



# THE LAW SOCIETY OF ALBERTA

ANNUAL REPORT 1999

## OUR MISSION

*To serve the public interest by promoting a high standard of legal services and professional conduct through the governance and regulation of an independent legal profession.*

# THE LAW SOCIETY OF ALBERTA



#600, 919 - 11th Avenue S.W.  
 Calgary, Alberta T2R 1P3  
 Telephone (403) 229-4700  
 Toll free 1-800-661-9003  
 FAX (403) 228-1728  
[www.lawsocietyalberta.com](http://www.lawsocietyalberta.com)

## THE BENCHERS

**Terrance D. Clackson, Q.C., President**  
*(02/99 - 12/99)*

**Alan D. Macleod, Q.C., President**  
*(12/99 - ongoing)*

Janet Andersen, lay bencher  
 John D. Bascom, Q.C.  
 Anthony L. Friend, Q.C.  
 Cheryl C. Gottselig, Q.C.  
 Douglas McGillivray, Q.C.  
 Virginia M. May, Q.C.  
 Simon Renouf, Q.C.  
 Rhonda K. Ruston, Q.C.  
 Hugh D. Sommerville, Q.C.  
 Morris Taylor, lay bencher  
 Wilfred Willier, lay bencher

Larry G. Anderson, Q.C.  
 Everett L. Bunnell, Q.C.  
 Alain Hepner, Q.C.  
 Eric F. Macklin, Q.C.  
 Bryan E. Mahoney, Q.C.  
 Kenneth G. Nielsen, Q.C.  
 Patricia Rowbotham, Q.C.  
 W. Paul Sharek, Q.C.  
 Francine Swanson, Q.C.  
 Jack Watson, Q.C.

## OFFICERS

**Peter L. Freeman, Q.C. - Executive Director**  
**Donald Thompson, Deputy Executive Director (Effective 01/12/99)**  
**David J. Turner - Deputy Secretary (Retired 01/09/99)**  
**James D. McLeod - Deputy Secretary**  
**Sarah J. Brickett - Director of Insurance**  
**L. Steven Dyer - Director of Audit**  
**Lindsay MacDonald, Q.C. - Counsel**  
**Paul McLaughlin - Practice Management Advisor**  
**Mel L. Scott, C.A. - Treasurer**  
**Barry Vogel, Q.C. - Practice Advisor**

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# BENCHERS & OFFICERS OF THE LAW SOCIETY OF ALBERTA, 1999



*(From left, front row) Eric Macklin, Q.C.; Cheryl Gottselig, Q.C.; Kenneth G. Nielsen, Q.C.; Alan D. Macleod, Q.C. (president-elect); Terrance D. Clackson, Q.C. (president); Peter Freeman, Q.C. (executive director); Larry Anderson, Q.C.; Francine M. Swanson, Q.C.; Simon Renouf, Q.C.; (Back row) David J. Turner (deputy secretary); Jack Watson, Q.C.; Everett Bunnell, Q.C.; Anthony Friend, Q.C.; Allison MacKenzie (communications director); Janet Andersen (lay bencher); Paul Sharek, Q.C.; Alain Hepner, Q.C.; Bryan E. Mahoney, Q.C.; James D. McLeod (deputy secretary); Virginia M. May, Q.C.; Paul McLaughlin (practice management advisor); Peg James (risk management advisor); Morris Taylor (lay bencher); Hugh Sommerville, Q.C.; Wilfred Willier (lay bencher); John D. Bascom, Q.C.; Barry Vogel, Q.C. (practice advisor); Patricia Rowbotham, Q.C.; Douglas McGillivray, Q.C.; Trudy Caisse, (legal counsel); Sarah Brickett (director of insurance).*

# THE LAW SOCIETY OF ALBERTA



The Law Society's principal duty is to serve and protect the public interest. A self-governing society, its authority is derived from the *Legal Profession Act of Alberta*. The legislature has respected the fundamental democratic tradition that the legal profession should be independent of the government and should regulate itself.

## SELF REGULATION AND BENCHERS

Every two years Alberta lawyers elect 20 of their members to serve as benchers. The benchers act as a board of directors who meet regularly and serve without remuneration, except the president who is chosen by the benchers and receives an honourarium. Although elected by the profession at large, each of the three provincial districts (north, central and south) outside of Calgary and Edmonton is entitled to one resident bencher regardless of overall vote.

The Law Society also has three non-lawyer, lay benchers (public representatives) who are appointed by the Attorney General. As fully participating benchers, the lay benchers serve on committees and discipline panels. They enrich the discussion on many public interest issues and open the workings of the profession to public scrutiny.

## PROFESSIONAL STANDARDS

The Alberta legal profession has a comprehensive code of ethical standards to which all lawyers must adhere. These standards are contained in the *Legal Profession Act*, *The Rules* and *The Code of Professional Conduct*, court decisions, and Conduct Committee and hearing committee decisions. In case of doubt, lawyers also refer to authoritative text books and journals, and seek guidance in the form of a written

opinion from the Professional Responsibility Committee.

While currently the criteria of academic credentials for admission to the profession are set by the independent Universities Coordinating Council, plans are underway for the transfer of this responsibility to the National Committee on Accreditation. The educational requirements for lawyers include undergraduate study, a three year law school program, one year as an articling student (learning by working with a senior lawyer), and the completion of the eight-week bar admission course. The bar admission course, directed by the Society through the Legal Education Society of Alberta, focuses on core practice areas, lawyering skills, and professional attitudes. A comprehensive set of practice area examinations and skill assessments ensure that only those lawyers with a clearly demonstrated level of competence are admitted to the profession.

## LAWYERS' FEES

The Law Society is not involved in the regulation of lawyers' fees. Clients may apply to the court for an independent fee review (taxation) of their legal fees. As an alternative to the taxation process, voluntary fee mediation is available through the Law Society. Lawyers who charge an unreasonably high fee may be disciplined by the Law Society.

For persons without the ability to pay a lawyer, Legal Aid is available. Founded in 1970 by the Law Society and the provincial government, Legal Aid offers assistance to the needy.

## PENALTIES FOR MISCONDUCT

A lawyer who is guilty of professional misconduct may be reprimanded, fined up to \$10,000, suspended from practice or disbarred.

Conditions of practice may also be imposed on a member. While some cases of poor conduct are dealt with through the discipline process, efforts are made to resolve others through reviews, mentors, education upgrading or counselling.

## PUBLIC PROTECTION

The Law Society of Alberta instituted the first mandatory insurance program in Canada in 1969. Every lawyer practising in Alberta must purchase liability insurance with compulsory coverage of \$1,000,000 per occurrence, adequate coverage for most services provided by lawyers. Many lawyers purchase additional insurance. The additional amount depends on the size of the firm and type of law practised. The combination of compulsory and optional insurance protects the public and spreads the cost of insurance equitably across the profession. Since 1984, the Insurance and Loss Prevention Committee has mounted an aggressive loss prevention program, publishing comprehensive practice checklists and manuals, and sponsoring free seminars on law office management and loss prevention techniques.

In addition to insurance for lawyers' liability, the public is protected for losses suffered through a lawyer's misappropriation of trust funds. The Alberta Law Society Assurance Fund, established in 1939, was the first of its kind in Canada. Every active lawyer in the province contributes to this fund.

To ensure the public continues to receive the highest quality of legal services, the Law Society is vigilant in protecting the public against

unqualified persons illegally practising law.

## SERVICES

The Law Society of Alberta offers a variety of services to both lawyers and the general public. In addition to those programs outlined elsewhere in this report, the Law Society offers the following:

### OFFICE OF THE PRACTICE ADVISOR

Confidential free advice for lawyers is available from practice advisor Barry Vogel, Q.C. and practice management advisor Paul McLaughlin. Barry Vogel is available to discuss legal, ethical, and practice concerns and personal matters such as stress and addiction. He also will mediate and arbitrate interlawyer disputes. Paul McLaughlin provides assistance in practice management, automation and office administration, with a focus on the needs of sole practitioners and members practising in smaller settings. Both will travel anywhere in Alberta for meetings with members.

The Office of the Practice Advisor also offers a Mentor Program in family law, criminal law, civil litigation, wills and estates, and real property.

### LAWYER REFERRAL SERVICE

The Lawyer Referral Service is operated by the Law Society to help people find a lawyer to provide the legal services they require. An information service, Lawyer Referral is not connected with Legal Aid, nor does it provide any financially subsidized legal services. A member of the public may phone toll free from anywhere in Alberta by dialling 1-800-661-1095 or 228-1722 in Calgary and a lawyer referral operator will answer. After being advised of the nature of the problem or the areas of law of concern, the operator will give the names and telephone numbers of

three lawyers practising in the applicable field of law. The caller can then make an appointment with one, two or all three of those lawyers, advising that they were referred by Lawyer Referral. There is no charge for the first half hour interview, after which the member of the public can decide whether or not to engage the lawyer at the full fee rate, and the lawyer can decide whether to accept the engagement.

### PUBLICATIONS

The Law Society of Alberta publishes *The Benchers' Advisory* five times annually, and contributes to the publications of the joint Canadian Bar Association - Law Society of Alberta *Newsletter*. All publications are available on our website, [www.lawsocietyalberta.com](http://www.lawsocietyalberta.com) or by calling our Central Records Department.

#### *Pamphlets available from the Law Society include:*

*\*Buying Your Home: Facts to Know Before you Sign*

*\*Civil Actions: The Process if You Sue or if You Are being Sued*

*\*The Criminal Justice System: Your Rights When Arrested or Charged*

*Have You Planned Your Estate?*

*Lawyers of Alberta: Serving the Public Interest*

*Public Relations Suggestions for the Practising Lawyer*

*\*Reviewing the Conduct of Lawyers*

*\*Understanding Your Lawyer's Fee*

*When You Divorce or Separate*

*Lawyers & Legal Agents/Paralegals/ Legal Assistants*

*\* Indicates availability in French.*

# RECOGNIZING EXCELLENCE

## DISTINGUISHED SERVICE AWARDS

On January 28<sup>th</sup>, 2000, the Law Society of Alberta and the Canadian Bar Association - Alberta Branch presented Distinguished Service Awards to six Alberta lawyers in recognition of their distinguished service to the community, the legal profession, and legal scholarship.

Susan P. Hendricks (Calgary), Gordon J. Hoffman, Q.C. (Calgary), and Robert E. Schnell, Q.C. (Red Deer) received the Distinguished Service Award for service to the community; Philip North, Q.C. (Lethbridge) received the Distinguished Service Award for service to the legal profession, and Professor Richard Dunlop (Edmonton) received the Distinguished Service Award for legal scholarship. A special award recognizing service in all three categories was presented to the Honourable Chief Justice W. Kenneth Moore.

## 1999 VISCOUNT BENNETT AWARDS

Alberta graduate students Ian Bruggs, Cori Ghitter, Erin Nelson, and Nickie Vlavianos received the 1999 Viscount Bennett scholarships valued between \$5,000 and \$15,000. The scholarships are funded from a trust fund established with a gift from the Right Honourable Viscount Bennett, P.C., K.C.

The annual awards for post graduate studies in law are presented to individuals with high scholastic abilities who are dedicated to their community and profession, and wish to further their legal education.

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**LIFETIME ACHIEVEMENT AWARD**

On May 25th, John Martland, Q.C., past president, Law Society of Alberta, presented Maclean E. Jones, Q.C., with the Society's Lifetime Achievement Award. The Lifetime Achievement Award is presented in recognition of an individual member's accumulative contributions to the legal profession and the greater community outside of the practice of law. During the course of their legal career, through their ongoing efforts and contributions, recipients of this award have had a positive impact on the public's opinion of the legal profession and the administration of justice.

**W. BERNIE KELLY, Q.C.****MEMORIAL PRIZE**

The 1999 recipients of the W. Bernie Kelly, Q.C. Memorial Prize are **Thomas Langford** of the University of Alberta, and jointly, **Kimberley Dawn Jones** and **Sean Patrick O'Neill** of the University of Calgary. The annual prize is awarded to law students in honour of the Law Society's former secretary, W. Bernie Kelly, Q.C.

**50 & 60 YEAR CERTIFICATES**

The benchers presented 50 year certificates to William Chipman, Q.C., the Hon. Samuel Liberman, Peter Owen, Q.C., David H. Sinclair, Q.C., Joseph J. W. Stratton, Q.C., and Francis Richard Matthews, Q.C. In addition, 60 year certificates were presented to Donald McLaws, Q.C. and George Crawford, Q.C.

**ACTIVE MEMBERS BREAKDOWN**

(MARCH 1, 2000)

			<b>Male</b>	<b>Female</b>	
<b>With firms</b>	Calgary	1936	1478	458	
	Edmonton	1400	1057	343	
	Lethbridge	93	76	17	
	Red Deer	76	61	15	
	Medicine Hat	41	35	6	
	Grande Prairie	24	21	3	
	Other	<u>275</u>	<u>214</u>	<u>61</u>	
	Total	<u>3845</u>	<u>2942</u>	<u>903</u>	
	<b>Sole Practitioners</b>	Calgary	437	296	141
		Edmonton	314	246	68
Lethbridge		14	13	1	
Red Deer		28	22	6	
Medicine Hat		15	13	2	
Grande Prairie		8	6	2	
Other		<u>167</u>	<u>141</u>	<u>26</u>	
Total		<u>983</u>	<u>737</u>	<u>246</u>	
<b>Corp &amp; Companies</b>	Calgary	504	320	184	
	Edmonton	114	75	39	
	Lethbridge	3	2	1	
	Red Deer	3	2	1	
	Medicine Hat	2	2	0	
	Grande Prairie	0	0	0	
	Other	<u>30</u>	<u>24</u>	<u>6</u>	
	Total	<u>656</u>	<u>425</u>	<u>231</u>	
<b>Government</b>	Calgary	140	76	64	
	Edmonton	320	178	142	
	Lethbridge	12	11	1	
	Red Deer	6	6	0	
	Medicine Hat	7	5	2	
	Grande Prairie	4	3	1	
	Other	<u>31</u>	<u>23</u>	<u>8</u>	
	Total	<u>520</u>	<u>302</u>	<u>218</u>	
<b>With a sole practitioner</b>	Calgary	0	0	0	
	Edmonton	2	1	1	
	Other	<u>2</u>	<u>0</u>	<u>2</u>	
	Total	<u>4</u>	<u>1</u>	<u>3</u>	
<b>Outside of Alberta</b>	Total	<u>383</u>	<u>300</u>	<u>83</u>	
	<b>Active members</b>	Total	6408	4718	1690





## PRESIDENT'S REPORT

by Alan D. Macleod, Q.C., President

During most of the period covered by this report, Mr. Justice T. D. Clackson was president, until his appointment to the Alberta Court of Queen's Bench in December of 1999. Therefore, most of the activities reported on reflect Terry's presidency. The Law Society is greatly indebted to him for his excellent work as president.

### GOVERNMENT RELATIONS

Our relationship with the Department of Justice improved considerably in 1999. We met with the new minister, David Hancock, shortly after his appointment to Alberta Justice. We welcome Mr. Hancock's respect for the system and for the Law Society of Alberta, and we look forward to working with him on issues of mutual concern.

### MULTI DISCIPLINARY PRACTICES

The Law Society of Alberta continues to contend with the issues created by multidisciplinary practices (MDP's). The large international accounting firms have clearly moved into the delivery of legal services. To date, there is only one firm in Alberta affiliated with the big five, and they have assured the Law Society of Alberta that their firm consists of legal professionals and complies fully with *The Rules* of the Law Society of Alberta and *The Code of Professional Conduct*. However, it is of ongoing concern that eventually the non-lawyer professionals will want to share in profits of their affiliation and see a return on their investment.

In particular, our interest is in maintaining the core professional values

of lawyers where non-lawyers are also members of a partnership. The issue is whether this can be accomplished without impairing the independence of the legal profession and the ability of the profession to effectively govern itself.

Since this issue affects all jurisdictions, the Federation of Law Societies of Canada is developing model rules which will address the core values of the legal profession as well as the governance and independence issues. We will debate the resulting model rules in 2000.

### CONTINGENCY FEES

During 1999 the Law Society of Alberta conducted a series of town hall meetings with our members on contingency fees. That exercise was extremely valuable as it allowed our members an opportunity to forcefully express their concerns and suggestions. Ultimately the Law Society of Alberta recommended a number of changes to the Rules of Court and Schedule C, many of which have now been implemented.

### INTERJURISDICTIONAL MOBILITY PROTOCOL

In 1993, the Federation of Law Societies of Canada developed the Interjurisdictional Mobility Protocol. While all of the Canadian law societies signed the protocol, to date very few have developed model rules to facilitate its implementation. During 1999 the law societies of Alberta and British Columbia took a leadership role on implementation of the protocol by implementing the protocol between the two jurisdictions. As a result Alberta lawyers are now able to practice in British Columbia for a total of 20 days on a

maximum of 10 cases without the need to formally register or pay an occasional appearance fee. The arrangement is mutual and is based on the honour system. We hope to conclude similar arrangements with other jurisdictions during 2000.

### PRO BONO INITIATIVE

During 1999 the Benchers struck a Pro Bono Committee and charged it with the mandate of reviewing the profession's commitment to provide free legal services to economically and socially disadvantaged persons. The legal profession has historically provided such services to society's less fortunate members. We perform this role without fanfare in part because of obligation and in part because we are uniquely situated to do so.

The will for providing *pro bono* services remains strong among our profession but the structure required for acting upon that will is not well developed. As a result the committee is working upon devising a structure that will facilitate access to and provision of these services.

### LEGAL AID

Throughout 1999 the Law Society of Alberta has been in negotiations with Alberta Justice on the proper funding of the legal aid system and the remuneration that should be paid to participating counsel. Progress has been slow and as a result, a mediator was appointed as a means of achieving a resolution.

In the course of negotiations, the governance structure of legal aid has become an issue. As a result, we are also exploring alternative models for governance. The governance discussions will involve Alberta Justice, the Legal Aid Society and the Law Society of Alberta.

I am pleased to be able to share with you that since the appointment of the mediator these negotiations have progressed well, and we expect a resolution imminently.

## LAW SOCIETY ADMINISTRATION

1999 saw significant changes in the senior management team of the Law Society of Alberta. David Turner retired after 25 years of valuable service to the Society as deputy secretary. As a result, we embarked upon a search for candidates to fill the role of second-in-command.

We were fortunate to have had the opportunity to select from among a number of excellent candidates. Ultimately, Don Thompson accepted our offer and commenced his duties in December, 1999.

Don brings 16 years of experience from the Law Society of British Columbia where he performed a variety of duties including serving most recently as their deputy executive director.

## IN CONCLUSION

It is appropriate here to quote Mr. Justice Terry Clackson:

“As we enter the 21<sup>st</sup> century, the legal profession faces significant challenges and changes: Among these are the application of new technologies to the practice of law and the administration of justice; the effects of globalization and shrinking borders on the practice of law; and changing societal expectations. All of these are having a profound impact on how law is practised and how it will be practised in the future. I remain extremely confident of the ability of the Law Society of Alberta and the legal profession to meet these new challenges while maintaining a collegial, yet strong independent legal profession.

During 1999, tremendous work was accomplished by the more than 200

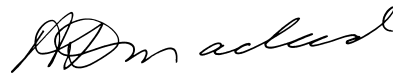
volunteers who serve on Law Society of Alberta committees. Volunteers enable the Law Society of Alberta to fulfill its statutory obligations and to develop and maintain programs designed to promote the competent provision of high quality legal services to the public while maintaining a low annual fee. Across Alberta, legal organizations such as the Legal Education Society of Alberta, Calgary Legal Guidance, the Bar Admission Program and the Legal Resource Centre continue to provide valuable services at minimal cost as a direct result of volunteers.

In my six years as a benchler I have learned much and met many. The experience has been extremely enriching. The people who constitute the staff of the Law Society have been incredibly helpful and supportive and I am indebted to each of them.

My benchler colleagues are not only an industrious and intelligent lot, but also my friends. The Law Society of Alberta and its members are in very capable hands.”

I couldn't agree with His Lordship more.

*Respectfully yours*



*Alan D. Macleod, Q.C.*

## MESSAGE FROM THE LAY BENCHERS

*by Morris Taylor, Janet Andersen and Wilfred Willier*

As lay benchers, our role is to be the voice of the citizens of Alberta as well as to ensure that the high professional standards of lawyers are maintained. We participate in conduct and assurance fund hearings which permits us a view as to the relationship between the Law Society and the population at large.

The complaints and discipline process of the Law Society continues to earn the confidence of the public and the legal community, both of whom contribute to the integrity of the system.

We continue to be impressed with the professional and responsible manner in which the important business of the Law Society is conducted. Meetings are carefully scheduled and effectively managed. Extensive preparation material is distributed well in advance of meeting dates to allow for active discussion. Each year witnesses a continual improvement in methods and roles to better serve clients.

The elected benchers put forth a tremendous time commitment and dedication in fulfilling their duties as your representatives in Law Society matters. The amount of volunteer commitment and *pro bono* work being contributed is significant.

It is an enriching experience to serve as a lay benchler of the Law Society of Alberta. We are continually impressed by the dedication, energy and resources put forth by benchers, staff and committee members into the governance of the legal profession and the safeguarding of the public interest.



## THE LAY BENCHERS - APPOINTED IN THE PUBLIC INTEREST

Appointed by the Minister of Justice for a two-year-term, lay benchers safeguard the public interest and ensure that the views of the public are considered on issues of public concern. Being a lay bencher requires active participation in the many duties of the Society, including participation on Conduct Hearings, Assurance Fund Claims, Conduct Panels and convocations as well as membership in a large variety of the Society's standing committees.



Prior to opening a business in 1991, Janet Andersen worked for 17 years in customer service

with a major Canadian Airline. During 1999, Ms. Andersen served on the appeal, communications, education and articling and practice review committees. Ms. Andersen's tenure as lay bencher ended in January 2000, and her efforts were greatly appreciated by the LSA.

Appointed as a lay bencher in January 1998, and reappointed in January 2000 to a second term, Morris Taylor is the president of MTR Consultants Ltd., in Edmonton. This firm specializes in thoroughbred and harness racing in



Canada and the United States, providing expert assistance to the legal profession through the Philadelphia Company, Technical Advisory Service for Attorneys. Mr. Taylor served as a member of the appeal, communications, conduct, discipline and finance committees during 1999.

Retired High Prairie probation officer and active community volunteer, lay bencher Wilfred Willier worked for Alberta Justice and the Solicitor General for 30 years. First appointed as a lay bencher in 1998, Mr. Willier was reappointed in January 2000 to a second two year term. Mr. Willier was a member of the finance, practice review and unauthorized practice of law committees.



## THE COMMUNICATIONS COMMITTEE

by Alan D. Macleod, Q.C., Chair

### THE COMMITTEE

A. D. Macleod (C)  
J. Andersen (V.C)  
B. E. Mahoney  
T. Clackson  
R. K. Ruston  
M. Taylor  
F. A. De Walle  
Wm. Laird Hunter  
G. Price CBA  
A. G. Young  
P. L. Freeman (LSA)  
A. MacKenzie (LSA)

The Communications Committee facilitates communication between the Law Society of Alberta, its members and the community at large, and informs the public about the profession and the practice of law.

This committee consists of benchers, a lay bencher and non benchers, including a representative of the Canadian Bar Association - Alberta Branch. During the past year, the Communications Committee as a whole met four times. Highlights of the committees work include the following:

### DISTINGUISHED SERVICE AWARDS

On January 25<sup>th</sup>, 2000 the Law Society of Alberta and the Canadian Bar Association - Alberta Branch presented Distinguished Service Awards to five outstanding members of our community. Please see page 7 for details. The 2001 Distinguished Service Awards will be presented on January 26<sup>th</sup>, 2001 during a luncheon

at the Hotel MacDonald in Edmonton.

### PUBLICATIONS

The Law Society of Alberta produces and distributes a variety of publications targeted at informing and educating both the profession and interested members of the public. Our primary publication, *The Benchers' Advisory*, which advises members of news relating to the profession and the practice of law, was published five times during 1999. From all reports it continues to be well received and read by the profession. The Law Society also contin-

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ues to assist in the funding of the *Newsletter*, a joint publication with the Canadian Bar Association.

The Law Society prints and distributes, on a cost recovery basis, a series of consumer information brochures which provide basic information about different areas of law. These remain popular with the profession and the public. This year, the committee prepared and released two new consumer information brochures: *The Process When You Divorce or Separate and Lawyers and Clients - A working relationship*. The committee also reviewed and updated the existing brochures. Special thanks to Anthony Young for his ongoing effort and commitment as chair of the brochure subcommittee.

## MEDIA GUIDE

The Law Society and the Canadian Bar Association co-sponsor the Media Guide, a booklet designed to assist the media find appropriate representatives of the profession to field their inquiries.

## [WWW.LAWSOCIETYALBERTA.COM](http://WWW.LAWSOCIETYALBERTA.COM)

During 1999 the web site was redesigned to improve navigation and to provide easier access to information. A number of additional resources were uploaded to the web site, which currently includes *The Rules*, *The Legal Profession Act* and *The Code of Professional Conduct* as well as all new publications, brochures and law related links. As more and more members gain Internet access, electronic communication between the Law Society and its stakeholders will become increasingly cost efficient and feasible.

I thank all of the committee members for their outstanding efforts during 1999.

# THE CIVIL PRACTICE ADVISORY

by Everett L. Bunnell, Q.C., Chair

## THE COMMITTEE

*E. L. Bunnell (C)*  
*W. P. Sharek (VC)*  
*V. May*  
*D. A. McGillivray*  
*R. K. Ruston*  
*L. A. Cusano*  
*T. D. Hamill*  
*E. A. Johnson*  
*D. J. Lowe*  
*E. F. Macklin*  
*A. D. Macleod*  
*P. L. Freeman (LSA)*  
*L. MacDonald (LSA)*

During 1999 we witnessed further themes of reform advanced, proposing changes to the scene of civil litigation. Arising from Alberta's Justice Summit in January, reforms were proposed and developed concerning:

1. The public's need for legislation in Alberta to enable the commencement of class actions, a matter which subsequently led to a project of the Alberta Law Reform Commission, which is presently ongoing.
2. The recognition of a need to protect the litigating public in respect of the treatment of taxable costs contained as a part of contingency fee agreements, a matter which has led to new *Rules of Court*.
3. The need for more restrictive *Rules* for pre-trial discovery processes, a matter which produced new and controversial *Rules of Court* effective November 1, 1999.

The machinery of civil justice and access thereto on a cost-effective and timely basis are topics of the Wolff Report in the United Kingdom and are the subject of recommendations from the Alberta Implementation Committee of the CBA Task Force on Civil Justice Reform. A pilot

project for the introduction of case flow management in Edmonton and Calgary had been conceived.

Related operating procedures were designed by the Alberta Law Reform Institute. The proposal was that law suits would be segregated into three categories which would proceed to trial no later than in 12, 20 and 36 months. This bundle of change has been stalled for want of provincial funding. Concerns have been voiced from the legal profession about the need for more extensive consultation in this vast array of proposed reform. Discussions continue.

The desirability, necessity and feasibility of compulsory mediation as a part of the civil justice processes in Alberta is also being keenly analyzed.

We witnessed a continued exchange of views concerning the efficacy of significant changes to the Schedule "C" of the *Rules of Court* concerning recoverable taxable costs. Concerns have been expressed regarding a likely "chilling effect" to result, deterring access to civil justice. Others saw these reforms implemented by the Rules of Court Committee as long overdue. While the dialogue has at times been fierce, there has been no retraction of these changes.

This report would be incomplete without my expression of appreciation to all committee members for their sterling efforts throughout the year. Special acknowledgment is warranted for the support provided by our secretary, Peter Freeman, Q.C., and Corrine Kubota, his executive assistant.



# THE CONDUCT COMMITTEE

by Eric Macklin, Q.C., Chair

## THE COMMITTEE

*E. F. Macklin (C)*  
*A. Hepner (VC)*  
*L. G. Anderson*  
*E. L. Bunnell*  
*C. C. Gottselig*  
*D. A. McGillivray*  
*K. G. Nielsen*  
*S. Renouf*  
*J. Watson*  
*M. Taylor*  
*J. E. Davison*  
*M. T. Duckett*  
*B. J. Larbalestier*  
*L. G. Lien*  
*E. O. McAvity*  
*B. K. Rattan*  
*R. W. Rand*  
*K. J. Warren*  
*R. W. Wilson*  
*L. MacDonald*  
*J.D. McLeod*  
*I. MacEachern*  
*D. Guenter*  
*D. Hutchinson (LSA)*

In keeping with the goal of streamlining the complaint process and ensuring its transparency to both the public and the profession, conduct guidelines are now in place setting out the procedure for dealing with conduct complaints from the time they are received by the Law Society until they are either dismissed or referred to a conduct panel. With the other conduct guidelines previously in place, we now have guidelines covering the time from the receipt of a complaint to its final disposition.

Another step taken by the benchers on the recommendation of the Conduct Committee was an amendment to Rule 98(3) of the Rules of the Law Society. While our hearings have been held in public over the last number of years (subject, of course, to some exceptions in appropriate cases), there had been no mechanism in place to allow exhibits entered during the course of a public hearing to be copied by those wanting

copies. The amended rule now provides that exhibits entered during a hearing held in public shall be made available for inspection and copies made upon request (at a preset prescribed rate) unless the Hearing Committee directs otherwise.

One of the disciplinary remedies available to a conduct panel after reviewing the conduct of a member has been to direct that the member receive an "invitation" to meet with a bencher to review the member's conduct that gave rise to the complaint. As a result of concern expressed over the perception of the complaining member of the public when advised that the lawyer against whom the complaint was lodged had received only an "invitation," the benchers accepted the recommenda-



tion of the Conduct Committee to replace the word "invitation" with a term that more accurately connotes the intended disciplinary consequence. Such a meeting is now termed a "mandatory conduct advisory."

During 1999 Conduct Committee members spend countless hours reviewing materials in preparation for, and attendance at, conduct panel meetings. Their willingness to volunteer so much of their time speaks volumes for the support we get from our members. I wish to thank all of the bencher members of the committee and all of the non bencher members of the committee without whom we would be unable to effectively handle the ever increasing workload. Their continued dedication helps ensure the independence of the profession and our right to self govern.

Finally, I wish to acknowledge and thank Jim McLeod and the Conduct Department staff for all of their assistance and hard work.

# THE CORPORATE & COMMERCIAL ADVISORY

by Cheryl Gottselig, Q.C., Chair

## THE COMMITTEE

*C. C. Gottselig (C)*  
*D. R. Spackman (VC)*  
*J. D. Bascom*  
*M. F. Swanson*  
*S. Bodie*  
*G. A. Campbell*  
*J. D. Coulter*  
*A. J. Hladyshevsky*  
*H. M. Kay*  
*D. J. Stratton*  
*G. Ho*  
*B. Romanko*  
*P. L. Freeman (LSA)*

It was an interesting and productive year for the Corporate and Commercial Advisory Committee.



Under the Chairmanship of Dale Spackman, Q.C., the subcommittee on Electronic Commerce continued negotiations with the Law Society of British Columbia in an effort to develop a Public Key Infrastructure (PKI). A PKI, sometimes called a certifying authority, provides digital signatures and encryption systems to ensure electronic business transactions are trustworthy. A PKI is the enabling framework to certify that participants in electronic commerce are whom

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they claim to be. Because the public is opting in favour of e-commerce and governments are switching to electronic filing systems, we are in need of a PKI system that will provide confidentiality, access control, authentication, integrity and non-repudiations. This topic will be discussed at the next Federation of Law Societies meeting with the view to possibly developing a national PKI structure.

The committee has continued to lobby the Alberta government on various issues including the reduction of corporate registry fees, unlimited liability corporations and needed amendments to the *Alberta Business Corporations Act*. A very useful meeting was held with The Honourable Pat Nelson, Minister of Government Services, in an effort to have these issues put on the legislative agenda.

With the addition of John Bascom, Q.C. to the committee, we focussed on the responsibility of lawyers handling trust monies in such a way as to identify if those funds are the proceeds of criminal activities. Attention must be given to the new federal piece of legislation called the *Corruption of Foreign Public Officials Act*.

Sarah Brickett will be taking forward a request from our committee to amend the Canadian Lawyer Insurance Association (Professional Liability Insurance Group for Alberta) policy to put coverage in place for lawyers who perform registry services for individuals "off the street."

I would like to thank each of the committee members for their tireless participation in the issues brought before this committee. The corporate and commercial world is in a constant state of change. If there are issues that need to be addressed, please contact me at [cgottsel@millerthomson.ca](mailto:cgottsel@millerthomson.ca).

## THE CRIMINAL PRACTICE ADVISORY

by Hugh Sommerville, Q.C., Chair

### THE COMMITTEE

H. D. Sommerville (C)  
J. Watson (VC)  
G. Davis  
I. Stevens  
W. Willier  
K. McLeod  
E. A. Hughes  
R. G. McGuaig  
C. Seto  
B. McLaren  
L. MacDonald (LSA)  
D. Guenter (LSA)  
V. Blain, (LSA)

This committee helps sort out practice problems between crown and defence, and gives the criminal bar a more official and unified voice with which to deal with the court and government. The committee consists of a balance of practitioners from the defence bar and the federal and provincial crowns, with representation from rural and youth court practitioners as well. The committee meets regularly to help sort out difficulties before they get confrontational, and to keep everyone informed on what is going on in the criminal justice system.

In 1999 the committee continued to monitor the implementation of the *Traffic Safety Act*. While some input was made on the early stages of the legislation, the committee's main role was to keep the bar informed on the effects of the legislation. On-going competence is an important issue with the Law Society, so we wished the members to be up-to-date about this important new law.

Another issue which the committee followed was the execution of search warrants at law offices. With section 488.1 of the *Criminal Code* being struck down, there is a continued interest in setting up a protocol



between law enforcement agencies and the legal profession.

This issue has been going on for some time, and no final solution has yet been reached.

The ethical issue of defence lawyers communicating to the complainants in domestic assaults was brought before the committee for consideration. After significant discussion, a paper was drafted and forwarded to professional responsibility. After their approval, the paper was published in the *Benchers' Advisory* as the position of the Society on the issue. The paper did not purport to draw exact lines between approved and disapproved communications, but did try to show where some of the danger spots lay.

The issue of paid non-lawyer agents appearing in Provincial Court was an issue of some concern to the committee. The Romanowicz decision determined that the provinces could not prevent appearance by agents where the *Criminal Code* allowed it, but the case showed that the court did specifically have the power to refuse to hear morally incompetent advocates, such as disbarred lawyers. This committee and Unauthorized Practice were concerned with getting our position out to the courts and to the federal government.

Legal Aid issues were very much in the forefront throughout the year, both in terms of tariff negotiations and governance issues. The negotiations with Alberta Justice and the Legal Aid Society were conducted by separate committees, and were not concluded until after the end of 1999.

# THE EDUCATION COMMITTEE

by Simon Renouf, Q.C., chair

## THE COMMITTEE

Pat Rowbotham (C)  
 S. Renouf (VC)  
 L. G. Anderson  
 C. C. Gottselig  
 D. A. McGillivray  
 M. F. Swanson  
 J. Watson  
 R. Neil Brown  
 F. L. Schutz  
 Dean M. Wylie U of C  
 Dean L. Klar U of A  
 H. A. Robertson LESA  
 D. J. Turner (LSA)  
 B. Gesinghaus (LSA)

The Law Society's Education Committee has faced a number of challenges in 1999 including an increasing workload addressing applications for a variety of requests for special consideration under the Law Soci-

ety's rules, and the rules applicable to the bar admission course. These include applications for reinstatement to active practice, back dating of articles, qualifications for student-at-law and principal, student appeals and other matters. The guidelines developed by the committee and Law Society staff have been very helpful in handling these applications and have continued to be revised and updated.

In 1999 the Law Society's Deputy Secretary, David Turner retired. The Education Committee was well served by Mr. Turner for many years. The new Deputy Executive Director, Don Thompson who took office in late 1999 has already been of great assistance to the committee. The staff of the law society, particularly Brenda Gesinghaus, have continued

to provide excellent support to the committee.

A matter of considerable interest in 1999 was the development of articling recruitment procedures, which benefitted considerably from the work of a committee under the leadership of Deans Michael Wylie and Lewis Klar. Activity on this issue continued into the year 2000.

I would like to extend my personal thanks and appreciation to all members of the committee and especially to two former chairs of the Education Committee, the Hon. Madam Justice P. Rowbotham and Francine Swanson, Q.C. for the guidance and assistance they have provided to me as chair of this committee.



# THE FINANCE COMMITTEE

by Ken Nielsen, Q.C., chair

## THE COMMITTEE

K. G. Nielsen (C)  
 E. L. Bunnell (VC)  
 H. Sommerville  
 A. Hepner  
 M. Taylor  
 W. Willier  
 L. A. Johnson  
 C. J. Miller  
 D. A. Sirrs  
 D. Syme  
 D. J. Turner (LSA)  
 M. L. Scott (LSA)  
 B. Whitby (LSA)

The Finance Committee oversees the financial affairs of the Law Society and adjudicates on claims against the assurance fund. The committee is

responsible for reviewing the budgets of the general fund, assurance fund and Viscount Bennett trust fund and makes recommendations to the benchers for the annual fee and assurance fund levy to be paid by members based on recommendations from the Audit Subcommittee.

## ANNUAL FEE

In 1999, the budget for the general fund was prepared having regard to a benchers' resolution in November 1997 to provide for a build up of the available surplus. This year, the benchers were faced with a request to significantly increase the grant to the Joint Library Committee. The

benchers were of the view that to maintain the quality of our library services, it was necessary to double the annual library grant from \$38 to \$76 per member. This had a significant impact on the budget. To fulfill the mandate of the Law Society, it was necessary to increase the annual fee by \$65 to a total of \$840 per member. The breakdown of the major components of the annual fee is as follows:

General Fee	\$717.00
Joint Library	\$ 76.00
Bar Admission Course	\$ 32.00
Legal Archives	<u>\$15.00</u>
<b>Total:</b>	<b>\$840.00</b>

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## ASSURANCE FUND LEVY

In 1998, the assurance fund levy was reduced from \$92 to \$67 per member. In setting the budget for the fiscal year commencing November 1<sup>st</sup>, 1999 the benchers determined that upon a review of the assets in the assurance fund available for compensating clients and based on actuarial advice received, it was necessary to increase the annual assurance fund levy to the 1998 level of \$92 per member.

## MISCELLANEOUS MATTERS

1999 was the first year that the new procedures and guidelines for adjudicating claims upon the assurance fund were in place. These procedures and guidelines are working very well and have been responsible for streamlining the processing of claims against the assurance fund and for reducing the costs of processing same.

This year also saw a change in the regulations with respect to late payment of the annual fees. As a result of recent decisions of the Supreme Court of Canada, the benchers determined that it was necessary to revise Rule 165 with respect to late payment penalties. This resulted in a procedure being instituted effective for the 1999-2000 fiscal year which will see members suspended if the annual fee is not paid by March 31<sup>st</sup> of any given year.

The Finance Committee had a very active and productive year and I would like to thank all committee members and Law Society employees for their significant contributions over the year.

# THE FAMILY LAW ADVISORY

by *Bryan E. Mahoney, Q.C. chair*

## THE COMMITTEE

*B. E. Mahoney (C)*  
*R. K. Ruston (VC)*  
*W. E. Best*  
*R. J. O'Gorman*  
*N. F. Wm. Picard*  
*P. L. Freeman (LSA)*

In 1999 the Family Law Advisory met several times to discuss family law practice issues. Since its creation in 1998 the committee has dealt with such topics as domestic violence legislation, police enforcement of access orders, access by family law lawyers to the motor vehicle registry database, reform of provincial family law legislation and access to justice.



More recently we discussed the Justice Summit, the concept of a unified family court and practice problems with the Child Support Centre, family law chambers applications and the new examination for discovery and disclosure rules. The current move to reform family law legislation has not reached the practising bar yet for comment. We expect to have input once the Ministry has made a proposal.

I would like to thank the dedicated committee members for their volunteer help during 1999.

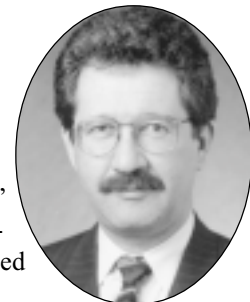
# THE GENDER, EQUALITY & EQUITY COMMITTEE

by *W. Paul Sharek, Q.C., chair*

## THE COMMITTEE

*W.P. Sharek (C)*  
*G. Ho (VC)*  
*P. A. Rowbotham U of C*  
*A. Abougoush*  
*A. E. Acorn U of A*  
*T. Beattie*  
*S. Chotalia CBA*  
*B. Enge*  
*M. David Gates*  
*A. L. Kirker*  
*K. Mawani*  
*M. E. A. (Beth) Miller*  
*P. L. Freeman (LSA)*  
*S. Billington (LSA)*  
*J. Byron (resource)*

In 1999, the committee received and reviewed the report of the Canadian Bar Association entitled "Racial Equality in the Canadian Legal



Profession." The committee conducted a detailed examination of those aspects of the report directed to law societies and made recommendations to the benchers. The committee will monitor the progress of the CBA initiatives.

Part of our responsibility was to conduct an assessment of the equity ombudsperson position, as established by the Law Society in late 1996. This arose out of a benchers' resolution in February, 1998, which approved the continuation of the equity ombudsperson program to October 31, 1999 and resolved the

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program be reviewed in 1999 to determine whether it should become permanent. The committee reviewed the history of the position since its inception and the use that has been made of the program, and recommended to the benchers at the November convocation that the equity ombudsperson position be continued for three years, with annual reviews. The recommendation recognized Alberta's position as a leader in this area, and the effectiveness of the program. The benchers accepted the committee's recommendation.

In the meantime, Joanne Goss, our former equity ombudsperson, was appointed to Provincial Court and Jeanne Byron was hired as an interim equity ombudsperson. The committee was therefore instructed to proceed with the job search, and the appropriate process for advertising for candidates was initiated. Following an extensive search and interview process, we hired Jeanne Byron to fill the ombudsperson position.

In 1999, the committee continued its examination of workplace policies, including revisions to commentaries in the *Code of Professional Conduct* dealing with harassment.

This report would not be complete without an acknowledgement of the valuable contribution to the committee of Pat Rowbotham, who was appointed to the Court of Queen's Bench of Alberta during 1999. I was pleased and honoured to chair this committee in 1999. I wish to extend my sincere thanks to Judge Goss and Madam Justice Rowbotham for their assistance. I also appreciated the valuable work and contributions of committee members, and Susan Billington of the Law Society.

# THE INSURANCE COMMITTEE

by Anthony L. Friend, Q.C., chair

## THE COMMITTEE

- A. L. Friend (C)
- B. E. Mahoney (VC)
- D. A. McGillivray
- S. Renouf
- W. P. Sharek
- H. D. Sommerville
- Wm. J. Kenny
- R. D. Maxwell
- D. G. Stokes
- P. A. L. Smith CLIA Rep.
- S. Brickett (LSA)

The Alberta Lawyers Insurance Association (ALIA), the liability insurance program for Alberta lawyers, has completed another successful year of operation.

## INSURANCE LEVY

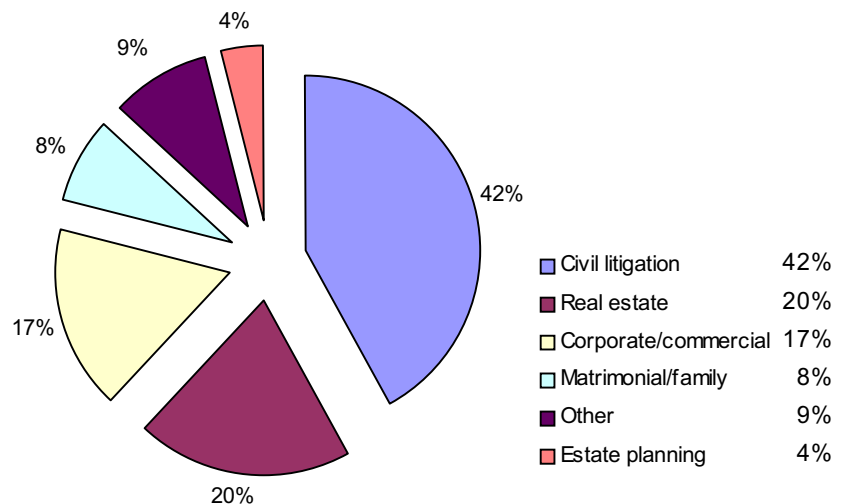
The program's actuaries projected an actual cost per member for the program for 1999 of \$2,734. However as a result of a distribution back to the members of a portion of the surplus of \$625 per member, and as a result of a \$200 per member credit

from the Canadian Lawyers Insurance Association (CLIA), the benchers were able to approve an insurance levy for 1999 of \$1,909. These credits were made possible as a result of better than anticipated loss experience by both ALIA and CLIA, as well as favourable investment returns. It should be noted however that through the course of 1999 the program's claims experience became somewhat worse, and while investment returns continue to be favorable, there is no guarantee that those positive investment results will continue over future years. Late in 1999 the program's actuaries reported a \$3.5 million decrease in the contingency reserve in the insurance fund. A number of factors contributed to this decrease, including the application of some of the surplus to reduce the 1999 levy, somewhat lower returns on investments, but in particular the increase in claims that is occurring. Accordingly it likely will be necessary to provide for some increase in the insurance levy to the members in future years.



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## CLAIMS REPORTED



## NAME CHANGE

The program changed its name in 1999 from Alberta Lawyers Public Protection Association (ALPPA) to Alberta Lawyers Insurance Association (ALIA). The new name is less cumbersome and accurately reflects the purpose of the program. At the request of the Insurance Committee the benchers of The Law Society of Alberta made appropriate amendments to the Law Society's rules to reflect the name change.

## WAIVER OF DEDUCTIBLE

In 1997 the benchers waived the \$5,000 per member deductible applicable to claims against the program. Furthermore, the benchers waived the surcharge on the insurance levy that had been made for claims under \$10,000 if the member had no paid claims for five years.

These waivers have been in place since 1997 with no apparent adverse impact on the program. These measures appear to have resulted in the ability to close files at an earlier stage and thereby reduce costs. As a result of the experience to date, the benchers on the recommendation of the Insurance Committee, have decided to continue for the time being the waiver of the deductible.

## OTHER ISSUES

The Insurance Committee will continue to deal with a number of issues that have arisen in connection with the program, including the exclusion of claims arising from members pursuing ancillary business activities, the handling of foreign legal consultants and practitioners in Alberta who are providing advice on foreign laws and who may be registered to practice in other jurisdic-

tions, and the implementation of a Western Torrens project which contemplates changes in property conveyancing and registration practice. These are on-going issues to be addressed by the Insurance Committee in the future.

## CONCLUSION

The professional liability insurance program experienced another year of successful operation. I acknowledge the time, effort and contributions of all of the members of the Insurance Committee over the past year. In addition, the outstanding role played by Sarah Brickett, Director of Insurance, and all of the ALIA staff must be recognized. The continued success of the program and the many benefits provided to the membership are the result of their hard work and abilities.

# THE JOINT LIBRARY COMMITTEE

by Francine Swanson, Q.C. chair

## THE COMMITTEE

*M. F. Swanson (C)*

*H. D. Sommerville (VC)*

*M.E. Bryant*

*D. Dancik U of A, ex Officio*

*D. Sanders Uof C, ex Officio*

*B. Mcinnes Dept. Of Justice*

*G. Ho Dept. Of Justice*

*V. H. Myers*

*A. B. (Porter) Chrenek*

*P.L. Freeman (LSA)*

As the costs of legal materials increase, more lawyers are turning to libraries and online databases as alternatives to private library collections. The benchers recognize that the courthouse library system provides an essential service to the legal profession and the public. To provide better legal information services in the new electronic world in 2000, the restructuring plan for the

courthouse libraries includes updating collections, increased Internet access and the hiring of a new manager of legal information services for the libraries.

Funding for the courthouse library system comes from three sources: The Alberta Law Foundation (ALF), Alberta Justice and the Law Society of Alberta through the library levy.

ALF and Alberta Justice funding is provided for specific expenditures. ALF provides contributions in cash while Alberta Justice makes "in kind" contributions of staff and facilities. Coordinating the contributions is a key element of the funding process. In 1999, ALF and Alberta Justice jointly agreed to support the internet access plan: ALF approved a one time grant of over \$110,000 (a wel-

comed new contribution) to fund the hardware for internet access in all 26 libraries, while Alberta Justice agreed to provide up front and ongoing technical IT assistance and network access (a great addition to its "in kind" contributions).

The library levy provides general funding. The general nature of the library levy is extremely important in the overall coordination of the funding as the library levy fills the widening gaps between the contributions made by ALF and Alberta Justice. For the last six years, the library levy had been fixed at \$240,000 per year. Commencing in 2000, the benchers increased the library levy from \$38 to \$76 per member.



# THE PROFESSIONAL RESPONSIBILITY COMMITTEE

by John D. Bascom, Q.C., Chair

## THE COMMITTEE

J. D. Bascom (C)  
 R. K. Ruston (VC)  
 A. L. Friend  
 G. E. Bowker  
 B. R. Carbert  
 D. G. Cole  
 R. J. Everard  
 S. D. Hillier  
 H. J. L. Irwin  
 B. L. Maxston  
 S. Raby  
 B. Vogel (LSA)  
 L. MacDonald (LSA)  
 P. McLaughlin (LSA)  
 I. MacEachern (LSA)  
 V. Blaine (LSA)

## JOINT LIBRARY (CON'T)

Library fees for lawyers in other provinces across Canada range from a high of over \$350 per member per year in Ontario, New Brunswick and Newfoundland to a low of \$105 in British Columbia. At \$76 per member, the Alberta library levy is still far below the average.

Special thanks are extended to Lillian Vilborg MacPherson and Olga Kizlyk Scarpari, who provided library consulting services; Owen Snider, Executive Director of the Alberta Law Foundation and the Board of Directors of the Alberta Law Foundation: Tony Friend, Chair, David Steele, Nolan Steed, Karen Swartzenberger, Michael Frey, Orest Olineck and Jim Pender, who continue to support the objectives of the courthouse libraries with significant financial contributions; the many people in Alberta Justice who work in the libraries; and Rod Wacowich, Q.C., Assistant Deputy Minister, and Geoff Ho of Alberta Justice for their support and cooperation concerning the restructuring plan.

The Professional Responsibility Committee met regularly during 1999 to review issues relating to the interpretation and application of the *Code of Professional Conduct*, and ethical questions in general. I noted that many of the ethical inquiries we received concerned confidentiality and solicitor/client privilege. Although we have a specific chapter in the *Code of Professional Conduct* dealing with confidentiality, the committee found that lawyers are frequently asked to breach confidentiality by individuals or corporations outside of the legal community. Additionally, the federal government has proposed new legislation which will replace the existing *Proceeds of Crime (Money Laundering) Act*, which will require lawyers to record and report certain types of transactions which would be classified as confidential under Chapter 7 of our *Code of Professional Conduct*. The purpose of Bill C-22 is to deter and detect *money laundering*, however, the Professional Responsibility Committee feels that if Bill C-22 becomes law, lawyers will find themselves in constant conflict over their ethical duties and the obligations mandated by federal legislation.

The Professional Responsibility Committee continues to respond to inquiries from members of our profession and on some occasions we are asked to provide an opinion by another Law Society committee.

From time to time the committee has been asked to provide an opinion where the fact situation involves a legal question that is connected with an ethical inquiry. In such cases the committee provides only an opinion concerning the ethical inquiry and we advise the individual or group making the inquiry that the legal aspects of the question are beyond the jurisdiction of the committee.

I would like to all of the committee members for their expertise and experience which assisted the committee in responding to our members. I



would also like to thank Barry Vogel and Paul McLaughlin, who regularly attend the meetings and whose knowledge and input are greatly appreciated. Finally, I would like to thank the committee administrator, Vicky Blaine, who organized the meetings and provided valuable assistance to the chair.

# THE PRACTICE REVIEW COMMITTEE

by Virginia M. May, Q.C., Chair

## THE COMMITTEE

V. M. May (C)  
 M. F. Swanson (VC)  
 J. Andersen  
 E. Bunnell  
 K.G. Nielsen  
 B. E. Mahoney  
 R. K. Ruston  
 W. P. Sharek  
 H. D. Sommerville  
 J. Watson  
 W. Willier  
 S. R. Creagh  
 P. J. Davis  
 R. Dutchak  
 B. Ede  
 F. R. Fenwick  
 P. G. Lister  
 R. A. Philp  
 G. Sharek  
 B. Cooper (LSA)  
 M. Rogers (LSA)



The Practice Review Committee is the helping hand of the Law Society. Throughout 1999, the Practice Review

Committee provided remedial assistance to an ever-increasing number of Law Society members. 179 new files were opened in 1999, compared to 27 files in 1997 and 90 files in 1998. Since the practice review process largely depends upon the full cooperation of a member, this increase reflects a greater awareness of the benefits of the assistance provided by the Practice Review Committee both to the member and to the public.

Anything that impairs a lawyer's ability to do his or her job does not result from a moral failure, but rather from a condition that can be aided and overcome. Whether the impairment which is adversely affecting an ability to practice relates to alcoholism or substance abuse, health problems, stress, or just an unrecognized disinterest in the practice of law, the matter does not usually get resolved without assistance.

The focus of the Practice Review

Committee is oriented towards competency, not discipline. It is one of the most effective tools that the Law Society has for monitoring the competency of its members and therefore, in maintaining and improving the image of the lawyer to the public. The Law Society is currently involved in implementing comprehensive competency planning and Practice Review is an integral part of that process.

The Practice Review Committee is playing, and will play, an ever larger role in the competency process. For example, the committee is working on developing practice improvement seminars. The committee, together with the Education Committee, is involved in looking at the issue of mentoring and how to deal with the suitability of a member to become a principal for a new student of law. It is an interesting, but not surprising finding by the Practice Review Committee, that often the members that need remedial assistance from the Practice Review Committee have not received adequate articles in the first place, possibly as a result of a principal incapable of providing such.

Other branches of the Law Society, including the Complaints Resolution Officers, the Conduct Committee or a hearing panel of a Conduct Commit-

tee, refer lawyers to the Practice Review Committee. ALIA can also refer members. The member's cooperation with the Practice Review panel is voluntary, except in the case of referral from the Conduct Committee or a hearing panel, which is authorized to mandate a member's cooperation with Practice Review. Many hours are spent by fellow practitioners assisting those members who have been referred to the Practice Review Committee and the results, both to the individual member needing the assistance and to the member of the public receiving the final product of a lawyer's intellect, have shown that preventative intervention can work for all.

I have very much appreciated the opportunity to work with Barbara Cooper, the Law Society's practice review director, and with Merry Rogers who works with her closely every day. In addition, I so much enjoyed working with my fellow Practice Review Committee members, benefitting myself from their experience and dedication. In addition, I found the work of the committee itself most rewarding in terms of seeing some of my fellow members become competent, confident and unstressed members of our society again.

## THE UNAUTHORIZED PRACTICE COMMITTEE

by Larry Anderson, Q.C., Chair

### THE COMMITTEE

L.G. Anderson (C)  
H.D. Sommerville (VC)  
B. Mahoney  
W. Willier  
D. Kiss  
L. McLellan  
J. Phillips  
J. McLeod (LSA)  
L. MacDonald (LSA)  
J. Stoliker (LSA)

The primary purpose of this committee is to receive and review complaints regarding individuals or entities appearing to perform legal services without proper authorization. The committee met on five occasions and a vetting panel of the committee met an additional five times. During the year we handled between 20-30 matters, many of which were dealt with on a multiple, ongoing basis throughout the year. The concerns covered a broad spectrum of legal services including

debt collection, family, civil litigation, criminal law, workers' compensation issues and real estate. Fortunately, most of the matters can be and were dealt with by means other than prosecution. Approximately five matters involved prosecution, several of which had



Cont'd

been commenced prior to this committee taking over for 1999 and a couple of prosecutions were commenced during this period.

The committee also assumed a proactive approach with a view to raising the profile of the committee and furthering the Law Society's efforts to ensure quality representation for the public. In this regard, the committee published a brochure outlining the differences between qualified lawyers and legal agents. Due primarily to the efforts of Lillian McLellan, the brochure was prepared and forwarded to the Communications Committee for fine tuning and intended publication in the year 2000. The committee also prepared a position for consideration by the Executive Committee regarding proposed amendments to the Criminal Code provisions dealing with legal agents. A recent amendment to the *Legal Profession Act*, which excludes disbarred lawyers from acting as legal agents where statutes would otherwise permit, was advertised and circulated amongst the judiciary and the bar. This has helped to resolve a reoccurring problem particularly in the criminal and quasi-criminal courts.

I would like to thank all of the committee members for their contributions and further extend the committee's gratitude to Jim McLeod and Joni Stoliker who made our work much easier. The work of Greg Busch and Steve Bach who investigated many of the matters is also acknowledged with appreciation.

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President-elect	A. D. Macleod
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Education	P. A. Rowbotham
Finance	K. G. Nielsen
Insurance	A. L. Friend
Practice Review	V. M. May
Prof. Resp.	J. D. Bascom
Law Society	P. L. Freeman

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K. E. Laws
J. M. Shafir
D. J. Turner (LSA)
B. Whitby (LSA)

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Conduct	A. Hepner
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Practice Review	M. F. Swanson
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J. D. Bascom	S. Renouf
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F. L. Schutz	
H. A. Robertson	LESA, ex Officio
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B. Gesinghaus (LSA)	

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H. M. Kay	
J. Law	
Dean M. Wylie	U of C
R. Reeson	(Transfer Exams)
D. J. Turner (LSA)	
B. Gesinghaus (LSA)	

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 M. Naber-Sykes

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**TRANSFER OF INFORMATION BETWEEN DEPARTMENTS WITHIN LSA/ALIA**

K. Nielsen  
 A. Macleod

## AUDITORS' REPORT

**THE LAW SOCIETY OF ALBERTA**  
**CONDENSED FINANCIAL STATEMENTS**  
**OCTOBER 31, 1999**

To the Members of The Law Society of Alberta

We have audited the financial statements of The Law Society of Alberta as at October 31, 1999 in accordance with generally accepted auditing standards and expressed an unqualified opinion on these financial statements in our report dated December 14, 1999.

In our opinion, the information contained in the attached condensed balance sheet and condensed statement of revenue, expenses and balance of funds is consistent with the above mentioned financial statements from which it was derived.



PRICEWATERHOUSECOOPERS LLP  
 CHARTERED ACCOUNTANTS  
 DECEMBER 14, 1999

A copy of the complete financial statements is available by writing to  
 M. L. Scott, Treasurer, The Law Society of Alberta.

**CONDENSED BALANCE SHEET**  
**OCTOBER 31, 1999**  
**(1,000'S OF DOLLARS)**

<b>Assets</b>	<b>1999</b>	<b>1998</b>
	\$	\$
Current	2,238	2,273
Investment	8,487	8,720
Trust assets	292	265
Fixed assets	<u>521</u>	<u>239</u>
	11,538	11,497

**Liabilities and Fund Balance**

Current liabilities	636	381
Reserve for clients	877	1,020
Trust liabilities	292	265
Deferred rent	605	673
Contributed trust capital	22	22
Contingency reserve	6,056	6,251
Fund balance	<u>3,050</u>	<u>2,885</u>
	11,538	11,497

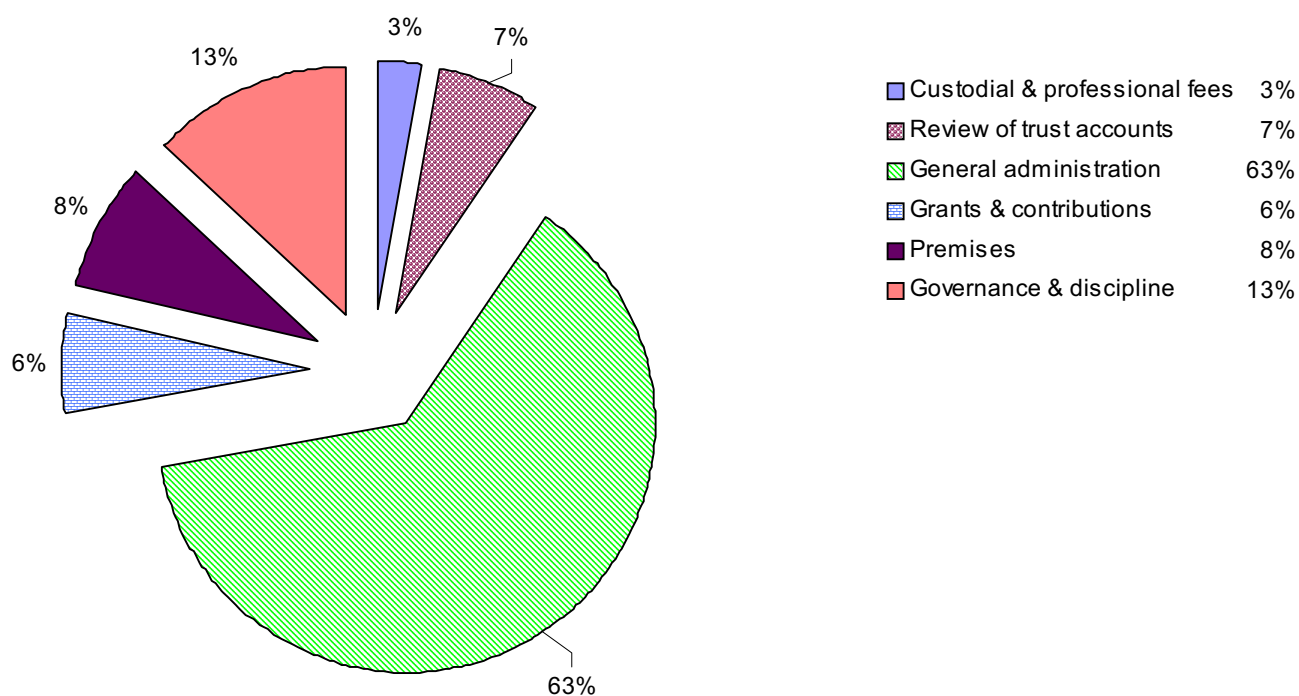
**COMPOSITION OF 1999 FUND BALANCE  
OCTOBER 31, 1999**

	1999 \$	1998 \$
General	2,391	2,236
Viscount Bennett	659	649

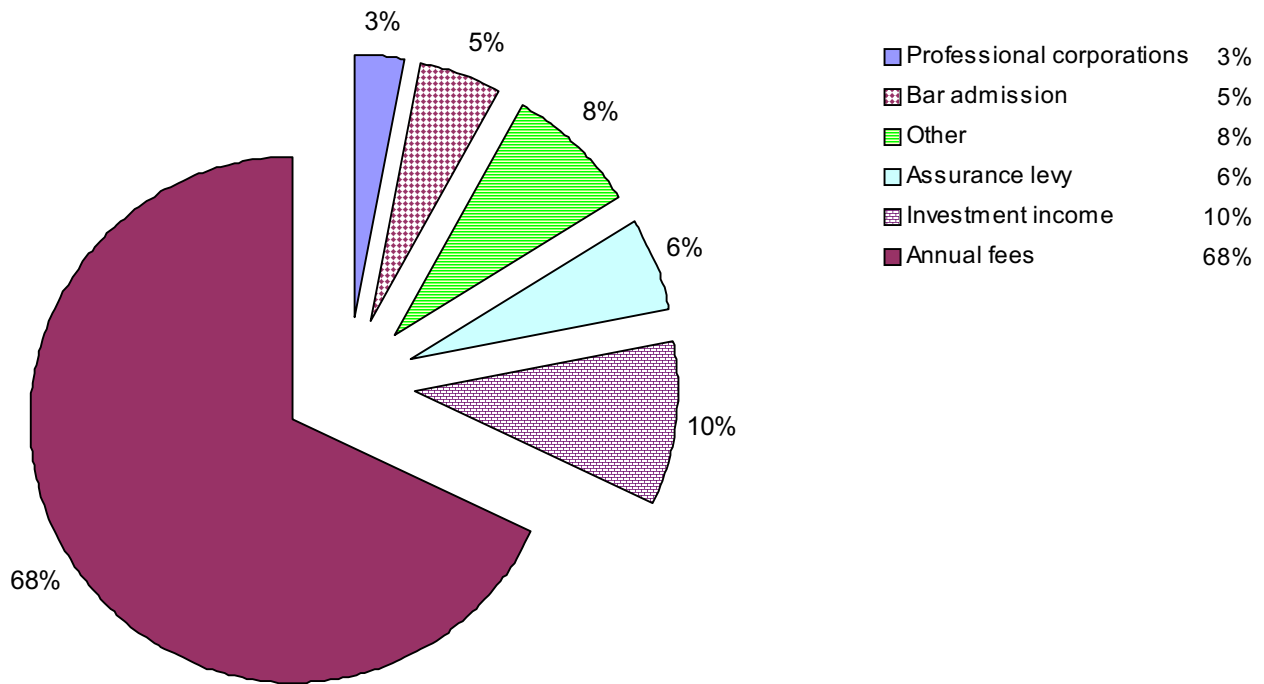
**CONDENSED STATEMENT OF REVENUE, EXPENSES AND BALANCE OF FUNDS  
FOR THE YEAR ENDED OCTOBER 31, 1999**

	1999 \$	1998 \$
Revenue	7,579	7,795
Expenses	<u>7,609</u>	<u>7,077</u>
Excess (deficiency) of revenue over expenses	(30)	718
Balance of fund, beginning of year	2,885	2,485
Funds withdrawn from (allocated to) contingency reserve	<u>195</u>	<u>(318)</u>
Balance of Fund, end of year	3,049	2,885

**EXPENSE DISTRIBUTION, 1999**





**SOURCES OF REVENUES, 1999****AUDITORS' REPORT**

**ALBERTA LAWYERS INSURANCE ASSOCIATION**  
**CONDENSED FINANCIAL STATEMENTS**  
**OCTOBER 31, 1999**

To the Directors of the Alberta Lawyers Insurance Association

We have audited the financial statements of Alberta Lawyers Insurance Association as at October 31, 1999 in accordance with generally accepted auditing standards and expressed an unqualified opinion on these financial statements in our report dated December 14, 1999.

In our opinion, the information contained in the attached condensed balance sheet and condensed statement of revenue, expenses and equity is consistent with the above mentioned financial statements from which it was derived.

*Pricewaterhousecoopers LLP*

PRICEWATERHOUSECOOPERS LLP  
 CHARTERED ACCOUNTANTS  
 DECEMBER 14, 1999

A copy of the complete financial statements is available by writing to  
 M. L. Scott, Treasurer, The Law Society of Alberta.

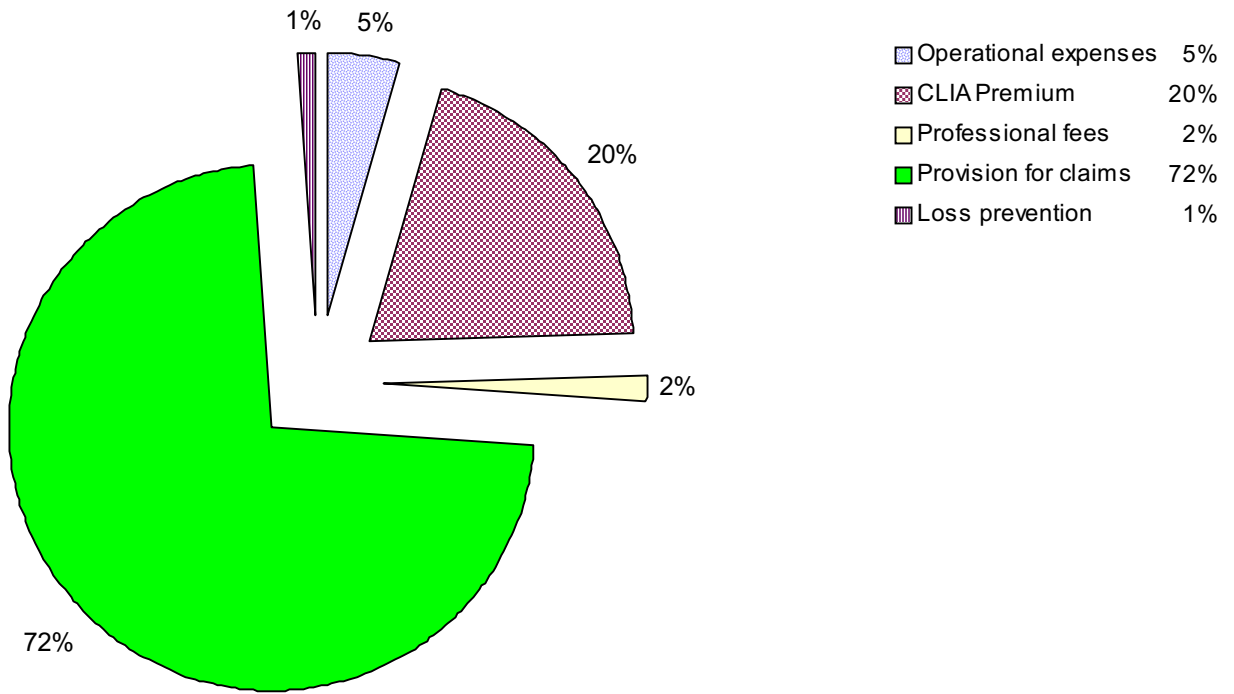
**ALBERTA LAWYERS INSURANCE ASSOCIATION**  
**CONDENSED BALANCE SHEET**  
**OCTOBER 31, 1999**  
**(1,000'S OF DOLLARS)**

	1999	1998
	\$	\$
<b>Assets</b>		
Current	2,896	6,414
Investments	42,539	38,934
Fixed assets	<u>34</u>	<u>20</u>
	<u>45,469</u>	<u>45,368</u>
<b>Liabilities and Equity</b>		
Current liabilities	4,499	4,654
Reserve for claims	25,617	21,780
Equity	<u>15,353</u>	<u>18,934</u>
	<u>45,469</u>	<u>45,368</u>

**CONDENSED STATEMENT OF REVENUE, EXPENSES AND EQUITY**  
**YEAR ENDED OCTOBER 31, 1999**  
**(1,000'S OF DOLLARS)**

	1999	1998
	\$	\$
<b>Revenue</b>		
Annual levy	10,464	10,429
Investment income	<u>3,188</u>	<u>4,791</u>
	13,652	15,220
<b>Expenses</b>	<u>17,233</u>	<u>12,017</u>
Excess of revenue over expenses for the year	(3,581)	3,203
Equity beginning of the year	18,934	15,731
Equity, end of year	<u>15,353</u>	<u>18,934</u>

**EXPENSE DISTRIBUTION, 1999**



# THE LAW SOCIETY OF ALBERTA

## Calgary Office: RED DEER & SOUTH

#600, 919 - 11th Avenue S.W.  
Calgary, Alberta T2R 1P3  
Telephone: 229-4700 (Calgary) or  
1 (800) 661-9003 (toll free)  
Fax: 1 (403) 228-1728

## Edmonton Office

1900, 10104 - 103 Avenue,  
Edmonton, Alberta T5J 0H8  
Telephone: 429-3343 (Edmonton) or  
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