada and Counsel for Newfoundland and Bar Admission students as the judges of the Privy Council. The evening's presentation will offer hors d'oeuvres and will be simultaneously broadcast to Happy Valley-Goose Bay. This is a new initiative of the Legal History Committee in an effort to bring this Province's legal heritage alive to the Bench, the Bar and the general public.
3. E. M. Archibald, *Digest of the Laws of Newfoundland* (1847): In 2016, the Committee re-published D. W. Prowse's *Manual for Magistrates*, long since out of print, with an introductory essay by Christopher Curran and Melvin Baker. This publication was conceived as the first of a series of "classics of Newfoundland Law" and will be augmented this coming year by Archibald's *Digest*. Archibald's text was one of the standard texts utilized by practitioners in the nineteenth and early twentieth century, reproduced the Judicature Act 1824 and the Royal Charter with commentaries thereon and provided the earliest "Consolidation" of Newfoundland statute law 1832-1847. This classics initiative will make available to the Bar the touchstones of the province's written law book heritage now considered rare and out of print in a format recognizable as the Law Society's own.

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4. Carter Volume 3: The publication of a volume of material dealing with law and society in nineteenth and early twentieth century Newfoundland and Labrador is ongoing. Contributors of essays to the volume have been confirmed; the essays will explore material presented in the previous two Carter volumes and new material and is expected for publication in 2018-19. Editors for the volume are: Dr. Jerry Bannister, Melvin Baker and Christopher Curran.
  5. Re-invigoration of the Committee's Oral History Initiative: In 1993 Dr. Christopher English carried out an extensive series of interviews for the Society with then senior members of the Province's Bench, Bar and legal community. Interviewees included such luminaries as former Chief Justice Robert Furlong. The Committee has determined that it will prioritize publication of a sampling of these interviews, which are now 25 years old, together with other available "In Memoriam tributes" presented primarily at the Supreme Court over the next two years. Principal editors of this project will be Melvin Baker, Christopher Curran, and Provincial Court Judge John Joy. To complete this project the Committee will be approaching the families of deceased members for their input in transcript preparation and the collection of appropriate photographic images. The committee looks forward to the active ongoing support and participation of the existing membership in this endeavour. Expect to hear more about this initiative in the months ahead.
  6. New Oral History Interviews: Over the course of the past year, the Committee has struggled with how best to move forward with the conduct and archiving of oral interviews of current members of the Bench and Bar. A sub-committee led by Robert Pittman Q.C. has been exploring this issue and has made recommendations to the Law Society's executive staff concerning the purchase of new digital recording equipment and related appropriate software. This technology is now in place. A list of potential interviewees is being developed and suggestions from the membership as to potential interview candidates are welcome. The Legal History Committee and the Society's staff are working together to move this initiative forward in a cost effective and durable manner.
  7. The Committee congratulates Frances Knickle Q.C. on her recent appointment to the Province's Supreme Court and thanks her for her contribution to the work of the Committee over the past year. The Committee congratulates His Honour John Joy on the eve of his retirement from the Province's Provincial Bench and looks forward to benefitting from his expertise in aboriginal justice and in Labrador's legal heritage as he pursues his research interests in these areas during his retirement.

This past year has been a busy one for the Society's Legal History Committee. The addition of new members has brought new resources and resolve in the public interest to recapture and make more widely known the manifold contributions of the legal profession to the rich heritage of Law and Judicature in Newfoundland and Labrador.

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# ACCESS TO JUSTICE COMMITTEE REPORT

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## **Ian C. Wallace, *Chair***

The Access to Justice Committee was formed to represent the Law Society on the Newfoundland and Labrador Access to Justice Steering Committee (the “Steering Committee”) comprised of various stakeholders in the justice community, including the Chief Justices of the Court of Appeal, Trial Division, and Provincial Court.

The Steering Committee, *inter alia*, provides leadership on initiatives intended to improve access to the civil and family justice systems in the Province, including engaging the public on issues related to access to justice and promoting innovation in all aspects of the delivery of civil and family justice services.

The Access to Justice Committee’s responsibilities include: identifying access to justice initiatives relevant to the role of the Society to regulate in the public interest; advising and recommending to Benchers access to justice initiatives relevant to the role of the Society; engaging Members on access to justice initiatives relevant to the role of the Society; engaging the public on access to justice initiatives relevant to the role of the Society; promoting and facilitating access to justice initiatives relevant to the role of the Society; and supporting the Steering Committee in attaining its objectives.

The Access to Justice Committee, in conjunction with the Steering Committee, has piloted a Saturday clinic at the Law Society Library to provide free legal advice to individuals. The first Access Law Clinic was offered in November 2016 and provided advice in the areas of Wills and Estates, Human Rights, Employment, and Housing. The Clinic was staffed by volunteers and included lawyers and library staff. Clients were provided with a half hour legal consultation and additional support on library resources both on the shelf and online. Clients were requested to register in advance but walk in clients were accommodated as well.

A second Access Law Clinic was offered in April 2017. This Clinic was dedicated to Family Law, an area identified by the Steering Committee in consultation with Court staff. Seven lawyers volunteered their time in addition to lawyers and staff from the Unified Family Court and Law Society staff. The consultation sessions were extended to 45 minutes and 25 clients received legal advice. In addition to the legal consultation, clients were assisted by Court staff providing instructions on various procedures in Unified Family Court and by accessing relevant forms online.

The Clinics were further supported by representatives of the Law Society and other Steering Committee members conducting intake interviews and attending to execution of the Terms of Service. All involved believed the Clinic is providing a valuable outreach service to the community and that the Law Library is a suitable location to offer the Clinic on a recurring basis. The Executive Director and the Executive Committee of the Law Society have extended every cooperation to the Steering Committee in offering the Library as the location for the Access Law Clinic and the support of its professional staff.

The Law Society continues to support access initiatives for the public, including contributions to CanLII, an online legal resource funded by all Law Societies in Canada which is available to the public without charge, and dedicating a section of its website to the public, including links to important resources.

This year the Law Society provided a three year commitment of \$50,000.00 per year to the Public Legal Information Association of Newfoundland and Labrador to assist it in furtherance of access to justice initiatives and has also offered ongoing support for a proposed Mediation Pilot Project in Family Court.

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# ACCOUNTS AND FINANCE COMMITTEE REPORT

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## **Ian Patey, *Chair***

The Accounts and Finance Committee is established pursuant to Rule 2.16(3) and supports Benchers in the governance of the Law Society by monitoring significant financial planning management and reporting matters of the Law Society and serving as the Law Society's Audit Committee. Members of the Committee are Ian Patey, Chair, Renee Appleby, Elected Bencher, and Glenda Reid, Lay Bencher. The Executive Director and the Law Society Accountant attend all meetings of the Committee as representatives of the management team.

The mandate of the Accounts and Finance Committee is to:

- Make recommendation to the Benchers on the selection of financial advisors for the Law Society
- Regularly meet with the financial advisors of the Law Society to assess the performance of its financial assets
- Report generally on the performance of the Law Society's financial assets to Benchers
- Regularly monitor and assess the performance of the Law Society's financial advisors and, when necessary, make recommendations to Benchers for a change of financial advisors.
- Serve as the Audit Committee to:
  - i) Review the audit tender process
  - ii) Recommend the appointment of an auditing firm to Benchers
  - iii) Meet with external auditors to ensure that:
    - a) The Law Society has implemented appropriate systems to identify, monitor and mitigate significant financial risk;

- b) The appropriate systems of internal control, which ensure compliance with Law Society policies and procedures, are in place and operate effectively;
- c) The Law Society's annual financial statements are fairly represented in accordance with generally accepted accounting principles;
- d) Any matter which the external auditors wish to bring to Benchers has been given adequate attention;
- e) The external audit function has been effectively carried out.

The Accounts and Finance Committee presented its Work Plan for 2016-17 at the 3 October 2016 Convocation which detailed the upcoming activities for the Committee. The Committee conducted three regular meetings with the Law Society financial advisors, Will Small and Keith Butler of Scotia Wealth Management, on 3 October 2016, 12 January 2017, and 13 April 2017. During these meetings the Committee was presented with detailed reports on asset performance and recommendations for changes to the investment portfolio. Additionally, at the Benchers Convocation of 5 December 2016 the Committee presented for approval by Benchers a revised Investment Policy Statement (IPS).

The final meeting under the current Work Plan is scheduled for 13 July 2017, at which time in addition to its regular activities, the Committee will be reviewing the 2016-17 Work Plan and preparing the 2017-18 Work Plan.

With respect to the discharge of its audit review functions, the Committee met with the Law Society Auditors, Jennifer Clement and



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Cassie Allen of KPMG, on 15 December 2016 at a pre-audit meeting at which time the Audit Planning Report was presented and the Committee raised no concerns with the outlined process. On 27 March 2017 the Committee again met with the Auditors for the detailed presentation of the 2016 audit, to review the audit process and determine whether there were any issues of concern. The Audit process identified three areas of potential concern, all of which were addressed through the audit process.

Also on 27 March 2017 the Accounts and Finance Committee members met with the auditors in the absence of the Law Society Executive Director and Accountant, during which time no concerns were brought to the attention of the Committee. To the contrary, the Auditors expressed their appreciation for the work of the management team of the Law Society, both in general and during the audit process.

Finally, on 13 April 2017, the Accounts and Finance Committee discussed both

- a) the audit tender process and recommendations to Benchers respecting external auditors, and

- b) an assessment of the performance of the Law Society financial advisors and recommendations to Benchers respecting the selection of financial advisors.

1. With respect to the audit tender process and the performance of the external auditors, the auditors exceeded performance expectations and accordingly the Committee recommends a re-appointment of KPMG as auditors for the upcoming year. In accordance with the Work Plan the Committee recommends deferring a decision respecting re-tendering following completion of the 2017 audit; and
2. With respect to the assessment of the performance of the Law Society financial advisors, the Committee again felt the financial advisors exceeded performance expectations and recommends re-appointment of Scotia Wealth Management as financial advisors. The Committee recommends continuing to review the performance of the financial advisors on an annual basis.

The Committee appreciates feedback from any members on matters within the terms of reference of the Committee.

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# REAL ESTATE COMMITTEE REPORT

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## Renee Appleby, *Chair*

The Real Estate Committee is established to support Benchers in the governance of the Law Society by developing professional standards for the area of Real Estate Law. Members of the Committee are Renee Appleby, Trevor Stagg, Barry Lake, Todd Stanley, Q.C. and Graham Wells, Q.C.. There is currently one vacancy on the Committee, which we hope to fill in the near future.

The Real Estate Committee is responsible for:

- Identifying existing applicable professional standards of Real Estate Law practice;
- Identifying emerging Real Estate Law issues which may require the development of new professional standards or the revision of current standards and advising Benchers;
- Identifying resources and tools to assist members to practice in accordance with professional standards;
- Acting as a resource on issues of professional standards for Real Estate Law as may be requested by Benchers; and,
- Engaging members in determining real estate practice education initiatives relevant to the Law Society and its role of regulating the profession in the public interest.

The Real Estate Committee presented its Work Plan for 2016-17 at the 3 October 2016 Convocation which detailed the upcoming activities for the Committee. To date, the Committee has held one regular meeting in

November 2016. The February 2017 meeting was cancelled due to weather and there is presently a further meeting scheduled for May 2017. Given that Committee is comprised of members practicing throughout the province, we frequently correspond by e-mail as issues arise.

The Committee has been called upon to consider delays with the registration of documents at the Registry of Deeds and the recent decision of Government to relocate the Crown Lands Office from St. John's to Corner Brook. Unfortunately, the recent amendments to the *Lands Act* were tabled and passed without the Society or Committee being given an opportunity to comment on same. The Committee will continue its efforts to advocate for increasingly necessary review and possible amendment of the law concerning adverse possession against the Crown.

During its November 2016 meeting, the Committee received a copy of the materials provided to students as a part of the Bar Admission Course and it will continue to review the materials and work towards updating the documents, as necessary, so that they might be circulated to practitioners with an ultimate goal of standardizing our real estate practices. The Committee invites all members of the bar to freely contact its members should they have an issue or concern with the practice of real estate law in the province which they feel should be addressed by the Committee and which fall within its terms of reference.

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# AUDITOR'S REPORT AND FINANCIAL STATEMENTS

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for the  
Fiscal Year Ended December 31, 2016



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Financial Statements of

**LAW SOCIETY OF  
NEWFOUNDLAND AND  
LABRADOR**

Year ended December 31, 2016

# **LAW SOCIETY OF NEWFOUNDLAND AND LABRADOR**

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KPMG LLP  
Toronto Dominion Place  
140 Water St, Suite 1001  
St. John's NL A1C 6H6

Telephone (709) 733-5000  
Fax (709) 733-5050  
www.kpmg.ca

## INDEPENDENT AUDITORS' REPORT

To the Members of Law Society of Newfoundland and Labrador

We have audited the accompanying financial statements of the Law Society of Newfoundland and Labrador, which comprise the balance sheet as at December 31, 2016, the statements of earnings, changes in net assets and cash flows for the year then ended, and notes, comprising a summary of significant accounting policies and other explanatory information.

### *Management's Responsibility for the Financial Statements*

Management is responsible for the preparation and fair presentation of these financial statements in accordance with Canadian accounting standards for not-for-profit organizations, and for such internal control as management determines is necessary to enable the preparation of financial statements that are free from material misstatement, whether due to fraud or error.

### *Auditors' Responsibility*

Our responsibility is to express an opinion on these financial statements based on our audit. We conducted our audit in accordance with Canadian generally accepted auditing standards. Those standards require that we comply with ethical requirements and plan and perform the audit to obtain reasonable assurance about whether the financial statements are free from material misstatement.

An audit involves performing procedures to obtain audit evidence about the amounts and disclosures in the financial statements. The procedures selected depend on our judgment, including the assessment of the risks of material misstatement of the financial statements, whether due to fraud or error. In making those risk assessments, we consider internal control relevant to the entity's preparation and fair presentation of the financial statements in order to design audit procedures that are appropriate in the circumstances, but not for the purpose of expressing an opinion on the effectiveness of the entity's internal control. An audit also includes evaluating the appropriateness of accounting policies used and the reasonableness of accounting estimates made by management, as well as evaluating the overall presentation of the financial statements.

We believe that the audit evidence we have obtained is sufficient and appropriate to provide a basis for our qualified audit opinion.

### *Basis for Qualified Opinion*

The Lawyer's Insurance Programme derives revenues from transaction levies, the completeness of which is not susceptible to satisfactory audit verification. Accordingly, our verification of these revenues was limited to the amounts recorded in the records of the Lawyer's Insurance Programme. Therefore, we were not able to determine whether, as at and for the years ended December 31, 2016 and December 31, 2015, any adjustments might be necessary to revenues and excess of revenues over expenses reported in the statement of earnings, excess of revenue over expenses reported in the statement of cash flows and current assets and net assets reported in the balance sheet as at December 31, 2016. This caused us to qualify our audit opinion on the financial statements as at and for the year ended December 31, 2015.

### *Qualified Opinion*

In our opinion, except for the possible effects of the matter described in the Basis for Qualified Opinion paragraph, the financial statements present fairly, in all material respects, the financial position of the Law Society of Newfoundland and Labrador as at December 31, 2016, and its results of operations and its cash flows for the year then ended in accordance with Canadian accounting standards for not-for-profit organizations.

Chartered Professional Accountants  
April 21, 2017  
St. John's, Canada

# LAW SOCIETY OF NEWFOUNDLAND AND LABRADOR

## Balance Sheet

December 31, 2016, with comparative information for 2015

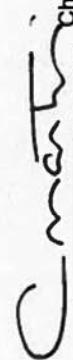
	General Fund	Lawyers' Insurance Programme	Assurance Fund	Endowment Fund	Internally Restricted Fund (note 2)	2016	2015
<b>Assets</b>							
Current assets:							
Cash and cash equivalents	\$ 589,346	\$ 281,031	\$ 4,399	\$ -	\$ -	\$ 874,776	\$ 818,016
Investments and marketable securities (note 4)	2,157,502	13,810,502	1,113,253	12,018	-	17,093,275	16,547,385
Accounts receivable other (note 7)	24,721	249,197	-	-	-	273,918	13,658
Trade receivable (net of allowance of \$1,400 (2015 - \$10,134))	86,396	-	-	-	-	86,396	409,021
Prepaid expenses	8,477	153,484	33,617	-	-	195,578	211,598
Interfund balances	(1,549,646)	3,523	(8,877)	-	1,555,000	-	-
	1,316,796	14,497,737	1,142,392	12,018	1,555,000	18,523,943	17,999,678
Capital assets (note 5)	891,842	-	-	-	-	891,842	971,297
Claims recovery receivable (note 6)	-	66,972	-	-	-	66,972	54,000
	\$ 2,208,638	\$ 14,564,709	\$ 1,142,392	\$ 12,018	\$ 1,555,000	\$ 19,482,757	\$ 19,024,975
<b>Liabilities and Net Assets</b>							
Current liabilities:							
Accounts payable and accrued liabilities (note 7)	\$ 403,612	\$ 29,652	\$ -	\$ -	\$ -	\$ 433,264	\$ 326,762
Provision for unpaid claims	10,100	-	-	-	-	10,100	14,400
Reserve for claims and related costs (note 8)	-	3,605,610	-	-	-	3,605,610	3,435,585
	413,712	3,635,262	-	-	-	4,048,974	3,776,747
Net Assets:							
General Fund	1,794,926	-	-	-	-	1,794,926	3,431,902
Lawyers' Insurance Programme	-	10,929,447	-	-	-	10,929,447	10,673,000
Assurance Fund	-	-	1,142,392	-	-	1,142,392	1,132,014
Endowment Fund	-	-	-	12,018	-	12,018	11,312
Internally Restricted Fund (note 2)	-	-	-	-	1,555,000	1,555,000	-
	1,794,926	10,929,447	1,142,392	12,018	1,555,000	15,433,783	15,248,228
Commitments (note 9)							
	\$ 2,208,638	\$ 14,564,709	\$ 1,142,392	\$ 12,018	\$ 1,555,000	\$ 19,482,757	\$ 19,024,975

See accompanying notes to financial statements.

On behalf of the Benchers:

 President

Vice President

 Chair of Insurance Programme



# LAW SOCIETY OF NEWFOUNDLAND AND LABRADOR

## Statement of Earnings

Year ended December 31, 2016, with comparative information for 2015

	General Fund	Lawyers' Insurance Programme	Assurance Fund	Endowment Fund	Internally Restricted Fund (note 2)	2016	2015
<b>Revenue:</b>							
Admission fees (note 10)	\$	\$	\$	\$	\$	54,325	96,800
Annual fees (note 11)	1,588,376	882,484	37,675	-	-	2,488,535	2,464,722
Audit program	83,833	-	-	-	-	83,833	81,196
Bar admission course	81,883	-	-	-	-	81,883	61,447
Continuing legal education	67,918	-	-	-	-	67,918	23,836
Grant - Law Foundation	33,200	-	-	-	-	33,200	45,000
Interest - membership fees	58,105	-	-	-	-	58,105	65,020
Investment income (note 4)	138,904	576,406	39,694	906	-	755,910	418,170
Other income	19,218	-	-	-	-	19,218	25,614
Transaction levy revenue	-	831,276	-	-	-	831,276	864,435
Recoverable from CLIA	-	-	-	-	-	-	23,537
	2,105,762	2,290,166	77,369	906	-	4,474,203	4,169,777
<b>General and administrative expenses:</b>							
Salaries and benefits	1,013,587	202,413	-	-	-	1,216,000	1,202,522
Provision for unpaid claims and related costs	(4,028)	1,146,328	(11,252)	-	-	1,131,048	1,591,050
Discipline expense	329,758	-	-	-	-	329,758	108,442
CLIA premiums	-	327,386	-	-	-	327,386	347,213
Miscellaneous expenses	212,847	24,238	5,488	-	-	242,573	213,574
Libraries	170,185	-	-	-	-	170,185	263,327
Building operation	144,815	-	-	-	-	144,815	137,567
Custodianship	-	131,848	-	-	-	131,848	201,303
Audit program	86,737	-	-	-	-	86,737	82,990
Amortization	79,455	-	-	-	-	79,455	80,136
Insurance	11,053	-	-	-	-	74,931	71,210
Professional fees	32,883	20,186	63,878	-	-	61,946	44,459
Federation of Law Societies' fees	53,144	-	8,877	-	-	53,144	51,965
Continuing legal education	45,134	-	-	-	-	45,134	16,057
Bencher's convocations and receptions	43,958	-	-	-	-	43,958	58,038
Professional development	42,077	-	-	-	-	42,077	65,235
Actuarial fees	-	34,459	-	-	-	34,459	33,702
PLIAN	30,000	-	-	-	-	30,000	-
Professional Assistance Program	-	26,861	-	-	-	26,861	26,625
Bar admission course	16,133	-	-	-	-	16,133	14,697
Scholarships	-	-	-	200	-	200	-
Administration fees	(120,000)	120,000	-	-	-	-	-
	2,187,738	2,033,719	66,991	200	-	4,288,648	4,610,112
<b>Net earnings (loss)</b>	<b>\$ (81,976)</b>	<b>\$ 256,447</b>	<b>\$ 10,378</b>	<b>\$ 706</b>	<b>\$ -</b>	<b>\$ 185,555</b>	<b>\$ (440,335)</b>

See accompanying notes to financial statements.

# LAW SOCIETY OF NEWFOUNDLAND AND LABRADOR

## Statement of Changes in Net Assets

Year ended December 31, 2016, with comparative information for 2015

	General Fund	Lawyers' Insurance Programme	Assurance Fund	Endowment Fund	Internally Restricted Fund (note 2)	2016	2015
Net assets, beginning of year	\$ 3,431,902	\$ 10,673,000	\$ 1,132,014	\$ 11,312	\$ -	\$ 15,248,228	\$ 15,688,563
Net earnings (loss)	(81,976)	256,447	10,378	706	-	185,555	(440,335)
Transfer	(1,555,000)	-	-	-	1,555,000	-	-
<b>Net assets, end of year</b>	<b>\$ 1,794,926</b>	<b>\$ 10,929,447</b>	<b>\$ 1,142,392</b>	<b>\$ 12,018</b>	<b>\$ 1,555,000</b>	<b>\$ 15,433,783</b>	<b>\$ 15,248,228</b>

See accompanying notes to financial statements.

# LAW SOCIETY OF NEWFOUNDLAND AND LABRADOR

## Statement of Cash Flows

Year ended December 31, 2016, with comparative information for 2015

	2016	2015
Cash provided by (used in):		
Operations:		
Net earnings (loss)	\$ 185,555	\$ (440,335)
Items not involving cash:		
Amortization	79,455	80,136
Unrealized gain on investment	(442,702)	(242,875)
Provision for unpaid claims	(4,300)	(5,600)
	(181,992)	(608,674)
Change in non-cash operating working capital:		
Decrease (increase) in accrued income on investments and marketable securities	22,828	(141,234)
(Increase) decrease in accounts receivable other	(11,063)	29,510
Decrease in trade receivable	73,428	377,782
Decrease (increase) in prepaid expenses	16,020	(1,981)
Increase (decrease) in accounts payable and accrued liabilities	106,502	(96,398)
Increase in reserve for claims and related costs	170,025	606,283
(Increase) decrease in claims recovery receivable	(12,972)	12,000
	182,776	177,288
Investing:		
Proceeds from sales of investments and marketable securities	1,369,320	800,000
Purchases of investments and marketable securities	(1,495,336)	(1,180,912)
	(126,016)	(380,912)
Increase (decrease) in cash and cash equivalents	56,760	(203,624)
Cash and cash equivalents, beginning of year	818,016	1,021,640
Cash and cash equivalents, end of year	\$ 874,776	\$ 818,016

See accompanying notes to financial statements.

# LAW SOCIETY OF NEWFOUNDLAND AND LABRADOR

## Notes to Financial Statements

Year ended December 31, 2016

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The Law Society of Newfoundland and Labrador (the "Law Society") is a regulatory body for the legal profession in the province. The Law Society is a not-for-profit entity and, as such, is exempt from the payment of income tax.

### 1. Significant accounting policies:

The financial statements have been prepared by management in accordance with Canadian accounting standards for not-for-profit organizations in Part III of the CPA Canada Handbook.

#### (a) Fund accounting:

The Law Society records its financial transactions on the fund accounting basis as follows:

##### (i) General Fund:

Operations include all activities related to the Law Society not directly associated with the Assurance Fund or the Lawyers' Insurance Programme.

##### (ii) Lawyers' Insurance Programme (the "Programme"):

Operations relate to the administration of professional liability insurance for members of the Law Society whereby professional liability insurance is provided to the members of the Law Society by the Canadian Lawyers' Insurance Association (CLIA). The Programme receives contributions from members of the Law Society through annual insurance premiums. In addition, effective October 1, 2005, the Programme commenced the collection of transaction levies. The levies are collected from members of the Law Society on certain legal transactions and are then reported and remitted to the Programme on a quarterly basis.

##### (iii) Assurance Fund:

Operations relate to providing compensation to individuals who have suffered a loss due to misappropriation of funds or other fraudulent activities by a member.

##### (iv) Endowment Fund:

The endowment fund holds investments for the purposes of providing scholarships to law students in the province of Newfoundland and Labrador.

##### (v) Internally Restricted Fund:

Benchers restrict certain funds which are not available without approval from the Benchers.

# LAW SOCIETY OF NEWFOUNDLAND AND LABRADOR

Notes to Financial Statements (continued)

Year ended December 31, 2016

## 1. Significant accounting policies (continued):

### (b) Reserve for claims and related costs:

The reserve for claims and related costs is based upon the change from year to year of the claims and related costs. The reserve value is based upon the greater of the Programme's current year estimate of incurred costs of claims and the actuarial computed discounted costs of possible claims for the current year.

The Programme's appointed actuary is engaged to provide an annual valuation of the reserve for claims and related costs in accordance with the standards of practice adopted by the Canadian Institute of Actuaries. For the purpose of the actuarial valuation, the actuary is making use of certain information contained in the Programme's financial records.

Claims and related costs of the Programme are subject to specific maximum limits set out in the insurance policy with CLIA. CLIA's liability is limited to \$1,000,000 per occurrence, and \$2,000,000 in aggregate per policy year. A deductible of \$5,000 is recoverable from the insured member at the time of claim pay-out. Until June 30, 2009 the Programme was responsible for administrative costs but did not retain any responsibility for the indemnification of claims. From July 1, 2009 onward the Programme has been responsible for administrative costs and for the indemnification of claims to specified limits. The limits per claim year are as follows:

Period	Per occurrence	In aggregate
July 1, 2009 - June 30, 2010	\$ 100,000	\$ 900,000
July 1, 2010 - June 30, 2011	100,000	1,000,000
July 1, 2011 - June 30, 2012	200,000	1,350,000
July 1, 2012 - June 30, 2013	200,000	1,375,000
July 1, 2013 - June 30, 2014	200,000	1,400,000
July 1, 2014 - June 30, 2015	300,000	1,600,000
July 1, 2015 - June 30, 2016	300,000	1,675,000
July 1, 2016 - June 30, 2017	300,000	1,305,000

### (c) Recoveries:

Recoveries from claims and related costs from insurers and other parties are recorded when they can be reasonably estimated and collectability is reasonably assured. Otherwise, the recovery is recorded when received.

# LAW SOCIETY OF NEWFOUNDLAND AND LABRADOR

## Notes to Financial Statements (continued)

Year ended December 31, 2016

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### 1. Significant accounting policies (continued):

#### (d) Provision for unpaid claims:

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

The 2003 and 2004 insurance program insures all practicing members up to \$1,000,000 per claim, after an individual deductible of at least \$5,000 per member per claim, to a maximum annual limit of \$2,000,000 per insured.

The program is responsible for all claims and legal and adjusting expenses above the members' deductible and has arranged for 90% quota share reinsurance above the members' deductible, retaining the other 10% for its own account for claims relating to 2003. For claims relating to 2004 the program has arranged for 80% quota share reinsurance above the members' deductible, retaining the other 20% for its own account. The Law Society has agreed to share equally in this 10% and 20% retention.

The determination of the provisions for unpaid claims includes reported claims, legal and adjusting fees, less recoveries.

#### (e) Cash and cash equivalents:

Cash and cash equivalents consist of cash and short-term investments with a maturity of less than 90 days.

#### (f) Revenue recognition:

The Law Society follows the restricted fund method of accounting for revenue which include annual fees, admission fees, and other fees for education and trust audits, grants, and investment income. Revenue from annual fees are recognized in the general fund over the course of the calendar year. Revenue from insurance and assurance premiums are recognized in the Lawyers' Insurance Programme and General Assurance Program, respectively, as they are earned. Revenue from various other services provided by the Law Society, are recognized in the general fund over time as the services are provided. Investment income is recognized in the corresponding fund in the period in which it is earned.

Unrestricted revenue is recognized in the general fund when it is received or receivable if the amount to be received can be reasonably estimated and collection is reasonably assured.

Endowment contributions are recognized as revenue in the endowment fund in the period in which they are received.

# LAW SOCIETY OF NEWFOUNDLAND AND LABRADOR

Notes to Financial Statements (continued)

Year ended December 31, 2016

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## 1. Significant accounting policies (continued):

### (g) Financial instruments:

Financial instruments are recorded at fair value on initial recognition. Equity instruments that are quoted in an active market are subsequently measured at fair value. All other financial instruments are subsequently recorded at cost or amortized costs, unless management has elected to carry any such financial instruments at fair value.

Transaction costs incurred on the acquisition of financial instruments measured subsequently at fair value are expensed as incurred.

Financial assets are assessed for impairment on an annual basis at the end of the fiscal year if there are indicators of impairment. If there is an indicator of impairment, the Law Society determines if there is a significant adverse change in the expected amount or timing of future cash flows from the financial asset. If there is a significant adverse change in the expected cash flows, the carrying value of the financial asset is reduced to the highest of the present value of the expected cash flows, the amount that could be realized from selling the financial asset or the amount the Law Society expects to realize by exercising its right to any collateral. If events and circumstances reverse in a future period, an impairment loss will be reversed to the extent of the improvement, not exceeding the initial carrying value.

### (h) Use of estimates:

The preparation of the financial statements requires management to make estimates and assumptions that affect the reported amounts of assets and liabilities and disclosure of contingent assets and liabilities at the date of the financial statements and the reported amounts of revenue and expenses during the year. Items subject to such assumptions include collectability of trade receivables, and claims recovery receivable, the useful life of capital assets, reserve for claims and related costs, and provision for unpaid claims. Actual results could differ from those estimates.

### (i) Capital assets:

Capital assets are stated at cost, less accumulated amortization. Amortization is provided using the following methods and annual rates:

Asset	Basis	Rate
Building	Straight line	4%
Furniture and equipment	Declining balance	25%



# LAW SOCIETY OF NEWFOUNDLAND AND LABRADOR

Notes to Financial Statements (continued)

Year ended December 31, 2016

## 2. Internally Restricted Fund:

During the year, the Benchers restricted \$380,000 (2015 - nil) for capital asset reinvestment, \$675,000 (2015 - nil) for strategic initiatives, and \$500,000 (2015 - nil) for future operations. These internally restricted amounts are not available for other purposes without approval by the Benchers.

## 3. Trust Account:

The Law Society holds a trust account which represents cash received from law firms for funds unclaimed in trust accounts. At the balance sheet date, the amounts received from law firms and held in trust was \$276,073 (2015 - \$210,425). The Law Society holds these funds until such time as they are claimed to a maximum period of 10 years after which unclaimed funds are turned over to the Law Foundation.

## 4. Investments and marketable securities:

Fixed income investments certificates are measured at fair value which is equal to cost plus accrued interest. Equity instruments and mutual funds holdings are measured at fair value.

	2016	2015
Fixed income	\$ 13,367,528	\$ 13,687,278
Preferred shares	78,320	78,560
Equity investments	707,264	678,265
Mutual funds	2,928,595	2,091,970
Investments held in endowment	12,018	11,312
	<u>\$ 17,093,725</u>	<u>\$ 16,547,385</u>

Included in investment income is interest income of \$234,210 (2015 - \$245,325), dividend income of \$136,269 (2015 - \$133,505), unrealized gains of \$442,702 (2015 - \$242,875) and realized losses on the disposal of marketable securities of \$(57,271) (2015 - \$(203,535)).



# LAW SOCIETY OF NEWFOUNDLAND AND LABRADOR

Notes to Financial Statements (continued)

Year ended December 31, 2016

## 5. Capital assets:

			2016	2015
	Cost	Accumulated amortization	Net book value	Net book value
Land	\$ 73,429	\$ —	\$ 73,429	\$ 73,429
Building	1,935,376	1,123,085	812,291	889,706
Furniture and equipment	278,513	272,391	6,122	8,162
	<b>\$ 2,287,318</b>	<b>\$ 1,395,476</b>	<b>\$ 891,842</b>	<b>\$ 971,297</b>

## 6. Claims recovery receivable:

	2016	2015
Non-interest bearing receivable to be received in monthly installments of \$1,000 until maturity in 2019.	\$ 54,000	\$ 66,000
Promissory note to be received in blended monthly payments of \$400 including interest at 3.5% until March 2018 when the remaining balance is due.	29,139	—
	83,139	—
Less current portion (included in trade receivable)	16,167	12,000
	<b>\$ 66,972</b>	<b>\$ 54,000</b>

## 7. Accounts payable and accrued liabilities / accounts receivable other:

As at December 31, 2016 there was \$1,707 (2015 - nil) payroll related taxes included in accounts payable and accrued liabilities and HST receivable of \$24,742 (2015 - \$10,160) included in accounts receivable other.

# LAW SOCIETY OF NEWFOUNDLAND AND LABRADOR

Notes to Financial Statements (continued)

Year ended December 31, 2016

## 8. Reserve for claims and related costs:

	2016	2015
Provision for claims and related costs		
beginning of year	\$ 3,435,585	\$ 2,829,302
Current year expense	1,146,328	1,594,279
Claims and related costs paid during the year	(976,303)	(987,996)
	\$ 3,605,610	\$ 3,435,585

As at December 31 2016, the outstanding claims liabilities, calculated by the Programme's actuaries in accordance with the standards of practice of the Canadian Institute of Actuaries, were as follows:

	2016	2015
Discounted damages and defence costs	\$ 2,643,397	\$ 2,522,603
Discounted adjusting and counselling fees	255,189	280,169
Discounted internal claim administration expenses	257,297	240,285
	3,155,883	3,043,057
Provision for adverse deviation	366,588	326,528
Discounted receivable	83,139	66,000
Total discounted liabilities plus provision for adverse deviation	\$ 3,605,610	\$ 3,435,585

The liabilities have been discounted at a rate of 2.35% (2015 - 2.15%). The provision for adverse deviation for 2016 and 2015 includes a margin of 25 to 200 basis points on the discount rate and 2.5% to 20% on the claims development variables. There is no active market for the trading of claims liabilities, however the present value of the actuarial claims liabilities, including provision for adverse deviation is considered an indicator of fair value.

## 9. Commitments:

The Law Society has equipment and building leases with the following annual lease payments:

2017	\$ 8,739
2018	1,061

# LAW SOCIETY OF NEWFOUNDLAND AND LABRADOR

Notes to Financial Statements (continued)

Year ended December 31, 2016

## 10. Admission fees:

Admission fees consist of the following:

	2016	2015
Articled clerks	\$ 9,300	\$ 10,200
Call to bar	23,125	27,500
Certificate of standing	4,400	4,100
Transfers	17,500	55,000
	\$ 54,325	\$ 96,800

## 11. Annual fees:

Annual fees consist of the following:

	2016	2015
Assurance Fund annual membership fee	\$ 37,675	\$ 37,238
Law Society annual membership fee	1,489,514	1,472,104
Federation fees	45,345	44,713
Professional law corporation fees	33,517	32,000
Insurance premiums	882,484	878,667
	\$ 2,488,535	\$ 2,464,722

## 12. Equity in Canadian Lawyers' Insurance Program:

The Programme is a subscriber to the CLIA, a reciprocal insurance exchange through which the law societies of six provinces and three territories (or their associated liability insurance entities) enter into agreements of mutual indemnification. CLIA maintains separate reserves for each participating entity with regards to risks assumed, and the Programme has an interest in the surpluses of these reserves. CLIA prepares annual Subscriber Accounts as of December 31, which represents the end of their fiscal year, which are reviewed and approved by CLIA's Advisory Board. These accounts include a reserve for claims liabilities on a discounted basis. The Subscribers Accounts of CLIA as of December 31, 2016 show the Programme's subscriber's equity to be \$1,974,013 (2015 - \$1,429,713) of which nil is recorded as recoverable as of December 31, 2016 (2015 - nil).

# LAW SOCIETY OF NEWFOUNDLAND AND LABRADOR

## Notes to Financial Statements (continued)

Year ended December 31, 2016

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### 13. Financial risks:

Financial instruments consist of cash and cash equivalents, accrued claims recovery, trade receivable, other receivables, investments and marketable securities, accounts payable and accrued liabilities, and provision for unpaid claims. Investments and marketable securities are carried at fair value, and all other financial instruments approximate their carrying amounts due to their short-term maturity and liquidity.

Risk management relates to the understanding and active management of risks associated with all areas of the business and the associated operating environment. Financial instruments are primarily exposed to interest rate volatility, credit and liquidity risk.

#### (a) Credit risk:

Financial instruments which potentially subject the Law Society to credit risk consist primarily of cash and cash equivalents, accrued claims recovery, trade receivables, other receivables, investments and marketable securities. The Law Society limits the amount of credit exposure with its cash balances by only maintaining cash with major Canadian financial institutions. Credit exposure is minimized by dealing with only credit worthy counter parties and monitoring cash payments.

#### (b) Interest rate risk:

Interest rate risk refers to the impact of future changes in interest rates on cash flows and fair values of assets and liabilities. Interest rate changes directly impact the fair value of fixed income securities. Interest rate changes will also have an indirect impact on the other investments and marketable securities. The Law Society uses investment diversification to manage this risk.

#### (c) Liquidity risk:

Liquidity risk is the risk that the Law Society will not be able to meet its cash requirements in a timely and cost effective manner. Liquidity requirements are managed through the receipt of funds from the Law Society's various revenue sources. These sources of funds are used to pay operating expenses.



