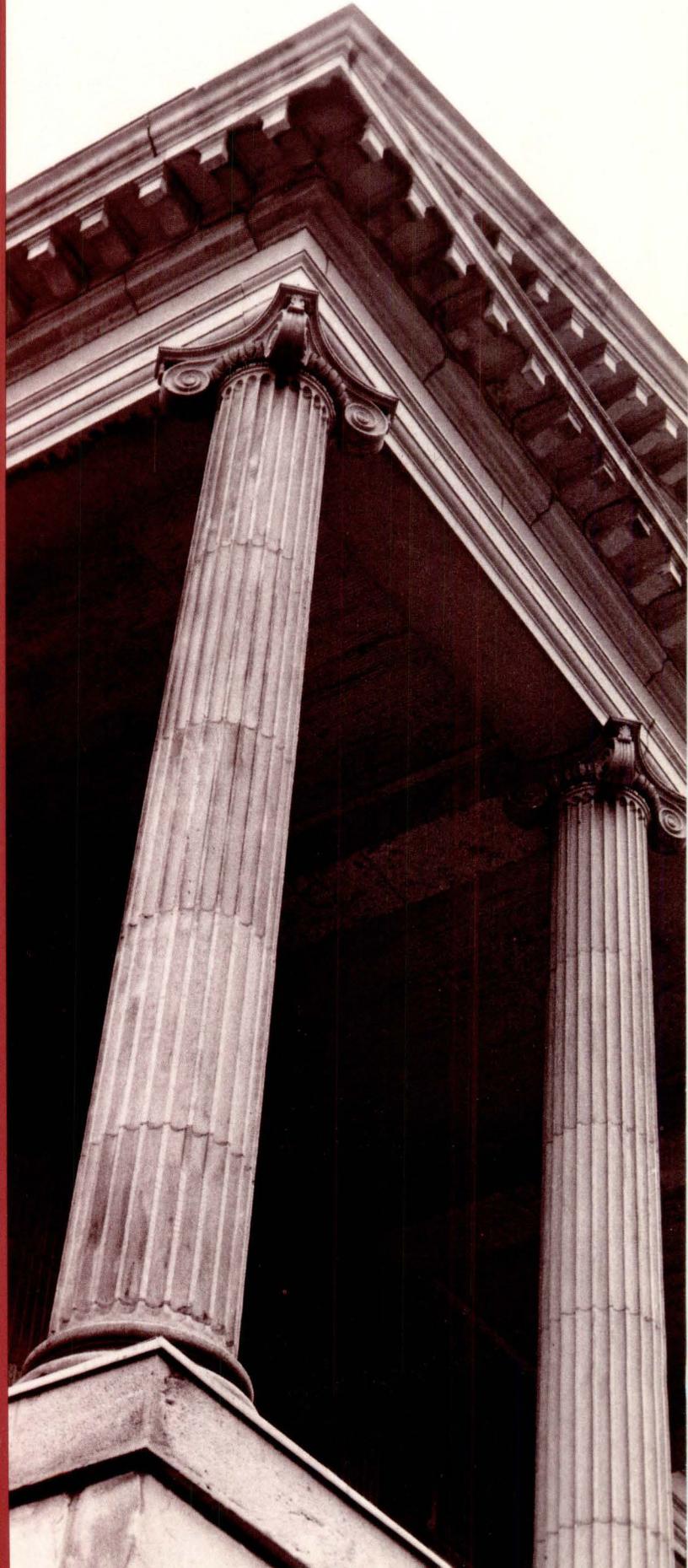




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The Law Society of  
Upper Canada | Barreau  
du Haut-Canada

## 1994 Annual Report



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# Introduction

The Law Society of Upper Canada was founded in 1797 and incorporated in 1822 as the governing body of Ontario's lawyers. It is responsible for their education, licensing, supervision and discipline.

The Society's affairs are conducted by forty-four governors known as benchers, forty of whom are elected by members of the legal profession every four years, four of whom are members of the lay public and are appointed by the Lieutenant Governor-in-Council. In addition, there are also several ex-officio Benchers.

The Society's mission statement is as follows:

*The Law Society of Upper Canada exists to govern the legal profession in the public interest by:*

- *ensuring that the people of Ontario are served by lawyers who meet high standards of learning, competence and professional conduct; and*
- *upholding the independence, integrity and honour of the legal profession; for the purpose of advancing the cause of justice and the rule of law.*

# Treasurer's Message



Paul Lamek, Q.C.

It was with some misgiving that I set about drafting the Treasurer's Message for the Annual Report. Traditionally, these messages have been highlights of the initiatives taken by the benchers and Convocation in the past year.

As members are aware from reports in the Benchers Bulletin and in the media, the last six months have been dominated by two major issues: legal aid, its funding and delivery, and errors and omissions insurance and the escalating deficit.

Notwithstanding my misgivings however, a review of the year leaves me encouraged. Encouraged because despite the time and attention which necessarily has had to be devoted to legal aid and insurance, Convocation moved forward on several important fronts. I am encouraged because of the involvement of the profession in a dialogue with the benchers through meetings, telephone calls and correspondence on how the problems on legal aid and insurance should be addressed.

One piece of work which came to fruition in the last year was the development of a comprehensive role statement for the Law Society. This important work arose out of the last strategic planning conference the benchers held in the fall of 1992. A draft was circulated to the profession for comment. The final draft will be put to Convocation this fall.

Another important project which has not been without controversy is the development of Rule 28 of the Rules of Professional Conduct dealing with equity and discrimination issues. This Rule will also be before Convocation this fall for debate and approval.

The year also saw the appointment of 14 non-bencher members of the Society to various standing committees of Convocation. The appointees were selected from a pool of approximately 330 members who had indicated an interest in serving. Selection was based on a multitude of factors aimed at reflecting the diversity of the profession. The appointed members have contributed significantly to the work of the committees and on behalf of the bench I would like to extend my thanks to them for their commitment. And I also extend my thanks to all those who expressed an interest in serving. The size and enthusiasm of the response was truly heartening.

Other bright points in the last year set out in more detail elsewhere in this Report are: the levelling off of complaints against members; a reduction of 50 per cent in claims against the Lawyers' Fund for Client Compensation; no increase in the annual fee and a healthy operating surplus for the last financial year.

Some important work begun in 1993 will continue into 1994: the review of the Rules of Professional Conduct, the review of the bar admission course and the development of a comprehensive scheme for mandatory continuing legal education.

Let me encroach briefly upon the Society's new year that began July 1, 1994 to

update members on two very important matters. With respect to legal aid, members will know that a memorandum of agreement has been reached with the government which provides for the immediate financial relief required to sustain the Plan. It also provides a framework within which the judicare model of delivery will continue.

The errors and omissions problems have been the subject of a concentrated review over the course of the summer by a specially constituted task force of benchers and outside experts. A comprehensive report is to be made to Convocation in October.

I would like to thank the local law associations which invited me to their meetings in the past year. I attended 17 in all regions of the province, affording me a welcome opportunity to outline the initiatives under way at Osgoode Hall and, more important, giving me an opportunity to listen to the cares and concerns of members. I can report that while the hospitality was always warm and generous, the remarks and criticisms were frequently pointed and sharp and I thank the members for their candid comments. They were of assistance to me.

I take this opportunity to offer my warmest congratulations to Mr. Justice Casey Hill who was appointed to the Ontario Court (General Division) in May and to welcome two new benchers, Marie Moliner, who was elected to fill the vacancy created by my election in June 1993 and Ian Blue Q.C., who was elected to fill the vacancy created by the appointment of Mr. Justice Hill.

It is with great regret that we mark the death on May 13, 1994 of the Honourable William G.C. Howland, former Chief Justice of Ontario and former Treasurer of the Law Society. His service to the profession and the public as a practitioner, law teacher, bencher and judge were an example to us all.

A handwritten signature in black ink, appearing to read "Paul A. ...", with a long horizontal flourish extending to the right.

# Membership Statistics

## Members in good standing (as at June 30, 1994)

Members in private practice in Ontario:			
Sole practitioners		5,749	
Partners		6,291	
Employees		2,270	
Associates		2,222	16,532
<hr/>			
Members otherwise employed in Ontario:			
Education		234	
Government		2,391	
Other employment		3,269	5,894
<hr/>			
Members not employed in Ontario:			
Retired		2,359	
Residing out of province		1,522	3,881
<hr/>			
Total Members in Good Standing			<u>26,307</u>
Other membership data			
Honourary members		17	
Life members		450	
Members excused fees		670	

## Admissions and total membership (10 year history)

Year	Male	Admissions		%	Total Admissions	Total Members
		%	Female			
1985	665	63.3	385	36.7	1,050	17,756
1986	691	62.2	420	37.8	1,111	18,588
1987	672	59.0	467	41.0	1,139	19,442
1988	672	57.3	501	42.7	1,173	20,417
1989	691	58.4	492	41.6	1,183	21,477
1990	735	60.1	487	39.9	1,222	22,501
1991	701	58.6	495	41.4	1,196	23,469
1992	703	58.1	506	41.9	1,209	24,432
1993	646	55.0	530	45.0	1,176	25,425
1994	643	53.5	558	46.5	1,201	26,307

## Memberships, 1994 and 1993

	<u>1994</u>		<u>1993</u>	
	Number	%	Number	%
Male	19,382	73.7	18,982	75.0
Female	6,925	26.3	6,443	25.0
Total	26,307	100.0	25,425	100.0

## Membership, by age range and sex, 1994

Age Range			<u>Per cent</u>	
	Male	Female	Male	Female
Under 30	948	863	52	48
30-39	5,853	3,654	62	38
40-49	6,744	1,959	77	23
50-65	4,029	389	91	9
Over 65	1,808	60	97	3
Total	19,382	6,925	74%	26%

## Membership geographical distribution, 1994

	<u>Fee paying Members</u>		<u>Life Members</u>		<u>Excused Fee</u>		<u>Total</u>	
	Male	Female	Male	Female	Male	Female	Male	Female
Toronto	8,881	3,668	193	12	249	18	9,323	3,698
Other Ont.	8,435	2,732	224	7	326	18	8,985	2,757
Other Prov.	664	285	10	0	42	3	716	288
Outside Can.	342	180	4	0	12	2	358	182
Total	18,322	6,865	431	19	629	41	19,382	6,925

# Committee Reports

## Admissions and Membership

Chair: Robert Carter, Q.C.

### Applications to Transfer

Thirty-five (35) applications were received in fiscal 1994 from members in other Canadian provinces requesting a transfer to practice in Ontario. The particulars are as follows:

Alberta	7
British Columbia	3
Manitoba	7
Newfoundland	1
Nova Scotia	5
Quebec	10
Saskatchewan	2

### Calls and Admissions

Under Section 4 of Regulation 708, which governs the transfer to practice in Ontario of members of other Canadian provinces, 25 applicants were called to the bar and admitted as solicitors.

Under Section 5, which governs the admission of full-time deans and teachers in Ontario law schools, 4 applicants were called to the bar and admitted as solicitors.

Under Section 6, which governs the granting of Occasional Court Appearance, 36 applicants were called to the bar and admitted as solicitors.

## Clinic Funding

Chair: Joan Lax

### African-Canadian legal clinic

An African-Canadian legal services clinic has been approved to represent clients in precedent-setting cases dealing with issues of systemic racism. The clinic will also provide summary advice and referrals and will undertake public legal education and law reform initiatives. A budget of \$229,000 was approved by the Society's Clinic Funding Committee for the start-up of the new clinic.

The African-Canadian clinic brings to 72 the total number of legal clinics offering

services in Ontario at a cost of approximately \$31.8 million in the fiscal year. Funding is provided by the Ministry of the Attorney General.

The majority of clinics deliver services in traditional poverty law areas such as housing, social assistance and income security. A number of clinics are designated “specialty” clinics and provide legal services either in a specialized area of law (landlord tenant, workers’ compensation) or to a particular client group (Aboriginal people, Spanish-speaking people, Chinese and Southeast Asian communities, the elderly and disabled).

**Statistics** *Ontario Community Legal Clinics, 1993*

Files open	37,924
Summary advice	164,133
Referral to:	
Private bar	12,769
Ontario Legal Aid Plan (certificates)	13,085
Other	<u>48,746</u>
Total Referrals	74,600
Public legal education sessions	2,467
Legal education publications	370
Briefs/submissions to public bodies	
Written	175
Oral	881

## Communications

Chair: Denise Bellamy

### **Lawyer Referral Service: Statistics and Gender Policy**

The Lawyer Referral Service (LRS) received 174,000 calls for information and referrals in 1993/94—approximately the same number as the previous year. On average, the LRS handles approximately 700 calls per day and refers between 400 to 500 individuals to lawyers in their community. About 3,200 lawyers serve on the LRS panel for which they pay a nominal membership fee of \$50 per year.

In response to a growing number of complaints from female victims of domestic violence, the Lawyer Referral Service (LRS) reversed its long-standing gender-neutral policy of refusing to grant referrals on the basis of sex.

Based on the principle that clients, as individuals, are entitled to representation by counsel of their choice, the LRS began accommodating requests in April from members of the public who express a preference for either a male or female lawyer.

The 23-year-old gender neutral rule was established when the LRS was set up in 1971 to ensure that female lawyers would not face discrimination in what was then a male-dominated profession. Today, the incidence of callers refusing referrals to women lawyers is almost non-existent. Over the past few years the LRS has been receiving an increasing number of requests for women lawyers by prospective family law clients who

are females alleging physical or child abuse. Approximately 30 per cent of all referrals are in the area of family law.

The Society's Equity in Legal Education and Practice Committee has been asked to examine whether race and/or ethnicity should also be added to the criteria upon which to base referrals when requested to do so by a member of the public. Currently, the LRS will not accommodate requests from members of the public who wish to be referred to lawyers belonging to a specified ethnic or racial community.

### **Dial-a-Law**

Calls to the Law Society's province-wide toll free Dial-a-Law Service (DAL) totalled just over 235,000 in 1994—a decrease of approximately 106,000 over the previous fiscal year. Calls were reduced as a result of a number of service restrictions imposed on wats usage after the program's budget was reduced from \$250,000 in 1993 to \$100,000 in 1994.

In order to meet budget targets the number of wats lines was reduced from six to two, hours of operation were cut back from 24 hours/day to 10 hours/day and tapes were edited to a five minute maximum. Program cuts posed access problems for users outside the local Toronto area and at various points throughout the year DAL wats lines registered busy signals 89 per cent of the time.

The DAL program offers taped legal information on approximately 145 topics. The most frequently accessed tapes are in the areas of family, immigration and employment law.

## **County & District Liaison**

Chair: Rino Bragagnolo, Q.C.

The committee ensures that the County and District Law Presidents' Association is kept aware of the issues under consideration by the Society. Executive members of the CDLPA are represented on the committee which also functions as a vehicle for bringing the Association's concerns to the benchers. Last year, the CDLPA adopted a variety of resolutions at its November 1993 and May 1994 plenary sessions which were subsequently forwarded to Convocation.

The CDLPA raised concerns about the decline in funding from the Law Foundation for county and district libraries in light of increases in the cost of legal publications. The Association resolved that decreases in Law Foundation funding for libraries be made up by increasing the funding from the Law Society levy. The CDLPA also expressed concerns to the Law Society that the new mandatory financial reporting forms 4 & 5 were foisting increased audit expenses on lawyers and asked that the Society seek ways to reduce those costs.

In exploring the feasibility of instituting mandatory CLE, the CDLPA has asked, among other things, that any scheme that is ultimately approved should ensure that programs are locally deliverable and locally accessible.

In the face of an escalating crisis in the finances of the legal aid plan, the CDLPA resolved that the Ontario Government address the issue of chronic under-funding of the

Legal Aid Plan. It also registered its opposition to the Government's plans to introduce judicare equivalent family law pilot projects.

## Discipline

Chair: Harvey Strosberg, Q.C.

### Statistics

During the fiscal year, 353 complaints were issued by the Society alleging professional misconduct or conduct unbecoming a barrister and solicitor—a decrease of 17 complaints over the previous year. In addition, 47 lawyers were invited to attend before the Discipline Committee to receive its advice concerning minor breaches of the Rules of Professional Conduct. Sixty-seven (67) lawyers were reprimanded in committee.

Convocation dealt with 48 discipline matters in 1994 resulting in the following dispositions:

Reprimands	9
Suspensions	23
Permission to resign	8
Disbarments	8

### Complaint volume levelling off

Complaints against solicitors—while remaining at historically high levels—have begun to level off. Approximately 5,800 complaints were received in calendar 1993, the same number as the previous year. As of June 30, 2,810 complaints had been received in 1994.

Civil litigation continues to attract the majority of complaints at 30 per cent of the total. Real estate and family law account for 27 and 17 per cent of complaints respectively.

Overall, the most common complaints are failure to honour financial obligations and negligence on the part of the solicitor—each accounting for 11 per cent of total complaints received. Complaints about lawyers fees, over which the Law Society has no jurisdiction, account for nine per cent of the total. Complaints alleging delay, failure to account/report and failure to communicate are also frequent.

### Audit & Investigations

Examiners investigated over two hundred law firms in the last fiscal year. Predominantly, investigations were launched because lawyers were found to be practising under suspension or the Society received complaints or information regarding a lawyer's financial affairs or practices. Forensic auditors referred over 70 matters to the Discipline Department in cases where evidence of professional misconduct existed.

The resources of the Staff Trustee's Office were strained attending to the practices of members experiencing bankruptcy in 1994 and winding up practices pursuant to the directives of the Discipline Committee. A record-high of 96 bankruptcies were reported in the last fiscal year.

In conjunction with the Lawyers Fund For Client Compensation, the audit department participated in a review of Regulation 708, and Forms 3, 4 and 5 relating to the

provisions on mortgage transactions. Recommended amendments to the regulation and forms are currently under review by the Legislation & Rules Committee.

## Equity in Legal Education and Practice

Chair: Stephen Goudge, Q.C.

### **New rule on discrimination proposed**

In consultation with the profession, a new Rule of Professional Conduct has been drafted for approval that will address the issue of discrimination by lawyers and will assist lawyers to comply with existing human rights legislation. Following is a draft of Professional Conduct Rule 28 which will be considered by Convocation in the fall of 1994:

*The lawyer has a special responsibility to respect the requirements of human rights laws in force in Ontario and specifically to honour the obligation not to discriminate on the ground of race, ancestry, place of origin, colour, ethnic origin, citizenship, creed, sex, sexual orientation, age, record of offenses (as defined in the Ontario Human Rights Code), marital status, family status or disability with respect to professional employment of other lawyers, articulated students, or any other person or in professional dealings with other members of the profession or any other person.*

### **Wilson Task Force Report under review**

The committee is involved in an ongoing review of the recommendations contained in the Canadian Bar Association Task Force Report on Gender Equality in the Legal Profession which was released in August 1993. This work is being carried out in cooperation with the Women in the Legal Profession Committee.

### **Assisting minority articling students and foreign-trained lawyers**

The placement of students seeking articling positions continues to be of particular concern to the committee as aboriginal and visible minority students constitute a disproportionately high percentage of those students who are either unable to obtain articling positions or have difficulty doing so. The committee has been working closely with the Legal Education Committee in its efforts to place these students.

The committee also worked on providing effective assistance to foreign-trained lawyers seeking to qualify in Ontario. A number of alternatives are being examined to determine how best to assist this group.

## Finance and Administration

Chair: Kenneth Howie, Q.C.

### **1994 Financial Year**

The audited financial statements for the Law Society's three funds for the 1993/94 year are at pages 25 to 43 of the Annual Report. The General Fund includes all professional and administrative operations of the Law Society, including the Great Library and Legal Education, which consists of the Bar Admission Course and Continuing Legal Education. Separate funds are maintained for the Lawyers Fund for Client Compensation and the

Consolidated Errors and Omissions Insurance Fund. Comments on the results in the Insurance Fund and the Compensation Fund are included in their respective reports .

### General Fund

The General Fund (page 28) generated a surplus of \$1,327,000 which allowed for an amount of \$500,000, as budgeted, to be used to pay down building debt. The surplus resulted from higher than budgeted members' fees and savings in some departments.

The Priorities and Planning Committee was constituted this year as a Special Committee of Convocation, chaired by Thomas Bastedo. It has continued to conduct exhaustive reviews of all programs and departmental budgets and to focus the Society's agenda in accordance with the proposed role statement.

The result of this process has been a much more effective control on expenditures, which has, in part, led to the surplus generated for 1993/94, and has allowed fees to remain frozen for the upcoming year at \$1,132 for full fee-paying members. In fact, an examination of the chart below reveals that the annual fee portion of the total fees is actually less in 1994/95 than it was in 1991/92. Support for County Libraries and for the administration of the Legal Aid Plan have, however, increased.

A number of measures were taken in order to meet Convocation's goal to hold the line on fees. Law Society management and professional staff salaries were frozen and program cuts were made in a number of areas including the county and district libraries.

Funds generated from fees paid by newly called lawyers combined with the reordering of internal priorities will allow for expansion of services more directly related to the Law Society's regulatory responsibilities.

Services to members such as the practice advisory service which provides ethical and practice management advice to private practitioners and the professional standards program which provides a peer mentoring service to members who have been the subject of service or competence complaints will receive additional staff resources to assist in carrying out their mandate. Similarly, the audit, complaints and discipline departments will receive additional staff to help cope with increased workload in their respective areas.

	1994-95	1993-94	1992-93	1991-92	1990-91
Annual Fee	\$758	\$758	\$778	\$781	\$678
County Libraries	81	81	79	68	62
Lawyers' Fund for Client Comp.	1	1	1	1	26
Legal Aid Admin. Expenses	292	292	292	240	185
<b>TOTAL</b>	<b>\$1,132</b>	<b>\$1,132</b>	<b>\$1,150</b>	<b>\$1,090</b>	<b>\$951</b>

### Recommendations of the Priorities and Planning Committee

In addition to its work on planning and budgeting the Special Committee on Priorities and Planning recommended a number of changes to the structure and mandate of the Finance and Administration Committee which were adopted by Convocation. They are:

- That the Priorities and Planning Committee be a subcommittee of the Finance and

Administration Committee and that the members of that committee not be chairs of other committees.

- That the functions of the Building Committee be subsumed into a subcommittee of the Finance and Administration Committee. In addition to matters relating to the management of land and buildings, this subcommittee would also be responsible for other facilities provided by the Law Society including in-house printing, rental and use of space, security, and other such services.
- That issues with respect to the following matters be reported to the Finance and Administration Committee on a monthly basis (or from time to time as needed) through a new subcommittee called the "Administration Subcommittee":
  - (a) Information Systems (computerization etc.)
  - (b) Human Resources
  - (c) Matters relating to Secretariat (including Bencher expenditures)
- That all matters dealing with membership should be transferred from the Finance and Administration Committee to the Admissions and Membership Committee. The only matters respecting membership which would remain on the Finance and Administration Committee agenda would be a report from the Admissions and Membership Committee recommending the suspension of members for non-payment of fees and levies.

In addition, general recommendations were made to consider revisions to Rule 33 of the *Law Society Act* to allow better and more effective expenditure control and that the Society project its activities over a three-year period in order to provide a measure of long term planning.

## French Language Services

Chair: Vern Krishna, Q.C.

The French Language Services Program is now in its fifth year and the institutional groundwork for delivering services to Ontario lawyers and the public has been laid. All Law Society departments that come into contact with either the public or profession are now able to offer services in French. Eighty per cent of designated bilingual positions have been filled, and 30 staff members have availed themselves of the French Language Skills Upgrading Program. The Committee has recently embarked on a policy review in order to determine the program's on-going relevance and cost-effectiveness.

This year, services have been expanded and restructured with a special emphasis on member and public information. As a result of a survey of francophone lawyers, conducted in November 1993, the number of lawyers requesting French language newsletters and services has dramatically increased. In addition, all seven public information pamphlets published by the Communications Department have been made available in French, and distributed to a number of organizations throughout Ontario.

Considerable progress has been made in the area of legal education. Almost all bar admission course materials have been translated, and the 50 students enrolled in the French programme taught in Ottawa can now benefit from a full-fledged French language programme, including French-speaking instructors and lectures. A Committee has been struck with CBA, CBA-O, AJEFO, CCLA and the University of Ottawa to review the provision of CLE seminars in French. A legal writing course offered in March 1994 was a great success.

Once again in 1993-1994, generous funding for a number of activities, including language training and the bar admission course in Ottawa, was secured from the Secretary of State and the Law Foundation of Ontario. However, French Language Services will see contributions from these two sources diminish in the near future.

## Insurance

Chair: Colin Campbell, Q.C.

### Claims activity

Actuaries project that the trend of the past several years towards an increased frequency of claims against Ontario lawyers will continue throughout 1994. For the twelve month period ending December 31, 1993 slightly in excess of 4,000 new claims, estimated at \$83 million, were reported. It is expected that the number and value of claims in 1994 will be at least equal those in 1993.

Financial statements show a deficit of \$153.2 million in 1994 compared to a \$37.9 million deficit for the previous year.

The average value of a claim is approximately \$19,000 in 1994 compared to approximately \$14,000 in 1993. Real estate claims are beginning to abate after three years of record highs but claims in matrimonial and family law are edging upwards and are showing troubling indications of emerging growth.

### Levies

As of July 1, 1994, members with no claims paid on their behalf in the last five years have been levied \$4,350 in two equal instalments of \$2,175. Because the levies collected are not sufficient to fund either the anticipated losses in the current year or the deficit, it is expected that an additional levy may be imposed prior to the end of the calendar year once an insurance task force has had the opportunity to review a number of options relating to the structure and coverage of the insurance program.

### Insurance task force

Due to the alarming increase in the insurance fund's deficit, and the difficulties many members of the profession would face in the current economic climate if they were required to pay the full amount required to fund this year's claims in addition to the deficit, an insurance task force was established in June 1994 to consider the following measures:

- Increasing the basic deductible from the current \$6,000 per occurrence.
- Eliminating innocent partner coverage or making it optional with a separate levy.
- Asking lawyers to pay all or a portion of their insurance defense costs even if a claim against them is successfully defended.
- Changing insurance coverage from a uniform policy to variable levels of coverage.
- Exploring the possibility of a variable levy based on areas of practice and attendant risk.
- Changing the Rules of Professional Conduct so as to prohibit lawyers from acting for both sides in real estate transactions. This practice currently gives rise to a number of conflict-based insurance claims.

- Instituting a transaction-based levy to be applied to the registration of real estate documents such as transfers and charges.

The task force will report to Convocation in October 1994.

### **Day-to-Day Management of Insurance Program**

Until this year, the Law Society's Errors & Omissions Department (under an agreement with Lawyers' Professional Indemnity Company (LPIC)) was responsible for the day-to-day management of the Society's insurance program, including claim investigation and settlement. Effective February 1, 1994 the managerial control of the insurance operations was moved into LPIC making staff joint employees of the Law Society and LPIC. Financial and information services, in addition to human resources support, payroll and employee benefits, continue to be provided by the Law Society.

## **Lawyers Fund for Client Compensation**

Chair: Clayton Ruby

### **Claims activity**

Claims received by the Lawyers Fund for Client Compensation continue their downward trend from a record high of 354 claims valued at \$33 million in 1992 to less than half that number—163 claims valued at \$9.5 million in 1994. In 1993 the fund received 189 claims valued at \$12.6 million.

The fund closed 460 claims in 1994 and paid out a total \$2.8 million. The awards, which are limited to \$100,000 per applicant, were paid to 139 clients of 63 dishonest lawyers. By comparison, the grants in the fiscal year ending June 30, 1993 totalled \$3.5 million.

The balance of the fund as at June 30, 1994, stood at \$27.9 million. The outstanding claims still to be processed amounted to \$13.8 million (\$8.2 with limits applied), a decrease from \$28.1 million (\$16.1 with limits applied) as at June 30, 1993. After payment of grants and expenses of \$4.2 million it is estimated that there will be an encroachment on the capital of the Fund of approximately \$1.7 million in the fiscal year. The levy will remain at \$1 per member for the next fiscal year.

The majority of claims to the fund occur because clients leave funds with their solicitors to invest in private mortgages. Invariably this poses a conflict for solicitors who are acting for both borrower and lender. With the considerable reduction in real estate values in Ontario since the onset of the recession, many mortgage investments have suffered significant losses. In some cases, the failure to adequately disclose the risks of the investment to the client has constituted dishonest conduct on the part of the solicitor. Of the \$13.8 million in outstanding claims 82% are investment claims of which 77% concern mortgages.

Regulations under the *Law Society Act* have been amended to require lawyers to disclose to their mortgagee clients relevant information about their security.

## Legal Aid

Chair: Frances Kiteley

### **Budgetary restraints**

Government imposed budgetary restraints posed a continuing challenge to the Legal Aid Plan throughout the year. For the first time in its 26-year history, the Plan ran a \$39 million deficit for the fiscal year ending March 31, 1994. As a result the Plan was required to carry over 30,000 unpaid accounts into its current fiscal year. Added to the Plan's financial difficulties was the announcement by the Ontario Government that its allocation to the Plan for the current fiscal year would run \$26 million short of projected requirements. In total the Plan is facing a projected \$65 million accumulated deficit in its fiscal year ending March 31, 1995.

In an effort to reduce the anticipated deficit the Legal Aid Committee has prepared a comprehensive report recommending a moratorium on a number of discretionary services—primarily in the area of civil law—including divorces. Cuts also are being proposed in certain criminal law and young offender services. A vote on these proposed service reductions has been postponed until benchers have had another opportunity to make their case to the provincial government for increased funding.

The Plan's projected budget for 1995 is \$269 million. The Plan issued 201,966 certificates in fiscal 1994, a decrease of 8.5 per cent over the previous fiscal year.

### **Staff model pilot projects**

Three family law pilot projects have been approved by the Law Society. Over their three-year life span the pilots will be evaluated to determine whether family law services can be delivered as competently and as cost-effectively through a staff model as they are currently delivered under the judicare system.

A full service pilot will provide family law services such as divorce, custody, access, support and division of property which are currently provided under the current certificate system. The pilot will employ a staff of 14 with an annual operating budget of \$840,000. It will operate in tandem with another family law pilot known as the limited-service model which will run in the Toronto area and will provide services exclusively in non-contentious, paper-intensive areas of family law such as uncontested divorces and adoptions. The limited-service model will employ a staff of 10 on a \$600,000 annual budget.

The third pilot will consist of a women's family law centre delivering comprehensive family law and related services such as crisis counselling, child care, language interpretation and referrals to social service agencies. The service will be directed to women who are victims of domestic abuse. Male victims of domestic violence will continue to receive legal aid certificates providing they meet financial eligibility requirements. It is expected that the women's family law centre will employ 25 staff including six lawyers, at a cost of \$1.4 million in its first year of operation.

A three-year staff model pilot project delivering immigration law services to refugees opened its doors in downtown Toronto in March. The office represents refugee claimants at hearings before the Refugee Divisions of the Immigration and Refugee Board and undertakes internally generated appellate work and test case appellate work. The staff office, which reports to the certificate side of the Legal Aid Plan, employs six lawyers,

six paralegals and three support staff at a cost of \$1.1 million annually. It is estimated that the staff office will handle about 1,150 cases per year. Refugee claimants who are eligible for legal aid assistance will be entitled to choose between representation by staff counsel or representation by counsel of their own choice.

Financial statements for the Legal Aid Plan are included in an annual report issued separately by the Plan.

## Legal Education

Chair: Philip Epstein, Q.C.

### **Calls to the bar**

The 1,099 graduates of the 35th bar admission course were called to the Ontario bar in February 1994. According to a survey completed by 841 of the 1,099 new graduates immediately prior to their call, 61 per cent reported having found employment, 35 per cent were seeking placements and another four per cent were pursuing other activities such as higher education. Approximately 68 per cent of new lawyers indicated they would be practising law in the Metro Toronto area and more than a third of the graduating class said they would be joining larger firms of 75 or more lawyers.

### **Bar admission course under review**

Just three years following a major overhaul, the bar admission course is being re-evaluated by a legal education subcommittee to determine its educational- and cost-effectiveness.

The review was prompted by a series of financial setbacks that began in 1991 when the Ontario government decided to withdraw almost \$1 million in annual funding for the course. Shortly afterwards, the Law Foundation of Ontario which collects interest from lawyers mixed trust accounts and is a major financial contributor to the bar admission course, began to experience sharp declines in revenue due to the recession and falling interest rates. Its contribution to the bar admission course has been considerably reduced as a result. Significant tuition increases have been necessary in recent years to raise the approximately \$5 million required to offer the course in three Ontario locations—Toronto, Ottawa and London.

Since 1990 the revamped bar admission course has consisted of three phases—the skills-based, small group format teaching terms known as Phases I and III and the Phase II articling term. Tuition for Phases I and III is now \$745 and \$2,100 per student respectively. The review of the course, expected to be completed by October 1994, will consider options for preparing students for their call to the bar.

### **Mandatory continuing legal education to be explored**

The Law Society will begin exploring the feasibility of introducing mandatory continuing legal education (MCLE) in Ontario. Benchers have approved in principle the concept of MCLE and have allocated \$200,000 to fund a design project.

A design team reporting to an MCLE committee comprising representatives from the Law Society, CBA(O) and the County & District Law Presidents' Association will

propose a suitable curriculum that will meet the related objectives of ensuring competence and reducing errors and omissions claims. In addition to outlining the implementation costs, the design team will also recommend a strategy for the delivery of MCLE province-wide. The design project is expected to take 12-18 months.

The Law Society offers continuing legal education programs at its facilities in London, Ottawa and Toronto, and in several other locations throughout Ontario. The course offerings consist of a combination of live programs and video replays. The Law Society's CLE Department offered 92 programs in the 1994 fiscal year to a total of 7,406 participants. In September of 1993 the new Computer Education Facility was opened at Osgoode Hall. Lawyers are now able to take advantage of a wide range of computer education courses on state of the art equipment.

## Legislation and Rules

Chair: Maurice Cullity, Q.C.

The following amendments have been proposed to the *Law Society Act*, R.S.O. 1990, c. L.8, and to Regulation 708 made under the *Law Society Act*:

- Regional election of benchers. In order to implement the scheme of regional election of benchers adopted in March 1993, the Committee drafted a series of amendments to sections 15-21 of the Act which were approved by Convocation. If the Act is amended as proposed, the electoral regions and the number of benchers to be elected from each region will be defined in regulations.
- Membership suspensions. The text of a proposed amendment to section 36 of the Act was drafted by the Committee and approved by Convocation. If the Act is amended as proposed, Convocation will have the power to suspend a member who fails to pay, within four months after the day on which payment is due, the deductible portion of any insurance claim payment payable under the Society's professional liability insurance program.

In addition, the following projects have been completed or are in progress:

- Occasional court appearance. Section 6 of Regulation 708 was amended to deal exclusively with persons seeking temporary admission to membership in the Society for the purpose of appearing as counsel in a specific proceeding. Persons seeking temporary admission to membership in the Society for the purpose of acting as Crown Attorneys, previously governed by section 6 of the Regulation and section 28.1 of the Act, are now exclusively governed by section 28.1 of the Act.
- Package of amendments to the *Law Society Act*. The Committee has assumed responsibility for coordinating the preparation of the package of amendments to the *Law Society Act* to be submitted to the Attorney General for presentation to the Legislature. The package includes all the amendments necessary to implement reforms to the complaints, discipline and standards procedures, as well as all other amendments to the Act approved by Convocation between September 1989 and June 1994.
- Legislation and Rules Manual/Professional Conduct Handbook. The Committee oversaw the production and distribution of a Legislation and Rules Manual/Professional Conduct Handbook. The Manual/Handbook, containing the English and French texts of the *Law Society Act*, the *Barristers Act*, the *Solicitors Act*, Regulations 708 and 709, the Rules made under the *Law Society Act* and the Rules of Pro-

fessional Conduct, was distributed to all County and District Law Libraries and Ontario Law School Libraries. The contents of the Manual/Handbook have been made available to CLE (Publications) for sale to members and the general public.

## Libraries and Reporting

Chair: Daniel Murphy, Q.C.

### Ontario Reports

The Law Society has renewed its five-year contract with Butterworths Canada Ltd. for the printing and distribution of the weekly parts to the Ontario Reports on favourable financial terms.

The Law Society's Ontario Reports Database continues to be the largest and most current law report database on Quicklaw, containing both the full text of reasons for judgment and headnotes of decisions from 1931 to the present, with the OR Database being updated weekly.

### Search Law

Search-Law continues to provide a computer-searching service in relation to the Ontario Reports Database and other databases, thereby ensuring access to electronic legal research for all lawyers in Ontario, whether in small towns or large cities. Search services were provided to approximately 1,500 lawyers, judges and articling students in the last year.

Search-Law is also the distributor in Ontario of the Wrongful Dismissal Database, a product created by Barry Fisher, a member of the Society.

### The Society's Libraries

The Great Library and the County Libraries strive to provide Ontario's lawyers and judges with a solid level of legal research assistance. The Great Library has expanded access to compact disc technology by purchasing several more CD-ROM products from major U.S. publishers, and has now added Canadian CD-ROM's from provincial governments and such Canadian legal publishers as CCH and Canada Law Book.

The County Libraries have benefitted from ongoing grant support from the Law Foundation of Ontario (although reduced in amount) and a continuation of the county library levy (now at \$81 for lawyers in private practice) within the Society's annual fee.

A sub-committee chaired by Robert Topp of Sudbury has been appointed to conduct a review of the county library system, most particularly funding mechanisms and the direction of funding over the next few years for Ontario's 47 county libraries.

## Professional Conduct

Chair: Marc Somerville, Q.C.

The special committee to review the existing 27 Rules of Professional Conduct is continuing its work. The overhaul is intended to ensure that the rules are current with the realities of contemporary practice and that they reflect an appropriate standard of conduct

both in the eyes of the public and the profession. Apart from occasional amendments, the rules have existed in their present form since 1978. A uniform format and structure for the rules has been established which will assist the special committee in its task.

The Federation of Law Societies has formulated a draft rule on conflicts created by a lawyer moving from one firm to another and it is expected that this rule will be adopted in the near future.

The Professional Conduct Committee assisted the Equity Committee in drafting a new rule on discrimination, and deliberated the issues of whether it is appropriate for lawyers to have a financial interest in rehabilitation clinics and whether a lawyer's name must be removed from the firm name when that lawyer becomes a judge.

## Professional Standards

Chair: Colin McKinnon, Q.C.

The Professional Standards Committee oversees the activities of the Practice Advisory Service and the Professional Standards Department. The Committee's mandate is to define, maintain and enforce competence among members.

### The Practice Review Program

Since its inception in 1988, approximately 250 members have been authorized to participate in the program, which is a form of voluntary peer review designed to assist members in providing competent services to clients. At present, 148 lawyers or firms are participating. Referrals to the programme come from within the Society, through the complaints, audit or discipline departments, the Law Society's insurance program and from external sources such as County and District Law Associations and members of the practising bar.

### Practice Advisory Service

The Practice Advisory Service reported a large increase in demand for its services during the last year. Calls increased by 37 per cent to 8,363 from 6,001 the previous year. One third of callers requesting advice and assistance have been at the bar less than five years. Just over one third have been practising between five and fifteen years and the remaining third of callers are members who have been in practice for over 15 years.

The trends in type of assistance requested are a reflection of the changes in the profession and the poor economy. The Service has made particular note of members who are trying out new forms of association. Many are re-grouping in smaller firms and are facing intense competition and serious financial difficulties. Many younger practitioners are being forced into sole practice because of the dearth of employment prospects. A large number are closing their practices due to the high cost of operating a law practice.

### LINK

LINK is a confidential, professional counselling service for all members and student members of the Law Society. In 1993 (data is compiled on a calendar year basis), approximately 250 members sought assistance for a wide range of problems, including stress, family and marital issues, substance abuse, and financial difficulties. LINK is sponsored jointly with the CBA(O) and other law groups.

### **New requalification policy to stress competence**

The payment of annual fees will no longer guarantee lawyers the right to practise law in Ontario according to a requalification policy which took effect July 1, 1994. The new policy will apply prospectively. Qualification to practice will now be based on the exercise of legal skills.

In order to determine their qualified status, lawyers will be asked to complete a form as part of their annual filings indicating whether they make substantial use of their legal skills on a regular basis in their current work. Those engaged in the following types of employment will be deemed automatically to be in the qualified category:

- private practice in Ontario or another jurisdiction
- in-house counsel
- clinic lawyer
- M.P. or M.P.P.
- government lawyer
- policy analyst or legislative drafter
- member of an administrative tribunal
- arbitrator, mediator, conciliator
- legal teacher and/or legal writer
- legal researcher

Members will also have the option to select the "other" category and provide an explanation which will be assessed to determine whether they meet the criteria for qualified status.

Lawyers who do not fit into the qualified category for period of five years or more will have to fulfil certain individually tailored requirements before they can resume private practice. However, they will be exempted from requalifying if they obtain employment as government lawyers or in-house counsel since the rationale for the requalification policy is to protect the public. In order to avoid requalifying for entry into private practice, those members must remain employed in the government or corporate sector for a minimum of one year.

A pre-emptive regime will be established so that members who do not meet criteria for qualified status will be advised immediately. A wide range of measures will be prescribed both for those who will need to requalify and for those who wish to avoid requalification after a five year period. Depending upon a member's prior history, these may include attendance at continuing legal education programs or bar admission courses, volunteer employment at a shelter or legal clinic, practising under supervision and restricting practice to certain areas of law.

## **Research and Planning**

Chair: Lloyd Brennan, Q.C.

### **Non-bencher Representation on Law Society Committees**

In order to assist benchers with the ever-increasing workload associated with self-governance and to expose non-bencher lawyers to the many issues confronting the Society, 14 members of the profession will be contributing their skills and expertise to eight standing

committees of the Society over a two-year period. Over 300 members, who were notified of the committee positions through the Ontario Reports, submitted applications to the Society.

### **Mission statement drafted**

A mission statement has been prepared for approval by Convocation in the fall of 1994. The purpose of the draft statement is to define the limits of the proper role of the Law Society and to serve as a standard against which all activities of the Law Society can be measured to determine their respective priorities.

The text of the proposed mission or role statement is as follows:

*The Law Society of Upper Canada exists to govern the legal profession in the public interest by:*

- *ensuring that the people of Ontario are served by lawyers who meet high standards of learning, competence and professional conduct; and*
- *upholding the independence, integrity and honour of the legal profession; for the purpose of advancing the cause of justice and the rule of law.*

The mission statement was circulated to all members of the profession and various legal organizations in draft form prior to its adoption by the Research and Planning Committee. More than 1,500 members provided input on the draft statement by way of an accompanying questionnaire.

### **Metropolitan Toronto *Pro Bono* Legal Services Project**

In November 1993, the Society voted to participate with the CBA(O) and the United Way of Greater Toronto in a project to link lawyers willing to offer *pro bono* legal services with charitable and non-profit organizations.

### **Alternative Dispute Resolution (ADR)**

A subcommittee continues to oversee the implementation of "Alternatives" the major report on ADR adopted by Convocation in February 1993. The report's recommendations related to many departments of the Law Society, and the subcommittee has been consulting with departments affected. The subcommittee is also preparing draft Rules of Professional Conduct specifically dealing with ADR.

## **Specialist Certification Program**

Chair: Roger Yachetti, Q.C.

As at June 30, 1994, there were 600 certified specialists in Ontario.

The Specialist Certification Board certifies lawyer specialists in the following areas of law: civil litigation, criminal, family, immigration, intellectual property (patent/trademark/copyright). Labour law, workers' compensation law and bankruptcy and insolvency law have recently been added as specialties and it is expected that new specialists will soon be certified in these areas. The combined specialty of civil and criminal litigation was discontinued in June 1994.

The Specialist Certification Board has been awarding specialty certificates since 1988. Certificates have currency for a period of five years and specialists must apply for recertification. The Board considered recertification applications for the first time in 1994. Between 80 to 90 per cent of first-time specialists applied to renew their certification. Recertification applicants must demonstrate continued substantial involvement in the specialty area, including satisfactory continuing legal education participation. The usual references, professional standards and fee requirements also apply to recertification applicants.

## Unauthorized Practice

Chair: Patricia Peters, Q.C.

### **Law Society's role in prosecutions to be debated**

A full debate on the Law Society's role in prosecuting individuals for the unauthorized practice of law is to take place in the fall of 1994.

During calendar 1993, the Unauthorized Practice Department received 182 complaints concerning alleged unauthorized practice. Of these, 47 complaints were investigated but only six were prosecuted due to financial limitations. The committee has found that the high cost of prosecuting offenders prevents it from pursuing many of the cases that come to its attention. Decisions are required therefore on whether the prosecutions can be handled in some other way, if additional funds can be made available to the committee or if some other approach would be more effective in dealing with unauthorized practice problems. The committee has approached the Ministry of the Attorney General and has suggested that a tri-partite committee be established consisting of representatives of the Ministry, the Law Society and paralegal groups. The committee's purpose would be to establish the appropriate areas of paralegal activity.

## Women in the Legal Profession

Chair: Susan Elliott

### **Canadian Bar Association Task Force on Gender Equality**

The report of the Canadian Bar Association Task Force on Gender Equality (August 1993) included a number of recommendations directed to law societies. The report, along with the Law Society's own Transitions Report, recommends measures to promote gender equality in the profession. Taking into account both reports, the committee selected recommendations for action in the short, medium and long terms. It also referred a number of recommendations for consideration to other Law Society committees.

### **Joint Action Committee on Gender Equality**

During the 1992-1993 year representatives from a number of organizations concerned with gender equality in the legal profession met at the suggestion of the Chair of the Women in the Legal Profession Committee and former Treasurer, Allan Rock, and formed the Joint Action Committee on Gender Equality. The Joint Action Committee allows a wide variety of organizations to coordinate their efforts when addressing issues relating to gender equality, such as those raised in the report of the CBA Task Force on

Gender Equality and the Transitions Report. Members of the Women in the Legal Profession Committee serve on the Joint Action Committee, and the Committee has supported the JACGE financially.

**Model Workplace Policy on Sexual Harassment**

In April 1993, the Committee surveyed managing partners of law firms to assess the effectiveness of the February 1992 recommended personnel policy on employment-related sexual harassment. The survey suggested that, while the model policy had been well-received, it was not found to be as applicable to small law firms as to medium- and large-sized firms. As a result, the committee has prepared a version of the model policy for use by small law firms.

# Financial Statements

## Auditors' Report

To the Members of The Law Society of Upper Canada

We have audited the balance sheet of The Law Society of Upper Canada as at June 30, 1994 and the General Fund statements of expenses and revenue, members' equity and changes in financial position and the Consolidated Errors and Omissions Insurance Fund statements of expenses and revenue and balance of fund (deficit) and changes in financial position and the Lawyers Fund for Client Compensation statement of expenses and revenue and balance of fund for the year then ended. These financial statements are the responsibility of the Society's management. Our responsibility is to express an opinion on these financial statements based on our audit.

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

In our opinion, these financial statements present fairly, in all material respects, the financial position of the Society as at June 30, 1994 and the results of its operations and the changes in its financial position for the year then ended in accordance with generally accepted accounting principles.



Toronto, Canada,  
November 3, 1994.

Chartered Accountants

## Actuary's Report

### **Role of the Valuation Actuary**

The valuation actuary is appointed by the Insurance Committee of The Law Society of Upper Canada. With respect to the preparation of these financial statements, the actuary

is required to carry out a valuation of the claims liabilities and to report thereon to the Insurance Committee, and through them to the membership of The Law Society. The valuation is carried out in accordance with accepted actuarial practice, except as specifically disclosed to the contrary, and regulatory requirements. The scope of the valuation encompasses the claims liabilities, that is the provision for unpaid claims and adjustment expenses on claims incurred and reported prior to 30 June 1994, the date of these financial statements.

In performing the valuation of the liabilities for these future events, which are by their very nature inherently variable, the actuary makes assumptions as to future rates of claims severity, inflation, reinsurance recoveries, expenses and other matters, taking into consideration the circumstances of the Consolidated Errors & Omissions Insurance Fund and the nature of the insurance coverage being offered. The valuation is necessarily based on estimates, consequently, the final values may vary significantly from those estimates. The actuary also makes use of management information provided by The Law Society and uses the work of the auditor with respect to the verification of the underlying data used in the valuation.

### Valuation Actuary's Report

I have valued the claims liabilities arising on the professional errors & omissions liability coverage arranged by The Law Society of Upper Canada which appear as the "Reserve for Unpaid Claims" in their balance sheet for the fiscal year ending 30 June 1994, in accordance with accepted actuarial practice except as described in the following two paragraphs.

In accepted actuarial practice, it is the actuary's responsibility to assure suitable procedures to verify that the data utilized is reliable and sufficient for the proper valuation of liabilities. The claims data provided for this valuation may contain errors with respect to the representation of multiple claims (involving one member, several claimants and one event giving rise to the claims).<sup>1</sup> At the request of the Law Society of Upper Canada, I proceeded with the valuation using the claims data as provided, without any provision or adjustment for this potential issue.

In accepted actuarial practice, it is the actuary's responsibility to assess the

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<sup>1</sup>In part, the work of The Law Society's Insurance Committee Task Force has revealed that the practices followed by staff examiners/adjusters in dealing with multiple claims (involving one member, several claimants and one event giving rise to the claims) in their information systems **may** not always have been consistent with the terms of the insurance coverage. The central issue appears to be whether or not some of the claims should be aggregated for purposes of application of the policy deductible. The information available on this issue at this time is not sufficient to form an opinion as to the amounts involved, nor as to their materiality. It is not known if the current treatment of this issue results in an overstatement of the estimated Errors & Omissions Fund (E&O Fund) and Lawyers' Professional Indemnity Company (LPIC) net retained claims liabilities (aggregated multiple claims may penetrate the reinsured layers of coverage to a greater extent) or their understatement (aggregated multiple claims may reduce the expected recoveries from members' deductibles, may only penetrate the LPIC-insured layer of coverage to a greater extent, or may give rise to further participation by the E&O Fund in claim amounts in excess of policy limits).

recoverability of claims under reinsurance contracts. The claims data provided for this valuation may not be consistent with the ultimate resolution of a dispute over coverage for the period 1 July 1982 to 30 June 1989 between The Law Society of Upper Canada and American Home Assurance Company, the insurer above the policy deductible throughout this period.<sup>2</sup> I was advised by Ernst & Young, The Law Society's external auditor, that given the nature and current status of the dispute, proper accounting recognition of such a contingent liability (contingent in the context of generally accepted accounting principles) would be by footnote in the financial statements. This valuation follows that advice and therefore does not include any provision for non-recoverable amounts arising from the American Home dispute.

In my opinion, the valuation is appropriate, except as noted in the previous two paragraphs, and the balance sheet fairly presents its results.



Toronto, Ontario  
November 3, 1994

Brian G. Pelly  
Fellow, Canadian Institute of Actuaries

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<sup>2</sup>In the course of discussions with the Insurance Committee Task Force, I was apprised of a dispute over coverage for the period 1 July 1982 to 30 June 1989 between The Law Society and American Home Assurance Company, the insurer above the policy deductible throughout this period. The dispute centres around the eligibility of certain categories of fees for recovery from the insurer. It is my understanding that the practices followed by staff examiners/adjusters in this regard have been applied consistently over time and are reflected as such in the claims data used in this valuation. The information available on this issue at this time is not sufficient to independently quantify the potential of this dispute. This is disclosed in the financial statements by footnote, as follows: "At June 30, 1994, stop loss reinsurance amounts aggregating \$12,600,000 are included in the estimated future amounts recoverable from third parties. The reinsurer is disputing its obligations under the contract. The Society believes these reinsurance amounts are recoverable but the resolution of this dispute is not readily determinable at this time and, accordingly, no adjustment has been made to decrease the estimated future amounts recoverable from third parties."

## General Fund Statement of Expenses and Revenue

[in thousands of dollars]

Year ended June 30	1994 \$	1993 \$
<b>EXPENSES</b>		
<b>General</b>		
Libraries and reporting	2,569	2,488
County libraries	2,634	2,593
Facilities	2,327	2,343
Secretariat	2,039	2,165
Complaints	1,805	1,751
Audit	1,787	2,016
Finance and administration	1,748	1,579
Communications	1,196	1,449
Discipline	1,029	788
Professional standards	459	266
Admissions and member records	451	436
Practice advisory	424	417
Professional conduct	252	165
Heritage	194	171
Unauthorized practice	167	211
French language services	113	127
Certification	109	131
Interest	721	579
Other expenses [note 15]	697	783
<b>Total general expenses</b>	<b>20,721</b>	<b>20,458</b>
<b>Bar Admission Course [note 3]</b>	<b>5,286</b>	<b>5,439</b>
<b>Continuing legal education [note 3]</b>	<b>1,711</b>	<b>1,423</b>
<b>Total expenses</b>	<b>27,718</b>	<b>27,320</b>
<b>REVENUE</b>		
<b>General</b>		
Annual fees	16,961	16,822
County libraries - fees [note 5]	1,706	1,560
- The Law Foundation of Ontario	774	929
Libraries and reporting revenue	1,051	996
Investment income	321	224
Certification	116	30
Other revenue [note 15]	1,325	1,527
<b>Total general revenue</b>	<b>22,254</b>	<b>22,088</b>
<b>Bar Admission Course</b>		
Tuition and book fees	3,523	3,137
Grants - The Law Foundation of Ontario	1,444	2,302
<b>Total Bar Admission Course [note 3]</b>	<b>4,967</b>	<b>5,439</b>
<b>Continuing legal education [note 3]</b>	<b>1,824</b>	<b>1,340</b>
<b>Total revenue</b>	<b>29,045</b>	<b>28,867</b>
<b>Excess of revenue over expenses for the year</b>	<b>1,327</b>	<b>1,547</b>

See accompanying notes

## General Fund Statement of Members' Equity

[in thousands of dollars]

Year ended June 30	1994			1993
	General \$	Legal aid \$	Total \$	Total \$
<b>Fund balances, beginning of year</b>	11,093	879	<b>11,972</b>	9,671
Excess of revenue over expenses for the year	1,327	96	<b>1,423</b>	2,301
<b>Fund balances, end of year</b>	12,420	975	<b>13,395</b>	11,972

*See accompanying notes*

## Consolidated Errors and Omissions Insurance Fund

### Statement of Expenses and Revenue and Balance of Fund (Deficit)

[in thousands of dollars]

Year ended June 30	1994 \$	1993 \$
<b>EXPENSES</b>		
<b>Provision for claims, defense and related costs</b>		
Current year estimates	79,439	71,039
Re-estimations relating to prior years:		
Increased claims severity [note 7.2.1]	37,000	—
Reduction in future investment return assumptions [note 7.2.2]	16,000	—
<b>Total provision for claims</b>	<b>132,439</b>	71,039
Insurance premium	5,315	5,200
Salaries and benefits	2,286	2,002
Administration [note 7.5]	2,553	1,141
Provision for taxes	5,000	—
Loss prevention program	173	143
Brokerage fees	125	125
Rent	167	125
Depreciation	196	38
<b>Total expenses</b>	<b>148,254</b>	79,813
<b>REVENUE</b>		
Members' levies [note 16]	63,240	52,259
Investment income	7,217	7,642
<b>Total revenue</b>	<b>70,457</b>	59,901
Excess of expenses over revenue before undernoted items	(77,797)	(19,912)
Re-estimation of future amounts recoverable from third parties [note 7.2.3]	(26,000)	—
Future internal administration costs to be incurred when settling claims [note 7.2.4]	(11,430)	—
<b>Excess of expenses over revenue for the year</b>	<b>(115,227)</b>	(19,912)
Balance of fund (deficit), beginning of year	(37,929)	(18,017)
<b>Balance of fund (deficit), end of year [note 7]</b>	<b>(153,156)</b>	(37,929)

See accompanying notes

## Lawyers Fund for Client Compensation Statement of Expenses and Revenue and Balance of Fund

[in thousands of dollars]

Year ended June 30	1994 \$	1993 \$
<b>EXPENSES</b>		
Grants paid, less recoveries	2,636	3,327
Administrative expenditures	993	732
Counsel fees	86	271
Referees and reporters fees	56	46
Salaries and benefits	287	253
Reports and sundries	9	29
<b>Total expenses</b>	<b>4,067</b>	<b>4,658</b>
<b>REVENUE</b>		
Investment income	2,360	2,752
Annual levy	31	28
<b>Total revenue</b>	<b>2,391</b>	<b>2,780</b>
<b>Excess of expenses over revenue for the year</b>	<b>(1,676)</b>	<b>(1,878)</b>
Balance of fund, beginning of year	29,561	31,439
<b>Balance of fund, end of year</b>	<b>27,885</b>	<b>29,561</b>

*See accompanying notes*

## Balance Sheet

[in thousands of dollars]

As at June 30	1994 \$	1993 \$
<b>ASSETS</b>		
<b>General Fund</b>		
<b>Current</b>		
Cash and short-term investments, at lower of cost and market value	5,264	3,833
Accounts receivable	3,277	3,960
Interfund accounts receivable	755	1,638
Inventory	123	152
Prepaid expenses and deferred charges	96	47
<b>Total current assets</b>	<b>9,515</b>	<b>9,630</b>
<b>Fixed assets, at cost</b>		
Land, buildings and improvements <i>[note 12]</i>	26,481	25,995
Furniture and equipment	4,682	4,569
	<b>31,163</b>	<b>30,564</b>
Less accumulated depreciation and amortization	11,833	10,692
Net fixed assets	19,330	19,872
<b>Total assets - General Fund</b>	<b>28,845</b>	<b>29,502</b>
<b>Consolidated Errors and Omissions Insurance Fund <i>[note 7]</i></b>		
Cash and short-term investments, at lower of cost and market value	17,247	18,471
Deductible portion of claims paid, due from members	2,000	2,326
Interest and other receivables	4,028	4,502
Premium receivable <i>[note 16]</i>	—	7,333
Portfolio investments, at amortized cost [market value - \$59,125; 1993 - \$66,478]	59,740	62,745
Fixed assets	748	712
Other assets	550	1,996
<b>Total assets - Consolidated Errors and Omissions Insurance Fund</b>	<b>84,313</b>	<b>98,085</b>
<b>Lawyers Fund for Client Compensation <i>[note 8]</i></b>		
Cash and short-term investments, at lower of cost and market value	6,429	5,952
Interest and other receivables	560	672
Portfolio investments, at amortized cost [market value - \$20,852; 1993 - \$24,444]	20,971	23,027
Fixed assets, net	2	3
<b>Total assets - Lawyers Fund for Client Compensation</b>	<b>27,962</b>	<b>29,654</b>
<b>Total assets administered</b>	<b>141,120</b>	<b>157,241</b>

See accompanying notes

	1994 \$	1993 \$
<b>LIABILITIES AND MEMBERS' EQUITY AND FUND BALANCES</b>		
<b>General Fund</b>		
<b>Current</b>		
Bank loan and overdrafts <i>[note 13]</i>	4,525	4,856
Accounts payable and accrued liabilities	2,909	2,786
Goods and Services Tax payable	2,003	3,832
Deferred revenue <i>[note 5]</i>	1,513	556
<b>Total current liabilities</b>	<b>10,950</b>	<b>12,030</b>
<b>Non-current liabilities</b>		
Long-term debt <i>[note 13]</i>	4,500	5,500
<b>Total liabilities</b>	<b>15,450</b>	<b>17,530</b>
<b>Members' equity</b>	<b>13,395</b>	<b>11,972</b>
<b>Total liabilities and members' equity - General Fund</b>	<b>28,845</b>	<b>29,502</b>
<b>Consolidated Errors and Omissions Insurance Fund <i>[note 7]</i></b>		
Accounts payable and accrued liabilities	5,481	2,606
Provision for taxes	5,000	—
Interfund accounts payable	680	1,556
Unearned levy <i>[note 16]</i>	—	3,200
Prepaid levies and other deferred revenue	1,685	9,107
Reserve for unpaid claims <i>[notes 7.3 and 7.4]</i>	224,623	119,545
Balance of fund (deficit)	(153,156)	(37,929)
<b>Total liabilities and balance of fund - Consolidated Errors and Omissions Insurance Fund</b>	<b>84,313</b>	<b>98,085</b>
<b>Lawyers Fund for Client Compensation <i>[note 8]</i></b>		
Accounts payable	2	11
Interfund accounts payable	75	82
Balance of fund	27,885	29,561
<b>Total liabilities and balance of fund - Lawyers Fund for Client Compensation</b>	<b>27,962</b>	<b>29,654</b>
<b>Total liabilities and members' equity and fund balances</b>	<b>141,120</b>	<b>157,241</b>

On behalf of Convocation:



Treasurer



Chair of Finance Committee

## General Fund

### Statement of Changes in Financial Position

[in thousands of dollars]

Year ended June 30	1994 \$	1993 \$
<b>OPERATING ACTIVITIES</b>		
Excess of revenue over expenses for the year		
General	1,327	1,547
Legal aid	96	754
Add item not affecting cash		
Depreciation and amortization	1,141	1,013
	<b>2,564</b>	<b>3,314</b>
Changes in non-cash working capital balances related to operations		
Accounts receivable	683	(967)
Interfund accounts receivable	883	(1,347)
Inventory	29	40
Prepaid expenses and deferred charges	(49)	53
Accounts payable and accrued liabilities	123	133
Goods and Services Tax payable	(1,829)	3,832
Deferred revenue, net	957	43
<b>Cash provided by operating activities</b>	<b>3,361</b>	<b>5,101</b>
<b>INVESTING ACTIVITIES</b>		
Additions to fixed assets	(599)	(362)
<b>Cash used in investing activities</b>	<b>(599)</b>	<b>(362)</b>
<b>FINANCING ACTIVITIES</b>		
Increase (decrease) in Long-term debt	(1,000)	5,500
<b>Cash provided by (used in) financing activities</b>	<b>(1,000)</b>	<b>5,500</b>
<b>Net increase in cash during the year</b>	<b>1,762</b>	<b>10,239</b>
Cash position, beginning of year	(1,023)	(11,262)
<b>Cash position, end of year</b>	<b>739</b>	<b>(1,023)</b>
<b>Represented by</b>		
Cash and short-term investments	5,264	3,833
Bank loan and overdrafts	(4,525)	(4,856)
	<b>739</b>	<b>(1,023)</b>

See accompanying notes

## Consolidated Errors and Omissions Insurance Fund Statement of Changes in Financial Position

[in thousands of dollars]

Year ended June 30	1994 \$	1993 \$
<b>OPERATING ACTIVITIES</b>		
Excess of expenses over revenue for the year	(115,227)	(19,912)
Add items not affecting cash		
Provision for taxes	5,000	—
Depreciation	196	38
	<b>(110,031)</b>	<b>(19,874)</b>
Changes in non-cash working capital balances related to operations		
Premium receivable	7,333	(7,333)
Accounts receivable	800	(43)
Other assets	1,446	(1,508)
Accounts payable and accrued liabilities	2,875	(3,742)
Interfund accounts payable	(876)	1,556
Unearned levy	(3,200)	3,200
Prepaid levies and other deferred revenue	(7,422)	(3,862)
Reserve for unpaid claims	105,078	24,911
<b>Cash used in operating activities</b>	<b>(3,997)</b>	<b>(6,695)</b>
<b>INVESTING ACTIVITIES</b>		
Additions to fixed assets	(232)	(755)
<b>Cash used in investing activities</b>	<b>(232)</b>	<b>(755)</b>
<b>FINANCING ACTIVITIES</b>		
Decrease (increase) in portfolio, net investments	3,005	(30)
<b>Cash provided by (used in) financing activities</b>	<b>3,005</b>	<b>(30)</b>
<b>Net decrease in cash during the year</b>	<b>(1,224)</b>	<b>(7,480)</b>
Cash and short-term investments, beginning of year	18,471	25,951
<b>Cash and short-term investments, end of year</b>	<b>17,247</b>	<b>18,471</b>

See accompanying notes

## Notes to Financial Statements

June 30, 1994

### 1. Significant Accounting Policies

The Law Society of Upper Canada [the "Society"] uses fund accounting, whereby the General Fund is used to account for the Society's various operations, the Lawyers' Fund for Client Compensation for its compensation grants, and the Consolidated Errors and Omissions Insurance Fund for insurance claims [partly self-insured] and for administrative costs and adjusters' fees. The Consolidated Errors and Omissions Insurance Fund includes a wholly-owned subsidiary, the Lawyers' Professional Indemnity Company ["LPIC"].

Short-term investments are stated at the lower of cost and market value.

Portfolio investments held for the Lawyers' Fund for Client Compensation and the Consolidated Errors and Omissions Insurance Fund are recorded at cost, net of amortization of premiums and discounts. Premiums and discounts from the par value are amortized over the term to maturity.

Inventory is valued at the lower of cost and net realizable value.

The reserve for unpaid claims, presented net of estimated member deductible and insurance recoveries and anticipated investment income, includes estimates for outstanding case reserves [including adjuster, legal and other related fees], and amounts computed by projection for future supplemental development of known claims and, commencing in 1994, estimated future internal administration costs to be incurred in settling claims. Outstanding case reserves are continually reviewed and modified to reflect current information. The reserve for unpaid claims does not represent an exact calculation of liability. Rather it is an estimate, involving actuarial and statistical projections, for the cost of the ultimate settlement and administration of claims based on known facts and circumstances and the estimated outcome of events that are yet to occur. While the Society, after consultation with its independent advisors, believes that its overall reserve levels as at the balance sheet date are adequate to meet its obligations for claims reported prior to that date, it should be recognized that future claims experience may deviate, perhaps substantially, from the estimate in these financial statements. To the extent that the reserve should prove inadequate, the Society would have to increase the reserve and incur a charge to future earnings which could have an adverse effect on future financial statements. No provision for incurred but not reported claims is included in these financial statements as the policy coverage is on a claims reported basis.

Land, buildings, furnishings and major alterations are presented at cost net of accumulated depreciation and amortization and grants. Depreciation of major additions commences upon the asset being placed in service. Depreciation and amortization are charged to expense on a straight-line basis over the estimated useful lives of the assets as follows:

Buildings	30 years
Building and leasehold improvements	10 years
Furniture and office equipment	3 to 5 years

Minor capital expenditures, including the purchase of books for the Great Library, are expensed in the year of acquisition.

Administrative expenses include only those salaries and other expenses not allocated directly to specific activities.

Expenses are shown applied to the respective committees net of intercommittee and interfund revenue.

Grants from the Lawyers' Fund for Client Compensation are recognized when the amount is determined.

The work of the Society is dependent on the voluntary services of the benchers, lay benchers, and other members of the profession. These services are received gratuitously, therefore, no value has been included in these financial statements.

The Society is empowered to administer the Legal Aid Plan and to maintain the Legal Aid Fund in accordance with the Legal Aid Act. The Society reports annually to the Attorney General of Ontario on the accounts and financial transactions of the Legal Aid Fund. The financial statements of the Legal Aid Fund are subject to audit by the Provincial Auditor, and are not included in these financial statements. The activities of the Ontario Centre for Advocacy Training, a related organization, are not incorporated into these financial statements.

## 2. Viability of Ongoing Operations

The Society established a Task Force in June 1994 to review the escalation in claims and methods of providing ongoing funding for settling insurance claims and eliminating the accumulated deficit in the balance of fund of the Consolidated Errors and Omissions Insurance Fund. The Task Force has not tabled its final report to Convocation; however, based upon actuarial and other studies commissioned by the Task Force during 1994, the fund's financial statements reflect revised assumptions which cause a significant increase in the reserve for unpaid claims, the excess of expenses over revenue for the year and a significant increase in the balance of fund (deficit).

The Ontario Insurance Commission ["OIC"], pursuant to the Insurance Act (Ontario), regulates the affairs of LPIC and may specify certain requirements that could affect the funding plan in the process of being developed.

While the Task Force has not completed its report, and the OIC's requirements are unknown, it is estimated that supplemental member levies, or other sources of revenue or financing, of approximately \$203,000,000 would be necessary to eliminate the accumulated deficit in the balance of fund of \$153,000,000 as at June 30, 1994, and to satisfy anticipated regulatory requirements of \$50,000,000.

These financial statements have been prepared on a going concern basis of accounting which assumes that the Task Force of the Society will develop a members' funding plan to eliminate the deficit in the balance of fund of the Consolidated Errors and Omissions Insurance Fund over a period not exceeding four years commencing January 1, 1995, allowing the Society to realize assets and discharge liabilities in the normal course of operations. If the Society's members are unable to implement a four-year funding plan, then there could be a significant increase in the deficit balance of fund in the Consolidated Errors and Omission Insurance Fund caused by an increase in the reserve for unpaid claims because the anticipated cash flows may not materialize.

## 3. Legal Education

### Bar Admission Course Grants

The Society received a grant from The Law Foundation of Ontario [the "Law Foundation"] for the Bar Admission Course to cover the operating deficit of \$1,444,000.

		Authorized \$	Utilized [000's] \$
1993/1994 operating deficit	up to a maximum of	1,309	1,277
French language translation of courses		167	167
			1,444
Less amount received during the year			1,134
Amount receivable at June 30, 1994			310

The unutilized portion of the grant is not available for carryforward to offset future years expenditures.

**Legal education operating results**

The results of operations of the Society's legal education programs are as follows:

	Bar Admission Course \$	Continuing legal education [000's] \$
Revenue - tuition and book fees	3,523	1,824
- Law Foundation grants	1,444	—
Expenses	(5,286)	(1,711)
	(319)	113

The deficit in the Bar Admission Course represents the budgeted contribution of the members towards the operation of the Bar Admission Course.

**4. Law Foundation – General Grants****County and district library grant**

The Society obtained a grant of \$774,000 from the Law Foundation on behalf of county and district libraries.

**5. Deferred Revenue**

Deferred revenue consists of the following:

	Balance, beginning of year \$	Received \$	Utilized \$	Balance, end of year \$
			[000's]	
1994/95 annual fees received prior to July 1, 1994	—	789	—	789
Secretary of State - French language	—	13	13	—
Education - employment placement	41	17	26	32
Articling matching programme	19	76	78	17
Heritage	114	9	62	61
Research and planning	8	—	3	5
Enhanced placement activities	—	30	9	21
Articling Reform	13	4	5	12
B.A.C. French Language Law Foundation of Ontario grant	—	123	—	123
Library Fees	267	—	—	267
The Law Foundation of Ontario grants	94	92	—	186
	556	1,153	196	1,513

Annual fees for 1994 include \$292 [1993 - \$292] per member as the Society's contribution to the administration of the Legal Aid Plan. The library fees revenue represents the difference between the library fees collected from members and the portion distributed to the county libraries.

## 6. Legal Aid Plan

Legal aid levies and interest and share of assessable administrative costs are as follows:

	1994	1993
	\$	[000's] \$
Legal aid levies and interest	6,596	6,446
Share of assessable administrative costs	(6,500)	(5,692)
	96	754

## 7. Consolidated Errors and Omissions Insurance Fund

### 7.1 Description of insurance program

For the period from January 1, 1983, to December 31, 1994, the Society's errors and omissions insurance program has insured members against reported claims for errors. Each claim is also subject to a member deductible that varies on the basis of claims experience. The total coverage per occurrence for 1983 through 1986 was \$500,000, for 1987 and 1988 it was \$600,000 and since 1989 it has been \$1,000,000. A separate fund is established each year for claims reported to the Society during that year and levies are established by fund year based on historical experience and are periodically adjusted for any adverse claims experience.

During the period from January 1, 1983 to December 31, 1994, portions of the individual losses in excess of certain thresholds have been reinsured in amounts varying from \$400,000 to \$750,000 per occurrence, subject to other retention requirements, to limit the liability of the Society. The maximum fund loss experience incurred by the Society for any fund year to 1989 is limited by a stop loss agreement. For the period from July 1, 1990 to December 31, 1994, no stop loss agreement was concluded with reinsurers but the Society is reinsured for losses in excess of \$250,000 to the limit of the policy coverage. For the following periods there are also the following additional liabilities retained by the Society:

- January 1, 1992 to December 31, 1992, in addition to the \$250,000 per occurrence retention, the Society is liable for an aggregate of \$2,500,000 from individual losses incurred in excess of \$250,000 plus a further 10% of all individual losses above \$250,000 once the initial \$2,500,000 limit has been reached; and
- January 1, 1993 to December 31, 1994, in addition to the \$250,000 per occurrence retention, the Society is liable for each fund year for an aggregate of \$4,000,000 of losses incurred in excess of \$250,000 plus a further 10% of all losses above \$250,000 once the initial \$4,000,000 limit has been reached.

Members may obtain bank loans to enable them to repay their liability for the deductible portion of claims paid. The Society has guaranteed these loans. Loans outstanding at June 30, 1994 amount to \$3,437,000 [1993 - \$934,000].

### 7.2 Changes to valuation of reserve for unpaid claims

The statement of expenses and revenue of the Consolidated Errors and Omissions Insurance Fund includes the impact of changes in the following items affecting the valuation of the reserve for unpaid claims arising primarily from the adoption of different interpretations and more conservative assumptions, relative to prior expectations. While some portion of the following changes should properly be considered expenses of fiscal years prior to July 1, 1993, it is difficult, due to the inter-relationships and complexities of the estimation process, to separate the impact of them between current and prior years. These amounts have been disclosed separately in the current year's operating statement without retroactive restatement.

### 7.2.1 Increased claims severity

An amount of \$37 million has been included in the total provision for claims of which approximately 75% relates to the adoption of different interpretations of claims data and more conservative assumptions and approximately 25% relates to adverse development of prior years' claims during the current year.

### 7.2.2 Reduction in future investment return assumptions

An amount of \$16 million has been included in the total provision for claims for lower anticipated investment returns of which approximately 75% relates to shorter payout patterns and approximately 25% relates to lower levels of Canadian interest rates.

### 7.2.3 Re-estimation of future amounts recoverable from third parties

A revision of \$26 million has been made to reflect a change in the estimated future amounts recoverable from third parties [including member deductibles].

### 7.2.4 Future internal administration costs to be incurred when settling claims

As a result of the Society adopting an accounting policy commonly used in the insurance industry, an estimate of the internal administration costs to be incurred in the future when settling claims in the amount of \$11.4 million has been included as a charge in the current operating results.

### 7.2.5 Aggregate impact of changes

The aggregate impact on the current operating results of the foregoing unusual items is \$90.4 million. The Society expects that the impact of these items on the provisions for claims to be presented in future financial statements will be less significant than the amounts presented in the current year's operating results.

## 7.3 Reserve for unpaid claims

An analysis of the reserve for unpaid claims is as follows:

	1994	1993
	\$	[000's] \$
Gross ultimate liability	348,169	261,117
Estimated future amounts recoverable from third parties	(87,826)	(91,000)
	260,343	170,117
Anticipated investment income, at a rate of 7.6% [1993 - 8%]	(35,720)	(50,572)
Net reserve	224,623	119,545

## 7.4 Contingencies

A contingent liability exists with respect to amounts recoverable from third parties [reinsurers and member deductibles] which would become a liability of the Society in the event that these parties might not be able to meet their assumed contractual obligations.

At June 30, 1994, stop loss reinsurance amounts aggregating \$12,600,000 are included in the estimated future amounts recoverable from third parties. The reinsurer is disputing its obligations under the contract. The Society believes these reinsurance amounts are recoverable but the resolution of this dispute is not readily determinable at this time and, accordingly, no adjustment has been made to decrease the estimated future amounts recoverable from third parties.

### 7.5 Administration

The schedule below shows comparative figures for 1994 and 1993:

	1994	1993
	\$	[000's] \$
Finance and administration charges	821	679
Special investigation and task force	250	—
Building and grounds	50	50
Actuary	82	55
Printing and stationery	11	34
Computer expenses and services	145	7
Postage	54	50
Legal miscellaneous	157	11
Furniture and equipment	17	20
Provision for taxes, income and premium	254	91
Office expenses	59	61
Other	653	83
	2,553	1,141

### 8. Lawyers Fund for Client Compensation

Convocation may make grants from the Lawyers' Fund for Client Compensation in order to relieve or mitigate loss sustained by any person arising mainly from dishonesty on the part of a member of the Society.

Annual levies for this fund vary from year to year to reflect the anticipated grants and the balance in the fund. At the year end, the total of outstanding claim applications was approximately \$13,839,000 [1993 - \$28,188,000]. Grants are made within the discretionary limits approved by Convocation. Strict application of the applicable limits to existing claims indicate that the maximum grants under the program would aggregate \$8,228,000 [1993 - \$16,133,000].

### 9. Endowment Funds

The Society administers endowment funds from earned income of which prizes, bursaries and gifts are made annually. At the year end, the endowment funds consisted of cash, investments and interest and other receivables of \$477,000 [1993 - \$486,000], of which \$236,000 [1993 - \$237,000] was capital and the balance of \$241,000 [1993 - \$250,000] was unexpended income. Prizes, bursaries and gifts of \$32,000 [1993 - \$17,000] were paid during the year.

### 10. Pension Plan

The Society maintains a defined contribution pension plan for all eligible employees. The plan covers 266 employees of the Society and 359 employees at the offices of the Legal Aid Plan. The Society matches its employees' contributions to the plan.

The Society's annual pension expense [excluding legal aid] for 1994 amounted to \$565,244 [1993 - \$487,127].

### 11. Operating Lease Commitments

The Society is committed to monthly lease payments for property and computer facilities under leases having various terms up to August 2002. Aggregate monthly lease payments over the next five years and thereafter and in total are as follows:

	1995	1996	1997	1998	1999 and thereafter	Total
	\$	\$	\$	\$	\$	\$
[000's]						
<b>General Fund</b>						
Bar Admission Course, London, Ontario	157	164	172	181	631	1,305
Computer equipment	169	169	141	—	—	479
	326	333	313	181	631	1,784
<b>Consolidated Errors and Omissions Insurance Fund</b>						
20 Queen St. W.	154	154	162	189	710	1,369
	480	487	475	370	1,341	3,153

### 12. Insured Value of Society Assets

The buildings and equipment of the Society are valued for insurance purposes at an estimated replacement cost of \$81,088,000. The books and records located at the Great Library are valued for insurance purposes at an estimated replacement cost of \$19,500,000. The books and records located at county and district libraries are valued for insurance purposes at an estimated replacement cost of \$20,625,000.

### 13. Bank Loan and Long-term Debt

During the 1991/92 fiscal year the Osgoode Hall renovations were completed for a total cost of \$17,024,000. The total cost was financed through \$12,500,000 of short-term debt with the balance being provided through reserves set aside in prior years. Repayment of this debt is expected over a period of ten years from funds generated from an excess of revenue over expenses in the General Fund.

Within the terms of the bank debt was a facility to convert a portion of the short-term debt to long-term debt at any time. On October 1, 1992, the Society elected to convert \$6,000,000 of short-term debt to long-term debt to guarantee, for five years, the interest expense on this portion of the debt.

At June 30, 1994, the long-term debt was \$4,500,000 [1993 - \$5,500,000].

The total short-term and long-term debt is repayable as to principal as follows:

	\$
Calendar year ending December 31, 1994	2,000,000
Calendar year ending December 31, 1995	2,000,000
Calendar year ending December 31, 1996	2,000,000
Calendar year ending December 31, 1997	3,000,000

### 14. Contingent Liabilities

At June 30, 1994 there were three claims against the Society that have arisen as the result of alleged copyright infringement. At this time the amount of monetary relief claimed is not specified and is not presently ascertainable. It is not possible, therefore, to make any realistic assess-

ment of the likelihood that these actions will be brought to trial, nor of the possible extent of the exposure of the Society to liability for damages or other monetary relief.

### 15. Other Expenses and Revenues

Other expenses consist of the following:

	1994	1993
	\$	[000's] \$
Catering	571	616
County and district liaison	66	66
Research and planning	21	72
Women in the Legal Profession	28	9
Equity in the Legal Profession	9	17
Legislation and rules	2	3
	<u>697</u>	<u>783</u>

Other revenue consists of the following:

	1994	1993
	\$	[000's] \$
Catering	542	584
Miscellaneous	324	572
Call and admission fees	256	251
Communications	203	—
Other grants	—	120
	<u>1,325</u>	<u>1,527</u>

### 16. Errors and Omissions Insurance Fund Member Levies

The members' levies for the 1993/94 fiscal year includes a \$450 per member supplemental levy.

### 17. Comparative Financial Statements

The comparative financial statements have been reclassified from statements previously presented to conform to the presentation of the 1994 financial statements.

# Law Society Medal Recipients

Five members of the Ontario bar have been awarded the Law Society medal for outstanding service to the profession. The Treasurer and benchers of the Society extend their warmest congratulations to recipients who have served their profession with distinction.

**Miriam Kelly** has made a significant contribution to legal education since her call to the bar 31 years ago. She chaired numerous CLE programs for the CBA and has taught in the real estate section of the bar admission course for the past 20 years. Ms. Kelly was co-author of the CBA(O) real estate checklist.

**Fran Kiteley** has served with distinction as a bencher of the Society since 1987 during which time she authored the first study to examine the role of women in the Ontario legal profession. She also chaired the Legal Aid Committee and has been active in the CBA(O) executive for several years. She has contributed generously to public and professional legal education since her call to the bar in 1976.

A former president of the CBA(O) and a former bencher of the Law Society, **Bernard Shaffer** has practised in Thunder Bay since his call to the bar 55 years ago. He has also served on the Board of Governors of Lakehead University and is a life fellow of the Foundation for Legal Research.

**William Simpson, Q.C.**, has worked tirelessly in the field of continuing legal education since his call to the bar 27 years ago. He is a former president of the County of Carleton Law Association, founding president of the Medical-Legal Society of Ottawa Carleton and founder of the CCLA Annual Litigation Update Program.

A former director, officer and president of The Advocates' Society, **Peter Webb** has made a substantial contribution to legal education since his call to the bar in 1957. He has headed the civil procedure section of the bar admission course and chaired the Society's civil litigation specialist committee from 1988 to 1993.

# Convocation Membership

## Changes in the Membership of Convocation

### *Appointments*

Stephen Casey Hill appointed to the Ontario Court (General Division) on May 31, 1994.

### *Deaths*

Gordon F. Henderson, Q.C. died on August 17, 1993.

The Hon. W.G.C. Howland, Q.C. died May 13, 1994.

### *New Benchers*

Marie Moliner was elected bencher on July 21, 1993, to fill the vacancy created by the election of Paul Lamek, Q.C. as Treasurer.

Ian Blue, Q.C. was elected bencher on June 24, 1994, to fill the vacancy created by the appointment of Stephen Casey Hill to the Bench.

## Benchers of the Law Society of Upper Canada

### *Treasurer*

Paul Lamek, Q.C.

### *Elected Benchers*

Thomas Bastedo  
 Denise Bellamy  
 Ian Blue, Q.C.  
 Rino Bragagnolo, Q.C.  
 Lloyd Brennan, Q.C.  
 Colin Campbell, Q.C.  
 Robert Carter, Q.C.  
 Paul Copeland  
 Maurice Cullity, Q.C.  
 Carole Curtis  
 Susan Elliott  
 Philip Epstein, Q.C.  
 Abraham Feinstein, Q.C.  
 Neil Finkelstein  
 Stephen Goudge, Q.C.  
 Michael Hickey, Q.C.  
 Kenneth Howie, Q.C.  
 Frances Kiteley, LSM  
 Vern Krishna, Q.C.  
 Donald Lamont, Q.C., LSM

Joan Lax  
 Samuel Lerner, Q.C.  
 Earl Levy, Q.C.  
 Ronald Manes  
 Colin McKinnon, Q.C.  
 Fatima Mohideen  
 Marie Moliner  
 Daniel Murphy, Q.C.  
 Ross Murray, Q.C.  
 Dennis O'Connor, Q.C.  
 Julaine Palmer  
 Patricia Peters, Q.C.  
 Clayton Ruby  
 David Scott, Q.C.  
 Marc Somerville, Q.C.  
 Harvey Strosberg, Q.C.  
 Robert Topp  
 James Wardlaw, Q.C., LSM  
 Mary Weaver, Q.C.  
 Roger Yachetti, Q.C.

*Appointed Lay Benchers*

Netty Graham  
Shirley O'Connor

Nora Richardson  
Hope Sealy

*Ex-Officio Benchers*

The Hon. John Arnup, Q.C.  
F.M. Cass, Q.C.  
Ronald Cass, Q.C.  
John Clement, Q.C.  
Austin Cooper, Q.C.  
G.H.T. Farquharson, Q.C.  
Stanley Fennell, Q.C., LSM  
Patrick Furlong, Q.C., LSM  
Edwin Goodman, Q.C.  
The Hon. Howard Hampton  
Robert Kemp-Welch, Q.C.  
The Hon. Allan Lawrence, P.C., Q.C.

Laura Legge, Q.C.  
H.F. McCulloch, Q.C.  
The Hon. G. Arthur Martin, Q.C.  
Brendan O'Brien, Q.C.  
P.B.C. Pepper, Q.C., LSM  
Alan Pope, Q.C.  
J.J. Robinette, Q.C.  
Allan Rock, P.C., Q.C.  
Arthur Scace, Q.C.  
Ian Scott, Q.C.  
Nathan Strauss, Q.C.  
Stuart Thom, Q.C.

*Honourary Benchers*

Her Majesty Queen Elizabeth, The Queen Mother  
His Royal Highness Prince Charles, Prince of Wales  
The Right Honourable Margaret Thatcher  
Kenneth Jarvis, Q.C. RCA  
The Honourable Lincoln Alexander, Q.C.

# Senior Management

<i>Under Treasurer</i> Donald A. Crosbie, Q.C.	947-3308
<i>Secretary</i> Richard F. Tinsley	947-3344
<i>Deputy Secretary</i> Margaret J. Angevine	947-3301
<i>Director, Finance</i> David Crack	947-3322
<i>President, LPIC (interim)</i> Joshua Liswood	947-3431
<i>Director, Education</i> Alan Treleaven	947-3413
<i>Chief Librarian</i> Glen Howell	947-3397
<i>Director, Legal Aid</i> Robert L. Holden	979-2352 x.6501

# Annual General Meeting, 1994

Wednesday, November 9, 1994  
 Convocation Hall  
 Osgoode Hall, Toronto

## Order of Business

- Minutes of the previous annual general meeting
- Report of the work of the Society and of the committees of the Society and Convocation
- Presentation of financial statements
- Matters of professional interest that are directly related to the work of the Society
- Motions

## Motions (submitted by members of the profession)

### Motion 1

WHEREAS in light of the current economic situation and of the vulnerable position in which it has placed students-at-law,

BE IT RESOLVED THAT the Society consider the enactment, pursuant to sections 62 and 63 of the *Law Society Act*, of rules and regulations establishing maximum hours of work and minimum rates of pay for students-at-law.

### Motion 2

WHEREAS in light of the unemployment situation among students-at-law;

AND WHEREAS there is a disturbing trend toward unpaid articles;

AND WHEREAS the burden of the articling placement shortage has rested, and continues to rest, on certain identifiable groups of students, with the result that their entry into the profession has been inequitably prevented and delayed;

BE IT RESOLVED THAT the Society take immediate steps toward eliminating articling as a compulsory requirement for admission to the Bar in Ontario and toward replacing it with an educational program which affirms the inherent dignity and worth of all of its student members.

### Motion 3

BE IT RESOLVED THAT as an expression of its commitment to discourage the practice of employing students-at-law without remuneration, that the Society cease to advertise on behalf of prospective articling principals offering work without pay.

### Motion 4

BE IT RESOLVED THAT in recognition of the contribution and sacrifices made by those students who articulated this past year for no or nominal remuneration at Community Legal Aid Clinics throughout the province, the Society waive and refund Bar Admission Course tuition fees in respect of those students.

**The Law Society of  
Upper Canada**  
Osgoode Hall  
130 Queen Street W  
Toronto Ontario  
M5H 2N6