



LAW SOCIETY

Newfoundland & Labrador

2018-2019 Annual Report

The Law Society of Newfoundland and Labrador

Annual Report 2018-2019

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June 2018- June 2019

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BENCHERS

Officers

President: Donald E. Anthony

Vice-President: Ian S. Patey

Elective Benchers

Eastern District:

Joan M.B. Dawson

Gladys H. Dunne

John J. Hogan

Valerie A. Hynes

Ann F. Martin

Leanne M. O'Leary

Suzanne M. Orsborn

Scott Worsfold

Douglas W. Wright

Rodney J. Zdebiak

Central District:

Renee L. F. Appleby

Rebecca A. Redmond MacLean, QC

Western District:

James E. Merrigan, QC

Trevor A. Stagg

Labrador District:

Adrienne S. Edmunds

Appointed Benchers

Linda Harnett

Glenda Reid

Ross Elliott

Allan Skanes

Honorary Benchers

Lewis B. Andrews, QC

Kenneth L. Baggs, QC

Jeffrey P. Benson, QC

Augustine F. Bruce, QC

R. Paul Burgess, QC

Morgan C. Cooper

V. Randell J. Earle, QC

J. David B. Eaton, QC

Barry G. Fleming, 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 D. Green
The Hon. Gloria Harding
Thomas R. Kendell, QC
R. Barry Learmonth, QC
Susan M. LeDrew, QC
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
The Hon. Mr. Justice 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

TREASURERS/PRESIDENTS OF THE LAW SOCIETY

SECRETARIES/VICE-PRESIDENTS OF THE LAW SOCIETY

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

1834 Bryan Robinson
1841 Hon. Wm. B. Row, QC
1846 Hon. Wm. B. Row, 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 Morison, 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

1834 E. M. Archibald
1841 E. M. Archibald
1846 E. M. Archibald
1847 H. W. Hoyles
1849 F. B. T. Carter
1855 George Hogsett
1856 Henry A. Clift
1869 M. W. Walbank
1866 Robert J. Pinsent
1869 M. W. Walbank
1877 T. J. Keough, QC
1879 Prescott Emerson, QC
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

TREASURERS/PRESIDENTS

1986 David L. Russell, QC
1986 G. David Martin, QC
1987 J. Vernon French, QC
1988 Lewis B. Andrews, QC
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1994 V. Randell J. Earle, QC
1995 Reginald H. Brown, QC
1996 Dana K. Lenahan, 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
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, QC
2011 Augustine F. Bruce, QC
2012 Morgan C. Cooper
2013 George L. Murphy, QC
2014 Kenneth L. Baggs, QC
2015 Susan M. LeDrew, QC
2016 Barry G. Fleming, QC
2017 R. Paul Burgess, QC
2018 Donald E. Anthony

SECRETARIES/VICE-PRESIDENTS

1986 G. David Martin, QC
1986 J. Vernon French, QC
1987 Lewis B. Andrews, QC
1988 John F. Roil, QC
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1990 R. Barry Learmonth, QC
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1994 Reginald H. Brown, QC
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1996 Gloria Harding
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2011 Morgan C. Cooper
2012 George L. Murphy, QC
2013 Kenneth L. Baggs, QC
2014 Susan M. LeDrew, QC
2015 Barry G. Fleming, QC
2016 R. Paul Burgess, QC
2017 Donald E. Anthony
2018 Ian S. Patey

LAW SOCIETY STAFF

Executive Director: Brenda B. Grimes, QC

General Counsel/Deputy Executive Director: Aimee N. Rowe

Director of Legal Education: Christian J. Hurley

Director of Professional Responsibility: Lori S. Chafe

Law Librarian: Jenny E. Thornhill

Accountant: Richard T. Yabsley

Insurance and Risk Manager: Janice K. Ringrose

Professional Responsibility Administrator: Pamela A. Marks

Administrative Assistants: Anne P. Cross (*Professional Responsibility*)
Lisa E. Kennedy (*Custodianship*)
Erin C. Rowe (*Executive*)
S. Renee Whalen (*Office*)
Regina M. Whitty (*Education—until 24 May 2019*)
Andrea E. L. Mercer (*Education*)

Library Technician Leah A. Griffiths

Maintenance: Donald T. Norman (*until 21 June 2019*)
Keith Burke

MEMBERSHIP

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 12, 2019, records that 1866 members have been called to the Bar since 1826.

Membership Statistics as of June 2019:

Practising (Insured):	577
Practising (Uninsured):	208
Non-Practising:	239
Life:	48
TOTAL	1072

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

1950 - 66	1951 - 64	1952 - 66	1998 - 706	2014 - 983
1953 - 69	1954 - 72	1955 - 75	1999 - 728	2015 - 997
1956 - 73	1957 - 76	1958 - 76	2000 - 750	2016 - 1018
1959 - 77	1960 - 81	1961 - 83	2001 - 767	2017 - 1032
1962 - 86	1963 - 86	1964 - 86	2002 - 772	2018 - 1054
1965 - 86	1966 - 86	1967 - 89	2003 - 798	2019 - 1072
1968 - 106	1969 - 110	1970 - 124	2004 - 808	
1971 - 129	1972 - 129	1973 - 145	2005 - 832	
1974 - 153	1975 - 179	1976 - 189	2006 - 858	
1977 - 203	1978 - 237	1979 - 261	2007 - 870	
1980 - 281	1981 - 316	1982 - 333	2008 - 904	
1983 - 351	1984 - 371	1985 - 378	2009 - 923	
1986 - 394	1987 - 408	1988 - 435	2010 - 931	
1989 - 445	1990 - 477	1991 - 514	2011 - 948	
1992 - 560	1993 - 588	1994 - 617	2012 - 931	
1995 - 635	1996 - 669	1997 - 683	2013 - 937	

Six lawyers were called to Bar of Newfoundland and Labrador on June 15, 2018

Roll#

1822 Jessica L. Habet
1823 Jon P. Rocheleau
1824 Kristen T. Cleghorn
1825 Darby C. Ashton
1826 Renée A. Roche
1827 Christopher P.J. Burt

Ten lawyers were called to Bar of Newfoundland and Labrador on October 5, 2018

Roll #

1828	Mark C. Wells	1833	Elizabeth A. Newton
1829	Veronica H. Medon	1834	Taylor R. Starrett
1830	Holly G. Holm	1835	Matthew J.M. Drover
1831	Jason T. Cooke	1836	Philippe A. Shink
1832	Jamie W. Freeman	1837	I. Andrew Rankin

Nineteen lawyers were called to the Bar of Newfoundland and Labrador on February 15, 2019

Roll#

1838	Luke T. Hayden	1848	Nakita A.F. Ryan
1839	Elliott M. Bursey	1849	Jeffrey C. Young
1840	Juliette J. Ryan	1850	Jacob W. Leon
1841	Stephen W. Loney	1851	Kyle S. Mercer
1842	Anthony S. Granville	1852	Natasha J. de Beer
1843	Brandon G.W. Gillespie	1853	Roy T. J. Stewart
1844	Andrea N. Williams	1854	Melissa G. Murrin
1845	Brandon D. Baird	1855	Courtney O. Mills
1846	M. Kathleen G. Ashton	1856	Landon M. Miller
1847	Catherine M. Torrville		

Eleven lawyers were called to the Bar of Newfoundland and Labrador on April 12, 2019

Roll#

1857	Melanie D. Flynn	1863	Scott Linstead
1858	Ian G. Moffatt	1864	Gabrielle J. Chowne
1859	Catherine J. Hutchens	1865	Geraldine Castle-Trudel
1860	Jennifer A. McCarthy	1866	Timothy W. Hill
1861	Kalli A.M. Fraize	1867	James D. MacNeil
1862	Marianne T. Rennie		

The Benchers note with regret the death of
the following members and former members
during the period from June 2018 to June 2019:



David Lloyd George Andrews, QC,

called December 14, 1981, Roll #550



William Augustus Collins, QC,

called December 14, 1971, Roll #322



John Cochrane Sweetland, QC,

called April 9, 1973, Roll #346

LAW SOCIETY COMMITTEES

STATUTORY COMMITTEES

EXECUTIVE COMMITTEE

Donald E. Anthony, *President*
Ian S. Patey, *Vice-President*
R. Paul Burgess, QC, *Past President*
Ann F. Martin
Renee L. F. Appleby
Brenda B. Grimes, QC, *ex officio*
Aimee N. Rowe, *ex officio*

COMPLAINTS AUTHORIZATION COMMITTEE

Ann F. Martin, *Chair*
J. David B. Eaton, QC, *Vice-Chair*
Linda Harnett, *Appointed Benchers*
Lori S. Chafe, *ex officio*

Alternate Members

Renee L. F. Appleby
Joan Dawson
John J. Hogan
Rebecca A. Redmond MacLean, QC
Marina C. Whitten, QC
Glenda Reid, *Appointed Benchers*
Ross Elliott, *Appointed Benchers*

DISCIPLINARY PANEL

Law Society Members

Glen L.C. Noel, QC, *Chair* (until Judicial appointment 22 May 2019)

Glenda C. Best, QC	David G. Conway	Michael H. Duffy
Philip J. Buckingham	Erin L. Delaney	Marcus A. Evans, QC
Trudy L. Button	Robert J. Dillon	Peter G. Fitzgerald

Gregory J. French	Todd S. Newhook	Appointed Representatives
Brian R. Gatien	Jacqueline A. M. Penney	Aubrey Dawe
Mark J. Griffin	Elaine M. Reid	Lydia Dutton
Robert J. Hickey	Neil R. Smith	Craig Ennis
Christina R. Kennedy	G. Todd Stanley, QC	Dwayne Hopkins
Tannis L. King	Lisa M. Stead	Kent Nash
Barry C. Lake	Darren C. Stratton	Peter Seviour
Raelene L. Lee	Megan C. Taylor	Brittany Tibbo
Chantelle MacDonald Newhook	Andrew J. Wadden	Sharon Warren
Kimberly J. Mackay	Philip G. Warren	Cindy Whitten
Olga R. McWilliam Benson		Raymond Rose

EDUCATION COMMITTEE

Leanne M. O’Leary, *Chair*

Barbara A. Barker	Andrew J. Wadden
Glenda C. Best, QC	Ian S. Patey, ex officio
J. David B. Eaton, QC	Christian J. Hurley, ex officio
Suzanne M. Orsborn	

BAR ADMISSION COMMITTEE

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

Sandra M. Burke, QC	Lynne D. Butler
Gregory M. Smith	Darren C. Stratton
Padraig J. Mohan	Stacey L. O’Dea
Stephen F. Penney	Christian J. Hurley, <i>ex officio</i>
Griffith D. Roberts	

STANDING COMMITTEES

ACCOUNTS AND FINANCE COMMITTEE

Ian S. Patey, *Chair*

Renee L.F. Appleby

Brenda B. Grimes, QC, *ex officio*

Glenda Reid

Richard T. Yabsley, *ex officio*

LIBRARY COMMITTEE

Glenda Reid, *Chair*

Geoffrey Aylward, QC (by invitation)

Kyle R. Rees

Peter E. Ralph, QC

Gregory J. French

Rebecca A. Redmond MacLean, QC

Jenny Thornhill, *ex officio*

HONOURS AND AWARDS

Rebecca A. Redmond MacLean, QC, *Chair*

Marcus A. Evans, QC

Linda Harnett, *Appointed Benchers*

Christopher R. Quigley

Christian J. Hurley, *ex officio*

Ian C. Wallace

INSURANCE COMMITTEE

Rodney J. Zdebiak, *Chair*

Gary L. Baird, *Adjuster*

Marina C. Whitten, QC

Valerie A. Hynes

Rebecca A. Redmond MacLean, QC

Thomas J. Johnson, QC

Janice K. Ringrose, *ex officio*

Stephen J. May, QC

Brenda B. Grimes, QC, *ex officio*

Graham A. Wells, QC

CLAIMS REVIEW COMMITTEE (CLIA REQUIREMENT)

Janice K. Ringrose, *Chair*

Thomas J. Johnson, QC, *Counsel*

Andrew J. Wadden, *Alternate*

Gary L. Baird

SS DAISY LEGAL HISTORY COMMITTEE

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

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

Melvin Baker

The Honourable Judge Milton R. Reid

The Honourable Judge Gerald J.
Barnable

Donald A. MacBeath, QC

Janet Henley, QC

Thomas J. Burke, QC

James E. Merrigan, QC, *Bencher Liaison*

Christopher English

Christian J. Hurley, *ex officio*

The Honourable J. Derek Green

Robert P. Pittman, QC

REAL ESTATE COMMITTEE

Renee L.F. Appleby, *Chair*

Lisa M. Daly

Trevor A. Stagg

Blair G. Downey

Graham A. Wells, QC

Barry C. Lake

ACCESS TO JUSTICE COMMITTEE

Joan M.B. Dawson, *Chair*

Adrienne S. Edmunds

Glenda Reid

Ross Elliott

Christian J. Hurley, *ex officio*

INDIGENOUS EDUCATION AND ACTION COMMITTEE

Barbara A. Barker, *Chair*

Adrienne Edmunds, *Bencher Liaison*

Maggie Wentz

Denise Spencer

Colleen Hanrahan

Daniel Bennett

Judy White, QC

Lisa Smith

Desmond Jagger-Parsons

Sean Montague

Jerry Wetzel

Violet Ford

Matthew Moulton

John Brown

Judge Kari Ann Pike

Rob Reid

Christian J. Hurley, *ex officio*

EQUITY AND DIVERSITY COMMITTEE

Scott Worsfold, *Chair*

Lori Savory

Desmond Jagger-Parsons

Sheila Devine

Michael Ladha

Kimberley McLennan

Tanya O’Neil

Rebecca Phillipps

Aimee N. Rowe, *ex officio*

Elizabeth Zarpa

CODE OF PROFESSIONAL CONDUCT REVIEW COMMITTEE

Linda Harnett, *Chair*

Rebecca A. Redmond MacLean, QC

Lori S. Chafe, *ex officio*

AD HOC COMMITTEES

LAW SOCIETY MANDATE COMMITTEE

Ian S. Patey, *Chair*

Ann F. Martin

Philip W. Osborne

Renee L.F. Appleby

Brenda B. Grimes, QC, *ex officio*

Glenda Reid

Aimee N. Rowe, *ex officio*

RULES REVISION COMMITTEE

Suzanne M. Orsborn, *Chair*

Andrea L. Murphy McGrath

Douglas W. Wright

Shawn I. Patten

Allan Skanes

Lorna A. Proudfoot, QC

Aimee N. Rowe, *ex officio*

Ruth E. Trask

PRESIDENT'S ANNUAL REPORT

Donald E. Anthony

It is my privilege to present this report for 2018-2019 which summarizes 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 2018 to June 2019 which resulted in 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, with the exception of the reception for the 5 October 2018 Call to Bar which was held at The Gypsy Tea Room.

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 our 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. I was honoured to attend and give remarks at the Swearing-In ceremonies of Chief Justice Deborah Fry, who was sworn in as Chief Justice of Newfoundland and Labrador (the first time in the province's history that a woman has been appointed Chief Justice); Justice Daniel Boone, who was appointed to the Supreme Court of Newfoundland and Labrador, in St. John's; Justice Katherine O'Brien, who was appointed to the Supreme Court of Newfoundland and Labrador

in Grand Bank; and Judge Donovan Molloy, who was appointed as a territorial Judge in Northwest Territories. Regrettably, I will be unable to attend the swearing-in ceremony for Justice Michelle Coady, who was appointed to the Family Division of the Supreme Court of Newfoundland and Labrador in St. John's, as Convocation is being held at the Law Society at the same time. Law Society Vice-President, Ian Patey will attend and give remarks in my absence. I also note that Justice Glen Noel has been appointed to the Supreme Court of Newfoundland and Labrador in Gander. No date has yet been set for his swearing-in ceremony.

New Queen's Counsel

I attended the Swearing-In of Queen's Counsel on 22 March 2019. Members appointed were: Barbara G. Barrowman, R. Archibald Bonnell, Andrew O. Brown, Melanie R. Del Rizzo, Gregory A. French, Susan H. Gallant, Stephanie S. Hickman, Susan M. LeDrew, Rebecca A. Redmond MacLean and Geoffrey P. Young.

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

Along with joyful occasions, it is important to acknowledge sorrowful ones as well. Benchers, Law Society staff and members were saddened to learn of the untimely passing of members, David Lloyd George Andrews, QC, William Augustus Collins, QC and John Cochrane Sweetland, QC.

These individuals will be greatly missed by family, friends and colleagues.

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 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 many committees such as 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. Financial Performance – as everyone is aware, 2018 was not a banner year for the financial markets. However, while the Law Society's Investment Portfolio performed below expectations in 2018 with losses of \$185,793 across all the Law Society funds and operating deficits in the Law Society General Fund (\$70,262), the Assurance Fund (\$43,034) and the Endowment Fund (\$382), they performed significantly better than the market and, due to multiple years of surpluses, the investment performance did not negatively impact operations.

The Lawyers' Insurance Programme reported a surplus of \$110,629 attributable mainly to the low volume of insurance claims, decreased claims costs and prudent management throughout the year which offset the decline experienced in the Investment Portfolio.

The Law Society continues to hold substantial surplus funds, both restricted and unrestricted, and remains in a very strong financial position.

2. Benchers approved amendments to the Law Society's Publication Policy; approved amendments to Rule VIII and Rule VI; and approved a policy on Retention of External Counsel and Conflict Avoidance;
3. Benchers approved, in principle, the development of a fitness to practice program to address certain complaints which might involve capacity related issues, without formal discipline;
4. Benchers approved, in principle, the development of a practice review program to address practice management and other issues in a more proactive way;
5. Benchers approved the purchase of a license to an Adjudicator Training Program to ensure that Adjudication Tribunal members are properly trained;
6. Benchers approved the purchase of a license to a Practice Management Training Program;
7. Benchers approved a new communications plan and logo;

8. Benchers approved the creation of two new Committees, the ad hoc Rules Revision Committee and the Equity and Diversity Committee;
9. The ad hoc Mandate Review Committee prepared an Options Paper and Benchers have agreed to move forward with the recommendations noted therein;
10. Mr. Morgan Cooper became the Vice-President of the Federation of Law Societies of Canada; and, Mr. Barry Fleming, QC was appointed as the Law Society of Newfoundland and Labrador's Council representative on the Federation of Law Societies Council;
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;
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, insurance, Indigenous education and equity and diversity. The work of all committees is always challenging and often time consuming but it is invaluable to the success and effective operation 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.

The Federation continues to engage 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 and continues to endorse the following strategic objectives: 1) be a knowledge leader and effectively share information and facilitate collaboration; 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.

On 28 September 2018, then President of the Federation of Law Societies of Canada, Sheila MacPherson, joined Benchers in Convocation where she discussed several initiatives undertaken by the Federation including; i) the anti-money laundering rules; ii) the Model Code of Professional Conduct; iii) national discipline standards; iv) the delivery of the family and criminal law programs; v) the acquisition of CanLII; and vi) the development of a small law societies forum.

On 8 April 2019, current President of the Federation of Law Societies of Canada, Ross Earnshaw, joined Benchers in Convocation. Mr Earnshaw noted that, because of the National Mobility Agreement, most lawyers in Canada can now move relatively freely from one jurisdiction to the next so there is no principled reason why regulation should differ among jurisdictions. In recognition of this, law societies have agreed to, where possible, create harmonized

approaches. Examples of collaboration include: i) the Code of Professional Conduct; ii) National Discipline Standards; iii) National Competency Profile; iv) National Committee of Accreditation; v) CanLII; vi) the fight against money laundering and terrorism; and vii) Truth and Reconciliation. Mr. Earnshaw stated that there is much common ground among the law societies despite their wide range of sizes and resources.

The President and Vice-President, along with Grimes, QC, Aimee Rowe, CAC Chair, Ann Martin and Mr. Barry Fleming, QC, attended the Federation's Annual Conference in Charlottetown, Prince Edward Island in October, 2018 where the focus was on the fast pace of development of emerging technologies such as AI and blockchain work which creates challenges for law societies. At the center of the discussion was the law societies' mandate to act in the public interest and the ability to increase access to affordable legal services.

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 2018, the Foundation granted \$28,200.00 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 F. Geoffrey Aylward, QC, Chair, Shawn Colbourne, QC, D. Gordon Woodland, QC, Justin S.C. Mellor, Regan O'Dea, Dr. Judit Lovas and Sheri Wicks. Mr. Lawrence Collins was the Foundation's Executive Director until his retirement on 31 December 2018. 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.

Law Society Staff

While I have previously mentioned the Law Society's professional and administrative staff, I want to separately acknowledge and commend them for their hard work. This dedicated group of employees, led by Ms. Brenda Grimes, QC, does a tremendous job without receiving the accolades they justly deserve, as the majority of their work is conducted behind the scenes. They are the 90% of the iceberg that lies below the surface and to them I extend special thanks and appreciation. It is a simple fact that, given the duties of this role, it is they who made it possible for me to be able to fill the role of President while maintaining a practice. I expect the same would be said by my predecessors and will be echoed by my successors. The amount and quality of the work they do is something we should all be proud of and for which I am immeasurably grateful. Together, they work as an extremely effective team and I can attest to the fact we are in very capable hands. I will miss the interaction I have had with all of them as President, and am glad I get to enjoy their company (albeit less often) for another year as Past President.

I would also like to acknowledge the retirement of two Law Society staff members this year: Regina Whitty, Administrative Assistant (Education) and Don Norman, Building Maintenance Technician. On behalf of Benchers and staff, I would like to thank Regina and Don for their many years of dedicated service to the Law Society and we wish them all the best in their retirement. I would also like to welcome Andrea Mercer, Administrative Assistant (Education) and Keith Burke, Building Maintenance Technician.

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.

VICE-PRESIDENT'S ANNUAL REPORT

Ian S. Patey

The *Law Society Act, 1999* (the “*Act*”) prescribes the Vice-President’s role in the disciplinary process. The Vice-President receives reports from the Director of Professional Responsibility and submits allegations to the Complaints Authorization Committee (the “Committee”). The Committee is a statutory committee consisting of at least three Benchers, at least one of whom is an appointed Bencher. The Committee 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, and acting in breach of the *Act*, the Law Society Rules or 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. Where the allegation is not satisfactorily resolved by the Vice-President or through alternate dispute resolution, the Vice-President shall refer the allegation to the Committee.

The initial assessment of an allegation is subject to the third party allegation policy. A third party allegation is one received from a non-client or lawyer opposed in interest to a 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 defer the investigation pending the final determination of a proceeding or decline to investigate the allegation. 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 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 investigations and reviews are conducted through the Director of Professional Responsibility’s office. Following its final consideration of an allegation, the Committee will either dismiss the allegation or, where they are of the opinion that there are reasonable grounds to believe that a respondent has engaged in conduct deserving of sanction, the allegation shall be considered as constituting a complaint. When an allegation is dismissed by the Committee, the complainant has a statutory right of appeal to the Supreme Court General Division.

Once the allegation is considered to constitute a complaint, the Committee may: i) counsel or caution the respondent; ii) instruct the Vice-President to file the Complaint and refer it to the Disciplinary Panel; iii) make an application for appointment of a Custodian of the member’s practice; and iv) suspend or restrict the respondent’s licence to practice.

The Disciplinary Panel, appointed pursuant to section 42 of the *Act*, is comprised of Law Society members and lay representatives. For the purpose of dealing with Complaints referred, and applications made, to the Disciplinary Panel, the Chairperson appoints an Adjudication Tribunal to hear the matter. Each Adjudication Tribunal consists of two members and one lay representative. The Adjudication Tribunal is independent of the Law Society and derives its authority from *the Act* and in particular sections 46 through 51 thereof. The Law Society and the respondent have a statutory right of appeal of a decision or order of an Adjudication Tribunal to the Supreme Court General Division.

During the current reporting period, there were eleven (11) matters for which the Committee opined that there were reasonable grounds to believe that the respondent had engaged in conduct deserving of sanction. These allegations constituted a complaint. For two (2) of these matters, the Committee issued a letter of counsel. For two (2) of these matters, the

Committee issued a letter of caution. For nine (9) of these matters, the Committee instructed the Vice-President to file the Complaint and refer it to the Disciplinary Panel.

During the current reporting period, two (2) Adjudication Tribunals filed decisions wherein the members were found guilty of conduct deserving of sanction. One matter resulted in a reprimand. Sanction has not been considered in the second matter, as the decision has been appealed by the Law Society. There are two ongoing Adjudication Tribunal matters.

Further, the Law Society is engaged in litigation, before the Supreme Court General Division, for an additional three (3) Adjudication Tribunal decisions from prior reporting years.

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. The Law Society could not function without the dedication and volunteer time of these individuals. Their contribution is significant and greatly appreciated.

EDUCATION COMMITTEE REPORT

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 2018-April 2019, the Education Committee:

- i. admitted 21 new applicants as Students-at-Law;
- ii. recommended to Benchers that 28 students, having met the requirements of a Student-at-Law, be called to the Bar in Newfoundland and Labrador;
- iii. approved the application of 18 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 20 Law Society members.

BAR ADMISSION COMMITTEE REPORT

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 2018 Bar Admission Course began on October 1, 2018 and continued until November 16, 2018. 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) weeks in total. Daily attendance at the Bar Admission Course is mandatory for all Students-at-Law. There are approximately 200 scheduled hours of instruction in the Bar Admission Course, delivered through lectures, seminars and workshops. There were a record number of 117 volunteer instructors involved in the 2018 Bar Admission Course. Of this number, 95 instructors were practicing members of the Newfoundland and Labrador bar and 7 were active members of the judiciary.

There were 36 students enrolled in the 2018 Bar Admission Course. 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 representation of students articling throughout the Province, for example in Marystown, Corner Brook, and Gander.

To pass the Bar Admission Course, students must pass 6 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 the six licensing examinations exams are 3½ hours long and focus 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 2018 Bar Admission Course marked the first time that students were provided with the option to write their licensing examinations electronically using Exemplify, a software program developed by ExamSoft. In doing so, Newfoundland and Labrador has joined British Columbia as the only law societies in Canada offering electronic examinations in its licensing process. This new technology greatly reduces the administrative and environmental cost associated with administering paper-based examinations and allows for a more thorough analysis of the students' performance in their assessments. Of the 36 students in the 2018 Bar Admission Course, 32 elected to write their examinations electronically.

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:

The Law Society of Newfoundland and Labrador:

Topics include the role of the Law Society and Benchers, the resources available through the Law Society Library, the Law Society Trust Accounting requirements and professional conduct and client complaints, the Law Society's professional liability insurance program, risk management, and how to avoid professional negligence claims.

Civil Procedure:

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

default judgments, amendments, interpleader, 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.

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.

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 (including related tax issues), financial assistance provisions of the Corporations Act, commercial insolvency, commercial arbitration, and a panel discussion regarding the role of in-house counsel.

Criminal Law and Procedure:

Topics include court structure, presumptions and burdens, classification of offences, pre-arrest, arrest, charge, first appearances, judicial interim release, disclosure, elections and re-elections, solicitor/client matters, preliminary inquiries, pre-trial matters, Charter applications, trial by judge alone, jury trials, the sentencing process, types of sentences, criminal appeals, young offenders, evidentiary matters, voir dire, search and seizure and defences, specialty criminal courts, victim services, as well as a session discussing specific common offences.

Administrative Law:

Topics include privacy law, municipal law, the Human Rights Commission, Workplace NL, the professional discipline process, statutory appeals, judicial review and other prerogative orders, and advocacy before administrative tribunals.

Real Estate:

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 also a real estate transaction workshop where students work through an actual real estate file from beginning to end.

Wills and Estates:

Topics include testamentary capacity, estate planning, will drafting, and the administration/probate of estates.

Labour and Employment:

Topics include the statutory framework of employment law, wrongful and constructive dismissal, the Labour Relations Board, and labour arbitration,

Cultural Competency:

Topics include an introduction to indigenous cultural competency, organized and delivered by Barbara Barker and the St. John's Native Friendship Centre, as well as a seminar on general cultural competency, delivered by the Association for New Canadians.

Practice Skills, Practice Management and Ethics:

Topics include written advocacy, oral advocacy, interviewing clients, networking and the marketing of legal services, starting a new law firm, as well as mental health and work/life balance. There is a judicial panel made up of judges from all levels of court in Newfoundland and Labrador wherein students are walked through courtroom mechanics and provided with advocacy tips. There is a separate section on ethics and the Code of Professional Conduct, in which students complete a written assignment and discuss a selection of these assignments in class.

Law Society members or prospective members interested in obtaining further information about the Bar Admission Course should contact Mr. Christian J. Hurley at (709) 722-4898 or by email at churley@lsnl.ca.

CONTINUING LEGAL EDUCATION REPORT

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 and upcoming programs include:

- Presenting Cases at Labour Arbitration
- Mental Health and Lawyers: Signs, Policies, Problems, Self-Care and How Your Assistance Program Can Help
- An Overview of Cannabis Legislation in Newfoundland and Labrador
- An Overview of Drug Treatment Court
- Tax Planning for Lawyers
- The Newfoundland and Labrador Labour Relations Board: Practice and Procedure
- Objection, Your Honour!
- The Court of Appeal's Decision in A.A. (Re) and its Impact on the Law of Guardianship in Newfoundland and Labrador
- An Overview of Recent Changes to the Impaired Driving Regime
- Mindfulness at Work: A Workshop for Legal Professionals

- Writing and Speaking to Win: Effective Writing and Speaking for Litigators
- Technology Academy for NL Lawyers and Legal Professionals 2019

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.

At Convocation on 11 December 2018, Benchers approved amendments to Law Society Rule 6.20–Mandatory Continuing Legal Education (see attached), which are effective immediately.

Pursuant to the revised Rule 6.20, **a member who fails to file their Annual CLE Report, in compliance with the Mandatory CLE Requirements, on or before the required deadline will be assessed a \$500 late fee (plus applicable taxes)** and shall be referred to the Vice-President who may take further action as described therein.

Please note that the aforementioned late filing fee **shall not** apply with respect to Annual CLE Reports for the years up to and including 2018.

Members with questions or program suggestions should contact Mr. Christian J. Hurley at (709) 722-4898 or by email at churley@lsnl.ca.

INSURANCE COMMITTEE REPORT

Rodney Zdebiak, 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 to protect the public as effectively as possible. The Committee provides oversight to our participation as a subscriber to the Canadian Lawyers Insurance Association (CLIA). Through this affiliation with CLIA, the Insurance Committee is able to provide lawyers in this province with:

- a reliable and permanent source of insurance
- stable premiums in the mandatory insurance layer
- reasonably priced and effective excess insurance with excess limits of \$1m to \$9m
- premium rates that reflect the loss experience of Canadian lawyers

The Committee continues to benefit from the hard work and guidance of our Claims Review Committee consisting of Janice Ringrose, Tom Johnson QC, 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, we were, once again, able to maintain the same insurance premium levels for 2019 as we have had since 2012.

The Insurance Committee has implemented a number of loss prevention initiatives including a mentoring

program for lawyers, a loss prevention self-assessment checklist, risk assessment visits, loss prevention bulletins, and fraud alerts with more loss prevention initiatives being planned. We updated the insurance and risk management section of our website and we do annual presentations at the Bar Admission Course.

The Insurance Committee continues to provide Member wellness and employee assistance services through its provider Homewood Health. Some interesting statistics from our Professional Assistance Program show:

- Utilization in 2018 was 13.45%, up from 9.85% in 2017.
- 64.2% of users were women which is consistent with benchmarks.
- 87.4% were members, which is a higher number than last year where we saw high usage from dependents.
- 50.5% of clients are repeat users.
- Anxiety is by far the main presenting issue
- Career coaching was the most requested LifeSmart service.

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.

Further information on the activities of the Insurance Committee may be found at:

<http://www.lsnl.ca/lawyers/insurance/>

LIBRARY COMMITTEE REPORT

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 Library and brings forward relevant policies for approval by Benchers.

The Library Committee met three times during the year (October 23, 2018, January 8, 2019, and March 25, 2019). In accordance with its work plan for 2018-2019, the Committee focused on promoting access to justice by making basic information on the legal process in criminal and civil law for Newfoundland and Labrador and Canada available on the Law Society website for use by self-represented litigants.

The Committee identified resources currently available for self-represented litigants in Canada (guides, video, webcast, podcast etc) and conducted a review of the information for applicability and appropriateness for

use in Newfoundland and Labrador. This resulted in a series of links that were organized by topic in preparation for publication on the Library webpage. The Indigenous Education and Action Committee is being consulted on the appropriateness of potential links specific to indigenous people.

The webpage has a disclaimer that encourages litigants to seek specific legal advice through consultation with the Public Legal Information Association of Newfoundland and Labrador (PLIAN) or a lawyer. Processes are in place for an annual review and testing of the links. It is expected that the page will be active by Fall of 2019.

The Committee welcomed Gregory French as a new member in January. Continuing committee members were Kyle Rees, Rebecca Redmond-McLean, QC, Peter Ralph, Jenny Thornhill (ex officio) and Glenda Reid (Chair).

The Law Library provided reference services to both members of the Law Society and members of the public. Figure 1 shows the different types of questions received, the location of requestors, and the formats in which the Law Library receives and replies to reference questions by both members and the public.

FIG.1

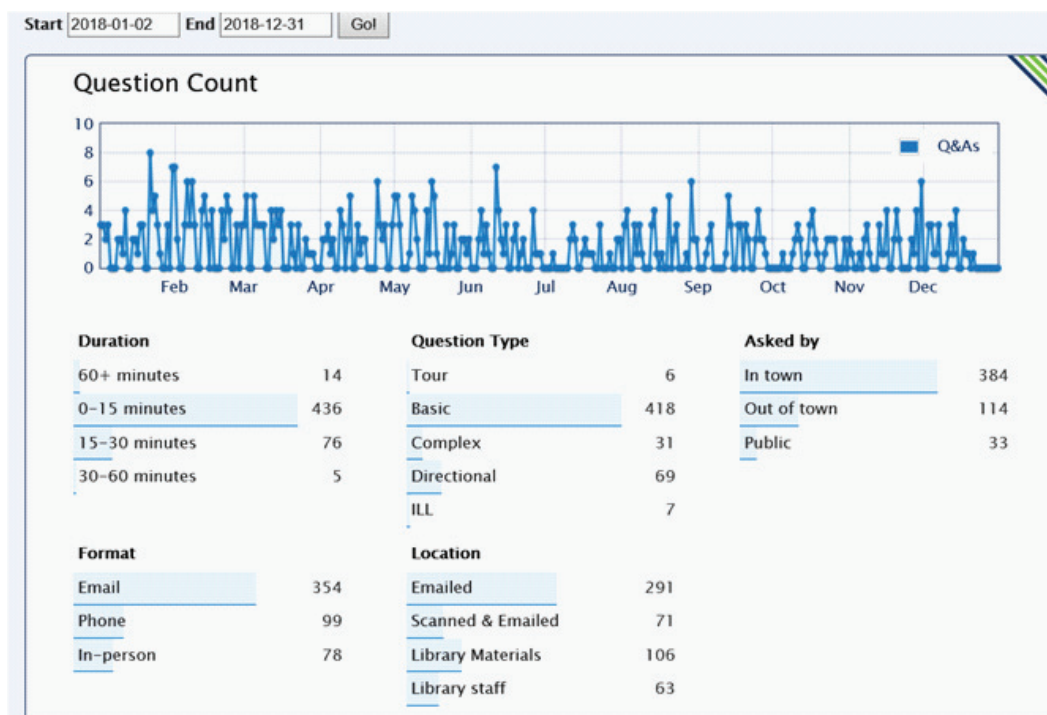


Figure 2 shows our monthly and total circulation statistics for 2018.

FIG.2

January	102
February	111
March	104
April	118
May	133
June	139
July	100
August	150
September	97
October	116
November	115
December	90
Total	1,375

With respect to acquisitions, we are able to report that 138 new books, e-resources, and looseleaf were added to the collection in 2018. Our total holdings at the end of 2018 in the Law Library Collection was 4,305.

HONOURS AND AWARDS COMMITTEE REPORT

Rebecca Redmond MacLean, QC, Chair

The Honours and Awards Committee deals with several Law Society awards for Articled Students-at-Law. These are: the Hunt Award, the Provincial Court Judges' Association Award, the Legal Aid NL Family Law Award (formerly Penney Award), the Spracklin Award, the William J. Browne Scholarship, and the Maxwell J. Pratt Scholarship, respectively.

The Hunt Award is presented to the Student-at-Law who receives the highest overall average mark in the Law Society of Newfoundland and Labrador's Bar Admission Course. The recipient of the Hunt Award for the 2018 Bar Admission Course is Ms. Kara Harrington. Ms. Harrington is serving Articles of Clerkship at the firm Stewart McKelvey and her principal is Kimberley Walsh. Ms. Harrington will be eligible for a call to the Newfoundland and Labrador Bar in October 2019.

The Legal Aid NL Family Law Award is presented to the Student-at-Law achieving the highest mark in the Family Law Examination of the Bar Admission Course. The recipient of the 2018 Legal Aid NL Family Law Award is Mr. Scott Linstead. Mr. Linstead served Articles of Clerkship at the firm Poole Althouse and his principal was Mr. Glen Seaborn. Mr. Linstead was called to the Newfoundland and Labrador Bar on April 12, 2019, at which time he intends to clerk with the Court of Appeal, NL.

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 recipient of the 2018 Spracklin Award is Mr. Brandon Gillespie. Mr. Gillespie served Articles of Clerkship at the firm Stewart McKelvey and his principal was Mr. Robert Dillon. Mr. Gillespie was called to the Newfoundland and Labrador Bar on February 15, 2019, at which time he commenced practice with Stewart McKelvey.

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 this award is Ms. Emily Ryan. Ms. Ryan is serving Articles of Clerkship at the NL Legal Aid Commission and her principal is Ms. Michelle Elliott. Ms. Ryan will be eligible for a call to the Newfoundland and Labrador Bar in June 2019.

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 2019 William J. Browne Scholarship is Caroline Molloy. Ms. Molloy is serving Articles of Clerkship at the firm Martin Whalen Hennebury Stamp. Ms. Molloy's research essay is entitled "Back-to-Work Legislation: Not Working."

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 2019 Maxwell J. Pratt Scholarship is Ms. Meghan Foley. Ms. Foley is presently serving Articles of Clerkship at the firm Roebathan, McKay & Marshall.

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. M. Francis O'Dea, Q.C., was approved for this award at the 8th of April 2019 Benchers' Convocation.

The Degree of Doctors of Law is awarded to persons who have had a distinguished career in the Law, are of unimpeachable good character, and have a reputation for high professional integrity and honesty. The recipient should also be an individual who has significant accomplishments in his or her professional career, significant volunteer contributions or significant contributions to the betterment of law or improvement of the justice system. Augustus G. Lilly,

Q.C., was approved for this award at the 8th of April 2019 Benchers' Convocation.

The above-described awards will be formally presented on June 7, 2019 at the Law Society of Newfoundland and Labrador Annual Dinner.

Life Membership was awarded to the following members: Randell J. Earle, Q.C., George P. Horan, Q.C., Lorna Proudfoot, Q.C., Edward J. Shortall, Q.C., and Paul R. Stokes, Q.C.

SS DAISY LEGAL HISTORY COMMITTEE REPORT

Christopher Curran, Co-Chair

The Committee met four times during the reporting period: 21 September 2018; 8 November 2018; 22 February 2019 and 25 April 2019. All meetings were held at the offices of the Law Society of Newfoundland and Labrador during Fall 2018 and Winter/Spring 2019 with a quorum of members in attendance. The purpose of the meetings was furtherance of the Committee's ongoing work, the principal aspects of which were as follows:

1. The Public Forum on the Labrador Boundary Case was held 25 October 2018 at Hampton Hall, Marine Institute at 7pm to great acclaim. Ian Kelly Q.C. and Michael Crosbie Q.C. served as counsel in presenting this re-enactment of the 1927 case before a Privy Council panel comprised of students from the Bar Admission Course. John Joy, Committee Co-chair, served as impresario and moderator for the evening before a jam-packed house. The committee acknowledges with gratitude the support and participation of the NL Historical Society in the event. The presentation was broadcast simultaneously to the Supreme Court in Happy Valley-Goose Bay. The debate was recorded and is now available for listening on the NL Historical Society website.
2. E. M. Archibald, *Digest of the Laws of Newfoundland (1847)*: Colleen Field, Acting Chief Librarian at the Centre for Newfoundland Studies MUN, graciously provided for reproduction an original copy of the Archibald text from the MUN Library's collection, a copy previously owned by former Prime Minister and Chief Justice of Newfoundland F. B. T. Carter. The text was much used, as the re-produced marginalia and annotations amply evidence. The Archibald text, Newfoundland's first "consolidation," was a favourite of 19th and 20th century practitioners, and is the second volume of the Committee's republication of the 'Classics of Newfoundland Law'. The volume, with Introduction and notes by Committee Co-chair Christopher Curran and with appendices that include the 1831 Judges Report on the Judicature Act 1824, is available for purchase from the Law Society offices. A public book launch will be held in the fall.
3. Essays in Newfoundland's Legal History: this volume dealing with law and society in pre-confederation Newfoundland is nearing completion. The deadline for receipt of submissions from contributors was 30 April 2019. Editors of the volume are: Melvin Baker, Jerry Bannister and Christopher Curran. Publication is planned for fall 2019.
4. The Southern Circuit Court 1826-1872: The challenges of delivering superior court justice to the small population spread out over Newfoundland and Labrador's vast and rugged geography has often been the subject of comment. In a Report delivered to the Colony's Governor in 1831 the Judges of the Court lamented the paucity of resources at their disposal to meet this challenge. This volume is intended to provide easy access to the documentary record of the Court's activity on the Southern Circuit over the period 1826-1872. In presenting this record the holdings at the Rooms Provincial Archives, at the Centre for Newfoundland Studies, Memorial University and at the Law Society's Barristers' Library have proved invaluable. Editor of the volume is Christopher Curran. Publication is anticipated for the Fall 2019.
5. The Newfoundland Law Reports 1950: This is an exciting new project. It continues the work begun in 1997 with publication of volume 16 of the Newfoundland Law Reports. The editors of the volume are John Joy, Christopher Curran and Justice J. Derek Green. Research is proceeding apace with the support of Dawn Kieley, Manager of Information Services for the Supreme Court. Publication of the 1950 volume is expected in fall 2020.

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6. Miscellany: The Committee congratulates Melvin Baker on the publication with Raymond Blake of their new book: *Where Once They Stood: Newfoundland's Rocky Road towards Confederation*. The book offers a new interpretation of the 1869 and the 1949 battle for Confederation and is available for purchase at Chapters. The Committee welcomes new member Janet Henley.
 7. In Memoriam: The Committee notes with sadness the passing of its long-time printer David R. Fowler (June 1945-November 2018) who with patience, a keen eye and good humour guided more than a dozen SS Daisy volumes through the publication process. Dave was a consummate professional and a good friend and supporter of the Committee's activities. He will be deeply missed.

ACCESS TO JUSTICE COMMITTEE REPORT

Joan Dawson, 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”) which is 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 Law Society to regulate in the public interest; advising and recommending to Benchers access to justice initiatives relevant to the role of the Law Society; engaging Members on access to justice initiatives relevant to the role of the Law Society; and supporting the Steering Committee in attaining its objectives.

The Provincial Steering Committee has facilitated free legal clinics around the Province. Court of Appeal and Small Claims clinics are held on the same night each month and usually have six to seven appointments each.

Ad hoc pop up clinics were also held at the Gathering Place, Choices for Youth, HMP and Iris Kirby House. There are plans for another clinic at the Gathering Place over the next few months.

An information session was held at the Women’s Correctional Centre in Clarenville and there were clinics held in Gander in June 2018 and in Grand Falls-Windsor in the fall of 2018.

The biggest challenge of our committee was trying to figure out ways to meet our mandate. The previous Chair, Donovan Molloy faced the same issue.

The current Chair of the Committee, Joan Dawson attended the national meetings in Montreal for Access of Justice in April, which highlighted projects and approaches to Access to Justice across Canada. The most active communities are attached to Law Schools and are working on some innovative projects.

Ms. Dawson held a meeting with librarians from AC Hunter Library and plans are in the works for a legal clinic there over the next few months. Kevin O’Shea will attend a further meeting at the Library to help finalize the clinic.

Finally, Mr. O’Shea has also indicated that he is available to meet with Benchers at one of our meetings to discuss some of the ongoing projects of PLIAN.

ACCOUNTS AND FINANCE COMMITTEE REPORT

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 recommendations 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 2018-19 at the 28 September 2018 Convocation which detailed the upcoming activities for the Committee. The Committee conducted a meeting with the Law Society financial advisor, Keith Butler of Scotia Wealth Management, on 9 October 2018. On 26 November 2018, Keith Butler took a new position with CIBC Wood Gundy, and as a result the Committee recommended to Benchers that an RFP process be pursued for investment services with interim management of the Law Society investment accounts to remain with Mr. Butler, who met with the Committee on 14 January 2019 to review 2018 account performance. The Committee completed the competitive RFP process and on 8 April 2019, Benchers awarded the management of investment services to Keith Butler of CIBC Wood Gundy, who met again with the Committee on 16 April 2019. During all meetings with the investment advisors the Committee was presented with detailed reports on asset performance and recommendations for changes to the investment portfolio. Given the market volatility in 2018, Committee members were particularly interested in ensuring that decisions taken in respect of the portfolio continued to be guided by the Law Society's Investment Policy Statement and not short term reactions to political factors affecting market performance on a daily basis.

The final meeting under the current Work Plan is scheduled for 16 July 2019 at which time, in addition to its regular activities, the Committee will be reviewing the 2018-19 Work Plan and preparing the

2019-20 Work Plan. On 16 July 2019, the Accounts and Finance Committee will also be discussing both 1) the audit tender process and recommendations to Benchers respecting external auditors, and 2) an assessment of the performance of the Law Society financial advisors and recommendations to Benchers respecting the selection of financial advisors.

With respect to the discharge of its audit review functions, the Committee met with the Law Society Auditors at KPMG, on 17 December 2018 for the pre-audit meeting at which time the Audit Planning Report was presented and the Committee raised no concerns with the outlined process. On 29 March 2019, the Committee again met with Auditors Jennifer Clement and Steve Power for the detailed presentation of the 2018 audit, to review the audit process and determine whether there are any issues of concern. The Audit process identified two areas of risk endemic to the operations of the Law Society which cannot be eliminated. First, a significant financial reporting risk exists through the valuation of reserves for claims and related costs as the methodology necessarily involves significant judgment, assumptions and estimates used in the calculation. However, the Auditors

address the risk by performing a test of design and implementation over the controls related to the claims review committee, which was found to be appropriate. Second, the risk of management override of controls is a presumed fraud risk in the audit process. To address this presumption, the audit methodology incorporates the required procedures in professional standards, which procedures included testing of journal entries, performing a retrospective review of estimates and evaluating the business rationale of significant unusual transactions. These procedures were performed without exception.

Also on 29 March 2019, 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.

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

REAL ESTATE COMMITTEE REPORT

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.

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 the 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.

Members of the Committee are presently: Renee Appleby, Trevor Stagg, Barry Lake, Graham Wells, Q.C., Lisa Daly and Blair Downey.

The Real Estate Committee meets several times a year in person, and addresses issues which may arise in between meetings through email and teleconference discussions. The Committee held formal meetings in 2018/2019 on November 19, 2018 and January 14, 2019. The Committee also responds to inquiries, as received, such as the existence of a precedent Affidavit of Status/Affidavit with Warranties for use in residential real estate transactions, how to address price adjustments upon closing and, the payment or acceptance of referral fees for clients.

The primary focus of the Committee has been its development of practice standards and checklists for members to reference in their practice of Real Estate Law. The Committee continues to work on its draft in collaboration with the Law Society.

The Committee invites members of the bar to contact its members should they have an issue or concern with the practice of real estate law in the province which they feel might be addressed by the Committee and which fall within its terms of reference.

INDIGENOUS EDUCATION AND ACTION COMMITTEE REPORT

Barbara Barker, Chair

The Indigenous Education and Action Committee was formed in the spring of 2017. The Mandate of the Indigenous Education and Action Committee is to work within the legal profession to advise, educate and act on reconciliation with Indigenous peoples in Newfoundland and Labrador, which includes addressing the Calls to Action arising from the Truth and Reconciliation Commission. The responsibilities of the Indigenous Education and Action Committee include:

- Working with Indigenous communities to access and promote Indigenous legal traditions and knowledge;
- Educating within the legal community, including continuing legal education and the bar admission course, as well as within the broader community;
- Collecting and promoting resources and tools to help ensure the Indigenous cultural competency of members of the bar in Newfoundland and Labrador;
- Acting as a resource for consultation on issues relating to Indigenous law;
- Identifying challenges faced by Indigenous peoples in accessing justice and providing recommendations to relevant stakeholders on remediating the gap in access to legal services; and,
- Engaging Indigenous members of the bar on the work of this committee.

In 2018, the Indigenous Education and Action Committee worked with the Law Society's Director of Legal Education to accomplish two priority items:

1. The development of education materials for the Bar Admission Course to educate newly called lawyers; and,
2. The development of education materials for Continuing Legal Education to educate members of the Bar.

The overall focus of the education materials was to fulfill some of the goals in the Truth and Reconciliation Commission of Canada's Call to Action # 27 which states as follows:

"We call upon the Federation of Law Societies of Canada to ensure that lawyers receive appropriate cultural competency training, which includes the history and legacy of residential schools, the United Nations Declaration on the Rights of Indigenous Peoples, Treaties and Aboriginal rights, Indigenous law, and Aboriginal-Crown relations. This will require skills-based training in intercultural competency, conflict resolution, human rights, and anti-racism."

To this effect, in March 2018, Barbara Barker provided members of the Bar and Benchers with a CLE, "Indigenous Histories" in Gander, NL; approximately 40 people participated. In October 2018, in conjunction with First Light (the St. John's Native Friendship Centre), Barbara helped provide a full day of education on Indigenous/Aboriginal law and cultural humility in the Bar Admission's Course for the first time in the history of the Law Society of NL. While this preliminary work is an exciting accomplishment, the Indigenous Education and Action Committee intends to pursue the creation of Bar Admissions Course and Continuous Legal Education materials in conjunction with Indigenous communities and leadership.

Judy White, Q.C. took over for former Chair, Denise Spencer in October 2018 and resigned in March 2019, when she was appointed chair of the Human Rights Commission.

Most of the Indigenous Education and Action Committee's meetings are held by conference call; the maximum number of members for the Committee is 15. Presently, there is one vacancy on the committee and members of the Bar who have previously expressed an interest in joining the Indigenous Education and Action Committee will be approached to join.

Throughout the past year the Indigenous Education and Action Committee has been contacted for consultations on Indigenous issues (i.e. a request for input from the Library Committee). Our Committee members appreciate the opportunity to provide an Indigenous perspective on issues being considered by the Law Society and other organizations and welcomes future requests in keeping with this Committee's Terms of Reference.

EQUITY AND DIVERSITY COMMITTEE

Scott Worsfold, Chair

The Equity and Diversity Committee is the newest Law Society committee, having conducted its first meeting on November 22, 2018. The committee was approved by the Benchers at its September 2018 convocation.

Under its Terms of Reference, the Equity and Diversity Committee's mandate is to gather information about issues related to equity and diversity in the legal profession, engage collaboratively with the Law Society membership to increase recognition and awareness about equity and diversity issues in the profession, and to develop and implement initiatives related to equity and diversity.

As Newfoundland and Labrador continues to attract people from all over the world for work and educational opportunities, the population of this

once very homogenous province is becoming more diverse. The Law Society believes that the public is better served by a representative and inclusive profession that will reflect the emerging diversity of the Province's population.

It is the hope of the Law Society that the work of this Committee will help to raise awareness of the underrepresentation of minority lawyers, and will help to create strategic initiatives aimed at overcoming the real and often unrecognized barriers facing underrepresented groups – both within the profession and those who are served by the profession.

It is early days for this Committee but it is our hope that the work of the Committee will truly benefit the profession and those that it serves.

AUDITOR'S REPORT AND FINANCIAL STATEMENTS

for the Fiscal Year Ended December 31, 2018



LAW SOCIETY

Newfoundland & Labrador

Financial Statements of

**LAW SOCIETY OF
NEWFOUNDLAND AND
LABRADOR**

Year ended December 31, 2018

LAW SOCIETY OF NEWFOUNDLAND AND LABRADOR

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KPMG LLP
TD Place
140 Water St, Suite 1001
St. John's NL A1C 6H6
Canada
Tel 709-733-5000
Fax 709-733-5050

INDEPENDENT AUDITORS' REPORT

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

Qualified Opinion

We have audited the financial statements of the Law Society of Newfoundland and Labrador (the Entity), which comprise:

- the balance sheet as at December 31, 2018
- the statement of (loss) earnings for the year then ended
- the statement of changes in net assets for the year then ended
- the statement of and cash flows for the year then ended
- and notes to the financial statements, including a summary of significant accounting policies

(Hereinafter referred to as the "financial statements").

In our opinion, except for the possible effects of the matter described in the "Basis for Qualified Opinion" section of our auditors report, the accompanying financial statements present fairly, in all material respects, the financial position of the Entity as at December 31, 2018, 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.

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 verification of these revenues was limited to the amount recorded in the Lawyer's Insurance Programme.

Therefore, we are not able to determine whether any adjustments might be necessary to:

- the current assets reported in the balance sheet as at end of December 31, 2018 and end of December 31, 2017.
- the revenues and net (loss) earnings reported in the statements of (loss) earnings for the years ended end of December 31, 2018 and end of December 31, 2017.

KPMG LLP is a Canadian limited liability partnership and a member firm of the KPMG network of independent member firms affiliated with KPMG International Cooperative ("KPMG International"), a Swiss entity. KPMG Canada provides services to KPMG LLP.



- the unrestricted net assets, at the beginning and end of the year, reported in the statements of changes in net assets for the years ended end of December 31, 2018 and end of December 31, 2017.
- the net (loss) earnings reported in the statements of cash flows for the years ended end of December 31, 2018 and end of December 31, 2017.

Our opinion on the financial statements for the year ended December 31, 2018 was qualified accordingly because of the possible effects of this limitation in scope.

We conducted our audit in accordance with Canadian generally accepted auditing standards. Our responsibilities under those standards are further described in the *"Auditors' Responsibilities for the Audit of the Financial Statements"* section of our auditors' report.

We are independent of the Entity in accordance with the ethical requirements that are relevant to our audit of the financial statements in Canada and we have fulfilled our other ethical responsibilities in accordance with these requirements.

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

Responsibilities of Management and Those Charged with Governance for the Financial Statements

Management is responsible for the preparation and fair presentation of the financial statements in accordance with the 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.

In preparing the financial statements, management is responsible for assessing the Entity's ability to continue as a going concern, disclosing as applicable, matters related to going concern and using the going concern basis of accounting unless management either intends to liquidate the Entity or to cease operations, or has no realistic alternative but to do so.

Those charged with governance are responsible for overseeing the Entity's financial reporting process.



Auditor's Responsibilities for the Audit of the Financial Statements

Our objectives are to obtain reasonable assurance about whether the financial statements as a whole are free from material misstatement, whether due to fraud or error, and to issue an auditors' report that includes our opinion.

Reasonable assurance is a high level of assurance, but is not a guarantee that an audit conducted in accordance with Canadian generally accepted auditing standards will always detect a material misstatement when it exists.

Misstatements can arise from fraud or error and are considered material if, individually or in the aggregate, they could reasonably be expected to influence the economic decisions of users taken on the basis of the financial statements.

As part of an audit in accordance with Canadian generally accepted auditing standards, we exercise professional judgment and maintain professional skepticism throughout the audit.

We also:

- Identify and assess the risks of material misstatement of the financial statements, whether due to fraud or error, design and perform audit procedures responsive to those risks, and obtain audit evidence that is sufficient and appropriate to provide a basis for our opinion.

The risk of not detecting a material misstatement resulting from fraud is higher than for one resulting from error, as fraud may involve collusion, forgery, intentional omissions, misrepresentations, or the override of internal control.

- Obtain an understanding of internal control relevant to the audit 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.
- Evaluate the appropriateness of accounting policies used and the reasonableness of accounting estimates and related disclosures made by management.
- Conclude on the appropriateness of management's use of the going concern basis of accounting and, based on the audit evidence obtained, whether a material uncertainty exists related to events or conditions that may cast significant doubt on the Entity's ability to continue as a going concern. If we conclude that a material uncertainty exists, we are required to draw attention in our auditors' report to the related disclosures in the financial statements or, if such disclosures are inadequate, to modify our opinion. Our conclusions are based on the audit evidence obtained up to the date of our auditors' report. However, future events or conditions may cause the Entity's to cease to continue as a going concern.



- Evaluate the overall presentation, structure and content of the financial statements, including the disclosures, and whether the financial statements represent the underlying transactions and events in a manner that achieves fair presentation
- Communicate with those charged with governance regarding, among other matters, the planned scope and timing of the audit and significant audit findings, including any significant deficiencies in internal control that we identify during our audit.

KPMG LLP

Chartered Professional Accountants
St. John's, Canada
May 3, 2019

LAW SOCIETY OF NEWFOUNDLAND AND LABRADOR

Balance Sheet

December 31, 2018, with comparative information for 2017

		General Fund	Lawyers' Insurance Programme	Assurance Fund	Endowment Fund	Internally Restricted Fund (note 2)	2018	2017
Assets								
Current assets:								
Cash and cash equivalents	\$	139,405	\$	692,285	\$	-	\$	831,690
Investments and marketable securities (note 4)		2,364,666		14,210,555		11,892		17,687,695
Accounts receivable - other		23,242		-		-		23,242
Trade receivable (net of allowance of \$572)		121,746		216,199		-		337,945
(2017 - \$4,438)		29,625		135,878		-		194,561
Prepaid expenses		(1,465,760)		(2,093)		-		202,178
Interfund balances		1,212,924		15,252,824		1,467,853		-
		851,634		-		11,892		19,141,024
Capital assets (note 5)		-		-		-		836,462
Claims recovery receivable (note 6)		18,865		35,123		-		51,320
Accounts receivable - other		-		-		-		-
	\$	2,083,423	\$	15,287,947	\$	11,892	\$	19,980,755
								\$ 20,028,806

Liabilities and Net Assets

Current liabilities:								
Bank indebtedness	\$	-	\$	-	\$	-	\$	-
Accounts payable and accrued liabilities (note 7)		146,177		38,441		-		184,618
Provision for unpaid claims		13,100		-		-		13,100
Reserve for claims and related costs (note 8)		-		3,813,297		-		3,831,475
		159,277		3,851,738		-		4,004,445
Net Assets:								
General Fund		1,924,146		-		-		1,924,146
Lawyers' Insurance Programme		-		11,436,209		-		11,436,209
Assurance Fund		-		-		-		1,106,971
Endowment Fund		-		-		11,892		11,892
Internally Restricted Fund (note 2)		-		-		-		-
		1,924,146		11,436,209		1,467,853		1,467,853
Commitments (note 9)		-		-		-		-
	\$	2,083,423	\$	15,287,947	\$	11,892	\$	19,980,755
								\$ 20,028,806

See accompanying notes to financial statements.

On behalf of the Benchers:

 President

 Vice President

 Chair of Insurance Programme

Robyn J. Zedler, B.A.

LAW SOCIETY OF NEWFOUNDLAND AND LABRADOR

Statement of (Loss) Earnings

Year ended December 31, 2018, with comparative information for 2017

	General Fund	Lawyers' Insurance Programme	Assurance Fund	Endowment Fund	Internally Restricted Fund (note 2)	2018	2017
Revenue:							
Admission fees (note 10)	\$ 75,500	\$ -	\$ -	\$ -	\$ -	\$ 75,500	\$ 97,200
Annual fees (note 11)	1,518,225	895,418	38,842	-	-	2,452,485	2,547,070
Audit program	82,806	-	-	-	-	82,806	77,053
Bar admission course	81,495	-	-	-	-	81,495	56,250
Continuing legal education	97,824	-	-	-	-	97,824	59,046
Grant - Law Foundation	28,200	-	-	-	-	28,200	28,200
Interest - membership fees	57,595	-	-	-	-	57,595	58,936
Investment income (note 4)	(28,825)	(125,291)	(15,815)	(182)	-	(170,113)	688,755
Other income	26,961	-	8	-	-	26,969	20,703
Transaction levy revenue	-	769,000	-	-	-	769,000	836,655
Recoverable from CLIA	-	-	-	-	-	-	-
	1,939,781	1,539,127	23,035	(182)	-	3,501,761	4,449,868
General and administrative expenses:							
Salaries and benefits	988,543	213,405	-	-	-	1,201,948	1,173,777
Provision for unpaid claims and related costs	5,800	693,450	-	-	-	699,250	1,046,840
Discipline expense	103,586	-	-	-	-	103,586	71,761
CLIA premiums	-	272,697	-	-	24,241	272,697	290,302
Miscellaneous expenses	201,918	22,076	(250)	-	-	247,985	248,841
Libraries	195,156	-	-	-	-	195,156	199,711
Building operation	146,088	-	-	-	-	146,088	145,587
Custodianship	-	22,852	-	-	-	22,852	44,703
Audit program	96,166	-	-	-	-	96,166	77,485
Amortization	117,663	-	-	-	-	117,663	78,945
Insurance	15,610	-	60,806	-	-	76,416	81,219
Professional fees	26,174	19,199	5,513	-	-	50,886	115,845
Federation of Law Societies' fees	58,509	-	-	-	-	58,509	53,378
Continuing legal education	41,426	-	-	-	-	41,426	18,193
Benchers' convocations and receptions	82,344	-	-	-	-	82,344	50,566
Professional development	29,345	1,239	-	-	-	30,584	31,566
Actuarial fees	-	36,484	-	-	-	36,484	35,781
PLIAN	-	-	-	-	50,000	50,000	50,000
Professional Assistance Program	-	27,096	-	-	-	27,096	27,096
Bar admission course	21,715	-	-	-	-	21,715	17,294
Scholarships	-	-	-	200	-	200	400
Administration fees	(120,000)	120,000	-	-	-	-	-
	2,010,043	1,428,498	66,069	200	74,241	3,579,051	3,859,290
Net (loss) earnings	\$ (70,262)	\$ 110,629	\$ (43,034)	\$ (382)	\$ (74,241)	\$ (77,290)	\$ 590,578

See accompanying notes to financial statements.

LAW SOCIETY OF NEWFOUNDLAND AND LABRADOR

Statement of Changes in Net Assets

Year ended December 31, 2018, with comparative information for 2017

	General Fund	Lawyers' Insurance Programme	Assurance Fund	Endowment Fund	Internally Restricted Fund (note 2)	2018	2017
Net assets, beginning of year	\$ 1,979,236	\$ 11,325,580	\$ 1,150,005	\$ 12,274	\$ 1,557,266	\$ 16,024,361	\$ 15,433,783
Net (loss) earnings	(70,262)	110,629	(43,034)	(382)	(74,241)	(77,290)	590,578
Transfer to capital asset reinvestment	15,172	-	-	-	(15,172)	-	-
Net assets, end of year	\$ 1,924,146	\$ 11,436,209	\$ 1,106,971	\$ 11,892	\$ 1,467,853	\$ 15,947,071	\$ 16,024,361

See accompanying notes to financial statements.

LAW SOCIETY OF NEWFOUNDLAND AND LABRADOR

Statement of Cash Flows

Year ended December 31, 2018, with comparative information for 2017

	2018	2017
Cash provided by (used in):		
Operations:		
Net (loss) earnings	\$ (77,290)	\$ 590,578
Items not involving cash:		
Amortization	117,663	78,945
Unrealized loss on investment	650,169	135,739
Provision for unpaid claims	5,800	(2,800)
	696,342	802,462
Change in non-cash operating working capital:		
Increase in accrued income on investments and marketable securities	-	(8,300)
Decrease in accounts receivable other	11,134	239,542
Decrease (increase) in trade receivable	35,454	(287,003)
Decrease (increase) in prepaid expenses	7,617	(6,600)
Increase in accounts receivable non-current	(18,865)	-
Increase (decrease) in accounts payable and accrued liabilities	18,948	(267,594)
Increase (decrease) in reserve for claims and related costs	(18,178)	225,865
Decrease in claims recovery receivable	16,197	15,652
	748,649	714,024
Investing:		
Proceeds from sales of investments and marketable securities	1,460,589	1,442,400
Purchases of investments and marketable securities	(1,897,129)	(2,377,888)
Purchase of capital assets	(132,835)	(23,565)
	(569,375)	(959,053)
Increase (decrease) in cash and cash equivalents	179,274	(245,029)
Cash and cash equivalents, beginning of year	629,747	874,776
Cash and cash equivalents, end of year	\$ 809,021	\$ 629,747
Cash and cash equivalents consists of:		
Cash and cash equivalents	\$ 831,690	\$ 629,747
Bank indebtedness	(22,669)	-
Cash and cash equivalents, end of year	\$ 809,021	\$ 629,747

See accompanying notes to financial statements.

LAW SOCIETY OF NEWFOUNDLAND AND LABRADOR

Notes to Financial Statements

Year ended December 31, 2018

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, 2018

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
July 1, 2017 - June 30, 2018	300,000	1,365,000
July 1, 2018 - June 30, 2019	300,000	1,500,000

(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, 2018

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, 2018

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%
Software	Declining balance	25%

LAW SOCIETY OF NEWFOUNDLAND AND LABRADOR

Notes to Financial Statements (continued)

Year ended December 31, 2018

2. Internally Restricted Fund:

Internally restricted funds consist of the following:

- \$420,208 for capital asset reinvestment (2017 - \$435,380)
- \$547,645 for strategic initiatives (2017 - \$621,886)
- \$500,000 for future operations (2017 - \$500,000)

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 \$299,493 (2017 - \$271,767). 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.

	2018	2017
Fixed income	\$ 13,825,402	\$ 13,256,551
Preferred shares	79,161	93,840
Equity investments	1,213,244	1,257,621
Mutual funds	2,558,004	3,280,931
Investments held in endowment	11,884	12,381
	<u>\$ 17,687,695</u>	<u>\$ 17,901,324</u>

Included in investment income is interest income of \$253,415 (2017 - \$238,635), dividend income of \$216,045 (2017 - \$159,389), unrealized losses of \$(650,169) (2017 - \$(135,739)) and realized gains on the disposal of marketable securities of \$10,596 (2017 - \$406,470).

LAW SOCIETY OF NEWFOUNDLAND AND LABRADOR

Notes to Financial Statements (continued)

Year ended December 31, 2018

5. Capital assets:

			2018	2017
	Cost	Accumulated amortization	Net book value	Net book value
Land	\$ 73,429	\$ –	\$ 73,429	\$ 73,429
Building	1,935,376	1,277,914	657,462	734,877
Furniture and equipment	422,038	310,951	111,087	28,156
Software	12,875	3,219	9,656	–
	\$ 2,443,718	\$ 1,592,084	\$ 851,634	\$ 836,462

6. Claims recovery receivable:

	2018	2017
Non-interest bearing receivable to be received in monthly installments of \$1,000 until maturity in 2019.	\$ 30,000	\$ 42,000
Promissory note to be received in blended monthly payments of \$400 including interest at 3.5% until March 2020 when the remaining balance is due.	21,320	25,297
	51,320	67,297
Less current portion (included in trade receivable)	16,197	15,977
	\$ 35,123	\$ 51,320

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

As at December 31, 2018 there was \$2,682 (2017 - \$1,552) payroll related taxes included in accounts payable and accrued liabilities and HST receivable of \$23,242 (2017 - \$34,376) included in accounts receivable other.

LAW SOCIETY OF NEWFOUNDLAND AND LABRADOR

Notes to Financial Statements (continued)

Year ended December 31, 2018

8. Reserve for claims and related costs:

	2018	2017
Provision for claims and related costs		
beginning of year	\$ 3,831,475	\$ 3,605,610
Current year expense	693,450	1,049,640
Claims and related costs paid during the year	(711,628)	(823,775)
	<u>\$ 3,813,297</u>	<u>\$ 3,831,475</u>

As at December 31 2018, 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:

	2018	2017
Discounted damages and defence costs	\$ 2,845,619	\$ 2,811,173
Discounted adjusting and counselling fees	254,024	294,525
Discounted internal claim administration expenses	287,488	268,711
	<u>3,387,131</u>	<u>3,374,409</u>
Provision for adverse deviation	391,166	389,976
Discounted receivable	35,000	67,090
Total discounted liabilities plus provision for adverse deviation	<u>\$ 3,813,297</u>	<u>\$ 3,831,475</u>

The liabilities have been discounted at a rate of 2.50% (2017 - 2.50%). The provision for adverse deviation for 2018 and 2017 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:

2019	\$	7,426
2020		6,356
2021		5,592
2022		3,727

LAW SOCIETY OF NEWFOUNDLAND AND LABRADOR

Notes to Financial Statements (continued)

Year ended December 31, 2018

10. Admission fees:

Admission fees consist of the following:

	2018	2017
Articled clerks	\$ 12,000	\$ 9,300
Call to bar	25,000	35,000
Certificate of standing	3,500	5,400
Transfers	35,000	47,500
	\$ 75,500	\$ 97,200

11. Annual fees:

Annual fees consist of the following:

	2018	2017
Assurance Fund annual membership fee	\$ 38,842	\$ 38,717
Law Society annual membership fee	1,440,695	1,529,262
Federation fees	46,530	46,460
Professional law corporation fees	31,000	33,000
Insurance premiums	895,418	899,631
	\$ 2,452,485	\$ 2,547,070

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 in respect of Part A coverage as of December 31, 2018 show the Programme's subscriber's equity to be \$1,896,077 (2017 - \$1,681,735) of which nil is recorded as recoverable as of December 31, 2018 (2017 - nil). The Subscribers Accounts of CLIA in respect of Part C coverage as at December 31, 2018 show the Programme's subscriber's equity to be \$13,476 (2017 - \$21,034), of which nil is recorded as recoverable as of December 31, 2018 (2017 - nil).

LAW SOCIETY OF NEWFOUNDLAND AND LABRADOR

Notes to Financial Statements (continued)

Year ended December 31, 2018

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 approximates 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.

