



# Queensland Law Society

**71<sup>st</sup> Annual Report**  
**1998 – 1999**

**Queensland Law Society Inc.**

179 Ann Street, Brisbane Q 4000  
GPO Box 1785 (DX 123) Brisbane Q 4001  
Telephone (07) 3842 5888  
Facsimile (07) 3842 5999

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## Abbreviations

ADR	Alternative Dispute Resolution
ALRC	Australian Law Reform Commission
AM	Member of the Order of Australia
APPIIL	Australia Pacific Professional Indemnity Insurance Company Limited
ASIC	Australian Securities and Investments Commission
ASC	Australian Securities Commission
ASX	Australian Stock Exchange
AVLE	Associate of the Australian Institute of Valuers and Land Economists
BSA	<i>Bills of Sales and Other Instruments Act 1955</i>
CASAC	Companies and Securities Advisory Council
CBA	Commonwealth Bank of Australia
CEO	Chief Executive Officer
CLE	Continuing Legal Education
CLERP	Company Law Economic Review Program
DLA	District Law Association
FLPA	Family Law Practitioners' Association
FRICS	Fellow of the Royal Institute of Chartered Surveyors
FVLE	Fellow of the Australian Institute of Valuers and Land Economists
HPA	<i>Hire-Purchase Act 1959</i>
IPAA	Insolvency Practitioners' Association of Australia
ISC	Implementation Steering Committee
ITA	Interest on Trust Accounts
ITSA	Insolvency and Trustee Service Australia
JBFLP	Journal of Banking and Finance Law and Practice
LAMS	Lawyer Arbitrators and Mediators
MBA	Master of Business Administration
MCCA	Ministerial Council on Consumer Affairs
MVSA	<i>Motor Vehicles Security Act 1986</i>
NADRAC	National Alternative Dispute Resolution Advisory Council
NSAA	National Strategy for an Aging Australia
NSW	New South Wales
OCA	Office of Consumer Affairs
OFT	Office of Fair Trading
OSR	Office of State Revenue
PC	Personal Computer
PILCH	Public Interest Litigation Clearing House
PMC	Practice Management Course
QAO	Queensland Audit Office
QC	Queen's Counsel
QLD	Queensland
QLRC	Queensland Law Reform Commission
QLS	Queensland Law Society Incorporated
QUT	Queensland University of Technology
REIQ	Real Estate Institute of Queensland
REVS	Register of Encumbered Vehicles System
SAC	Statement of Accounting Concepts
SCOCA	Standing Committee of Officials of Consumer Affairs
SCRAM	Schools Conflict Resolution and Mediation
THEMIS	The Electronic Members Information Service
UCCCMC	<i>Uniform Consumer Credit Code Management Committee</i>
UQ	University of Queensland
VIC	Victoria



## President's Report

It was Queen Elizabeth who some years ago described the year in which one of her castles burned down, as her *annus horribilis*. While I won't go so far as that in describing my year as President of your Society, though there are flames licking at the walls, I should say it has been a difficult, pressured and tense year.

Two major themes consumed much of our attention during the year – reform of the legal profession and the sale of APPIIL by the Queensland Law Foundation, subjects on which I will talk more about later.

Change is hard for organisations to adapt to. Change is hard for individuals to adapt to. Try this little experiment tonight just to test my views on change – try getting into the other side of your bed tonight. Those without partners won't have a problem, of course. Those with partners will have a lot of explaining to do.

But change we must. This is a theme I have expanded on a number of times in my President's Page in *Proctor* and right now I cannot emphasise enough the need for the profession to be prepared for, to be strategically focussed on, change now sweeping through our profession.

We must do this at a personal level, at a corporate level, at a professional level, and at the organisational level.

I am immensely grateful for having had the privilege of serving as your President through such a tough time; though it has been hard and exhausting, mentally and physically, it has also given me insight into aspects of the profession which I would never have gained had I not been President.

I have met, throughout the State, in the large cities and in the small towns, members of the profession, of the Society, who leave me with no doubt that the legal profession is in good hands. Solicitors who have energy, enthusiasm, public spirit, selflessness, ethics, education, intelligence and wisdom; members who aspire to those old, but still bright, ideals which attracted so many of us into the law.

It is this quality of our profession, this ability to handle complex and, at times seemingly hopelessly

lost causes, that invigorates me with enthusiasm for the future, that restores my confidence that we will tackle head on the hard tasks immediately ahead of us to help shape the professional landscape to the very best advantage of future generations.

For that, in essence, is now our task – to look to future generations of professionals and future generations in our society.

One of the landmarks of the year was the sale by Queensland Law Foundation (QLF) of its insurance arm, APPIIL.

Following notification to the Society by the Board of QLF of the sale of APPIIL to GIO, Council, on behalf of Society members, made certain due diligence enquiries concerning the commerciality of the transaction. In its capacity as representative of Society members, who are the ultimate beneficiaries of QLF, Council then thoroughly investigated the circumstances surrounding the sale. The Board of QLF has now submitted a full report to the profession and a report from the Queensland Law Society has also recently been distributed to all members.

I repeat my earlier remarks published in *Proctor* that the Society recognises all of the directors of QLF are highly respected legal practitioners. Each of them has given, and continues to, give freely of their time in the interests of the wider profession. I am sure all members are as grateful as I am that senior practitioners continue to be prepared to devote enormous amounts of unpaid time and effort to further the best interests of the profession.

There are several motions before the meeting tonight which deal with matters pertaining to QLF and its affairs including the sale of the APPIIL shares. I would have thought that this AGM was not the proper venue to discuss these issues, rather these issues should be discussed at a meeting of the beneficiaries of the trusts of which QLF is trustee.

There have been some reports to me about members' concerns in relation to supposed "infighting" within the Council. This is an exaggeration. It is true to say that there has been a tension between those members of Council who are directors of QLF and other Council members at times in relation to the investigations being undertaken by Council but Council was always well

mind of its obligations to the members of the profession as their elected representatives and it pursued its investigations into the sale of the APPIIL shares diligently and competently, notwithstanding any tensions that may have arisen and you, the members of the profession, have now been acquainted with the fruits of this investigation.

I believe that the old Council of which I am President has fully discharged its legal obligation to members and can go no further with this investigation. It is now up to the members to decide if they are satisfied.

It has also been suggested that large sums of money have been expended in legal fees, counsel's advice, etc. It was necessary for Council to receive proper and adequate advice to assist it in its investigations and in the opinion of the Council any monies spent on legal fees was justified and necessary in order for it to be able to report properly to members.

The other all-consuming issue with which we have had to grapple on behalf of the profession has been the legal reform process initiated by Attorney-General Matt Foley.

Preparation of our formal submission required an enormous amount of energy from the Executive, from Councillors, from committee members and from the staff of the Society, especially from our chief executive, Tony McMahon.

I travelled with the Attorney-General up and down the State discussing the reform process with the profession and our consultative process within the profession was exhaustive and comprehensive.

I believe that our submission was a well-considered, thoughtful and progressive document. Unfortunately, it has not been given the weight it deserves, because, it seems to me, it doesn't suit entrenched populist agendas which I am convinced will ill serve the people of this State in the future.

There is no doubt that implementation of the Green Paper will have a significant impact on all legal practices in Queensland. Worse, it will have a disastrous impact on some practices thus, by consequence, on the communities they serve.

Truth is, for decades the Society has regulated the profession strictly according to the terms dictated by government, but successive governments have failed to support or defend it. The State Government's own Legal Ombudsman found the

regulatory performance of Society staff to be "thorough, professional and objective".

We submitted to the Government that no evidence existed to warrant a change in the regulatory regime in which the Society played a major part. But we urged the Government to correct public misconceptions through an information campaign. When the public holds wrong perceptions of structures dictated by a government, it is that government's responsibility to respond with an information campaign.

We told the Government we did not want to be involved in regulation if the Government refused to conduct such a campaign. But what has appeared in the Green Paper is highly regulatory, cumbersome, expensive, restrictive and small minded.

Council will now consider the Green Paper and report to the profession. The Law Society supports reform. But reform must be balanced. While the Government is removing work from solicitors it is putting the burden on them to provide access to justice. The Green Paper proposals are no good for the economy of this state or for its citizens.

I believe that irrespective of the modifications we are able to achieve with our Green Paper submissions, it is certain that the role of the Society will change. The emphasis must ultimately shift, as we recommended in our submission, from a regulatory and disciplinary and member-service body, to one whose focus is entirely its membership.

The Green Paper as it now stands will have an enormous impact on the future of your professional body, the Queensland Law Society.

But what we have just seen is undiluted evidence of the critical need for an effective representative professional body. That will become even more so if the Green Paper is implemented, modified or not. Whilst unity between the judiciary, the Bar and ourselves has been a strong theme of my Presidency, it is critical that the solicitors' branch of the profession work its way through the change processes now engulfing us with cohesion and unity.

At the same time our professional duty to the community, acting as a buffer between the citizenry and government, can only be activated collectively.



While at times I weep for the obvious lack of recognition the community, and Government, accord this role we undertake, I know that many of my professional colleagues share my views that this is one of the bedrocks of our professional service.

Unity of profession is something I worked hard to achieve and which I see as critical for the future of the profession. But I am concerned that aspects of the reform contained in the Green Paper will work against the desirable level of unity.

I believe it is very important that the profession be unified in its stand against unwarranted attacks on the profession, whether they be on the judiciary or the profession.

While this is still all very controversial and painful to many, at the end of the day I believe the profession will benefit by going through this process of change so long as we are able to ensure that the worst aspects of the Green Paper, the recommendations which will ultimately damage the consumers of our services, are not implemented.

The Fidelity Fund, for example, continues to be problematic and the Green Paper recommendation is no solution. Council agreed not to again levy the profession until the issue had been fully discussed with Government. We see no reason why members of the profession should continue to be singled out to pay for the sins of others.

The committee structure of the Law Society worked most effectively throughout the year and I commend to you a close reading of the Annual Report which details the activities of each committee.

I will not repeat what is in those reports but just to give you a quick insight into the wide range of activities covered by these committees consider the following:

- The Marketing and Public Relations department co-ordinated Law Week, Queensland's first Community Legal Awards, personal marketing consultations for practitioners, media awards for excellence in legal journalism, Seniors' Week seminars, housing information forums, International Year of Older Persons phonelines, Human Rights Day primary school poster competition.
- Access to justice - in September last year we launched the Griffith Legal Aid Report. This major piece of legal research on the effects of Federal Government funding cutbacks on legal aid was funded jointly by the Society, the Grants Committee of the Society and the Family Law Practitioners Association.
- Aged Care and Accommodation Law Committee - an Elder Law Forum to discuss ways in which the legal profession can help keep people informed of their rights and obligations and generally remain accessible, relevant and responsive to these changing areas of the law; a public seminar during Seniors Week 1998 on 'Elder Abuse'; approval of in-principle funding for research by the University of Queensland on legislative change in aged care; discussions with Government on the review of the Retirement Villages Act.
- Construction Law - industry reform again dominated the agenda and the committee is playing an active role in the reform which includes proposed changes to the licensing of contractors, dispute resolution, and legislation relating to contractual provisions in construction contracts.
- Franchising Committee - The committee is working on a lengthy submission to the Franchising Policy Council concerning defects in the Franchising Code of Conduct which came into effect on July 1 last year. Since its inception this committee has had an intensive workload, the results of which will benefit the profession and all those regulated by the Franchising Code of Conduct.
- Industrial Law - a year of immense importance to the profession thanks to the breakthrough in the ability of lawyers being able to represent clients in the Queensland Industrial Relations Commission.
- Symposium - the Annual Legal Symposium of the Queensland Law Society and Bar Association of Queensland, held at the Marriott Surfers Paradise Resort on the Gold Coast in March, saw a return by many of the profession and their staff to this premier educational and social event. Over 600 delegates registered.
- Proctor - the magazine is now sent to all Queensland politicians, both State and Federal

and we have had many politicians send us their grateful acknowledgment for including them on our mailing list. The magazine has been brought back into budget and it now appears at the start of every month, as it should. We have had many comments from those in and out of the profession, on the high quality the magazine has attained, not the least from Chief Justice Paul de Jersey who complimented me personally on our professional journal.

Of course, none of this work would be possible without the unpaid, voluntary involvement of members of the profession and I now wish to convey my deepest gratitude to all those who have given of their time in this way, striving to improve our profession and our society.

Behind the committees, of course, are the employees of the Law Society for whom I have developed great admiration and respect during the year, seeing at first hand the incredible pressures they are required to work under, combining the need to work within the legislated regulatory function, the market-driven membership requirements, and the idiosyncrasies of members and committees. Yet at the same time map out career paths for themselves.

To single out individuals for special mention is always difficult but there are some to whom I feel a great deal of gratitude.

Tony McMahon, of course, as chief executive, became my friend, my confidante, my advisor, my colleague. I have had some small insight into the sacrifices Tony has made for the Society over the past year and I thank him for the exemplary manner in which he has been able to hold the centre together whilst the battering rams have been approaching from all sides.

Scott Carter, solicitor to the Society, has also earned my sincerest appreciation for his unswerving loyalty and dedication towards the Society.

Notwithstanding the abilities and expertise of those Society senior staff with whom I dealt on a daily basis, I must admit there were days when it could all quite easily have come flying off the rails were it not for my personal assistant Sharon Armstrong. Sharon's unflappable organisational capacities are the real reason you see me standing in front of you tonight in one piece. Thank you, Sharon, for all your efforts throughout the year.

Others I worked closely with during the year, and wish to say personal thanks to include: research solicitor Heather Baldwin; our public relations manager Daphne McKenzie; Ian Muil, editor of Proctor and all of the other staff of QLS who all work very diligently in the performance of their duties and are an enormous help to any incumbent President.

Thank you ladies and gentlemen.

Paul McCafferty  
**President**

## Chief Executive Officer's Report

The 1998/1999 year has certainly been busy and eventful. I believe that the Council and the staff of the Queensland Law Society have met admirably the challenges faced in the year.

The Profession Review Committee, formed after the Council's Strategic Planning Meeting in April 1998, looked extensively at the issues facing the profession and the Society. The Committee was given the opportunity to progress consideration of these issues when the Attorney-General released his Discussion Paper on Legal Profession Reform in December 1998.

The Society forwarded copies of the Discussion Paper to all firms with a summary of the major issues and invited comments. A teleconference was held with the Presidents of the District Law Associations and comments on specific issues were also sought from a number of the Society's committees.

The Council considered all the issues at two meetings in March 1999 when it finalised the Society's submission in response to the Discussion Paper. A summary of the Society's submission was distributed to all firms.

All members will now be aware of the Government's response to submissions – the Green Paper issued by the Attorney-General, putting the Government's proposals and allowing further submissions to be made by 9 August 1999. At the time of writing this report the Council of the Society is still in the course of finalising its response to the Government's proposals. The Society will be continuing to try to achieve sensible reform in the interests of the profession and the public.

During the year the Society had also to contend with issues in relation to the Queensland Law Foundation, APPIIL and Themis. These have been reported on separately to members.

In the meantime, the often unsung activities of the Society to further the interests of the profession continued. The reports of the departments of the Society and of the Society's numerous committees in this Annual Report detail the extensive activities undertaken. The Society is particularly indebted to the members of the committees who give generously of their time. During the year the Society lodged more than 100 submissions to State and Federal Governments and to various commissions, inquiries and public authorities.

The work done by the Society's public relations and media unit has been particularly extensive. The unit contributed to an extremely effective public launch of the Griffith Legal Aid Report, an initiative of the Society's Access to Justice Committee. The ongoing campaign developed by the unit put Queensland well ahead of the rest of Australia in addressing these issues.

While the Society locked horns with The Courier-Mail, the coverage the Society was able to obtain for the legal profession in the regions was much more positive. As an indicator of the unit's activity, there were 334 individual contacts with journalists over the last five months.

New initiatives included:

- Community Legal Awards in the six regions of Queensland, instituted to recognise the amount of voluntary work undertaken by solicitors.
- A Media Award for excellence in legal journalism.
- Phone advice lines throughout Queensland for the International Year of Older Persons.
- The launch of *Innovative Legal Marketing – The Law Society Guide* to assist members in their individual marketing initiatives.
- Advertising and media campaigns in relation to Powers of Attorney, franchising and retirement villages.

The Society's successful Schools Program was expanded to include junior schools to coincide with the introduction of the subject of Studies of Society and Environment, which includes a significant legal

component.

The CLE Department continues to provide professional development, training and assistance to members and is trialing electronic delivery. Teleconferencing continues to grow in popularity.

The Society's library has expanded its collection and increased its areas of coverage. Internet access is also available to members.

Proctor continues to be an important vehicle of communication between the Society and its members and also presents a public face of the Society and the profession. Costs have been contained and the production schedule reduced.

The financial statements of the Society in this Annual Report show the Society to be in a sound position.

I thank the staff of the Society for their support over the past year, particularly in the face of ongoing challenges. Their dedication to their tasks is to be commended. The Society looks forward to continuing to be able to serve the profession.

Tony McMahon  
**Chief Executive Officer**

## Profile and Objectives

The Queensland Law Society is a legal professional association, governed by a Council of practitioners elected by a membership which is limited to the solicitors of Queensland. Despite the inclusion of the Society in the definition of statutory authority contained in the 1985 amendment to the *Financial Administration & Audit Act*, the Society remains an independent professional body, subject to the governance of its elected Council. The Attorney-General is represented by his nominee who is also a solicitor in private practice in this State.

Since 1927, the Society has held specific statutory responsibilities in relation to the regulation and discipline of the solicitors' branch of the profession in Queensland, and has pursued those responsibilities diligently. In addition to its statutory responsibilities, the Society has objectives which mirror the traditional obligations of any professional association including the preservation and maintenance of the integrity of the profession.

The Society was incorporated under the

*Queensland Law Society Act 1927*, and that Act as amended from time to time was consolidated into the present Act in 1952. The *Queensland Law Society Act 1952* contains a scheme of clearly identifiable statutory objectives. Under the legislation the obligation for the performance of these objectives rests upon the Queensland Law Society.

### Statutory Obligations

- Complaints and Discipline
- Trust Account Controls
- Receivership of Trust Property
- Management of the Legal Practitioners' Fidelity Guarantee Fund
- Audit Investigations
- Management of the General Trust Accounts Contribution Account
- Registration of the Profession

In addition to the performance of its statutory obligations and its general objectives, the Society devotes considerable resources to the performance of public activities undertaken for the benefit of members of the community.

### Public Activities

Representatives of the Council of the Society serve in a broad range of other public roles. Council members serve on the Solicitors' Admission Board, the Supreme Court Library Committee, and the Law Faculties of universities.

The Society is also represented on Court Liaison Committees in all jurisdictions in Queensland and on a number of Standing Committees appointed by Ministers of the Government.

The Society runs a state-wide Speakers' Bureau for schools, business and community groups and has other significant involvement in matters of public legal education.

### Mission Statement

**Approved by the Council on 6 June, 1988**

The Queensland Law Society serves the interests which it sees as being mutual of individual

members, the profession and the public by:

- Providing leadership to a cohesive, united, and independent profession in Queensland through recognition and fulfilment of the needs of all members
- Assuring the highest standards of self-regulated professional integrity
- Maintaining the highest standard of professional services
- Providing continuing legal education
- Improving the commercial viability of the profession through:
  - provision of advice and resources to members
  - increasing the community understanding of the law and the benefits that solicitors can provide
  - maintaining effective relations with government
  - maintaining current areas of practice and developing new areas
- Marshalling the human, financial and technical resources of the Society to achieve the Society's objectives
- Providing leadership in the improvement of the law and maintenance of individual rights

## Queensland Law Society Incorporated Seventy-first Annual General Meeting

Minutes of the 71<sup>st</sup> Annual General Meeting held at the Ithaca Room, City Hall, Brisbane on Wednesday 14 July 1999 at 6 pm.

### Honorary Member Present:

PETERSON A.O., C.B.E., Howarth Edkins

### Members Present:

ALLEN, Robert Arthur, ALLEY, James William, ASHTON, Ronald Shaw, ATWILL, Tanya Maree, BACK, Michael John, BAKER, Roger Walter, BALAAM, Timothy Sean, BANKS, Frederick Martin, BARNES, Richard William, BARRATT, Kevin Michael, BARTLEY, Brian David, BATTIS, Jennifer Marjorie, BAUMANN, Michael Peter,

BEER, Ross Murray Leslie, BENDEICH, Graham Ross, BENNETT, Joan Margaret, BENNETT, Walter Henry, BERRY, John Ernest, BERTELSEN, John Paul, BESTON, Bernard Paul, BICKLEY, Lee Joseph, BIGG, Michael Sidney, BIGGAR, Anthony Stirling, BLACK, Peter Zachary, BLUMEN, Carl, BOGE, Anthony Neil, BOULTON, Barbara Anne, BOURKE, Damien Gregory, BOURNE, Rachel Anne, BRADLEY, Peter Kevin, BRAY, David Lindsay, BREEN, Neil Jolyon, BROADLEY, Jon Walter Colin, BROWN, Ian James, BUDDEN, Shane Luke, BYRNE, James Roderick, BYRNE, Richard, BYROM, Michael, CARNE, Peter Damien, CARROLL, Joseph Damian, CARROLL, Francis Edward, CASTLEY, Drew Anthony, CHAPMAN, Gregory Robin, CHENEY, Jennifer Mary, CLAIR, Gregory John, CLARKE, Varro Patrick, CLARKSON, Bronwyn Frances, COCKBURN, Brady Campbell, COE, Michael John, COMINO, Stephen, CONNOLLY, Michael Joseph, CONROY, Martin Benedict, CONROY, Patricia Adell, COOPER, Peter Leigh, COPLEY, Kevin Richard, COPLEY, Liam Michael, COWEN, Richard Terrick, COYNE, Christopher Terence, CRANNY, Glen Michael, CROUCH, Timothy Michael Henry, CROUCH, Michael Joseph, CURCURUTO, Mariette Rita, CURR, John Carlton Alexander, DALTON, Hugh Bernard, DART, Clare Eva, DAVIDSON, Wendy Anne, DAWSON, Fraser Hugh, DE BRENNI, Allan Raymond, DE GROOT, John Kees, DE LUCA, Silvio, DEARDEN, Ian Francis Marcræ, DEARLOVE, Grant John, DEEB, George William, DEED, Marshall Peter James, DENHOLDER, Anthony Gerard, DICKENSON, Pamela Joyce, DIERCKE, Lawrence, DIGNAN, Harold Martin, DOHERTY, Craig Stephen, EARDLEY, Peter Charles, EDSER, George Charles, ELKINGTON, Craig Anthony, ELLISON, John Philip, EMERSON, Michael John, ENSOR, Lance Douglas, FARNHAM, Dean George, FERGUSON, Glenn Wayne, FIELD, Susan Margaret, FLINT, David John, FORDE, Francis Michael, FORGIONE, Ross Vincent, FORSYTH, Deborah Gwen, FOX, George Cameron, FRANCIS, Susan Elizabeth, GAYNOR R.F.D, Bernard Joseph, GELDARD, Robin Allen, GIBBONS, Guy Austin, GILKERSON, Oliver Ronald Edward, GILLAN, Brian Thomas, GIUDES, Raoul Mario, GOODMAN, Andrew Philip, GOULDSON,

Faran John, GOULDSON, Benjamin James, GRAINGER-SMITH, Ross John, GREENWOOD, Andrew Peter, GREGORY, Robert Scott, GRIFFIN, Linda Marie, GULHANE, Nandakumar, GWYDIR, Michael Andrew, HALL, Craig Mitchell, HALLER, Linda Ruth, HANNAN, Maurice, HARRINGTON, Julie ann, HARRIP, Kenneth Campbell, HART, Richard Thearle, HARVEY, Michael James, HAYES, Keith James, HEFFERNAN, Paul Joseph, HENDERSON, Paul David, HERBERT, Timothy John, HERD, Robert John, HERD, Brian John, HISHON, Philip Daniel, HODGINS, John Andrew, HOGAN, Michael Robert, HOPE, Louise Ann, HORVATH, Michal, HUGHES, Clifford Christopher, HURREY, Peter Grindell, HUTCHINSON, John Keith, HUTCHINSON, Gary James, HYLAND, Geoffrey Leon, INGRAM, Robert William, IVEY, Colin Thomas, JIEAR, Warren Peter, JOHNSON, Raymond Keith, JOHNSON, Marcus Godschall, JOHNSON, Kevin James, JOHNSON, Steven James, JONES, Richard Brooks, JONES, Peter Ward, JONES, Christopher Shannon, JORSS, Cameron Alan, KALIMNIOS, George Nicholas, KEENAN, Peter Murray, KELLY, Xavier John, KELLY, Gregory Leo, KILMARTIN, Brian Patrick, KING, Rhonda Grace, KINGSTON, Anthony Michael, KLEIDON, Reginald James, KNAPP, Bernard Thomas, LAIKIND, Lawrence Alan, LANCE, Stephen Joseph, LANE, Gregory Edwin, LAWSON, Ronald Aubrey, LEAHY, Richard John, LEAHY, Michael Edmund, LENZ, Christopher George, LERCH, Wesley James, LETHBRIDGE, Alan McDougall, LETIZIA, John Ignatius, LILLICRAP, Mark Gerard, LINDWALL, Raymond Robert, LINGARD, Louise Anne, LIPPIATT, Adam John, LOCK, John Bright, LOGAN, Mary Louise, LOWES, Geoffrey Harold Canning, LUTVEY, Paul Anthony, LYNCH, Paul Gerard, LYONS, Robyn Gay, LYONS, Mark Thomas, MACDONALD, Kenneth Duncan, MACLEOD, Mhairead Ellen, MACLEOD, Andrew John, MALONE, Terrence Linus, MANGANO, Joseph Alfio, MANN, Jeffrey Gordon, MANNERS, John Robert, MARR, Jade, MATHESON, Geoffrey Peter, MATHEW, Miriam Ann, MAZZOLETTI, Timothy John, MCCAFFERTY, Paul Edward Michael, MCCAFFERTY, Michael Edward Paul, MCCAFFERTY, Brian Patrick, MCCARTHY, Veronica Claire, MCCOWAN, Ranald Hugh,

MCCULLOCH, Jean, MCDONALD, Michael James, MCDONALD, John William, MCFARLANE, Glenn William, MCGOWAN, Phillip Alexander, MCKEERING, Leonard John, MCKELVEY, David Christopher, MCKIMMIE, Dylan Christopher, MCLAUCHLIN, John Joseph, MCLEOD, Cameron Stuart, MCMANUS, Christopher Francis, MCTAGGART, Ross Kennedy, MEADOWS, Michael John Douglas, MEIBUSCH, Christopher John, MEREDITH, John Keith, MONAHAN, Christopher John, MOORE, Darren Richard, MORGAN, William Arthur, MORRISON, Simon Michael, MOTT, John Redmond, MUIR, Eric Anthony, MULLINS, Patrick James, MULLINS, John Joseph, MURPHY, Luke Thomas, MURPHY, Dominic James, MURPHY A.M, Gerald Anthony, MURRELL, Peter Arnold, MYLNE, Anthony Joseph, MYRTEZA, Dukos, NOLAN, Patrick Garry, O'CONNOR, Mark Anthony, O'GORMAN, Terence Patrick, O'KEEFFE, John Sydney Power, ORCHARD, Mark Raymond, O'SHEA, Terence Michael, O'SULLIVAN, Justin Francis, O'SULLIVAN, Francis John, O'SULLIVAN, Eugene Bernard Michael, PARKE, James Christopher Andrew, PATANE, Bruce Blaise, PATEL, Anita Nalini Lata, PENNINGTON, Phillip Leon, PHILP, Keneth, PICKARD, Bryan Lyall, PICKFORD, Lindy Lee, PINDER, Joseph Nathan Leo, PITT, David Roger, POLLARD, Lance Craig, POMMER, Leon David, POOLE, Goodwin George Macfie, PORTER, Geoffrey Robert, POWER, Leo Fraser, PURCELL, William Thomas, PURDON, Susan Fay, PYLE, Dominic James, QUINLIVAN, Graham John, QUINN, Michael Patrick, REDMOND, John D'Arcy, REES, Stuart Alexander, REES, John Stephen, REYNOLDS, Michael Gregory, RIGLEY, Lance Geoffrey, RINAUDO, Orazio, ROBERTS, Shane Bruce, ROBERTS, Neil Bramwell, ROBERTSON, Ian Douglas, ROBINSON, Malcolm James, ROCHE, Stephen Francis, RODGERS, Stephen Errol, ROGENCAMP, Laurence Matthew, ROGERS, James Edward, ROSE, Kenneth William, ROWELL, David Walter, RUDZ, Stefan, RYAN, Gregory Robert, RYAN, Gloria Marcella, RYAN, Donna Maree, SALM, Monique Ginnette, SCANLAN, Peter James, SCHAFER, Julie-Anne, SCHMIDT, Patricia Mary, SEARLES, David Graham, SEETO, Connie Patricia, SHELLSHEAR, Juna, SHINE, Kerry Gerard,

SHORT, Peter John, SHUN WAH, Roderick Michael, SHUTE, Andrew James, SIMPSON, Judith Margaret, SINGH, Sukhraj, SMITH, Ronald Peter Sutton, SMITH, Brett Clayton, SMITH, Richard Gregson, SPLATT, Keiron Michael, STANDFIELD, Dennis Ronald James John, STANDISH, Kevin Patrick, STEEN, Margaret Anne, STEWART, Peter Andrew, STILGOE, Peta Gwen, STORY, John Douglas, STRATTON-FUNK, Nita, SULLIVAN, Thomas Michael, SUSHAMES, Dante George, SYME, Fraser, TAYLOR, Kerrie Ann, TEGG, Warren John, TISDALL, Peter Ian, TOBIN, Peter William, TONGE, Stephen John, TOOMA, Joseph Anthony, TUCKER, David Robert Walter, TULLY, Paul Anthony, TURNER, Francis Grant, TURNOUR, Matthew Dwight, TUTT, Walter Henry, WALLACE, Richard Harold, WALLIS, Eleanor Frances, WALSH, Alan Lancelot, WALTERS, Russell Galt, WARD, John Daniel, WARE, Philip, WHITE, Grant Alan, WHITE, Eugene Henry, WHITEHOUSE, Andrew John, WHITING, Jonathan Carl, WHITING, Alan Graham, WILKINSON, Peter Michael, WILLIAMS, Peter Michael, WILLIAMS, Paul Victor, WILLIAMS, Morris Edward, WILLIAMSON, Jennifer Leslie, WILSON, Peter, WILSON, Alan Neil, WOLYNCECIV, George, WOODBURY, Gregory Charles, WRIGHT, Basil Michael,

### **QLS Staff Present:**

ARMSTRONG, Sharon, BALDWIN, Heather, BIGG, Leane, BLACK, Haley, BROWN, Sherry, CARTER, Scott, DAVID, Anne Maree, DAVIS, Kerry, DREGHORN, Linda, FOX, Murray, FRANKLIN, David, LAGOS, Desley, LEIGH, Nita, McMAHON, Tony, MELZER, Wil, MORSEU, Kelly, MUIL, Ian, O'DONNELL, Bernie, OLIVER, Jane, REIMER, Shane, ROGERS, Bernadette, SCHLOSS, Lucinda, TAYLOR, Helen, THOMPSON, Keith,

### **Opening**

The appointed time for the meeting having arrived, and there being a quorum of more than 15 members, the President, Mr Paul McCafferty, declared open the 71<sup>st</sup> Annual General Meeting of the Queensland Law Society. The meeting was adjourned from Law Society House to the Ithaca Room, City Hall Brisbane, because of the large number of members in attendance.

## Apologies

There were apologies from Lex MacGillivray and John Clarke.

## Recording of Minutes

The President advised for the purposes of Rule 33 of the Rules of the Society, the proceedings would be tape-recorded and the Minutes would be taken by Mrs Noelene Ives, who was a Court Reporter.

## Proxies

The President tabled a list of proxies certified by the Secretary as being proxies received by the Society for the meeting. There were 1,543 proxies, with 231 in favour of the Chair, 7 in favour of the President and 87 in favour of Mr P E McCafferty personally, with the balance (1,218) in favour of various members of the Society. The President advised that summary lists of proxies received were available for members at the meeting.

## Minutes

It was moved by Mr Tom Sullivan and seconded by Mr Glenn Ferguson that the Minutes of the 70<sup>th</sup> Annual General Meeting held on 15 July 1998 be confirmed and signed as a correct record.

**Carried**

## Election of Auditors

The Rules call for the election of auditors, however, under the terms of the Financial Administration & Audit Act, the Auditor-General is now to audit the Society's accounts.

## Statement of Accounts

The President advised the meeting that members had been informed that the financial statements produced by the Society had been made available this year for inspection at the Society's premises, with the exception of the Law Claims Levy Fund. Copies of the statements including the Law Claims Levy Fund had been provided to members as they entered the meeting.

He tabled these statements and noted that there would be further discussion in respect of them in general business, because some of the motions related to the statements.

He advised the meeting that the Financial Administration & Audit Act made it unnecessary for there to be any motion for approval of the accounts.

## Adoption of the Annual Report

The President then presented his annual report to the meeting (the President's Report is published in the first pages of this *Annual Report*).

## General Business

The President advised that the Society had received six Notices of Motion which he proposed would be dealt with in the following order:

Notice of Motion of Paul Gerard Lynch, comprising five motions;

Notice of Motion of Paul David Henderson;

Notice of Motion of Rhonda Grace King,

Notice of Motion of Kenneth Philp;

Notice of Motion of Paul Gerard Lynch, comprising eight motions;

Notice of Motion of John Kees de Groot.

The President outlined the procedure relating to speaking to the motion, objections and debate and the right of reply. He advised that Mr Wil Melzer was appointed as time-keeper for the meeting.

The President advised that because of the number of proxies received by the Society, a counting of votes by poll was required.

The President appointed Mr Keith Thompson, Secretary of the Society and Mr Bernie O'Donnell, Deputy Secretary as scrutineers and Mr David Franklin, Deputy Secretary to assist in counting of the votes.

## Notices of Motions

The first motion related to the financial accounts of the Queensland Law Society Inc., prepared by the Financial Controller and audited by the Auditor General. The President advised this was an "Omnibus Motion" and gave a brief explanation. He said that an Omnibus Motion must be voted for or against in its entirety.

**The President** then invited Mr Paul Lynch to speak to his Notice of Motions.

Mr Lynch spoke to his Notice of Motions. This was followed by debate on the Motions by members. Mr Lynch then delivered his right of reply.

A ballot was then taken for each of the Motions. The Motions and the result of each ballot are set out below:

**No. 1:** *That the Annual Report and Financial Statements of the Council not be received, approved or adopted until the following information has been provided to the members of the Society in writing:*

**A. Queensland Law Society Incorporated Financial Statements.**

The full name of each person employed by the Society.

1. The job description of each person employed by the Society.
2. The terms of employment of each person employed by the Society including details of the annual salary payable to each such employee including fringe benefits.
3. The amount of monies paid to the President of the Society and to Messrs Bowdens Solicitors by the Society in 1998-1999.
4. The amount of monies paid to the President of the Society in consequence of paid speaking engagements in 1998-1999.
5. A detailed breakdown of the expenses by category and amount that comprise "General Expenses" under the heading "Administration" in the Society accounts for 1998-1999.
6. A detailed breakdown of the expenses by category and amount that comprise "Office Costs" under the heading "Administration" in the Society accounts for 1998-1999.
7. A detailed breakdown of the expenses by category and amount that comprise "Travel and Accommodation" under the heading "Administration" in the Society accounts for 1998-1999.
8. A detailed breakdown of the salaries by employee and amount that comprise "Salaries" under the heading "Personnel" in the Society accounts for 1998-1999.

9. A detailed breakdown of the expenses by date of function, name of function and amount of expense that comprise "Member Functions" under the heading "Corporate Marketing and Public Affairs" in the Society accounts for 1998-1999.

10.

11. A detailed breakdown identifying the tenant and the amount of rent paid by all such tenants that comprise "Rent from Tenants" under the heading "Law Society House Recovery" in the Society accounts for 1998-1999.

12. A detailed breakdown identifying the department and the amount of rent paid by all such departments that comprise "Rent charged to Departments" under the heading "Law Society House Recovery" in the Society accounts for 1998-1999.

13. A detailed breakdown of the expenses by category and amount that comprise "Occupancy Costs" under the "Administration" heading in the Society accounts for 1998-1999.

**B. Legal Practitioners Fidelity Guarantee Fund Financial Statements.**

14. A detailed breakdown identifying the amount and nature of each expense and the person to whom each expense was paid comprising the "Statutory Committee or Solicitors Complaints Tribunal Expenses" under the "Claims and Investigations" heading in the Society's accounts for the Fidelity Fund for 1998-1999.

15. A detailed breakdown identifying the amount and nature of each expense and the person to whom it was paid comprising the "General Disciplinary Investigations" under the "Claims and Investigations" heading in the Society's accounts for 1998-1999.

16. A detailed breakdown identifying the amount and nature of each expense and the person to whom it was paid comprising the "General Expenses" under the "Administration Expenses" heading in the Society's accounts for the Fidelity Fund for 1998-1999.



17. A detailed breakdown identifying the method by which the "Rent and Electricity" under the "Administration Expenses" heading in the Society's accounts for the Fidelity Fund for 1998-1999 is calculated.
18. An explanation and production of the detailed time survey conducted for a period by Society staff identifying the period during which it was conducted, who conducted the survey and the method of calculation of "Administration Expenses" by reference to the survey in the Society's accounts for the Fidelity Fund for 1998-1999.
19. A detailed breakdown identifying the amount of each professional fee charged and each such person who was paid a professional fee comprising "General Professional Fees" under the "Administration Expenses" heading in the Society's accounts for the Fidelity Fund for 1998-1999.
20. A detailed breakdown identifying the amount of each salary and allowance and the persons to whom each such salary and allowance was paid comprising "Salaries and Allowances" under the "Administration Expenses" heading in the Society's accounts for the Fidelity Fund for 1998-1999.
21. A detailed breakdown specifying the amount of monies paid by the Society to each firm of solicitors and to Counsel in 1998-1999 identifying whether or not the solicitors and the Society have entered into retainer or client agreements and the charge-out rates charged to the Society by those solicitors.

**This Motion was lost**

**No. 2:** *That the members of the Queensland Law Society Incorporated recommend that the Council of the Society cause all future Financial Statements for the Society, the Fidelity Fund, the General Trust Accounts Contribution Fund and the Grants Fund to be prepared in a form that provides the members of the Society with the detailed information sought in paragraphs 6-21.*

**This Motion was lost**

**No. 3:** *That the members of the Queensland Law Society Incorporated recommend that the Council of the Society revoke Rule 75 of the Queensland*

*Law Society Rules and insert the following in lieu thereof:-*

*"75. Annual submission of accounts. The accounts so certified and signed as aforesaid shall also be signed by the Secretary and Treasurer (if any) and shall be open for inspection in the Secretary's office at any time during office hours in the fourteen days immediately preceding the date for the holding of the Annual General Meeting, and shall be submitted to the Annual General Meeting for approval; and after approval shall be signed by the Chairman in testimony of such approval."*

**This Motion was lost**

**No. 4:** *That the members of the Queensland Law Society Incorporated recommend that the Council of the Society direct that the Chief Executive Officer of the Society and the Solicitor to the Society and their delegates ensure that the Society complies with the provisions of the Freedom of Information Act 1992, the Libraries and Archives Act 1988 and the Financial Administration and Audit Act 1977 in accordance with the law.*

**This Motion was lost**

**No. 5:** *That the members of the Queensland Law Society Incorporated recommend to the Council of the Society that Rule 22(2) of the Rules of the Queensland Law Society be revoked and that the following be inserted in lieu thereof;*

*"(2) Notice in writing of any motion to be moved at such meeting must be given to the Secretary at least ten days before the day appointed for the holding thereof. The Secretary shall give a copy of such Notice of Motion to every member at least five days before the day appointed for the holding of such meeting."*

As far as the amendment to motion No. 5 was concerned, he advised the Chair had no problem with that amendment. The amended motion was therefore:

*"(2) Notice in writing of any motion to be moved at such meeting must be given to the secretary at least thirty-five days before the day appointed for the holding thereof. The Secretary shall give a copy of such Notice of Motion to every member at least fourteen days*

*before the day appointed for the holding of such meeting.”*

**This Motion was lost**

**The President** then invited Mr Paul Henderson to speak to his Notice of Motions.

Mr Henderson spoke to his Notice of Motions. This was followed by debate on the Motions by members Mr Henderson then delivered his right of reply. He acknowledged that a point raised by a previous speaker was valid and suggested an amendment to the first paragraph of Motion No 7 by placing a comma then the words “*except for an active investigation*” at the end of the paragraph.

A ballot was then taken for each of the Motions. The Motions (as amended) and the result of each ballot are set out below.

**No. 1:** *That the Chief Executive Officer himself or whenever relevant to delegate, by way of a written direction to his delegates, to entirely comply with the following enactments of the State of Queensland as they relate to this public authority -*

*Financial Administration and Audit Act 1977*

*Libraries and Archives Act 1988*

*Criminal Justice Act 1989*

*Judicial Review Act 1991*

*Freedom of Information Act 1992*

*The Public Service Ethics Act 1994*

**This Motion was lost**

**No.2:** *That the Chief Executive within 21 days from the date hereof establish instruments of delegation for the administration of the ‘Freedom of Information Act 1992’ and to produce them upon written request of a member.*

**This Motion was lost**

**No. 3:** *That the Chief Executive submit to the State Archivist a draft of a proposed retention and disposal schedule for documents of the authority within two (2) calendar months from this date and advise all members of the contents of that draft proposal.*

**This Motion was lost**

**No. 4:** *That the Chief Executive within three (3) calendar months from the date hereof publish*

*statements of affairs as provided for in the ‘Freedom of Information Act 1992’ for the years 1993 to 1999.*

**This Motion was lost**

**No. 5:** *That the Chief Executive within three (3) calendar months from the date hereof cause the policies of the Queensland Law Society Incorporated to be committed conditionally to writing and published to all members for comment.*

**This Motion was lost**

**No. 6:** *That the Chief Executive Officer within three (3) calendar months from the date hereof conditionally submit a draft intended Code of Conduct pursuant to the ‘Public Sector Ethics Act 1994’ by way of an issues paper for consideration of the views of members.*

**This Motion was lost**

**No. 7:** *That the members of the Queensland Law Society Incorporated recommend to the Council of the Society an addition to be made to ‘The Rules of the Queensland Law Society’ as follows:*

*“At a time and place convenient to the Society, a practising practitioner (or a former practising practitioner) shall be permitted to peruse any authority, file or record held on that practitioner.*

*The Practitioner shall not be entitled to remove from that file or record any papers contained in it, but shall be entitled to obtain a copy of it.*

*Notwithstanding that the authority may have applied to the State Archivist to be granted permission to dispose of a file or record, the Society shall not dispose of that record without giving the subject practitioner a reasonable opportunity to inspect that file or record.*

*If the authority has received a notification that if any such file or record will be required in foreseeable administrative or judicial proceedings, that fact shall be revealed to the State Archivist.”*

**This Motion was lost**

**The President** invited Ms Rhonda Grace King to speak to her Notice of Motions.

Ms King advised that she was prepared to withdraw her Motions on the following basis:

That Peter Carne, as President of the Queensland Law Society, will do everything within his power to effect the following:

- (1) That within 60 days of the AGM, there be a meeting to which the members of the Society be invited in order to discuss those matters raised by the motion of myself as to the Legal Practitioners Fidelity Guarantee Fund and the Compulsory Professional Indemnity Insurance.
- (2) That there be invited to that meeting, staff of the Queensland Law Society who had involvement with respect to the LPFGF and the Compulsory Professional Indemnity Insurance, together with Council members.
- (3) That no later than 21 days prior to the meetings of the members of the Society, there be made available for inspection, the documents, advices and correspondence sought in the motion relevant to the LPFGF Compulsory Professional Indemnity Insurance;

so that the information is made available for members' discussion within 60 days and is also made available for members to look at and inspect 21 days before that meeting.

Mr Carne advised the meeting he would take action to implement the matters requested by Ms King.

Ms King then withdrew her Motions set out as follows:

**No. 1:** *That the Annual Report and Financial Statements of the Council not be received, approved or adopted until the following information has been provided to the members of the Society in writing:*

**A. Legal Practitioners Fidelity Guarantee Fund (LPFGF)**

1. *An explanation as to why the Fidelity Insurance cover of \$5,000,000 per annum on the LPFGF with Australia Pacific Professional Indemnity Insurance Co Ltd (APPIIL) and 100 % reinsured with AIG with a commencement date of 1 May, 1997 was cancelled by Queensland Law Society Inc on or about 10 July, 1997.*
2. *Upon whose advice was this cover on the LPFGF cancelled?*

3. *A copy of this advice to be provided to members.*
4. *An explanation as why this was an appropriate courses to adopt in light of concerns expressed by the Auditor-General about the continued viability of the LPFGF and its ability to meet claims. (See Discussion Paper on Legal Profession Reform, prepared by the Department of Justice and Attorney-General, December, 1988).*
5. *To what extent would levies of solicitors have been unnecessary had access to "stop loss" insurance cover through APPIIL/AIG been available?*
6. *Was the Auditor-General informed of the decision to cancel Fidelity Insurance cover on LPFGF and the reasons for this?*

**B. Compulsory Professional Indemnity Insurance**

1. *Why the Queensland Law Society chose to ignore warnings commencing 15 July, 1996 from Australia Pacific Professional Indemnity Insurance Co Ltd (APPIIL) regarding the dangers posed to the Compulsory Professional Indemnity Insurance Scheme through cover extending to Rule 87 contributory mortgage lending business conducted by less than 60 Queensland legal firms?*

2. *Copies of the following correspondence:*

- Michael Meadows, Chair, Claims Committee, letter to S Carter, dated 15 July, 1996.*
- Michael Behm, Claims Manager, APPIIL, letter to S Carter, dated 25 September, 1996.*
- Scott Carter, Solicitor to the Society, letter to M Behm, dated 25 September, 1996.*
- Michael Behm, Claims Manager, APPIIL, letter to S Carter, dated 17 December, 1996.*
- Scott Carter, Solicitor to the Society, letter to M Behm, dated 7 January, 1997.*
- Michael Behm, Claims Manager, APPIIL, letter to S Carter, dated 7 April, 1997.*
- Scott Carter, Solicitor to the Society, letter to M Behm, dated 4 August, 1997.*
- Greg Core, General Manager, APPIIL, letter to S Carter, dated 29 January, 1998.*
- Michael Behm, Claims Manager, APPIIL, letter*

to S Carter, dated 17 February, 1998.

Scott Carter, Solicitor to the Society, letter to G Core, dated 20 April, 1998.

3. The composition of the Society's ad hoc committee that considered these warnings as to the potentially catastrophic effect of contributory mortgage transactions on the Compulsory Professional Indemnity Insurance Scheme.
4. An explanation as whether any members of the ad hoc committee conduct contributory mortgage lending business.

**This Motion was withdrawn**

**No. 2:** That the members of the Queensland Law Society Incorporated express their satisfaction with the manner in which the Council of the Society and the Board of Directors of Australia Pacific Professional Indemnity Insurance Co Ltd have maintained a stable cost of Professional Indemnity Insurance to members for six (6) years (that is, from 1 July, 1993 to 30 June, 1999):

- (a) notwithstanding the fact that the amount of cover was increased from \$500,000 to \$1,100,000 each and every claim from 1 July, 1995; and
- (b) noting that in the previous six (6) years 1 July, 1987 to 30 June, 1993 when cover was constant at \$500,000 per claim, the cost of insurance increased by 49.2 percent.

**This Motion was withdrawn**

The President then invited Mr Ken Philp to speak to his Notices of Motion.

Mr Philp spoke to his Notice of Motions. This was followed by debate on the Motions by members. Mr Philp then delivered his right of reply.

A ballot was then taken for each of the Motions. The Motions and the result of the ballot are set out hereunder.

**No. 1:** That the members of the Queensland Law Society Incorporated recommend that the Council of the Society forthwith undertake an investigation into claims as reported in media of recent times (and in particular the report appearing on page 4 of the Courier-Mail published on 22.6.99) that solicitors have been touting for business

(particularly via tow truck operators) with a view to establishing whether or not there has been any breach by such solicitors of any statute or rule of any sort governing professional conduct of solicitors.

**This Motion was lost**

**No. 2:** That the members of the Queensland Law Society Incorporated recommend that the Council of the Society forthwith, on the completion of that investigation, cause to be instituted all necessary and appropriate disciplinary action against any member who has been engaging in any touting practice as referred to in Motion No. 1 above and in breach of any such statute or rule.

**This Motion was lost**

**No. 3:** That the members of the Queensland Law Society Incorporated recommend that the Council of the Society forthwith cause to be drafted and then promulgated all necessary and appropriate amendments to the Professional Conduct Rules to prohibit any touting practice of the kind referred to in Motion No. 1 should the current rules be found to be inadequate to completely prohibit such conduct.

**This Motion was carried**

**No. 4:** That the members of the Queensland Law Society Incorporated recommend that the Council of the Society censure the Society's Accident Compensation Committee for putting the recommendations to the Queensland Government's Compulsory Third Party Review Committee (as reported in the Courier-Mail on 22 June, 1999) without first conducting a poll of members of the Society to ascertain their views and wishes.

**This Motion was lost**

**No. 5:** That the members of the Queensland Law Society Incorporated recommend that the Council of the Society forthwith cause the immediate withdrawal of the recommendations as reported on page 4 of the Courier-Mail of 22 June, 1999 and which may have already been put or which are proposed to be put by the Accident Compensation Committee to the Queensland Government Compulsory Third Party Review Committee until such time as the poll referred to in Motion No. 4 has been conducted, the results of it circulated amongst all members of the Society

(such poll to also include a question as to whether members require that any such recommendation (s) be put to a third party (nominating which) and by which poll members vote by a simple majority in favour of (a) any such recommendations; and (b) that any such recommendation be put to a third party

**This Motion was carried**

**No. 6:** *The members of the Queensland Law Society Incorporated recommend that the Council of the Society cause the results of that poll noted in Motion No. 4 to be circulated amongst members forthwith upon the compilation of the results of the same*

**This Motion was lost**

**No. 7:** *That the members of the Queensland Law Society Incorporated recommend that the Council of the Society forthwith direct the Accident Compensation Committee (whether as presently constituted or as it may be hereinafter constituted) that no recommendations of the kind as reported on page 4 of the Courier-Mail of 22 June, 1999 be put in the future to any third party (whether it be any Government Committee or Office of the Attorney-General or otherwise) without a poll of the nature referred to in Motion No. 4 above first having been conducted amongst all members of the Society, the results of it having been circularised amongst all members of the Society and members voting by simple majority in such poll in favour of any such recommendation*

**This Motion was lost**

**The President** then advised the meeting that the votes for all Motions could not possibly be counted during the meeting, that the counting of votes would continue tomorrow and the results published to members.

**The President** invited Mr Lynch to speak to his Notice of Motions.

Mr Lynch spoke to his Notice of Motions and advised that he wished to make amendments to the Motions so as to delete existing Motions 3 – 7 and replace them with new Motions 3 – 6. Mr Lynch explained the effects of the amendments and read the amendments to the meeting. This was followed by debate on the Motions by members. Mr Lynch then delivered his right of reply.

A ballot was then taken for each of the Motions

and the Motions (as amended) and the result of each ballot are set out hereunder.

**No. 1:** *That the members of the Queensland Law Society Incorporated express their dissatisfaction with the manner in which the Queensland Law Foundation Pty Ltd as Trustee of the Law Foundation Insurance Trust has administered the Trust since its inception.*

**This Motion was lost**

**No. 2:** *That the members of the Queensland Law Society Incorporated express their dissatisfaction with the manner in which the Directors of the Queensland Law Foundation Pty Ltd failed to act to prevent the diminution in the value of the sole asset of the Trust being the shares held in APPIIL caused by -*

- (a) *the spending of inappropriate amounts by APPIIL on fitout of the APPIIL premises at Level 7, Times Square, 200 Creek Street;*
- (b) *the payment of grossly excessive salaries and allowances to APPIIL staff including some \$350,000 to Anthony Ashton Tarr in 1997-1998;*
- (c) *the failure to require Anthony Ashton Tarr to pay APPIIL the equivalent of six months salary in lieu of contractual notice of his resignation;*
- (d) *the payment of six months salary to Anthony Ashton Tarr in circumstances in which such payment was unnecessary in terms of APPIIL's contractual obligations to Mr Tarr.*

**This Motion was lost**

**Motion No. 3:** *That the members of the Society recommend to the Council of the Society that within 60 days of the Annual General Meeting, a meeting of the members of the Society be held to discuss:*

- (a) *the conduct of APPIIL in expending \$1.2 Million Dollars in the fitout of its premises;*
- (b) *the level of salaries and allowances paid to APPIIL staff;*
- (c) *the arrangements made by APPIIL concerning the resignation of Dr A A Tarr as Managing Director;*
- (d) *the conduct of QLF and its Board concerning the matters referred to in sub-paragraphs (a) to (c);*

(e) *the circumstances of the sale of APPIIL shares by QLF;*

(f) *the circumstances of the sale of Themis by QLFTS.*

**This Motion was lost**

**Motion No. 4:** *That the members of the Society recommend to the Council of the Society that it obtain undertakings from the QLF, QLFTS and APPIIL to provide the Society with any further documents and information concerning the matters referred to in Motion No. 3 as may be reasonably required to permit members to form a view about such matters.*

**This Motion was lost**

**Motion No. 5:** *That members of the Society recommend to the Council of the Society that it invite the following persons to be present at the meeting to answer members' questions concerning the matters referred to in Motion No. 3:*

(a) *The current and former Directors of QLF*

(b) *The current and former Directors of QLFTS*

(c) *The Directors of APPIIL prior to 29 December, 1998, the date of the sale*

(d) *Members of the current Council of the Society*

**This Motion was lost**

**Motion No. 6:** *That the members of the Society recommend to the Council of the Society that at the conclusion of the meeting, a vote of members be taken as to what action, if any, do members of the Society wish the Council of the Society to take concerning the matters the subject of the meeting.*

**This Motion was lost**

**Motion No. 7:** *That in light of the intimation from APPIIL/GIO that insurance premiums for 2000 and 2001 will be increasing, the members of the Queensland Law Society Incorporated recommend to the Council of the Society that the Society reassess the Claims and Funds Management Agreement and the Insurance Agreement made between it and APPIIL forthwith and investigate alternative insurance for the 2000 and 2001 insurance years.*

**This Motion was lost**

**The President** invited Dr John de Groot to speak to his Notice of Motions.

Dr de Groot advised that notwithstanding he fully supported his Motions, he believed there was no purpose in debating the Motions at that time and was withdrawing his two Motions.

**No. 1:** *That the members of the Queensland Law Society Incorporated express their confidence in the Queensland Law Foundation Pty Ltd and its Directors and endorse the actions they have taken on behalf of members.*

**This Motion was withdrawn**

**No. 2:** *That the members of the Queensland Law Society Incorporated express their appreciation to the Queensland Law Foundation Pty Ltd and its Directors for their work on behalf of the profession.*

**This Motion was withdrawn**

**Vacation of the Chair**

The President, Mr Paul McCafferty, said his term as President expired at this meeting and he had pleasure in inviting Mr Peter Carne to come forward and address all present as the incoming President.

Mr Peter Carne, accepted the invitation and addressed the meeting.

“Might I first acknowledge the contribution of the outgoing President, Paul McCafferty, on what he has done in the last year on behalf of the Society, and I’m conscious as I stand before you, the concern that many of you do have with respect to the changes that are occurring in our profession. This is my 24th year as a Solicitor. I have my own practice. I’ve been a Council member since 1992. I have been Vice-President on two occasions, then Deputy President. I’ve been on the Executive for quite some time and I’ve been involved in many committees particularly Professional Standards which is a committee that, if any council member hopes to go on to a higher office, needs to spend a lot of time on because you learn so much about the profession from going through all those issues which come before such a committee.

When you consider what the changes are placed on the profession, they seem to come from the demands that our consumers are placing upon us. I am sure that I am not alone when I say that our consumers demand a great deal from us, sometimes a bit unrealistically, but we’re required to meet those demands. In order to meet those demands,

we are now turning towards technology. There is a high cost of implementing technology in order to deliver the service that is expected of us. As well as that there is competition within our profession. We only have to look at the conveyancing war that's been going on for some five years or so. But not only within our profession but outside our profession. And finally, of course, the forces that are imposed on us by government. We need to be able to meet each of those challenges.

When considering what I was hoping to bring in my term as President, clearly the thing that comes through to me is what I'd like to convey is a belief in ourselves. I really do think, when you listen to the way a lot of our members speak about ourselves, when we carry on about the attacks in the media whether fair or unfair, I believe that we've got this real chip on our shoulder. We become apologists. I believe we really need to put that aside. If I want to convey one thing to you, both here and throughout the profession during my coming year, I want to try and ensue a belief in ourselves and clearly that belief needs to be conveyed, not only amongst our profession but it needs to be conveyed out there in the community; it needs to be conveyed to media and it also needs to be conveyed to government.

Many would be aware that in my early years in the legal profession, I was active in social and political issues. It was from that activity that I became conscious of how important we are as a profession in the process of change. When I look back on what our community was like in the mid-70's and what the institutions, whether they be the government, the police, the courts that our own profession would appear to accept and when I look at what our profession is today, we have come a long way.

The mere fact that we can have a debate like this tonight; the mere fact that I can say to somebody from APLA: come to us, put your point of view. I must say 20 years ago as a profession and as an organisation, we weren't that responsive. I believe that the criticism of our profession so far as the service we deliver, our attitudes, in particular access to justice, I believe there is no basis for any criticism in that regard. I believe, when we look at our profession, we've been extremely responsive in meeting the challenges of the demands that are put upon us. I believe that we are probably one of

the best organisations, professional groups, when you consider how we are meeting those challenges.

I believe that the pressures, the burdens, and the criticisms put upon us are unfair and unbalanced and I must say that the philosophy in the Green Paper conveys that very strongly, particularly when you see that it's acknowledged in the Green Paper that the Society, on behalf of the profession made a submission to do away with all regulation. We said to Government: Let us get out there and compete. Take away from us totally all regulation because we believe that all of us can compete, doesn't matter who it is, but while you continue to impose on us the regulations that you do, that restrict us in the way we set up our structures, our firms, our businesses, the way we get out there and compete with organisations like accountants, banks, financial advisers, when you also restrict our access to tribunals where we should be able to get in there and represent members of the community. In the last week or so the Attorney-General has been travelling around the State, use the classic example we've got at the moment. This government has a draft Retirement Villages Bill which specifically excludes lawyers from the Retirement Villages Tribunal.

Now, when you think of that, you have got a situation where you have elderly people, more often than not up against the owners of the retirement village. What a huge power imbalance that is. There can be no justification in excluding our skills, our representative skills to put the balance back, but for some reason, there is this belief that lawyers need to be excluded. Of course, that is more work being taken away from us. But, as well as that, we've got a huge amount of regulation that's been imposed upon us that comes at a cost, both in an overhead basis that comes in a cost in our ability to get out there and deliver a service and be continually a very strong and viable profession.

When I started thinking about what our role is and where we are going, I was listening to the Law Talk program. There was an interview with the lawyer who was representing Peter Wallace, the Care Worker from Mackay. He was speaking in his second language, English, about the appeal process in Yugoslavia. He spoke in a very clear and precise way on a very complex legal issue, and I was extremely impressed by his ability to get across in terms where a person, not necessarily

being a lawyer, could understand why he believed the Military Tribunal was wrong in the case of Peter Wallace with respect to the sentence imposed on him. It led me to think what a brave man he was. Here he is in his country which is at war, acting for a convicted spy, and what was he doing, he was upholding the rule of law and I think we, and that's where I come across this theme about having a believe in ourselves, both we and our community, the media, particularly government forget how integral we are in ensuring that this society which we have .....As soon as I got my Law Degree I went overseas. I realised how insignificant Australia was to the rest of the world, but how lucky we were back here. We are just so lucky, when you consider the lifestyle we've got, the freedoms we've got, and a lot of that is due to our profession. A lot of that is due to men like that lawyer in Yugoslavia; like the lawyers acting for Ibrahim in Malaysia. When you consider the pressure they're under at the moment, just trying to get justice.

In preparation for my term as President, I read the history of the Law Society by Helen Gregory. The thing that really struck home to me was how a lot of the issues we have today, were confronted by our profession a hundred years ago.

Chapter 2 starts off by saying:

Discussion and debate on the structure of the legal profession, the standard of legal practice and the cost and efficiency of the courts' system came increasingly into the arena of parliamentary debate and the public press during the 1870's. Honest lawyers demanded that a way be found to protect their domain against the encroachment of unqualified people dispensing legal services and well established solicitors were also determined to find a way to make their view known. They found a corporate voice in the establishment of the Queensland Law Society.

I note that at the commencement of that chapter, and it was with irony that I quote the Brisbane Courier which is now The Courier-Mail, on 9 October, 1874:

A conscientious honest lawyer is one of the best friends and safest protections that one can have against one's self, just as often as against one's enemies.

We must always keep that in mind. I still believe

that that is a very true statement. Now, how do we breed this belief in ourselves? The first way I think is through our *Proctor*. I believe that Proctor is one of the best things that this Society has got going for it. It is just a high class periodical. I get a lot of benefit out of the part that profiles various lawyers. I read that section avidly. What hits home to me is how really decent all those individuals are and how really ordinary they are. That's not a criticism. How they really believe that they can do some good. I think that's probably one of the best parts in Proctor.

The other part is the obituaries. You read about those practitioners who have been around a long time, more often than not, and who have achieved a great deal. In the latest Proctor, there is an obituary for Michael Vandeleur who was a lawyer for some 54 years in Innisfail. When you read about what that man's achievements were, both in his local community, within the State and outside the State, he achieved a great deal. He really epitomises what I believe is just so important in our profession and what I believe means that we've got every right to believe, to accept, and have a believe in ourselves. We must not lose sight of that.

I must talk about the Green Paper. I'm very much up to speed on the Green Paper. The Green Paper is my huge task. It's not going to be easy. The reality is there is going to be change; there is going to be reform. What I've been saying out there to politicians that I'm speaking to is that you're going to have balanced reform. We accept reform. We've been asking for reform for a long time. We've been saying let us get out reform us and leave us alone. In 1997 we had amendments to the Queensland Law Society Act on the discipline process. In 1998 we had the Civil Justice Act. In 1999 we are going to have whatever comes out of the Green Paper. We need reform, but we need balance in that reform. The Green Paper doesn't give that balance. I believe that we can claw some of it back, but I need to know what's important to us. I rely on all of you to give me assistance.

Now, I've moved very quickly to tap into the feeling out there. We've been living with this reform since 1994 when the Goss Government moved a long way towards that. Tomorrow, I've invited all the DLA representatives to come along to Council and we're going to sit down and we're



going to talk about a reform agenda. The reform will come about. It will bring about change, but it is not going to be the end of us. We have got a great history behind us and we've got a great history ahead of us. I give you this pledge, that we will work very hard to make sure that the reform that is put to us, there is balance to it and that our needs and our interests are addressed. But I also have to say to you, accept change, work with change and don't lose the belief in yourselves. That's the most important thing.

Thank you."

### **Conclusion**

Mr McCafferty thanked Mr Carne for his speech and declared the Meeting closed.

## **Council Members**

The Council of the Queensland Law Society at the time of writing this report is as follows:

### **Members**

P E M McCafferty, Bowdens Lawyers (President)

P D Carne, Carne & Herd (Deputy President)

R M Giudes, Giudes & Elliott (Vice President)

J M Batts, Harrington Batts

J M Bennett, Bennett & Associates

P A Conroy, Conroy & Associates

K R Copley, Wilson & Copley

P J Dickenson, Murray Lyons Dickenson

G W Ferguson, Ferguson Cannon Lawyers

R A Geldard, South & Geldard

J G Mann, Mallesons Stephen Jaques

J F O'Sullivan, Justin F. O'Sullivan & Edgar

J N L Pinder, Pescott Reaston

L D Pommer, Connolly Suthers

T M Sullivan, Davidson & Sullivan

J A Tooma, J.A. Tooma & Co.

R H Wallace, S.R. Wallace and Wallace

B P Kilmartin, Sciacca's Lawyers (Attorney-General's nominee)

### **Retired:**

G W Deeb 15 July 1998

M A Steen, 15 July 1998

D G Thomas 15 July 1998

### **Executive Committee**

P E M McCafferty (Chair)

P D Carne

R M Giudes

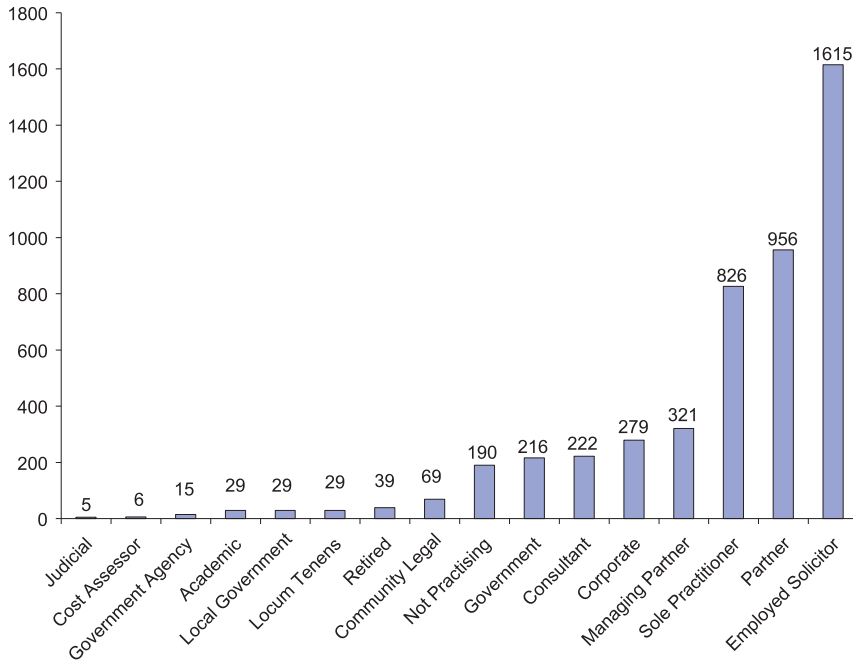
J G Mann

J A Tooma

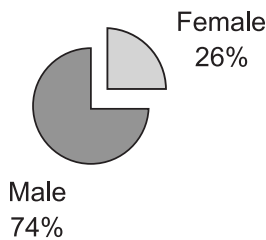
## Statistics of the Profession

The following graphs show the statistics of the legal profession in Queensland for solicitors in private practice, legal education, corporate employment and the public service. Also shown are graphs detailing gender and age distribution of practitioners, and the geographic location of legal practices throughout the State.

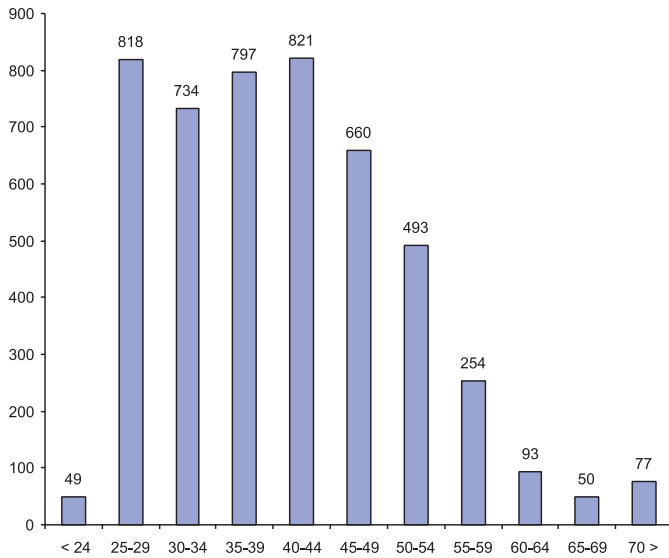
### Categories of Solicitors



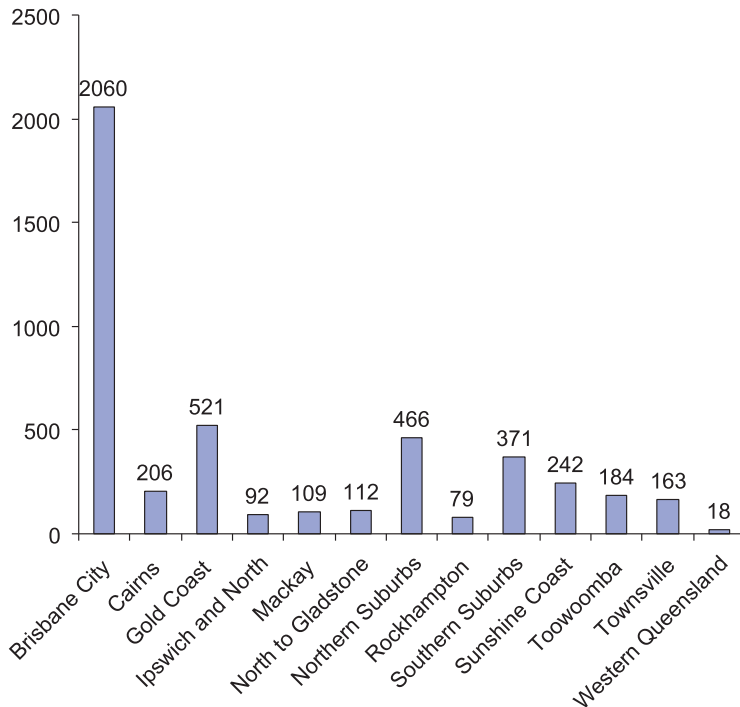
### Gender of Solicitors



### Age of Solicitors



### Geographical Distribution



## Senior Counsellors

Senior Counsellors of the Law Society are appointed by Council. They are available to assist other members of the profession seeking guidance on professional matters. The communication between members and the Senior Counsellors on professional matters is subject to privilege so that members in difficulty can discuss their problems in a full and frank manner.

The Society encourages solicitors in doubtful situations to consult the Senior Counsellors.

In addition to their traditional role, some of the Senior Counsellors have undertaken mediation training. They are available to assist in the resolution of some professional conduct disputes between dissatisfied clients and solicitors, where it is thought that the difficulty might be a result of poor communication.

### **Brisbane:**

PL Cooper, Hunt & Hunt, GPO Box 834, Brisbane 4001

CC Endicott, Macrossans Lawyers, P O Box 7907, Waterfront Place, 4001

J D Fitzgerald, Biggs & Fitzgerald, PO Box 15, Aspley 4034

RA Forgione, Ross Forgione & Co. P O Box 3086, Sunnybank South, 4109

AC Freeleagus AO CBE RFD, Clayton Utz, GPO Box 55, Brisbane 4001

G Gasteen, Blake Dawson & Waldron, PO Box 7074, Riverside Centre 4001

R J Grainger-Smith, Clayton Utz, GPO Box 55, Brisbane 4001

W A Hart, Hemming & Hart, GPO Box 142, Brisbane 4001

G J Hutchinson, Cooke & Hutchinson, PO Box 130, Redcliffe 4020

J P Kelly, Corrs Chambers Westgarth, GPO Box 9925, Brisbane 4000

M O Klug, Clayton Utz, GPO Box 55, Brisbane 4000

S Leonard, Samuel Leonard & Associates, PO Box 147, Mt Gravatt Central 4122

M R Lockhart, Flower & Hart, GPO Box 219, Brisbane 4001

A MacGillivray, MacGillivrays, GPO Box 2582, Brisbane 4001

J G Mann, Mallesons Stephen Jaques, GPO Box 1406, Brisbane 4001

P E M McCafferty, Bowdens, GPO Box 2587, Brisbane 4001

MA Miller, Quinlan Miller & Treston, GPO Box 2500, Brisbane 4000

G A Murphy AM, MurphySchmidt, P O Box 7042, Riverside Centre 4001

J A Nagel, John Nagel & Company, PO Box 44, Mt Gravatt 4122

P G Nolan, Gilshenan & Luton, PO Box 295, Brisbane Roma Street 4003

T P O’Gorman, Robertson O’Gorman, PO Box 26, Roma Street, Brisbane 4000

J S P O’Keeffe, Corrs Chambers Westgarth, GPO Box 9925, Brisbane 4001

W T Purcell, W T Purcell Chadwick & Skelly, GPO Box 958, Brisbane 4001

O Rinaudo, Rinaudo & Co, PO Box 66, New Farm 4005

N B Roberts, Minter Ellison, PO Box 7844, Waterfront Place, Brisbane 4000

J-A Schafer, Thynne & Macartney, GPO Box 245, Brisbane 4001

D G Searles, McCullough Robertson, GPO Box 1855, Brisbane 4001

P J Short, Allen Allen & Hemsley, PO Box 7082, Riverside Centre 4000

D P Spence, Thynne & Macartney, GPO Box 245, Brisbane 4001

W H Tutt, Tutt & Quinlan, PO Box 12180, Brisbane 4000

G J Vickery, Deacons Graham & James, GPO Box 407, Brisbane 4001

### **Atherton:**

F J Liston, Lilley Grose & Long, PO Box 156, Atherton 4883

**Ayr:**

B J Baxter, Ruddy Tomlins & Baxter, PO Box 590, Ayr 4807

**Beaudesert:**

N J Clarke, John Clarke, P O Box 76, Beaudesert, 4285

**Bowen:**

B J Baxter, Ruddy Tomlins & Baxter, 8 Gregory Street, Bowen 4805

**Bundaberg:**

T W Young, Finemore Walters & Story, PO Box 704, Bundaberg 4670

**Caboolture:**

G P D Maskiell, Maskiells, PO Box 779, Caboolture 4510

**Cairns:**

A L English, Bottoms English, PO Box 5196, Cairns Mail Centre 4870

K Graham, Williams Graham & Carman, PO Box 947, Cairns 4870

B M Johnson, Barry Johnson, PO Box 6751, Cairns 4870

**Gladstone:**

K M Bates, V A J Byrne & Co, PO Box 5273, Gladstone 4680

**Gold Coast:**

D J Angus, Price & Roobottom, PO Box 455, Southport 4215

R B Attwood, Attwood Marshall, PO Box 334, Coolangatta 4225

M P Baumann, Bells Solicitors, PO Box 5193, Gold Coast Mail Centre 4217

K R Copley, Collas Moro Ross, PO Box 8, Broadbeach 4218

B F Cronin, Primrose Couper Cronin Rudkin, PO Box 413 Southport 4215

J M McCaughan, Jan M McCaughan, PO Box 912, Southport 4215

W M Potts, Price & Roobottom, PO Box 455, Southport 4215

I A M Short, Short Punch & Greatorix, PO Box 5164, Gold Coast Mail Centre 4217

**Gympie:**

G R Neilson, Neilson Stanton & Parkinson, PO Box 356, Gympie 4570

**Innisfail:**

V J Vandeleur, Vandeleur and Todd, PO Box 862, Innisfail 4860

**Ipswich:**

P M Fallu, Dale & Fallu, PO Box 30, Ipswich 4305

R Zande, Richard Zande & Associates, PO Box 42, Ipswich 4305

**Mackay:**

A P F Ghusn, Macrossan & Amiet, PO Box 76, Mackay 4740

S B Wright, S B Wright & Wright and Condie, PO Box 38, Mackay 4740

**Nambour:**

M D Bray, Bradley & Bray, PO Box 243, Nambour 4560

P D Lohrisch, Lohrisch Solicitors, PO Box 48, Nambour 4560

**Rockhampton:**

A R Batts, Connolly Schirmer & Batts, PO Box 309, Rockhampton 4700

H C Grant, Grant & Simpson, PO Box 50, Rockhampton 4700

V N Jackson, South & Geldard, PO Box 560, Rockhampton 4700

J L Shaw, Swanwick Murray & Roche, PO Box 111, Rockhampton 4700

**Stanthorpe:**

M C Bathersby, Neil Sullivan & Bathersby, P O Box Stanthorpe 4380

**Sunshine Coast:**

M Buck, PO Box 314, Landsborough 4550

R G Hyett, Richard Hyett, P O Box 964, Mooloolaba 4557

S J McDermott, Butler McDermott & Egan, PO Box 117, Nambour 4560

M O Richardson, Cartwright Richardson & Stringer, PO Box 132, Noosa Heads 4567

**Toowoomba:**

J C Blakeney, Bernays & Bernays, PO Box 51, Toowoomba 4350

M Browning, Wonderley & Hall, Box 838, Toowoomba 4350

J D Carroll, Murdochs Solicitors, P O Box 963, Toowoomba 4350

J E Cleary, Cleary & Lee, PO Box 75, Toowoomba 4350

G C Fox, Groom & Lavers, PO Box 52, Toowoomba 4350

K M Walker, Kathryn Walker & Associates, PO Box 1514, Toowoomba 4350

**Townsville:**

R C Barnes, Roberts Leu & North, PO Box 1003, Townsville 4810

A J Boulton, Boulton Cleary & Kern, PO Box 1099, Townsville 4810

C O Harkness, Wilson Ryan & Grose, PO Box 1113, Townsville 4810

**Warwick:**

N D Maxwell, Maxwell & McMeniman, P O Box Warwick 4370

**Retired:**

J D Carroll, Grant & Simpson, PO Box 50, Rockhampton 4700, 28 February 1999

**District Law Associations**

The Queensland Law Society represents the interests of the most geographically widespread legal profession in Australia. Solicitors practising in Far North Queensland are further from Brisbane than people living in Melbourne.

The vastness of Queensland has nurtured the growth and strength of 20 District Law Associations which have the opportunity to communicate as often and as closely with the Queensland Law Society as their Brisbane-based colleagues. The enthusiastic involvement of regional solicitors in a wide range of local community activities is of enormous importance

in the Society's efforts to educate and inform the community about their rights and responsibilities under the law.

Bundaberg Law Association

Caboolture Law Association

Central Queensland Law Association

Downs & South-Western Law Association

Far North Queensland Law Association

Fraser Coast Law Association

Gladstone Law Association

Gold Coast Law Association

Gympie District Law Association

Ipswich & District Law Association

Logan City/Beenleigh Law Association

Mackay District Law Association

North Brisbane Lawyers' Association

North Queensland Law Association

North West Law Association

Redcliffe, Pine Rivers & District Law Association

South Burnett Law Association

Southern District Law Association

Sunshine Coast Law Association

Townsville Solicitors Association

**Directors of the Law Society**

**Director of Alternative Dispute Resolution**

Bernadette Rogers' appointment as Director of Alternative Dispute Resolution in November, 1993, was the first such appointment in an Australian Law Society or Institute. Her role is to promote and develop Alternative Dispute Resolution (ADR) to the profession through training programs, seminars, and published papers on all aspects of mediation and conflict resolution skills. Ms Rogers completed her Bachelor of Laws degree at the Australian National University in 1977. She was admitted as a solicitor in the Supreme Court of Queensland in 1982 and spent six years employed in private practice with

particular experience in family law areas. Ms Rogers was responsible for the ADR program of the Legal Aid Office Queensland from 1990 to 1993.

### **Director of Continuing Legal Education**

Ann-Maree David was appointed Director of Continuing Legal Education in 1999, having been Acting Director since April 1998. Formerly the Manager of the Seminars Division of the Department, Ms David holds Bachelor of Laws and Master of Laws degrees from the Queensland University of Technology and a Bachelor of Arts Degree from Griffith University. Ms David was admitted as a Solicitor of the Supreme Court of Queensland in 1992 and worked in private practice until joining the Queensland Law Society in 1994.

### **Director of Finance**

Murray Fox completed a Bachelor of Business – Accounting at the Queensland University of Technology and completed the Institute of Chartered Accountant’s Professional Year in 1981. Mr Fox joined the Law Society in 1988 as Financial Controller, and was appointed Director of Finance in 1993. He has worked with major accounting firms including Touche Ross and Bentleys. Prior to joining the Law Society, he worked with the Department of the Auditor-General.

### **Director of Professional Standards/ Secretary to the Society**

Keith Thompson is a graduate of the University of Queensland. He has a Bachelor of Commerce and a Bachelor of Laws. He was admitted as a solicitor of the Supreme Court of Queensland in 1978. Following employment in private practice, Mr Thompson joined the Law Society in 1982. His role was to undertake receiverships of solicitors’ trust property and to administer the Fidelity Guarantee Fund. He was appointed Acting Director of the Professional Standards Department in September, 1993 and Director of the Department in March, 1994. He was appointed Secretary of the Society on 1 February, 1996.

### **Solicitor to the Society**

The office of the Solicitor to the Society is responsible for advice to the Council, the Executive Committee, the President and Departmental

Directors on legal matters affecting the Society’s operations and the affairs of members generally. As a consequence of the primary responsibility there follows a substantial research role in relation to monitoring new State and Commonwealth Bills, government discussion papers and the papers of the Law Reform Commission, the Criminal Justice Commission and similar entities.

The office of the Solicitor also recommends the development of submissions to government and others, and has responsibility for drafting such submissions as directed. The office is responsible for the administration and support of a number of the Committees of the Council. The investigation and oversight of prosecutions for unqualified practice and holding out is part of the function of that office.

Scott S Carter

**Solicitor to the Society**

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

The department is responsible for:

- administration of the Lawyer Arbitrators and Mediators (LAMS) list;
- SCRAM (Schools Conflict Resolution and Mediation) competition;
- support for the ADR Committee, Equity Committee and LawCare Committee;
- conducting Professional Standards mediations;
- promotion of ADR processes and solicitors as service providers.

The department continues to offer a supervision program to allow members to comply with the requirements of the Family Law Regulations. It deals with requests for mediators from solicitors and the public. It continues to support members by arranging regular LAMS networking meetings, publishing the LAMS Bleat News-sheet and making available standard agreements and materials.

The SCRAM competition is in its fifth year; 50 schools registered in 1999. The department has drawn heavily on the time of members to act as adjudicators and is very appreciative of the generous support it has received. In 1998 the

competition was conducted in NSW and Victoria and a three-way National Grand Final was held at Law Society House in October. The winning school was Sherbrooke Community School from Victoria. The National Grand Final generated excellent attendance and media coverage. The 1999 National Grand Final will be held in Victoria.

The department continues to conduct a small number of mediations for the Professional Standards Department in areas of disputes between solicitors and clients or solicitors and solicitors. These mediations are an opportunity for solicitors to meet with their clients in a structured forum and respond to the expectations of their clients. Disputes between solicitors have also been resolved amicably.

The Director has accepted invitations to speak at Universities and seminars to discuss the use of a variety of dispute resolution processes. There has also been ongoing liaison with the Courts, Government Departments and local Council's to promote the use of a range of dispute resolution options and the skills of solicitor mediators.

Bernadette Rogers  
**Director**

## **Continuing Legal Education (CLE) Department**

The department's focus throughout the reporting period was on finding ways to provide its products and services in a timely and cost effective manner to the practitioners across Queensland. It is our desire to provide "just in time" professional development training and assistance to our members. Electronic means of communication and program delivery were trialed in the reporting period and it is expected that a series of interactive on line or CD-ROM based programs will be available within 12 months.

The seminars program was well received throughout the reporting period. Short seminars and workshop programs remain a popular feature of the CLE calendar. Intensive one day programs and extended residential conferences offer practitioners the opportunity to meet colleagues with mutual practice interests from across the State as well as gain an in-depth knowledge of new developments in various practice areas. Seminars

available via teleconference continue to grow in popularity. This medium allows practitioners to receive quality presentations at a highly competitive rate without the need to travel beyond their home or office. We commend those district law associations whose members gather to receive these teleconference seminars as well as co-ordinating other face-to-face programs with CLE's assistance. Of particular note throughout the year was high attendance at the Member Benefit Teleconference Seminars – a series of seminars for which no administrative fee is charged and which brings practitioners up to date quickly on the latest legislative and case law developments.

Restructuring within the Society saw the department co-ordinate both the educational and social programs for the annual Symposium. This event experienced a return to popularity amongst the profession with more than 600 delegates registering for all or part of the program. The Queensland Law Society Inc and Bar Association of Queensland hosted more than 75 presenters over 25 sessions devoted to black letter law and practice development topics.

The Publications Unit continues to produce its existing range of educational texts. Annual updates to the Scales of Costs and Fees are produced and the texts in the precedent series are updated as practice and procedure develop. An electronic version of the Land Titles Practice Manual was produced for distribution through Themis.

The Publications Unit has also experienced an upturn in in-house work as it provides in-house assistance to other departments and divisions within the Society, including *Proctor*.

The Management Education Division of the department continues to co-ordinate the Practice Management Course (PMC) which is conducted by the University of Queensland's Graduate School of Management (GSM). Graduates of the course can seek credit for a 10 point elective subject, *Professional Standards and Practice Management*, when enrolling in a range of postgraduate management courses including the Graduate Certificate or Graduate Diploma in Management or the Master of Business Administration programs. In an effort to streamline operations, some administrative work generated by the course was absorbed by the GSM. The department continues to produce the course



materials, including tutorial workbooks, and to liaise with presenters. This restructuring permitted the course co-ordinator to devote time to producing stand alone practice management seminars and workshops in conjunction with the CLE Seminars Division.

The Management Education Division continues to administer the Duty Lawyer Accreditation program. An initiative by Legal Aid Queensland to seek tenders for this work in additional regional Magistrates Courts saw an increase in the number of applications for this program earlier in the year.

The Schools Program, introduced in 1994, continues to grow in popularity amongst legal studies teachers and students within Queensland's high schools as well as the broader community. The program aims to provide legal education and resources to these groups. Funding assistance for the program was received from the Department of Justice and the Department of Education as well as the Business Educators' Association of Queensland.

The core business of the program is to provide legal resources and information. This takes a variety of forms, including research kits; *Broker*, a quarterly 20 page magazine produced by CLE (Teacher, Student and General editions) which has a readership of more than 2,100 subscribers; and regular school visits and workshops for teachers to discuss legal issues. The Manager Community Education, Anthony Gray, co-ordinated a Mock Parliament and a Mock Trial for students during Law Week and assisted in the inaugural legal studies conference held at Parliament House. Legal research seminars are also run jointly with the State Library. There was a marked increase in demand for school visits from across Queensland.

Originally the Schools Program was tailored to the needs of senior legal studies students and teachers. In 1999, the subject Study of Society and Environment (SOSE) is being trialed in junior schools throughout Queensland, and will be available for general implementation in 2000. The subject contains a significant legal component. The program has received funding from the Grants Committee to support a part time position in 1999 dedicated to servicing this new direction in schools.

The Specialist Accreditation program in personal injuries law was co-ordinated by CLE in the

reporting period. A total of 105 candidates undertook the assessment process, with a total of 69 candidates becoming accredited specialists. At the time of writing, the Department has commenced work on administering the 1999 assessment and accreditation program for both personal injuries law and family law.

I take this opportunity to thank the CLE Consultative Committee, all members of which are drawn from the profession. This committee provides valuable input and feedback on the direction of the department and the products and services it generates. I wish to express our appreciation to the members of the profession who donated their time, effort and expertise to CLE and to the members who supported the many CLE programs undertaken this year. Finally, my thanks go also to members of the CLE department for their work and dedication throughout the reporting period.

Ann-Maree David  
**Director**

## Finance Department

The Finance Department is responsible for the preparation and maintenance of all statutory accounts required under the *Queensland Law Society Act 1952*. It also provides managerial information to the Society's departments to assist them in their decision-making processes.

The Finance Department continues to be responsible for all accounting matters relating to the Law Claims Levy Fund 1987-95. Administration of law claims files is handled by APPIIL with all claims payments made by the Finance Department. Levy Fund investments are managed by the Finance Department with Bankers Trust.

The department is responsible for the receipt and distribution of interest received on solicitors' trust accounts, and performs reconciliations between the Society and banking records to ensure interest is correctly paid on all solicitors' trust accounts.

The Director of Finance is also responsible for information technology systems and in the past year significant effort and resources have been allocated to the year 2000 issue. Where necessary, existing computer programs have been modified

and tested and operating systems upgraded to compliant versions. All major hardware items have been checked with manufacturers to confirm compliance status. The review of office based PC software is still to be completed.

Development of an internet homepage has commenced and the Queensland Law Society site should be accessible to both the profession and the public in the third quarter of 1999.

I would like to acknowledge and thank the staff of the Finance and IT Departments for their assistance and commitment during the year.

Murray Fox  
Director

## Professional Standards Department

The department's primary functions include:

- investigation of complaints
- examination of solicitors' trust accounts
- management of the Fidelity Guarantee Fund
- receivership of solicitors' trust property

There were 379 current complaint files at the end of April, 1999 compared with 323 at the end of the previous Law Society year. The number of written complaints received during the year was 761 (previous year 675) and miscellaneous enquiries during the year totalled 665 (previous year 776).

The department continues to provide significant assistance to solicitors, their bookkeepers and auditors, in relation to enquiries regarding their duties and responsibilities under the *Trust Accounts Act* and *Regulations*. The department conducted 171 examinations of solicitors' trust accounts during the year.

Forty-five claims against the Fund were considered during the year. These claims were dealt with by the Society's Committee of Management with ratification, where appropriate, from the Council of the Society.

There were three receiverships of solicitors' trust property during the year which involve the department in investigating trust account records and facilitating the distribution of client files, safe

custody documents, and other trust property.

The department's Referral Scheme continues to generate significant participation from the public. During the year 16 152 calls were received by the department from members of the public requesting a referral to a solicitor, an increase of over 35% from the previous year.

Keith Thompson  
Director

## Secretary

The Society issued 5 056 Practising Certificates during the year consisting of 317 conditional Employee level certificates, 2 566 Employee level certificates and 2 175 Principal level certificates.

A total of 487 solicitors were admitted in Queensland during the year. Three hundred and sixty four of those solicitors took out Practising Certificates with the Society.

There are presently 5 360 members of the Society and 127 Honorary, Complimentary and Associate members of the Society.

The library continues to provide an invaluable service to members in their practice.

It has been another busy year in the library, not only in respect of member enquiries and requests, but also because of the introduction of new procedures and the implementation of new projects.

In August 1998, a procedure was introduced requiring all requests for information from the library to be in writing on a library request form.

During the year, the library expanded its collection by acquiring new CD-ROM databases, texts (both new titles and new editions), loose-leaf services and journals. This enabled the library to increase its coverage in areas such as local government, franchising and industrial law.

Members can now access the Internet in the library to help them in their practice. It is anticipated that access to members will be increased in the next year.

The library has prepared materials for inclusion on the Society's homepage which is yet to be launched. Members will be able to find out how the library can help them, check out the library

guidelines, pick up some research tips, and link to legal information sites.

An exciting development has been the creation of “ADDLIB”. This newsletter will be published quarterly and will include library news, handy hints, and references to cases, articles and legislation which may be of interest to members in their practice.

The library has also produced two new brochures. They are available from the library and set out guidelines, request procedures, and details of services and facilities offered.

Keith Thompson  
**Secretary of the Society**



## Committee Lists

For the period ending 1 May, 1998 to 30 April, 1999.

Membership of Society Committees is reviewed annually by the Council.

### Access to Justice

P J Mullins (Chair)  
 M P Baumann  
 P A Conroy  
 L M Dreghorn  
 D B Greer  
 S D Guttridge  
 J A Harrington  
 L S Reidy  
 P S Russo  
 D G Searles  
 H R Watson  
 L M Dreghorn

#### Retired:

G P D Maskiell 12 July 1998  
 J M Park 9 December 1998

### Accident Compensation

G A Murphy AM (Chair)  
 T S Balaam  
 The Hon P Braddy  
 J P Cameron  
 S Carter  
 S P Charles  
 J K Cunningham  
 S E Davies  
 R J Davis  
 P C Eardley  
 G W Ferguson  
 R M Giudes  
 J Hand  
 B P Kilmartin  
 P Koutsoukis  
 R A McConaghy  
 K McKenzie  
 M A Miller  
 J F O'Sullivan  
 J N L Pinder  
 J M Rowell  
 The Hon C A Sciacca

G R Senior  
 A J Shah  
 W H Tutt  
 S S Carter

#### Retired:

R M Dann 30 November 1998  
 S L Turner 30 November 1998

### Administrative Law

A C Wood (Chair)  
 T A Allingham  
 P G Callaghan  
 J K Cockburn  
 P L Friedman  
 R G Hancock  
 D F Ingwersen  
 D M McGann  
 W J Mitchell  
 D G Thomas  
 S S Carter

### Aged Care & Accommodation

R A Lyons (Chair)  
 G R Chapman  
 B J Herd  
 G J Hutchinson  
 A S O'Connor  
 H S Sia  
 M R Streeting  
 D C D Sutherland  
 J D Wrathmall  
 U Zeller  
 H M Baldwin

#### Retired:

M J Mellick 31 August 1998  
 S J O'Reilly 16 October 1998  
 R S Gregory 10 December 1998

### Alternative Dispute Resolution

O Rinaudo (Chair)  
 P J Cavanagh  
 S M Cibau  
 Ass. Professor G Clarke  
 P Condliffe  
 M O Klug  
 W K Lehmann  
 B P McCafferty  
 A McDiarmid

P J Mullins  
 P B Scott  
 G R Smith  
 P W Venus  
 M B Rogers

**Retired:**

Prof L Boule 10 June 1998

**Claims**

M J D Meadows (Chair)  
 B D Bartley  
 P D Carne  
 R M Giudes  
 P E M McCafferty  
 P J Mullins  
 J F O'Sullivan  
 M C Behm

**CLE Consultative**

M J Crouch (Chair)  
 C A Adams  
 M L Carkeet  
 A P Colman  
 G M Cranny  
 B T Dunphy  
 J L Wight  
 A M David

**Retired:**

G W Deeb 27 July 1998  
 N M L'Estrange 24 August 1998  
 J R Kennedy 30 November 1998

**Company Law**

G J Vickery (Chair)  
 B Adams  
 R J Burrell  
 N F Coburn  
 J R Cooper  
 B C Cowley  
 S A Cranston  
 D J Grace  
 T G Handicott  
 J B L Heading  
 J J Hutson  
 P A Jolly  
 A E Knox  
 P Little  
 D R Magarey

Prof M McGregor-Lowndes  
 R C McNally  
 Prof P E von Nessen  
 J D Story  
 N P Withnall  
 H M Baldwin

**Retired:**

S J O'Reilly 16 October 1998

**Construction Law**

J B Cooper (Chair)  
 R D Backstrom  
 K D Broadfoot  
 R V Ensbey  
 J P Feehely  
 A Fletcher  
 R A Holt  
 R P Landsberg  
 M J Luchich  
 W G Morrissey  
 A C Orange  
 S J Pyman  
 R W Quick  
 J Scrivens  
 L M Tracey  
 R N Wensley QC  
 M Williams  
 R S Williams  
 H M Baldwin

**Retired:**

B P McCosker 30 November 1998  
 C G L Roney 23 March 1999  
 D E Young 30 November 1998  
 S J O'Reilly 16 October 1998

**Court Practice and Procedure**

T J McBride (Chair)  
 D J Abernethy  
 B J Bathersby  
 S Carter  
 S B Collins  
 J H Davies  
 A W Duffy  
 P D Garrett  
 T E Harrip  
 W A Hickey  
 P A Hunter

S M Jackson  
 M G Johnston  
 J A McDonnell  
 J A McVeigh  
 L J Preston  
 K M Splatt  
 J J Tracey

**Retired:**

K G Flehr 30 November 1998  
 H A Scott-Mackenzie 30 November 1998

**Criminal Law**

M Shanahan (Chair)  
 M F Bosscher  
 R M C Burns  
 R W T Carew  
 G M Cranny  
 D J Creevey  
 R L Devereaux  
 J A Hopes  
 H A Mellick (Jnr)  
 P T Murphy  
 M E O'Connor  
 T P O'Gorman  
 W M Potts  
 M P Quinn  
 L S Reidy  
 S S Carter

**Retired:**

J X Madden 22 December 1998  
 D M O'Connor 9 March 1999

**Equity**

M P Ryan (Chair)  
 S J Booth  
 G H Kahlert  
 J R Logan  
 G M Neal  
 K A Ryan  
 G R Smith  
 C M Taylor  
 J A Tooma  
 K M Torlach  
 M B Rogers

**Retired:**

S J Holzberger 30 November 1998

**Family Law**

J M Batts (Chair)  
 C J Bowrey  
 P D Carne  
 S M Cibau  
 B J Doyle  
 A Edwards  
 M J Emerson  
 H J Frew  
 J A Hamilton  
 M L Keogh  
 D M Leembruggen  
 K A Phillips  
 G J Quinlivan  
 P J Sheehy  
 C M Taylor  
 L M Dreghorn

**Retired:**

W G Jones 16 February 1999

**Family Law Specialist Accreditation**

D M Leembruggen (Chair)  
 J M Batts  
 I T Davies  
 T A Dick  
 P J Dickenson  
 B S Hartley  
 T A Kane  
 G K W Page SC  
 A M David

**Retired:**

P J Sheehy 18 January 1999  
 G J Quinlivan 2 February 1999  
 L K Spelleken 2 February 1999

**Finance and Securities**

A MacGillivray (Chair)  
 R A Bridges  
 G Brown  
 S J Cleary  
 Prof B J Collier  
 R J Dennings  
 K D Dorney QC  
 J R Fitchett  
 D B Fraser QC  
 G Kennedy  
 J N Gallimore

P M O'Shea  
 G T Smith  
 Assoc Prof C Turner  
 C C Wappett  
 U Zeller  
 H M Baldwin

**Retired:**

S J O'Reilly 16 October 1998  
 D G Roberts 23 March 1999  
 A C Targ 23 March 1999

**Franchising**

J S Panettiere (Chair)  
 G J Barnes  
 M L Carkeet  
 A J Conaghan RFD.  
 F M Julius  
 C G Londy  
 P E M McCafferty  
 P A McLaughlin  
 R Melin  
 M A Owens  
 J Reginato  
 D C D Sutherland  
 S W Woodward  
 S L L Enever

**Retired:**

I J Poole 10 March 1999  
 S G Coronos 12 April 1999

**Government Lawyers**

J G Mann (Chair)  
 T G Beale  
 R M L Beer  
 S J Booth  
 N R N Camphorst  
 A R Chadwick  
 L G Clarkson  
 R J Davis  
 D N Durack  
 F M FitzPatrick  
 P L Friedman  
 M R Green  
 G E Klein  
 C J Strofield  
 A M David

**Retired:**

R Boiston 20 May 1998  
 A A Kirkegaard 12 October 1998

**Industrial Law**

K F Watson (Chair)  
 T A Allingham  
 A J Coulthard  
 P J Gallagher  
 B P Kilmartin  
 H A Lepahe  
 D R Miller  
 E A Milner  
 D C Williams  
 S S Carter

**Retired:**

V P Rogers 15 January 1999

**Insolvency**

J N Conomos (Chair)  
 J W C Broadley  
 Prof B J Collier  
 L M Copley  
 J B Daniel  
 P Kar  
 G J Litster  
 R F Mason  
 L S Nash  
 P Y Pan  
 D F Pennicott  
 G W Rodgers  
 J L Saunders  
 P W Sayer  
 A J Wilson  
 S S Carter

**Insurance Law**

A S Anderssen (Chair)  
 J P Cameron  
 J D Kent  
 P M Murdoch  
 G A Murphy AM  
 L D Pommer  
 J J Power  
 M S Sammut  
 P A Tully  
 J D Wrathmall  
 A M David



**Intellectual Property Advisory**

(disbanded 23 March 1999)

C P Anese  
 A J Conaghan  
 P A Hourigan  
 S J Mead  
 G M Ryan  
 A G Terry  
 S L Tomat  
 H M Baldwin

**Retired:**

R J B Winter 1 July 1998  
 S J O'Reilly 16 October 1998

**International Relations**

J F O'Sullivan (Chair)  
 P L Chiang  
 G W Ferguson  
 G C Fox  
 I G Prentice  
 S M Schofield  
 S P Sia  
 D G Thomas  
 R J B Winter  
 A J McMahan

**I T & T**

J V Swinson (Chair)  
 J A Aboud  
 P L Chiang  
 H K B Fraser  
 M Hallas  
 P A Hourigan  
 P McDonald  
 S D G Newcomb  
 J C Sherman  
 C L Taylor  
 L G Wiseman  
 H M Baldwin

**Retired:**

V J Nahrung 30 November 1998  
 A L Payne 30 November 1998  
 S J O'Reilly 16 October 1998

**LawCare**

M P Quinn (Chair)  
 B H Crawford  
 R J Grainger-Smith

T m Kennedy  
 L A Lingard  
 G P D Maskiell  
 P M Paxton-Hall  
 R P S Smith  
 M B Rogers

**Retired:**

W T Purcell 23 March 1999

**Legal Education**

M J Crouch (Chair)  
 Prof S Berns  
 A J Chay  
 E Colvin  
 Prof M Cope  
 Prof J Dewar  
 Prof P Fairall  
 Prof M E Hiscock  
 E J P F Lennon QC  
 C A C MacDonald  
 G Orr  
 A A Rouyanian  
 L Taylor  
 K Vaggelas  
 G J Vickery  
 A M David

**Management**

J A Tooma (Chair)  
 J M Batts  
 P A Conroy  
 P J Dickenson  
 R A Geldard  
 Dr J G Mann  
 D G Thomas  
 R H Wallace  
 W Melzer

**Retired:**

G W Deeb 8 July 1998  
 K R Copley 17 August 1998

**Marketing**

J A Tooma (Chair)  
 I M Berry  
 A S Biggar  
 B F King  
 J G Mann  
 M T Mole

S M Schofield  
 M D Yarwood  
 R Derrington  
 D L McKenzie

**Retired:**

S E Jackson 1 May 1998  
 N Psaltis 30 June 1998

**Mining Law**

I R Bannerman  
 P S Careless  
 D J Gately  
 W B Smith  
 W R Stubbs  
 J W K Young  
 S S Carter

**Mortgage Lending**

K R Copley (Chair)  
 T J Boyce  
 P J Dickenson  
 M McIvor  
 P J Morgan  
 R W Spencer  
 S S Carter

**Personal Injury Specialist Accreditation**

J N L Pinder (Chair)  
 W G Bradley  
 R J Davis  
 B T Dunphy  
 R E R Miller  
 M T Morton  
 P J Mullins  
 P M Schmidt  
 K Vaggelas  
 A M David

**Retired:**

G R Senior 2 February 1999  
 W H Tutt 2 February 1999

**Plain English**

J A Tooma (Chair)  
 J Buttner  
 D Clark-Dickson  
 A J Deane  
 D A Henderson  
 R M Macdonald  
 T B Ogge

R C Penny  
 G M Ryan  
 A D Gray

**Retired:**

D A Colenso 30 November 1998  
 S E Jackson 1 May 1998  
 M R White 18 February 1999

**Planning and Environment**

R R Bowie (Chair)  
 L M Bowie  
 C O Harkness  
 R M Meurling  
 P J Rowell  
 K M Trainor  
 I B Walker  
 M G M Walton  
 H M Baldwin

**Retired:**

I A Hodgetts 23 September 1998  
 S J O'Reilly 16 October 1998  
 S F Goodfellow 8 March 1999  
 L J Walsh 23 March 1999

**Practice Course**

P E M McCafferty (Chair)  
 M J Crouch  
 T P Fynes-Clinton  
 Z J Harris  
 P J Lynch  
 N W Macrossan  
 A R McKernan  
 D J O'Connell  
 T W J Young  
 V Peters

**Retired:**

M H Beirne 30 June 1998  
 A J Tobin 30 June 1998  
 D A Henderson 8 November 1998  
 P M Clark 30 November 1998  
 L D Ensor 31 December 1998  
 L D Hinckfuss 31 December 1998  
 J P Warlow 26 March 1999

**Pro Bono**

J G Mann (Chair)  
 R S Ashton  
 K J Carl

A J Conaghan R.F.D.  
 M Darian-Smith  
 S J Daveson  
 P J Heraghty  
 G McFadyen  
 Prof M McGregor-Lowndes  
 D G Thorne  
 K J Wright  
 S L L Enever

**Retired:**

K P Prior 16 September 1998  
 P J Thomas 23 December 1998

**Proctor**

P E M McCafferty (Chair)  
 G M Cranny  
 C S Doherty  
 B P Fisher  
 M M Hay  
 B Hocking  
 R C McNally  
 J J Turnbull  
 P W Venus  
 A E Wallace  
 P Wilson  
 J D Wrathmall  
 I L Muil

**Retired:**

M J Crouch 30 November 1998  
 Dr J G Mann 15 July 1998  
 G A Gasteen 30 November 1998  
 W J Tegg 23 December 1998  
 N L Ada 23 March 1999

**Profession Review**

P D Carne  
 R M Giudes  
 J G Mann  
 P E M McCafferty  
 J F O'Sullivan  
 M A Steen  
 W J Tegg  
 J A Tooma  
 A J McMahan

**Professional Standards**

P D Carne (Chair)  
 B Codd  
 K R Copley  
 R M Giudes  
 K J Hinds  
 B P Kilmartin  
 L D Pommer  
 T M Sullivan  
 K W Thompson

**Retired:**

P E M McCafferty 24 July 1998  
 M A Steen 30 November 1998  
 N Sartor 11 December 1998

**Property Law and Practice**

P G Newman (Chair)  
 R J Beer  
 G F Bugden  
 S A Christensen  
 R P Clarke  
 K R Copley  
 A L Greenhow  
 R S Gregory  
 W R Heatley  
 S E Jones  
 W L LeMass  
 A D R McNab  
 R D Praeger  
 K D Waddington  
 A M T Weil  
 H M Baldwin

**Retired:**

D S Clifford 11 September 1998  
 S J O'Reilly 16 October 1998  
 D G Roberts 22 January 1999

**Revenue Law**

P J Allen (Chair)  
 X F Clarke  
 D S Clifford  
 D G Cominos  
 A J Eden  
 M S Kelly  
 H G Lakis  
 Dr J G Mann  
 W B Prescott

T R Puryer  
D A Stitt  
W D Thompson  
S S Carter

**Retired:**

J M Rigby-King 30 November 1998

**Section 31 (Audit)**

P D Carne (Chair)  
K R Copley  
R M Giudes  
B P Kilmartin  
L D Pommer  
T M Sullivan  
D J Franklin

**Retired:**

P E M McCafferty 30 November 1998  
M A Steen 30 November 1998

**Small Practices**

J A Tooma (Chair)  
M B Conroy  
M A de Groot  
G A Gibbons  
M Hannan  
G Hatzis  
N E Jensen  
T M Joyce  
L M Kearney  
G P D Maskiell  
M M Meehan  
J P O'Brien  
R P S Smith  
W J Tegg  
V Peters

**Retired:**

D A Henderson 8 November 1998  
P D Burton 27 April 1999

**Succession Law**

J K de Groot (Chair)  
M A de Groot  
G F Lanham  
G L Mann  
D Priala  
T C Whitney  
P Wilson  
A C Wordsworth

H M Baldwin

**Retired:**

S J O'Reilly 16 October 1998

**Superannuation**

E Feros (Chair)  
A B Anderson  
P G Callaghan  
J M Dwyer  
J K Peterson  
P J Radford  
W D Thompson  
A M David

**Retired:**

P P D Anthon 2 July 1998  
J Gill 30 November 1998

**Symposium**

J A Tooma (Chair)  
J D Batch SC  
I M Berry  
K Carmody  
P A Conroy  
A L Greenhow  
G E Hiley Q.C.  
L M Kearney  
A I Philippides  
A J Shah  
A M David

**Retired:**

N Psaltis 30 June 1998

**Trade Practices**

(disbanded on 23 March 1999)

M O Klug  
K D MacDonald  
R C McNally  
H M Baldwin

**Retired**

S J O'Reilly 16 October 1998

## Committee Reports

For the period 1 May 1998 to 30 April 1999.

Annual reports are received from the chairs of committees reporting on activities and objectives.

## Access to Justice

In September 1998, the Griffith Legal Aid Report was launched by Paul McCafferty, the President of the Society, and by researchers from Griffith University, Professor Steven Parker and Professor John Dewar.

The launch was attended by the Chief Justice of the Family Court, Justice Nicholson, and Queensland Chief Justice, Justice de Jersey. This was a major piece of legal research into the effects of Federal Government funding cutbacks on legal aid. It was funded jointly by the Society, a grant from the Grants Committee of the Society, and the Family Law Practitioners Association.

In December 1998, the Council of the Society approved a further action plan drawn up by the committee to plan its work during 1999.

The first issue dealt with in the action plan was to arrange further research by the Griffith University Law School. Given certain staff changes, it is not possible for Griffith to continue that research and the committee is currently pursuing an approach made to the Queensland University of Technology.

The committee continues to monitor the preferred supplier project approved by the Legal Aid Board and is interested in feedback from practitioners about the effectiveness of the scheme.

The committee has received a detailed proposal for research into legal expenses insurance from the Law Faculty of Queensland University. The committee is currently pursuing the funding of that research which will involve a comparative study of legal expense insurance schemes in the United Kingdom and other countries.

Earlier in 1999 the Council approved a further committee proposal which is currently before the Grants Committee. That proposal involves the engagement of a lobbyist with a long term view to changing Government perceptions.

The committee aims, through its action plan, to achieve some reassessment by Government, both

State and Federal, of the paramount importance of access to justice. It is in this way that the profession performs a valuable service to the wider community.

Pat Mullins  
Chair

## Accident Compensation

There were five meetings of the full committee during the year under review and many meetings of sub-committees dealing with specific issues or with ongoing activities with WorkCover, CTP insurers, government and others.

The members of the committee also represented the Society at the Annual Accident Compensation Seminar of the Institute of Actuaries which was this year held in Queensland at Coolumb.

The committee was gratified by the significant changes to WorkCover legislation which occurred during the year but shares the concerns of Council and members that the amendments fell short of earlier commitments and further change is desirable. The commitment of government to further review these matters has been noted and will be pursued. Following the amendments, beneficial liaison meetings have continued with WorkCover officers and the committee has been informed efforts will be made to resolve more of the common law claims reaching WorkCover without the need to institute proceedings.

The committee has maintained its good liaison with the Motor Accident Insurance Commissioner and her staff and is presently involved in responding to the government's CTP Review Committee. It is expected that that committee will complete its review of the legislation (which is now five years old) in the last quarter of 1999. The Society has received some preliminary indication from the committee that the concerns raised with the Insurance Commissioner in relation to touting of accident victims at crash sites will be addressed by legislation.

A number of Commonwealth issues have also occupied the attention of the committee during the year, particularly gross deficiencies in the administration of the *Health and Other Services (Compensation) Act* which is presently under review and the Compensation for Non-Economic

Loss (Social Security and Veterans' Entitlements) Legislation Amendment Bill. The outcome of the Society's submissions and the submissions of the Law Council on both matters is awaited.

G A Murphy AM  
Chair

## Aged Care and Accommodation

The committee met seven times during the year under review.

The committee's main objectives are to:

- provide continuing legal education to the Society's members
- communicate information on aged care issues to consumers
- liaise with Government and make submissions to Government on legislation, and
- increase the profile of the Society and solicitors in the aged care area.

During the year, the committee was involved in a number of projects including:

- Elder Law Forum held in October 1998 at the Law Society with 23 representatives from community service organisations involved in aged care. The purpose of the forum was to discuss ways in which the legal profession can contribute effectively to keeping people informed of their rights and obligations, and generally remain accessible, relevant and responsive in those changing areas of the law.
- Public seminar sponsored by the Society during Seniors Week 1998. The committee provided a speaker for the topic *Elder Abuse*.
- Research Project. In September 1998 on the recommendation of the committee, the Council of the Queensland Law Society resolved in principle to provide funding to a research project entitled *Legislative Change in Aged Care: Their Implications for Older People and Legal Practitioners in Queensland* developed by the University of Queensland Social Work Department.

Members of the committee have been involved in discussions with Government on the review of the

*Retirement Villages Act* and have met with the Minister responsible for the legislation. It is anticipated this will be a significant matter for the committee to consider in the year to come.

The committee invited Mr Jim Cockerill, Adult Guardian, to attend its April meeting to discuss substitute decisions on behalf of people with impaired capacity.

The committee liaises with the Society's CLE Department and has provided articles for *Proctor* to help inform the profession on aged care issues.

I record my appreciation to the members of the committee for their contributions during the year under review.

R Lyons  
Chair

## Alternative Dispute Resolution

In the 1998-99 year the committee met five times and conducted three LAMS Refresher Nights for members.

The committee was addressed by The Honourable Judge Brabazon QC who discussed the use of mediation and case appraisal in the District Court. It was generally agreed the District Court has not been as aggressive as the Supreme Court in the use of the new legislative provisions allowing for compulsory mediation or case appraisal.

The Judge also spoke about the use of innovative orders in the Planning Court to allow these matters to be mediated. He saw the use of these processes as a way to better manage the use of experts. As a result of the meeting, representatives of the committee met with representatives of the Court to raise the issues that had been mentioned to committee members by practitioners.

The committee considered the issue of specialist accreditation in the area of ADR. It formed the view it would not support specialist accreditation because few practitioners would be able to comply with the requirement that the area of specialty make up at least 25% of a practitioner's workload and also that the ongoing cost of training could not be justified by the amount of ADR work available to solicitors.

The committee, in conjunction with Griffith University and the Family Law Practitioners'

Association hosted an evening seminar with guest speaker Professor Jay Folberg from the University of San Francisco and Mr Steve Quinlan, a case appraiser. Both speakers were stimulating and encouraged participants to continue to develop their use of ADR.

Professor Boule resigned from the Committee after eight years service. His contribution during that time was respected and appreciated. Mr Vickery, who was chair of the committee, stood down from that position. His guidance has been very productive during a period of great change in the use of ADR. Mr Vickery remains a member of the committee.

Ray Rinaudo  
Chair

## CLE Consultative

The committee met four times during this period. The committee continues to play a valuable, supportive role to the CLE Department through the provision of advice on broad policy issues including programming and promotion.

The committee is pleased that the CLE Department is actively researching new and innovative ways to reach the profession with the timely delivery of professional development programs and products. Teleconferencing continues to be the most popular means of delivery of live seminars. Other ongoing achievements include the administration of the family law and personal injuries law specialist accreditation programs, the publication of the *Land Titles Practice Manual* in electronic format; the growing popularity of the Schools program and its publication *Broker*; and the inclusion of the Practice Management Course as an accredited unit in the University of Queensland's MBA program.

The committee encourages feedback and input and changes are regularly introduced to cater for practitioners' preferences and requirements.

CLE programs and publications continue to match the quality of commercial providers at a significantly reduced cost to members of the Queensland profession. In keeping with its member service orientation, the CLE Department maintains close links with the district law associations to provide professional development training in regional areas.

Sincere thanks are extended to committee members for their contribution.

M Crouch  
Chair

## Company Law

The committee's role is to consider all aspects of corporate law. The committee is a joint Queensland Law Society/Law Council of Australia committee and its main objective is to consider and comment on law reform initiatives in the corporate law area. It also attempts to initiate reform where appropriate.

The Queensland Regional Commissioner of the Australian Securities Investment Commission and a senior legal officer within the employ of the Commission are members of the committee and greatly assist in ensuring the committee and the profession are kept up to date in relation to ASIC initiatives and changes to procedures. The balance of members are practitioners who specialise in corporate law and academics.

The committee met 10 times during the period under review. Matters considered by the committee include:

- Company Law Economic Review Program (CLERP)
- Directors' Duties and Corporate Governance
- Managed Investments Bill and ASIC policy discussion papers
- *Company Law Review Act 1998*
- Proposed Australian Stock Exchange Listing Rule Amendments
- CASAC discussion paper on Corporate Groups

The committee has kept members of the profession informed of developments by articles in *Proctor* and liaison with the Continuing Legal Education (CLE) Department of the Society. The committee has also contributed to the Society's CLE program and a successful Company Law Intensive was held in October 1998.

Mr Donald Magarey retired as chair at the end of 1998 and I record my appreciation to him and to the other members of the committee who give so freely of their time and expertise to ensure that the

committee is able to carry out its functions efficiently and effectively.

G Vickery  
**Chair**

## Construction Law

The committee represents members of the Queensland Law Society who practise predominantly in the construction and engineering industries.

The 1998/99 year has been a busy one for the committee. During the year industry reform has again dominated the committee's agenda. The committee is continuing to play an active role in reforms which include proposed changes to the licensing of contractors, dispute resolution, and legislation relating to contractual provisions in construction contracts.

The committee holds various concerns in relation to the latest reform proposals announced by the Minister for Fair Trading. It has previously raised its concerns with the Minister and proposes to continue to raise them in the future.

The committee is of the view that whatever the outcome of the present reform process, there will be a very substantial need for an extensive education program directed at stakeholders in the construction industry and especially smaller contractors and subcontractors. Solicitors are well placed to provide the necessary education and the committee proposes to raise this issue with Government.

The full committee met six times during the year under review.

J B Cooper  
**Chair**

## Court Practice and Procedure

The dominant topic for the committee throughout the last 12 months has been the Uniform Civil Procedure Rules.

The committee has been busy reviewing the Rules, making submissions, liaising with the Society's CLE Department and providing speakers for seminars.

In addition the committee has looked at a variety

of topics, including:

- writs of non-party discovery
- review of *Limitation of Actions Act 1974*
- review of the Evidence (audio and video links) Bill 1998
- receipt of evidence by Queensland Courts
- guidelines for expert witnesses in the Federal Court
- *Proctor* columns and practice notes
- the running of the Supreme Court Chamber list
- international enforcement of foreign judgments
- Supreme Court callovers and allocation of trial dates
- probationary periods for judges

Terry McBride  
**Chair**

## Criminal Law

The committee's role is to consider all aspects of criminal law. It comments on and drafts submissions in relation to law reform initiatives, and also attempts to initiate areas of reform in legislation and procedures. Members of the committee represent the Law Society before public hearings and in liaison meetings with various bodies considering criminal law matters. Members of the committee assist in formulating press releases on behalf of the Society and provide comment to the press in relation to current criminal law issues. They also contribute to continuing legal education (CLE) activities and are often referred enquiries through the Society by members regarding specific areas of criminal law.

The committee met once during the period. Numerous meetings of sub-committees also occurred to address the workload.

Matters considered by the committee:

- The QLRC Review of the Role of Justices of the Peace.
- The Guardianship and Administration Bill
- The Fines Bill 1998
- The ALRC reference on Forfeiture of Proceeds



of Crime

- The review of Part 1AB *Crimes Act 1914* (Cth) re Controlled Operations
- Issues papers released by the Taskforce on Women and the Criminal Code
- Draft Scale of Costs (Justices Act 1886)

The committee developed commentary and formal submissions for the Law Society to various bodies in respect of issues including:

- The Liquor Act Amendment Bill
- Defamation Law Reform
- Discussion paper on the Offence of Stalking
- Review of the *Criminal Offence Victims Act 1995*
- Submissions to the Law Council of Australia on the role of the Criminal Law Liaison Committee and Draft Principles for Pre-trial Criminal Procedure reform
- The Attorney-General's Bill
- The Consultation Draft of the Criminal Law (Stalking) Amendment Bill 1998
- The Audio Visual and Audio Links Amendment Bill 1999
- The Justice Legislation (Miscellaneous Provisions) Bill 1998
- The Criminal Law Amendment Bill 1999
- Defendant's Access to Evidence in Sexual offences
- Proposed Criminal Code amendments as to Witness Protection

The committee formulated joint submissions with the Access to Justice Committee in relation to:

- Griffith Legal Aid Report
- Best Practice Model
- QLRC Discussion Paper on Children in Court Proceedings

Mr Reidy represented the Society at meetings with officers of the Attorney-General's Department in relation to witness protection amendments and the access of defendant's to evidence in sexual offences.

Mr O'Gorman and Mr Shanahan attended meetings of the Review Committee established by the Minister for Police and Corrective Services to monitor the implementation of the Police Powers and Responsibilities Act and the Responsibilities Code.

Mr Michael O'Connor attended a meeting of the Criminal Law National Liaison Committee of the Law Council of Australia. Mr Shanahan continues to represent the Society on the Committee.

Matters currently under review:

- Justice Legislation (Miscellaneous Provisions) Bill (No.2) 1999.

M Shanahan  
**Chair**

## Equity

In the period under review the committee met six times.

The committee sponsored a Flexible Workplace Practices Competition which was conducted in *Proctor* to promote an employee-friendly work environment.

Mr Laikind, the Disability Discrimination Officer of the Welfare Rights Centre, addressed the committee at its October meeting. Mr Laikind, spoke about the difficulties faced by workers with disabilities and the reality that in 50% of cases workers accommodation does not impose a financial cost on the employer. He commented that in the legal profession accommodation of disabled workers also meant that disabled clients would feel they were in a responsive environment.

The chair, Mr Ryan, attended the Melbourne launch of the Victorian Bar Council's report *Equal Opportunity for Women at the Bar*. The report was particularly well researched and included many recommendations of a very practical nature to assist women to gain access to work equivalent to that available to their male colleagues.

The committee is considering the development of a Flexible Workplace Policy. Many issues have been discussed in relation to the formation of such a policy and the committee resolved to review existing model documentation before deciding whether to develop a further policy document.

The committee was asked by Ms Neal to support a survey as part of her doctoral thesis looking at the lives of lawyers. The committee supported Ms Neal's request and accordingly the Society is assisting with the provision of information for this project.

The committee also prepared a submission to the Attorney-General's Department which identified a number of practices and pieces of legislation which by their nature or implementation were discriminatory.

Mark Ryan

**Chair**

## Family Law

The committee's role is to deal with all aspects of family law. The committee considered inquiries from practitioners, made submissions to Government committees and Commissions of Inquiry. It also has a liaison role with the Family Law Practitioner's Association, the Family Court and the Bar Association.

The committee met five times during the period 1 May 1998 to 30 April 1999. Among the more significant activities of the Committee were:

- considering the impact of the funding cuts to both Legal Aid Queensland and the Family Court and making submissions to the State and Federal Attorneys-General;
- providing input to the forthcoming Family Law Residential and Symposium 1999;
- monitoring Family Law Specialist Accreditation;
- in co-operation with the Access to Justice Committee, the Criminal Law Committee and the Family Law Practitioners Association, formulating a concerted effort to raise public awareness of the critical state of Legal Aid funding;
- maintaining a media responsiveness and assisting the Society in drafting media releases;
- submission in response to the report by Professor Williams on Costs in Federal Courts;
- liaising with the Australian Law Reform Commission;

- considering the introduction of a Duty Lawyer Scheme in the Family Court;
- formation of a Cohabitation Agreement Steering Committee to consider whether a draft cohabitation agreement could be formulated;
- preparing a submission in response to the Discussion Paper on Financial Remedies;
- liaising with the Family Law Section of the Law Council in response to the Property and Family Law Discussion Paper.

Peter Sheehy resigned as chair in November 1998 although he continues to be a member of the committee. On behalf of the Society and committee, I express my thanks to Peter for his strong leadership.

Ms Jennifer Hamilton is the ex-officio member of the committee due to her membership of the Family Law Section of the Law Council of Australia. Ms Hamilton acts as liaison between the two bodies.

In my capacity as chair of the committee, I attend regular meetings with Family Court Judges in Brisbane and Case Management Committee meetings.

The committee membership reflects a wide cross-section of Family Law Practitioners, both geographically and in areas of interest.

Jennifer Batts

**Chair**

## Family Law Specialist Accreditation

The committee met twice during the reporting period for the purpose of preparing the 1999 family law specialist accreditation program. No assessment program was offered in Queensland in the reporting period. One hundred and thirty-eight accredited family law specialists re-accredited in the reporting period. As chair, I have represented the committee on a national steering committee established to co-ordinate performance standards and to implement a national assessment program for 1999.

I record my appreciation to all members of the committee including those members outside the Queensland Law Society for their contribution to

the specialist accreditation program during the year.

D Leembruggen  
**Chair**

## Finance and Securities Law

The committee sees its role in general terms as seeking to ensure that new legislation relating to the field of finance and securities is workable, and that practitioners are aware of the likely workings of new legislation and the inherent pitfalls.

The work of the committee includes:

- considering as appropriate, at the request of Council or other committees or of its own motion, the law relating to finance and securities;
- advising Council as requested;
- meeting with Government officials;
- considering draft legislation;
- preparing submissions to Government for the improvement of legislation; and
- providing speakers for Continuing Legal Education Department seminars and arranging specialised CLE seminars as required.

The extent of the committee's future activities depends largely on the nature of new legislation and case law coming through. The committee's major work over the last few years has related to the new credit legislation. Forthcoming work is expected to be in the area of reforming personal property securities law.

A significant proportion of the committee's work in the near future is likely to comprise a continuance of urging the improvement of the *Uniform Consumer Credit Code*.

There were three plenary meetings of the committee during the review period. Ms Elizabeth Lanyon, Senior Lecturer, Monash Law School, Monash University addressed the plenary meeting on 11 March 1999.

There were a great number of meetings, memoranda and discussions between members of the committee amongst themselves and with Heather Baldwin, the secretary of the committee

and the Society's staff member responsible for the committee. While plenary meetings are held as required, I try to minimise the demands on the members' time by the method of preparation and circulation of draft comments, submissions, etc in lieu of attending meetings and that system seems to work well.

Members of the committee participated in two CLE events, the Securities Intensive in October 1998 and the finance and securities segment of Symposium 99 in March.

The work of the committee can at times be highly intensive: for example, in the lead up to the preparation of submissions to Government.

### Liaison

The committee continued its tradition of useful liaison with the Queensland Government and, in particular, the Office of Consumer Affairs. I would especially mention the high degree of co-operation existing between the committee and Ms Ulla Zeller, the OCA's Official Solicitor and Deputy Commissioner.

I have encouraged liaison between our committee and the Bar and the law schools on matters of common concern in the finance and securities law area. Kiernan Dorney QC, Donald Fraser QC, Associate Professor Clive Turner of the University of Queensland and Professor Berna Collier of the Queensland University of Technology are valued contributors to the committee's work. The committee also receives helpful input from Lindy Willmott and Denise McGill of QUT. The level of co-operation is high and is beneficial for the profession as a whole and, ultimately, the public.

The committee has in place a good working relationship with the Law Council of Australia's Banking Finance and Consumer Credit Committee.

### Matters of interest to the Committee in the year under review:

#### • Credit Legislation

The Ministerial Council on Consumer Affairs ("MCCA") instituted a "post-implementation review" which is the first stage of a two-stage review process with the second stage being the review of the Consumer Credit Code under National Competition Policy. The result of the first stage of that review is expected later in the year.

The committee made extensive submissions on the review.

On 27 October 1998, the *Consumer Credit (Queensland) Amendment Act 1998* was assented to. Part of it came into force on 1 November 1998 but the main parts will not come into force until later in 1999, after the West Australian consistent legislation is passed. This legislation goes part of the way towards addressing the Code's problems.

It appears that the Federal authorities are also conducting a review of the Code. In April 1997, the Commonwealth Financial System Inquiry (the Wallis Inquiry) recommended that "there would be merit in conducting a comprehensive and independent review after the Code has been in force for a reasonable period. Two years of operation should provide sufficient experience for a proper review". That review is said to be current but few particulars are available.

Some case law has now grown up around the Code including two major civil penalty cases heard in the Supreme Court of Queensland. Both cases involved systemic contravention by the credit providers of key requirements of the Code. In neither case was any civil penalty imposed.

#### • Bills of Sale

The *Justice Legislation (Bills of Sale, Stock Mortgages and Liens) Amendment Act 1998* was assented to on 18 March 1999 and commenced on 27 April 1999.

The Act seeks to modernise the *Bills of Sale and Other Instruments Act 1955* (BSA) and *Liens on Crops of Sugar Cane Act 1931* and bring them closer into line with the *Motor Vehicles Securities Act 1986* (MVSA). The changes will encourage the use of simpler documentation, necessitate more efficient internal record keeping by financiers and promote cost saving efficiencies for lenders. The amendments introduce the concept of a "security interest", which is defined to include "an interest in a chattel under a bill of sale".

The district registry system under the BSA will be abandoned in favour of a central computerised registry. Once a security interest is registered it will be effective throughout the State.

Notice filing, similar to the system under the MVSA, will replace the cumbersome system of instrument filing. This has the potential to

significantly reduce administration costs.

#### • *Hire-purchase Act 1959 - exemption of "Big Deals"*

The *Hire-purchase Act 1959* (HPA) is proposed to be amended by the Equity and Fair Trading (Miscellaneous Provisions) Bill 1999 by inserting, as an exemption, transactions where the value of the goods exceeds \$40 000 000. The Bill was introduced on 14 April 1999 and as at 30 June 1999 debate had not resumed.

The Explanatory Note to the similar 1998 Bill stated "This amendment is necessary to facilitate complex financing arrangements [which may involve international financing facilities] for major infrastructure projects undertaken in the State by both the public and private sectors. Without undermining the underlying consumer protection policy in this statute, the State Government wants to ensure that the financing of these major infrastructure projects, which can technically take the form of a "hire-purchase agreement", is neither restricted nor inhibited by this statute".

#### • Repeal of the Hire-purchase Act 1959 (HPA) recommended

In July 1996 the committee submitted to the then Attorney-General (whose portfolio included the HPA) that:

- (a) insofar as it covers commercial (that is, business) consumers the HPA was outdated and inappropriate;
- (b) consumers who were within the Consumer Credit Code (that is, where the "personal, domestic or household" test applies) were appropriately protected under the Code;
- (c) to the extent that the HPA remains, it causes more problems than it solves. It adds unnecessary complications for transactions often involving millions and even hundreds of millions of dollars. The Law Council of Australia has made detailed submissions to the Queensland Government that the Hire Purchase Act be repealed.

The committee recommended in its submission to the Attorney-General that the HPA should be repealed, provided it is established that commercial customers who buy on credit (including commercial customers who purchase via a lease

agreement) are not disadvantaged by losing such rights, eg terms as to fitness and quality, as are enjoyed by cash customers. To the extent that this is necessary, provision for that could be made by some other more appropriate legislative means such as by an amendment to the *Fair Trading Act 1989*.

The committee's 1996 recommendation has been brought to the attention of the present Minister.

• **Personal property securities law reform**

There is not the slightest doubt about the crying need to reform the present archaic and cumbersome Australian regime of personal property securities laws. The desirable objective is to give Australia one law, one procedure and one register relating to personal property securities.

It is to be hoped that broad industry backing for reform and active participation by the policy-makers and administrators will develop in the near future.

• **Independent Solicitors Certificates**

At its meeting on 21 October 1998 the Independent Solicitors' Certificates Subcommittee considered a number of non-core changes to the package published in March 1998. It was decided that there be no change to the package or practice but that developments, including those in other jurisdictions, be monitored and that a further meeting be held in 1999 to consider whether any changes to the Queensland package or practice are warranted.

I acknowledge the time that committee members devote to the important work of the committee and I thank Heather Baldwin, the Society staff member responsible for the Committee, not only for her efficient services as required, and guidance on Council policies where we may not be sure as to what they are, but also a keen legal mind on the substantive legal issues involved in our work.

Lex MacGillivray  
**Chairman**

**Franchising**

The Franchising Code of Conduct came into effect on 1 July 1998. It is a prescribed code of conduct pursuant to Section 51AE of the *Trade Practices Act 1974*.

The code has far reaching effects for franchisors, franchisees and parties not traditionally considered to be in those relationships.

There are difficulties in interpretation and there are compliance issues which will, no doubt, impact on the legal profession in advising their clients.

These difficulties led to the production of an article in *Proctor* and the committee devising and conducting a continuing legal education seminar by way of the Franchising Intensive on 17 September 1998.

The focus of the committee then turned to submissions to be made to the Franchising Policy Council, a non-statutory body established by Government to provide independent advice on relevant issues. The council is comprised of 3 franchisees, 3 franchisors and 2 advisers.

Initially, two committee members made oral presentations to the council when it met in Brisbane on 3 March 1999.

The committee is now working on a lengthy written submission to the Franchising Policy Council concerning defects in the Franchising Code of Conduct. It is hoped this will be finalised shortly. The ongoing focus of the committee will be to inform the profession and promote review of the Franchising Code of Conduct.

The committee met 13 times from its inception in July 1998 to 30 April 1999. The committee is currently meeting fortnightly to finalise its submission.

It should be recognised that since its inception the committee has had an intensive workload, the results of which will benefit not only the profession, but parties whose activities are regulated by the Franchising Code of Conduct.

Sandra Enever  
**Committee Secretary**

**Government Lawyers**

The committee has increased its membership and continues to meet regularly at least bi-monthly to advance its objective which is to strengthen ties between the private and government branches of the profession. In particular, it has concentrated on implementing an education program each year

for the benefit of both branches of the profession. Once again, this is clearly exemplified by the participation of government lawyers at the Symposium 1999.

As mentioned in last year's report, the committee is still developing a government lawyers database which will enable it to have greater contact with, and input from, government lawyers.

In order to fulfil its objective, the committee is proactive in convening and organising continuing legal education topics of interest to both private and government sector lawyers.

Finally, the committee acknowledges the leadership and support of its founding chair, Dr Jeff Mann, over the last six years. Dr Mann was instrumental in promoting the need for, and subsequent establishment of, a committee which has proven to be a worthwhile and successful one in terms of advancing its admirable objective.

Timothy G Beale

**Co-Chair**

## Industrial Law

The committee meets as required to consider issues about industrial relations and employment matters (particularly legislation) of concern to the profession. The 1998-99 period has been one of immense importance to the profession in terms of achieving a breakthrough in the ability of lawyers to represent clients in the Queensland Industrial Relations Commission. The Queensland Government set up a task force to look at the *Workplace Relations Act 1997* and the *Industrial Organisations Act 1997* which task force was chaired by Professor Margaret Gardner from Griffith University. The committee made submissions to that task force particularly in relation to the role of the legal profession in industrial proceedings and the structure of the industrial tribunals in Queensland. Those submissions were not accepted by the task force. Subsequent to the task force report being made available, submissions were made to the Minister for Employment, Training and Industrial Relations, the Honourable Paul Brady, MLA, concerning legal representation and the structure of the tribunals. The Industrial Relations Bill 1999 introduced by the Minister was not dissimilar in

those two areas to the recommendations made by the Society as drafted by the committee. It is fitting, therefore, that I acknowledge the hard work undertaken by committee members involved in drafting the submissions and particularly to Scott Carter, the secretary of the committee for his courteous and invaluable assistance.

K F Watson

**Chair**

## Insolvency

The committee met on the last Monday of each month.

The last 12 months has seen a wealth of discussion about:

1. cross border insolvency;
2. changes to the Bankruptcy Act and the impact of the changes;
3. the Patrick's decision and the discussion of legislation to try to provide greater security for employees where companies become insolvent - this is an ongoing issue;
4. the decisions of the High Court in *Gould v Brown* and *Re Wakim*, the latter of which had the effect of stripping the Federal Courts of the power to determine issues relating to the Corporations Law;
5. the implementation of voluntary administration - updates on recent cases;
6. discussion in relation to proposed changes to the voluntary administration procedure.

The committee, in co-operation with other bodies including the Companies and Securities Advisory Council (CASAC), the Australian Securities & Investments Commission, and the Law Council, has commented upon draft legislation from time to time.

At present the committee is considering some State legislation designed to overcome the recent High Court decision in *Re Wakim* which has stripped the Federal Court of power to determine Corporations Law matters and has left in limbo cases which were commenced in the Federal Court and are yet to be the subject of any judgment or order.

The committee also holds an annual seminar in conjunction with the Insolvency Practitioners Association of Australia (IPAA). The very successful 1998 seminar, held in December, involved speakers from both the committee and the IPAA. The 1999 seminar, to be held jointly with the IPAA once more, is presently being organised.

James Conomos

**Chair**

## Insurance Law

The committee fulfils an educational role by disseminating information and arranging seminars on recent and significant developments in the insurance law area. The committee provides commentary on proposed reforms and on matters of public interest. The committee fosters linkages with other organisations such as the Australian Insurance Law Association, the Insurance Institute and the Insurance Council of Australia.

Members of the committee met on several occasions to organise the fifth Insurance Law Intensive which was held at the Marriott Hotel, Gold Coast from 13 to 15 May 1999.

A Anderssen

**Chair**

## International Relations

I have pleasure in reporting the reactivation of the International Relations Committee.

The committee resumed regular meetings in April 1998.

The President was of the view because of its inactivity that the committee should be disbanded but I persuaded him and the Council to give me an opportunity to try once more and so I agreed to chair the committee.

A strong and effective member, Suzanne Schofield was the only member of the committee to attend a meeting on 23 April 1998. George Fox has managed to attend some of the meetings but it is difficult for him to attend from Toowoomba as the meetings are held either at 8.00am or during the lunch hour on the monthly Council meeting date.

In November we added Ian Prentice, Rob Winter, Peter Sia, Glen Ferguson and Peter Chiang to the membership. An invitation has been extended to Russell Templeton of Watkin Stokes and one of the IPBA members at Corrs Chambers Westgarth to join the committee.

At this stage we are still feeling our way as to the most effective way to achieve results in the international area. Our objective is to establish communications with law societies in the region with a view to improving the opportunities for Queensland practitioners. At this stage we have contacts in Noumea, the Solomon Islands, Indonesia, New Guinea, Fiji, Taipei, New Caledonia. The CEO, Mr McMahon, has regular correspondence with other law societies and he is alert to any developments that are of interest to the committee. He also maintains a liaison with the Law Council of Australia to ensure that any international activities that could be of interest to Queensland practitioners are passed to the committee.

At the instigation of Mr George Fox, an invitation was extended to Mr Wang Daming through the Chinese Peoples Political Consultative Conference with a view to his addressing a seminar of Queensland practitioners. The seminar was targeting practitioners currently working in China or proposing to work in China as well as Queensland government lawyers. The cost of the visit was met by a Queensland firm. Unfortunately, Mr Daming was unable to accept the invitation.

We have an IBA twinning arrangement with Sierra Leone Bar Association but investigations indicate that that Association has been virtually exiled as a result of disturbances in that country. Mr Paul Martinez attended IBA conference in Accra and reported to the committee on his meeting with Mr Jenkins-Johnson, Past President of the Sierra Leone Bar Association. Mr Martinez also promoted the Society's Practice Management Course at the conference.

Justin F. O'Sullivan

**Chair**

## IT & T

The IT & T Committee was formed during the 1998/1999 year. To date the committee has not held any formal meetings, however, the members are looking forward to doing so shortly and will deliver a detailed report of its activities next year.

J V Swinson

**Chair**

## LawCare

The committee had three formal meetings during 1998-1999 as well as a series of special planning meetings.

It was appropriate that, following 10 years of operation of the service, consideration should be given to a review of the service and its promotion. To this end, the committee gathered information from similar services around the world. The committee is confident that the service offered is an excellent one. While Canada and the United States are more aggressive in both their marketing and the services they offer, LawCare is, for the most part, more comprehensive than the services offered in the UK or Asia.

LawCare displayed a banner and posters at Symposium and there have been a number of articles in *Proctor*. These factors have contributed to a record usage of the service.

The committee is particularly aware of the need for the profession to maintain a sense of unity in the face of the competitive business environment that is being promoted and will continue to develop strategies to assist in this area.

During this period a number of new counsellors have been added to the panel and there are now Counsellors based at Brisbane (Ms Penny Love and Dr Robert Schweitzer), Sunshine Coast (Mrs Rosanne Polglase), Gold Coast (Ms Margaret Hill), Rockhampton (Mr Michael John), Cairns (Dr Shirley Morrissey), Townsville (Mr Patrick Brown).

During the year Mr Purcell, who has been a member of the committee since its inception, resigned and I would like to acknowledge his valuable contribution.

Michael Quinn

**Chair**

## Legal Education

The committee met twice during the reporting period. Consideration of the Solicitors' Admission Rules and, in particular, practical legal training, is ongoing. Submissions have been made to the Law Admissions Consultative Committee (the "*Priestley Committee*") on practical legal training; and to the Queensland Attorney-General in response to the Legal Profession Reform Discussion Paper.

M Crouch

**Chair**

## Management

The committee met 11 times during the period.

The committee's responsibilities include:

- consideration of claims against the Practitioners' Fidelity Guarantee Fund (subject to Council exercising its discretion in respect of claims in excess of \$60,000);
- supervision of receiverships of solicitors' trust property as appropriate;
- supervision of actions commenced by the Society in relation to claims paid against the Fund, or as receiver of solicitors' trust property;
- supervision of the investment of the assets of the Fund;
- monitoring the accounts of the Fund; and
- approval of solicitors' accounts and counsels' fees in excess of \$5,000.

Consideration of claims against the Fund is the most significant of these responsibilities.

During the period, the committee considered 43 claims against the fund; eight of these claims were paid, 12 were rejected as not being valid claims, 17 were deferred and a recommendation was made in respect of six that Council does not exercise its discretion to exceed the limit of \$60,000.

J A Tooma

**Chair**



## Marketing

The committee has met five times over the last twelve months. Appointed a year ago, Public Relations Manager and Committee Secretary, Ms Daphne McKenzie, offers a refreshingly pro-active and informed approach to the committee with her wealth of experience in media and public relations. I would like to thank her for her ongoing hard work and valuable insight.

The committee will continue to offer feedback to the Public Relations and Marketing Unit (PRMU) and assist the unit fulfil its role of promoting legal services as a whole, projecting a positive image of the profession, and assisting members to market their services.

For the past 12 months, the committee has assisted the PRMU through consultation on a range of initiatives:

- Law Week activities including the Queensland legal profession's inaugural Law Walk in Brisbane CBD and "Serving All Australians" web page design competition for school students
- Queensland's first Community Legal Awards
- personal marketing consultations for practitioners with QLS marketing officer Rebecca Derrington
- Media Awards for excellence in legal journalism
- Seniors' Week seminar (at City Hall) with Noel Whittaker, Dr Debra Setterlund, Professor Berna Collier and Brian Herd. Other seminars were held in participating District Law Association (DLA) areas throughout the State.
- Housing Information Forums in Brisbane and centres around South-East Queensland, sponsored by the Department of Public Works and Housing
- International Year of Older Persons phonenumber – ongoing throughout the year with DLA areas state-wide volunteering to participate in the free-advice service
- Human Rights Day primary school poster competition

*Innovative Legal Marketing – the Law Society Guide* became available to members of the Society and will soon be offered on the Society's website in its first interactive marketing service. A joint

initiative of the Department of State Development and the Society, the free guide is offered to practitioners to assist them in their marketing efforts.

J A Tooma  
Chair

## Personal Injuries Specialist Accreditation

This committee was created by resolution of Council dated 18 September 1997. The committee is responsible for determining, settling and implementing the core areas of practice and the performance standards to be adopted for personal injuries specialist accreditation in Queensland.

The committee met five times during the reporting period in preparation for the first program of personal injuries specialist accreditation offered in 1998. One hundred and four candidates undertook the process; sixty-nine were successful. In this reporting period, the committee also commenced working on the program to be offered in 1999.

I take this opportunity to thank members of the committee and the CLE Department staff who assisted for their contribution.

J Pinder  
Chair

## Plain English

Over the past 12 months, the committee has continued to promote use by the legal profession of plain English in communication.

The committee has worked on various initiatives to achieve this goal, including:

- a regular column in *Proctor* giving examples of good and bad drafting, and suggesting improvements in the drafting of documents;
- regular guest lectures on plain English to Universities, TAFE Colleges, and community groups;
- a plain English drafting competition. This year, entrants were asked to draft a preamble for the Australian *Constitution*. Deacons Graham and James sponsors the competition, with winners

receiving a trophy and weekend away for two; and

- the production of a new plain English text, *Legal Writing for Good Business*, by two committee members.

I take this opportunity to extend my thanks to the committee whose collective expertise in private practice, government and academia has been extremely valuable.

Joe Tooma  
**Chair**

## Planning and Environment

The committee's role is to consider all legal and practical matters affecting planning and environment law in Queensland.

The full committee met five times during the year under review although much of the committee's work is done by individual members and communicated through electronic mail to the rest of the committee.

The Queensland Government has announced the review of the *Integrated Planning Act* which was introduced during the previous year and the committee has commenced preparing submissions.

The committee has kept members informed of developments in this area of practice by liaising with the Continuing Legal Education Department of the Society and has provided speakers for the Society's CLE program.

A member of the committee serves on the Queensland Heritage Council. During the year under review, Mr Liam Walsh and Mr Stephen Goodfellow resigned from the committee.

I take this opportunity to thank members of the committee for their contributions.

R Bowie  
**Chair**

## Practice Course

The committee has met twice during the 1998/99 year to discharge its function of ensuring that the Practice Course quality and relevance to the solicitors of Queensland are maintained, and that

the requirements of the *Continuing Legal Education Rules* 1988 are complied with.

The principal strategies adopted to fulfil this role are to review written feedback from course delegates and for committee membership to include representatives from recently completed courses.

The Minter Ellison prize for outstanding achievement in the course was awarded to John Warlow, an employee in the firm Steindls which is a Gold Coast law firm with four principals and two employed solicitors. The prize was presented to Mr Warlow at the Society's end of year function at the Convention Centre in December 1998.

P. McCafferty  
**Chair**

## Proctor

The *Proctor* Committee meets monthly in a consultative capacity to consider submissions for publication in the magazine. Members of the committee bring with them a variety of levels of practice experience and expertise and the editor has drawn editorial support from this diversity.

*Proctor* acts as a vehicle for bringing the work of the various Queensland Law Society departments and committees to the Society's membership. The magazine regularly features articles on legislative change and case law of interest not only to the profession but also to the wider community.

*Proctor* is also thus a valuable public relations and marketing tool for the Society and it has been used most effectively during my term of office to appropriately raise within the community, and the Government, issues which we believe deserve wider exposure.

*Proctor* accommodates material formerly published in the Queensland Law Society Journal which was last produced on 30 June, 1997. The magazine is published electronically on *THEMIS* which offers the advantage to practitioners of electronic index searching.

The level of member contributions to *Proctor* has increased most encouragingly – in my first President's Page editorial I invited greater response from the legal community to issues of the day and *Proctor* evidences the profession's response.

We have also been able to improve *Proctor's* production schedule and publication is now at the beginning of the month, rather than in the last quarter. Tighter management of costs has also meant that *Proctor* is operating within budget.

I take this opportunity to thank members of the committee for their input. I also thank and congratulate *Proctor* editor, Mr Ian Muil, who was appointed editor at the start of my year of office, and Ms Helen Meadows, editorial assistant, for their dedication and hard work.

P E M McCafferty

**Chair**

## Professional Standards

There were 11 meetings of the committee between 1 May 1998 and 30 April 1999.

The committee's primary role includes:

- consideration of complaints against solicitors and solicitors' employees referred to it by the Council, the Professional Standards Department or the Legal Ombudsman
- consideration of reports of unsatisfactory Section 31 Examinations of solicitors' trust accounts referred to it by the Section 31 Committee or the Professional Standards Department
- authorisation of and monitoring of disciplinary proceedings before the Solicitors Complaints Tribunal or the Court, for charges relating to unprofessional conduct or professional misconduct by a solicitor, or misconduct, or default by a solicitor's clerk or employee where such action is considered to be warranted
- review of the Secretary's policies and procedures in relation to investigation of complaints and disciplinary proceedings
- provision of rulings and advice on ethics and professional conduct and practice
- the imposition of censures or admonitions on practitioners where the committee considers a practitioner's conduct has been unsatisfactory

Mr Neil Sartor resigned as Legal Ombudsman in September 1998. Mr Sartor, who had held the previous position as Lay Observer, had been

appointed the inaugural Legal Ombudsman in November 1997.

Mr Geoff Stevenson replaced Mr Sartor as Legal Ombudsman in October 1998.

The Legal Ombudsman attends all meetings of the committee, although not as a voting member. Both Mr Sartor and Mr Stevenson have been of significant assistance to the committee, in keeping the committee informed about matters being handled by the Legal Ombudsman and in providing their insight into matters before the committee.

During the year, Mr Paul McCafferty and Ms Margaret Steen resigned from the committee, and Messrs Brian Kilmartin, Kevin Copley and Leon Pommer were appointed as members of the committee.

I wish to take this opportunity to thank the members of the committee for the considerable time they have spent in reading and carefully considering the agenda materials and in attending and participating in committee meetings.

In addition to its primary role, the committee considered a number of policy matters during the year, including the Society's Referral List, the process of costs assessments under the Civil Justice Reform Act and some Professional Standards Department policies and procedures.

P D Carne

**Chair**

## Property Law and Practice

The committee's role is to consider all legal and practical matters affecting property law in Queensland.

Eleven meetings of the full committee took place during the year under review together with numerous meetings of ad hoc subcommittees dealing with specific issues.

The committee has considered or developed submissions on a range of issues over the course of the year including:

- review of the *Body Corporate and Community Management Act 1997*
- managed investments legislation
- automated settlements project

- financial institutions duty
- REIQ Contracts – Contract for Houses and Land Third Edition and Contract for Lots in a Community Title Second Edition
- *Retail Shop Leases Act*
- section 61 *Property Law Act*
- section 117 *Land Title Act*
- review of the legal profession as it relates to conveyancing
- representations to financial institutions regarding clearance times for cheques and telegraphic transfers
- representations to Westpac regarding its Mortgage Processing Centre.

The committee has continued to receive requests for assistance from members in addressing specific problems which arise in day to day conveyancing practice and considers this as an important aspect of its role.

Various members of the committee have been involved with working parties in the development of legislation and the review of legislation. Committee members have also been involved in liaison with the REIQ in relation to Plain English Contracts.

The committee has a representative on the Department of Natural Resources Ministerial Land Infrastructure and Service Advisory Council. Membership of the Council keeps the committee informed of developments within the Department of Natural Resources and provides an avenue whereby the committee and the profession can raise concerns with the Department of Natural Resources. The committee maintains a good working relationship with the Registrar of Titles who attended a committee meeting in December 1998.

Committee representatives have also met from time to time with Government representatives on a broad range of issues. The committee has also assisted the Society in preparing its response for Review of the Legal Profession particularly in so far as it relates to conveyancing practice in Queensland.

Committee members have kept CLE informed of relevant developments and provided speaker for

CLE as required.

The committee meets monthly and the agendas for consideration by the committee at each meeting are quite extensive.

I record my appreciation to the members of the committee who give so freely of their time and expertise to ensure that the committee is able to carry out its functions effectively for the assistance of the Society, the wider profession and the public. I particularly thank Daryl Clifford and David Roberts who both retired from the committee during the year following many years of loyal service to the committee.

P Newman

**Chair**

## Revenue Law

It has not been necessary to appoint formal meetings of the committee during the year.

Members of the committee have represented the Society in liaison meetings with both State and Federal revenue authorities and have participated in CLE activities where developments have been reported to the profession.

P J Allen

**Chair**

## Section 31 (Audit)

The committee meets on a monthly basis to consider audit reports prepared by the Society's employed accountants and other appointed accountants in relation to the receipt and disbursement of trust money by legal practices. Meetings are generally held on Council meeting days.

The audit process is vitally important. It assists solicitors to keep their trust accounting records in a proper manner, thus minimising the risk of trust money being incorrectly applied through inadvertence. It has also been very effective in the early detection of fraud and other types of unsatisfactory professional conduct as is evidenced by the following statistics:

- 171 Section 31 reports were finalised last year.
- 12 of those reports resulted in a decision to bring

charges of professional misconduct, or unprofessional conduct, against practitioners before the Solicitors Complaints Tribunal.

- one report resulted in a practitioner being censured for unprofessional conduct.
- 24 reports disclosed that the trust account had not been satisfactorily maintained and resulted in decisions being made to conduct follow-up audits. In most of those cases, one or more of the following types of irregularities had occurred on a fairly regular basis:
  - trust account deficiencies as the result of trust ledger accounts being overdrawn.
  - delays in restoring trust account deficiencies as the result of trust transactions not being recorded on a daily basis.
  - delays in completing end of month reconciliations resulting in extended delays in restoring trust deficiencies.
  - trust moneys were received into the general account in respect of unexpended outlays.

Prior to this year, the Society had not, for more than 13 years, engaged external accountants to conduct audit examinations on the Society's behalf. The Council, being mindful of the importance and effectiveness of the audit process appointed external accountants to do 28 audits to supplement the work of the Society's four employed accountants, following their increased involvement in other functions, such as:

- answering accounting queries from solicitors and accountants engaged by solicitors to audit trust accounts. The Society firmly believes that the provision of this service assists in the prevention of trust accounting irregularities.
- examining the Audit Reports lodged yearly by the auditors appointed by solicitors. The Society, as a result of the January 1998 amendments to the Trust Accounts Act, is now the "supervising entity" for solicitors' trust accounts with the result that audit reports are now lodged with the Society instead of the Department of Justice and the Attorney-General.
- acting as co-signatories to a number of solicitors' trust accounts. The accountants are appointed as co-signatories when the Society

is concerned that a solicitor's records have been kept in such a poor manner that there appears to be a risk that the solicitor may improperly disburse money from the trust account.

- winding up practices to which the Society has appointed itself receiver of trust property following the suspension, or cancellation, of a solicitor's practising certificate, or the striking of the solicitor's name off the roll.

The review of the year's work indicates that because of the specialist nature of the work, the most cost effective means for the Society to examine trust accounts is to employ, as staff members, suitably qualified accountants and provide them with extensive training in the audit techniques used by the Society.

P D Carne  
**Chair**

## Small Practices

The committee continues in its second year with the aim of assisting small practices to manage their businesses effectively in a changing commercial environment. The members of the committee practice throughout the state from Brisbane CBD and suburbs through to Toowoomba, North Coast, and North Queensland.

The committee has continued to publicise the services that the Society has available which are of assistance to small practices and was responsible for a session at Symposium '99 to highlight the use of appropriate technology in small practices.

At the request of the Law Society CEO the committee contributed to commentary on aspects of the Attorney-General's legal professional reform discussion.

The committee welcomes input from practitioners who have suggestions on how the Law Society can assist them in practice.

Joe Tooma  
**Chair**

## Specialist Accreditation Board

The board was created by Council resolution dated 18 September 1997 pursuant to a decision to expand the specialist accreditation program in Queensland. The board has responsibility for overseeing the policies, procedures and appeals in all areas of specialist accreditation.

The board met four times during the reporting period to deliberate on issues referred from both the Family Law and Personal Injuries Specialist Accreditation Committees.

P Carne  
**Chair**

## Succession Law

The objects of the committee include increasing liaison with the Bar, the Courts, Government and the community, and ensuring that practitioners' experience is taken into account in any policy and legislative reforms in the succession law area.

The committee has met eight times during the year under review and also convened a number of ad hoc subcommittees to deal with specific issues. Matters afforded priority by the committee during the year under review have been :

- Uniform Civil Procedure Rules – Probate and Administration Rules and Forms. The committee, in conjunction with the Bar Association of Queensland, prepared a draft set of Contentious and Non Contentious Probate Rules and Forms for consideration by the Judges Rules Committee and engaged in an ongoing liaison with the Rules Committee concerning the new Rules and Forms.
- *Powers of Attorney Act* – implementation
- Taxation implications for testamentary trusts

Committee members have kept the Continuing Legal Education (CLE) Department informed of relevant developments and provided speakers for CLE. The committee has also provided speakers for radio interviews and other public forums.

There has been no change to the membership of the committee during the year under review.

I record my appreciation to the members of the committee for their contributions during the year and, in particular, the many hours devoted to making submissions to the Rules Committee on

the proposed Probate Rules and Forms.

John de Groot  
**Chair**

## Superannuation

The Superannuation Committee provides:

- A forum to liaise with the various regulatory authorities such as APRA, ASIC and the Office of State Revenue in relation to matters which affect the law of superannuation.
- A point of liaison with the Law Council of Australia Superannuation Practice Group. The committee, if requested, provides comment upon proposed legislation regulating the superannuation industry.
- Education for members of the profession on the practice of law in the superannuation arena. This objective is met by the committee in the submission of relevant articles to *Proctor* and by participation in the Society's CLE program.

E Feros  
**Chair**

## Symposium

The annual Legal Symposium organised on behalf of the members of the Queensland Law Society and the Bar Association of Queensland was held at the Marriott Surfers Paradise Resort on the Gold Coast in March.

1999 saw a return by many of the profession and their staff to this premier educational and social event. More than 600 delegates registered for a variety of seminars and workshops covering popular practice areas such as personal injuries law, commercial law and property law as well as the business development topics on offer. The collegial atmosphere flowed over into the social program where delegates and their accompanying guests enjoyed sumptuous buffets, being serenaded by some very familiar Tenors, and trying their luck at the Symposium Casino.

Our thanks go to the many sponsors and trade exhibitors who provided not only financial support but also an opportunity to preview the latest technologies and products available for legal practices.

J Tooma  
**Chair**

**QUEENSLAND LAW SOCIETY INCORPORATED  
INCOME AND EXPENDITURE STATEMENT  
FOR THE YEAR ENDED 30 APRIL 1999**

<b>INCOME</b>	<b>NOTES</b>	<b>1999 \$</b>	<b>1998 \$</b>
Membership and Practitioners' Fees	3	3,497,081	3,304,095
Fidelity Guarantee Fund Special Levy	2 & 13	2,518,696	1,621,534
Continuing Legal Education	6	1,259,315	929,315
Interest		305,736	201,056
Corporate Marketing and Public Affairs		206,405	207,255
Recoveries Contribution Distribution Account		803,061	873,926
Law Society House Recovery	4	374,083	416,369
Other income		279,531	262,864
		9,243,908	7,816,414
 <b>EXPENDITURE</b>			
Administration	5	2,406,026	2,448,775
Continuing Legal Education	6	1,353,442	1,190,780
Contribution – Law Council of Australia		302,420	292,474
Law Claims Management Fee – APPIIL		336,814	553,800
Personnel	7	1,539,266	1,376,221
Corporate Marketing and Public Affairs	8	198,738	207,118
		6,136,706	6,069,168
Surplus/(Deficiency) before abnormal item		3,107,202	1,747,246
Abnormal item	2	1,000,000	3,238,165
<b>Surplus/Deficiency for the year</b>		2,107,202	(1,490,919)
 <b>Retained Funds at the Beginning of the Financial Year</b>			
Aggregate of amounts transferred from reserves	2 & 13	5,946,672	7,128,826
		1,000,000	2,000,000
<b>Total available for appropriation</b>		9,053,874	7,637,907
Aggregate of amounts transferred to reserves	2 & 13	2,623,155	1,691,235
		6,430,719	5,946,672
<b>Retained Funds at the end of the Financial Year</b>		6,430,719	5,946,672

The accompanying notes form part of the accounts.

**QUEENSLAND LAW SOCIETY INCORPORATED**  
**BALANCE SHEET**  
**AS AT 30 APRIL 1999**

		1999	1998
<b>CURRENT ASSETS</b>	<b>NOTES</b>	<b>\$</b>	<b>\$</b>
Cash		187,122	83,508
Receivables	9	416,243	406,666
Investments		4,063,488	2,063,660
Inventories		15,403	14,743
<b>TOTAL CURRENT ASSETS</b>		<u>4,682,256</u>	<u>2,568,577</u>
<b>NON-CURRENT ASSETS</b>			
Property, Plant and Equipment	11	8,512,627	8,678,360
<b>TOTAL NON-CURRENT ASSETS</b>		<u>8,512,627</u>	<u>8,678,360</u>
<b>TOTAL ASSETS</b>		<u>13,194,883</u>	<u>11,246,937</u>
<b>CURRENT LIABILITIES</b>			
Creditors	10	610,880	1,137,501
Provisions for Employee Benefits		160,000	140,000
<b>Total Current Liabilities</b>		<u>770,880</u>	<u>1,277,501</u>
<b>Non-Current Liabilities</b>			
Provisions for Employee Benefits		155,000	130,000
<b>Total Non-Current Liabilities</b>		<u>155,000</u>	<u>130,000</u>
<b>TOTAL LIABILITIES</b>		<u>925,880</u>	<u>1,407,501</u>
<b>NET ASSETS</b>		12,269,003	9,839,436
<b>EQUITY</b>			
Retained Funds		6,430,719	5,946,672
Contribution Distribution Account	12	683,885	480,020
Reserves	13	5,154,399	3,412,744
<b>TOTAL EQUITY</b>		<u>12,269,003</u>	<u>9,839,436</u>

The accompanying notes form part of the accounts.



**QUEENSLAND LAW SOCIETY INCORPORATED  
STATEMENT OF CASH FLOWS  
FOR THE YEAR ENDED 30 APRIL 1999**

	NOTES	1999 \$ Inflows (Outflows)	1998 \$ Inflows (Outflows)
<b>CASH FLOWS FROM OPERATING ACTIVITIES</b>			
Receipts from the Profession		25,993,206	24,751,158
Payments to Suppliers and Employees		(24,003,146)	(24,104,793)
Interest and Bill Discounts Received		333,956	230,177
Net Cash (Used)/Provided By Operating Activities	17	2,324,016	876,542
<b>CASH FLOWS FROM INVESTING ACTIVITIES</b>			
Payment for New Plant and Equipment etc.		(220,574)	(186,553)
Proceeds from sale of assets		-	3,800
Net Cash (Used) in Investing Activities		(220,574)	(182,753)
Net Increase (Decrease) in Cash Held		2,103,442	693,789
Cash at the Beginning of the Financial Year		2,147,168	1,453,379
Cash at the End of the Financial Year	17	4,250,610	2,147,168

The accompanying notes form part of the accounts.

**QUEENSLAND LAW SOCIETY INCORPORATED  
NOTES TO AND FORMING PART OF THE ACCOUNTS  
FOR THE YEAR ENDED 30 APRIL 1999**

**NOTES**

**1 Statement of Significant Accounting Policies**

The significant policies which have been adopted in the preparation of the Society's financial statements are:

**(a) Basis of Preparation**

The financial statements are a general purpose financial report which has been prepared in accordance with the provisions of the Financial Management Standard, which requires compliance with Australian Accounting Standards.

They have been prepared on the basis of historical cost and except where stated, do not take into account changing money values or current valuations of non-current assets. These accounting policies are consistent with those of the previous year, except where there is a change which has been separately disclosed.

**(b) Non-Current Assets**

**General**

The carrying amount of non-current assets are reviewed annually to determine whether they are in excess of their recoverable amount at balance date. If the carrying amount of a non-current asset exceeds the recoverable amount, the asset is written down to the lower amount.

**Acquisition**

Items of property, plant and equipment are initially recorded at cost and depreciated as outlined below. Acquisitions are expensed unless the initial cost exceeds \$500. All library acquisitions are expensed in the year of purchase.

**Revaluations**

Strata title buildings are independently valued every five years on an open market value in vacant possession basis and included in the financial statements at the revalued amount. A revaluation threshold of \$750,000 has been implemented for the strata title building and \$125,000 for all other assets.

**Disposal of Revalued Assets**

The profit or loss on disposal of revalued assets is calculated as the difference between the carrying amount of the asset at the time of disposal and the proceeds on disposal and is included in the results in the year of disposal.

Any related revaluation increment standing in the asset revaluation reserve at the time of disposal is transferred to retained funds.

**QUEENSLAND LAW SOCIETY INCORPORATED**  
**NOTES TO AND FORMING PART OF THE ACCOUNTS – CONTINUED**

**Depreciation**

Items of plant and equipment, including strata title buildings are depreciated over their estimated useful life. The estimated useful life for all assets is reassessed annually. The straight line method is used and assets are depreciated from the date of acquisition. Depreciation rates are usually standardised within each class of asset and the following rates have been applied.

Asset Class	Rate
Strata Title Building	2.5 %
Plant and Equipment	10.0 %
Computer Equipment	33.3 %

**(c) Recovery of Expenditure**

Under the rules of the *Queensland Law Society Act 1952* certain operating expenses of the Society are recoverable from the Legal Practitioners' Fidelity Guarantee Fund, General Trust Accounts' Contribution Fund, Grants Fund and Interest on Trust Accounts. Accordingly, expenses disclosed are net of the recovery.

**(d) Income Tax**

The Society has been granted exemption from income tax by the Australian Taxation Office per Section 23(d) of the *Income Tax Assessment Act*.

**(e) Investments**

Investments during the year comprising bank bills and short term deposits are valued at cost. Investment income is brought to account under the accrual basis.

**(f) Inventory**

Inventory, comprising consumables and publications for resale, is valued at the lower of cost and net realisable value. Costs have been assigned to inventory quantities on hand at balance date, using the first-in-first-out basis.

**(g) Employee Entitlements**

**Annual Leave**

The annual leave provision has been calculated based on current wage and salary rates, including on-costs and represents the amount which the Society has a present obligation to pay resulting from employees' services provided up to the balance date.

**Long Service Leave**

The liability for long service leave entitlements represents the present value of the estimated future cash outflows to be made by the Society resulting from the employees' services up to the balance date.

Liabilities for employee entitlements which are not expected to be settled within twelve months are discounted using the rates attaching to national government securities at balance date, which most closely match the terms of maturity of the related liabilities.

In determining the liability for employee entitlements, consideration has been given to future increases in wage and salary rates, and the Society's experience with staff departures. Related on-costs have also been included in the liability.

**QUEENSLAND LAW SOCIETY INCORPORATED**  
**NOTES TO AND FORMING PART OF THE ACCOUNTS – CONTINUED**

**(h) Building Cost**

In order to more clearly show the effect of the decision to build Law Society House, building costs have been segregated, recharges made to tenants and departments at current commercial rates and the net unabsorbed cost or gain separately disclosed in the Income and Expenditure Statement (refer note 4).

**(i) Bad and Doubtful Debts**

Bad debts are written off in the period identified. The collectibility of debts is assessed at year end and a general provision for doubtful debts is made at a level considered necessary to cover any unknown bad debts.

**(j) Comparative Figures**

Where necessary comparative figures have been reclassified to achieve consistency in disclosure with current financial year amounts and other disclosures.

**(k) Year 2000**

The Year 2000 issue concerns the potential failure of computer systems, personal computers and the wide variety of devices utilising microprocessors due to dates being programmed in only two digits, resulting in an ambiguity at the turn of the century or at times prior.

In 1998 a Year 2000 project was established to facilitate and co-ordinate the Year 2000 activities including, updating to deemed compliant operating systems and hardware, plus modification of existing programmes. At the date of this report the updating of operating systems and hardware was nearing completion and all main existing programmes requiring modification had been modified and tested. Review of PC based office software was still to be completed.

The estimated liability in relation to the Year 2000 activities is \$20,000 which is based on costs incurred to date and the expected cost to rectify non-compliant systems. This cost estimate is for external consultants only and does not include the cost of society staff allocated to the project.

**QUEENSLAND LAW SOCIETY INCORPORATED**  
**NOTES TO AND FORMING PART OF THE ACCOUNTS – CONTINUED**

**2 Advance – Legal Practitioners’ Fidelity Guarantee Fund**

In accordance with Rule 7 of the *Rules of the Queensland Law Society Incorporated* the Council of the Society resolved to raise a special levy and create a reserve to enable advances to be made to the Legal Practitioners’ Fidelity Guarantee Fund as and when required.

In the financial year ended 30 April 1999 the Society advanced from Reserves the sum of \$1,000,000 to assist the Legal Practitioners’ Fidelity Guarantee Fund meet its financial commitments.

The Queensland Law Society Incorporated may provide further advances as and when required to assist the Legal Practitioners’ Fidelity Guarantee Fund meet its ongoing financial commitments.

At the end of the financial year the Council of the Queensland Law Society Incorporated reviewed the financial position of the Legal Practitioners’ Fidelity Guarantee Fund after considering Statement of Accounting Concepts SAC 4 and the requirements concerning disclosure of assets and liabilities. The Council resolved to change the terms of the advance made by the Queensland Law Society Incorporated.

The previous terms being, the advance was for a period of 20 years unless earlier payment was demanded by the Society, the new terms of the advance acknowledge the current financial position of the Fund with the advance now only due for repayment if the balance of the Fund attains or exceeds \$4,500,000. The Society has reserved the right to revert to the original terms of the advance only after twelve months written notice has been provided to the fund.

In recognition of SAC 4 and the change in the terms of the advance the balance of the advance at 30 April 1999 was brought to account as abnormal expense \$1,000,000 and the advance disclosed as a contingent asset, refer note 16(b).

**3 Membership and Practitioners’ Fees**

	<b>1999</b>	<b>1998</b>
	\$	\$
Practising Certificate Fees	1,814,143	1,751,079
Law Claims Administration Levy	496,750	796,400
Member Fees	782,594	756,466
Professional Indemnity Insurance	396,844	-
Locum Registration	6,750	150
	3,497,081	3,304,095

**QUEENSLAND LAW SOCIETY INCORPORATED**  
**NOTES TO AND FORMING PART OF THE ACCOUNTS – CONTINUED**

**4 Law Society House Recovery**

<b>INCOME</b>	<b>1999</b>	<b>1998</b>
	<b>\$</b>	<b>\$</b>
Rent from Tenants	456,118	472,387
Rent Charged to Departments	317,928	317,928
	<u>774,046</u>	<u>790,315</u>
<b>Less:</b>		
Body Corporate Levies	108,233	106,565
Depreciation	214,600	210,000
Rates and Taxes	57,436	57,381
Repairs and Maintenance	19,694	–
	<u>399,963</u>	<u>373,946</u>
Net Building Recovery	<u>374,083</u>	<u>416,369</u>

**5 Administration**

	<b>1999</b>	<b>1998</b>
	<b>\$</b>	<b>\$</b>
Audit Fees	20,850	15,900
Bank Charges	4,380	3,485
Depreciation	234,428	394,963
Fringe Benefits Tax	33,809	37,813
General Expenses	613,317	552,342
Insurance	69,006	65,896
Consulting & Legal Fees	372,059	350,911
Office Costs	221,122	308,642
Occupancy Costs	317,928	317,928
Postage	62,249	46,778
Printing and Stationery	123,364	125,067
Telephone	65,465	58,456
Travel and Accommodation	268,049	170,594
	<u>2,406,026</u>	<u>2,448,775</u>

**QUEENSLAND LAW SOCIETY INCORPORATED**  
**NOTES TO AND FORMING PART OF THE ACCOUNTS – CONTINUED**

**6 Continuing Legal Education**

	<b>1999</b>	<b>1998</b>
<b>INCOME</b>	<b>\$</b>	<b>\$</b>
Seminars	445,382	346,374
Transcripts & Publications	337,933	230,081
Proctor	206,526	206,536
Practice Management Course	117,141	34,269
Schools Lecture Program	58,588	59,029
Specialisation	88,812	47,313
Other	4,933	5,713
	<b>1,259,315</b>	<b>929,315</b>
<b>DIRECT EXPENDITURE</b>		
Seminars	376,050	349,022
Transcripts & Publications	364,563	328,060
Proctor	236,316	253,280
Practice Management Course	172,500	104,403
Schools Lecture Program	122,648	92,675
Specialisation	65,122	51,329
Other	16,243	12,011
	<b>1,353,442</b>	<b>1,190,780</b>

**7 Personnel**

	1999	1998
	<b>\$</b>	<b>\$</b>
Payroll Tax	63,939	59,874
Salaries	1,338,339	1,197,874
Superannuation	121,845	106,121
Staff Training	15,143	12,352
	<b>1,539,266</b>	<b>1,376,221</b>

**QUEENSLAND LAW SOCIETY INCORPORATED**  
**NOTES TO AND FORMING PART OF THE ACCOUNTS – CONTINUED**

**8 Corporate Marketing and Public Affairs**

	<b>1999</b>	<b>1998</b>
	<b>\$</b>	<b>\$</b>
Corporate Marketing	79,102	82,418
LawCare	42,390	34,382
Law Week & Community Service Activity	50,300	36,443
Member Functions	26,946	53,875
	198,738	207,118

**9 Receivables**

	<b>1999</b>	<b>1998</b>
	<b>\$</b>	<b>\$</b>
Debtors	35,912	35,494
Less Provision for Doubtful Debts	2,000	2,000
	33,912	33,494
Prepaid Expenses and Accruals	382,331	373,172
	416,243	406,666

**10 Creditors**

	<b>1999</b>	<b>1998</b>
	<b>\$</b>	<b>\$</b>
Creditors and Accruals	448,807	1,023,991
Subscriptions/Registrations in Advance	162,073	113,510
	610,880	1,137,501



**QUEENSLAND LAW SOCIETY INCORPORATED**  
**NOTES TO AND FORMING PART OF THE ACCOUNTS – CONTINUED**

**11 Property, Plant and Equipment**

	1999	1998
	\$	\$
Strata Title Building at independent valuation	8,585,700	8,467,200
Less Accumulated Depreciation	634,600	420,000
	7,951,100	8,047,200
Office Furniture and Equipment at cost	2,267,197	2,322,597
Less Accumulated Depreciation	1,705,670	1,691,437
	561,527	631,160
Balance	8,512,627	8,678,360

An independent valuation of the strata title building was carried out as at 18 March 1996 by Ms L M Doherty, AVLE and Mr C J Wheeler FRICS FVLE and is on the basis of the open market value of Law Society House in vacant possession with all units combined. The Council are of the opinion that this basis provides a reasonable estimate of recoverable amount.

The valuation is in accordance with the Society’s policy of obtaining an independent valuation every five years with interim adjustments made in the intervening years. For the year ended April 1999 an adjustment of 1.4% was made based on the Price Index Of Materials Used In Buildings Other Than Housing and issued by the Australian Bureau of Statistics.

**QUEENSLAND LAW SOCIETY INCORPORATED  
NOTES TO AND FORMING PART OF THE ACCOUNTS – CONTINUED**

**12 Contributions Distribution Account**

This account represents the balance of moneys received from the General Trust Accounts' Contribution Fund, disbursement of which is subject to the Minister's approval in accordance with Part IIIA of the *Queensland Law Society Act 1952*.

With the Queensland Law Society budget having been approved for the 1998/99 period, consent has been obtained from the Minister to approve appropriate items of expenditure out of the balance of the account.

**QUEENSLAND LAW SOCIETY INCORPORATED  
CONTRIBUTIONS DISTRIBUTION ACCOUNT  
STATEMENT OF RECEIPTS AND PAYMENTS  
FOR YEAR ENDED 30 APRIL 1999**

	1999	1998
	\$	\$
Balance 1 May	480,020	427,826
<b>Receipts</b>		
Distribution Received:		
General Trust Accounts' Contribution Fund	969,501	894,882
Interest	37,425	31,238
	1,006,926	926,120
<b>Payments</b>		
Continuing Legal Education	609,626	682,176
Library	145,000	145,000
Law Week	13,435	12,369
LawCare	35,000	34,381
	803,061	873,926
Balance 30 April	683,885	480,020

**QUEENSLAND LAW SOCIETY INCORPORATED**  
**NOTES TO AND FORMING PART OF THE ACCOUNTS – CONTINUED**

**13 Reserves**

	<b>1999</b>	<b>1998</b>
	\$	\$
Asset Revaluation	3,304,992	3,186,492
Legal Practitioners' Fidelity Guarantee Fund	1,849,407	226,252
	5,154,399	3,412,744

**Movements during the year****Asset Revaluation**

Balance at beginning of year	3,186,492	3,119,292
Add: Revaluation increment on Strata Title Building (refer note 11)	118,500	67,200
	3,304,992	3,186,492

**Legal Practitioners Fidelity Guarantee Fund**

Balance at beginning of year	226,252	535,017
Add: Special Levy	2,518,696	1,621,534
Interest on Special Levy	104,459	69,701
	2,849,407	2,226,252
Less: Advance to Legal Practitioners Fidelity Guarantee Fund	1,000,000	2,000,000
	1,849,407	226,252

**14 Heal Street Building – Grants Fund**

Funds of \$88,999 were received from the Grants Fund during 1988 to enable the purchase of a suitable property from which Caxton Legal Services could continue operation as a community legal service. The property is held in trust for the Grants Fund and upon sale of the property for whatever reason the proceeds of that sale revert to the Grants Fund in total.

**15 Capital Commitment**

Capital expenditure contracted for at 30 April 1999 but not provided for was nil.

**QUEENSLAND LAW SOCIETY INCORPORATED  
NOTES TO AND FORMING PART OF THE ACCOUNTS – CONTINUED**

**16 Contingencies**

**(a) Liabilities**

There are no known contingent liabilities of a significant nature as at balance date.

**(b) Asset – Advance Legal Practitioners’ Fidelity Guarantee Fund**

Under the terms of the advance, no current obligation exists for the Legal Practitioners’ Fidelity Guarantee Fund to repay the amount advanced of \$4,238,165 as at 30 April 1999.

If the financial position of the Fund were to improve beyond \$4,500,000 in future years either part or full repayment of the advance may be necessary.

**17 Notes to the Statement of Cash Flows**

**(a) Reconciliation of Cash**

For the purposes of the statement of cash flows, cash includes cash on hand and in banks and investments in money market instruments, net of outstanding bank overdrafts. Cash at the end of the financial year as shown in the statement of cash flows is reconciled to the related items in the balance sheet as follows:

	1999	1998
	\$	\$
Cash	187,122	83,508
Short Term Deposits	4,063,488	2,063,660
	4,250,610	2,147,168

**(b) Financing Facilities**

The Queensland Law Society Incorporated has arranged a standby credit facility with its bankers to meet any financing requirements. The facility has a limit of \$500,000.

**QUEENSLAND LAW SOCIETY INCORPORATED**  
**NOTES TO AND FORMING PART OF THE ACCOUNTS – CONTINUED**

**(c) Reconciliation of Net Cash (Used)/Provided by Operating Activities to the Surplus/(Deficit) for the Year**

	<b>1999</b>	<b>1998</b>
	<b>\$</b>	<b>\$</b>
Surplus/(Deficit) for the Year	2,107,202	(1,490,919)
Depreciation	504,807	678,476
Change in Assets and Liabilities		
Increase in		
Inventory	(660)	(957)
Receivables – Current	(9,577)	(140,540)
Contributions Distribution Account	203,865	52,194
Employee Benefits	45,000	(56,400)
Decrease		
Creditors	(526,621)	596,523
Receivables – Non-Current	-	1,238,165
Net Cash (Used)/Provided by Operating Activities	2,324,016	876,542

**(d)** Due to the Society acting as the collecting agent for insurance premiums and the Legal Practitioners' Fidelity Guarantee Fund contributions etc. gross receipts and payments disclosed in the Statement of Cash Flows exceed revenue and expenditure disclosed in the Society's financial statements.

**18 Financial Instruments**

**(a) Cash**

Cash is represented by amounts held in bank accounts.

**(b) Investments**

Investments include cash invested on the short term money market 11am call account. The rate of return for the year was in a range 4.55% to 4.8%.

**(c) Receivables**

Receivables are carried at actual amounts and represented by debtor accounts, which range in terms from 7 to 30 days, accruals for amounts received in the months after balance date, and amounts prepaid. The credit risk has been determined when providing for doubtful debts.

**(d) Creditors**

Creditors are carried at actual amounts and represent accrued expenses applicable to the financial year ended April 1999 and paid in the months after balance date.

**(e) Net Fair Value**


Cash, investments, receivables and creditors carrying amounts all approximate fair value.

**CERTIFICATE OF  
QUEENSLAND LAW SOCIETY INCORPORATED**

We have prepared the foregoing financial statements pursuant to the provisions of the *Financial Administration and Audit Act 1977* and other prescribed requirements and certify that –

- (a) the foregoing financial statements with other information and notes to and forming part thereof are in agreement with the accounts and records of the Queensland Law Society Incorporated;
- (b) in our opinion –
  - (i) the prescribed requirements in respect of the establishment and keeping of accounts have been complied with in all material respects; and
  - (ii) the foregoing financial statements have been drawn up so as to present a true and fair view in accordance with prescribed accounting standards of the transactions of the Queensland Law Society Incorporated for the financial year 1 May 1998 to 30 April 1999 and of the financial position as at the close of that year.

18/6/1999  
(Date)

  
(Signed)  
President

  
(Signed)  
Chief Executive Officer

## INDEPENDENT AUDIT REPORT

*To the President, Queensland Law Society Incorporated*

### Scope

I have audited the financial statements of the Queensland Law Society Incorporated for the year ended 30 April 1999. The financial statements comprise the Income and Expenditure Account, Balance Sheet, Statement of Cash Flows, Notes to and forming part of the financial statements and certificates given by the President and the Chief Executive Officer as required by the *Financial Administration and Audit Act 1977*.

The Queensland Law Society Incorporated is responsible for the preparation and the form of presentation of the financial statements and the information they contain. I have audited the financial statements in order to express an opinion on them.

The audit has been conducted in accordance with *QAO Auditing Standards*, which incorporate the Australian Auditing Standards, to provide reasonable assurance as to whether the financial statements are free of material misstatement. Audit procedures included the examination, on a test basis, of evidence supporting the amounts and other disclosures in the financial statements and the evaluation of accounting policies and significant accounting estimates. These procedures have been undertaken to form an opinion as to whether, in all material respects, the financial statements are presented fairly in accordance with prescribed requirements which include Australian Accounting Standards so as to present a view which is consistent with my understanding of the entity's financial position and the results of its operations and its cash flows.

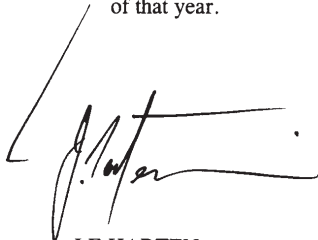
The year 2000 issue has been addressed only in the context of my existing audit responsibility under Australian Auditing Standards to express an opinion on the financial statements. Plans and associated actions to address the year 2000 issue have been reviewed for action taken to date, but the adequacy of those plans has not been assessed. Accordingly, the audit of the financial statements does not provide specific assurance, nor is a specific opinion expressed that the systems of the Queensland Law Society Incorporated or other systems such as those of suppliers, vendors, service providers, customers, associates, joint venture parties or third parties are year 2000 compliant.

The audit opinion expressed in this report has been formed on the above basis.

### Audit Opinion

In accordance with the provisions of the Financial Administration and Audit Act, I certify that I have received all the information and explanations I have required and, in my opinion -

- the prescribed requirements in respect of the establishment and keeping of accounts have been complied with in all material respects; and
- the statements have been drawn up so as to present a true and fair view in accordance with prescribed accounting standards and other prescribed requirements of the transactions of the Queensland Law Society Incorporated for the financial year ended 30 April 1999 and of the financial position as at the end of that year.



J E HARTEN  
Acting Assistant Auditor-General - Audit  
Delegate of the Auditor-General



Queensland Audit Office  
Brisbane

**LEGAL PRACTITIONERS' FIDELITY GUARANTEE FUND  
INCOME AND EXPENDITURE STATEMENT  
FOR THE YEAR ENDED 30 APRIL 1999**

	1999 NOTES	1998 \$	\$
<b>INCOME</b>			
Contributions by Practitioners		84,192	177,296
Interest on Investments		11,366	18,741
Distribution received from the ITA Account		1,503,010	1,451,972
Solicitors Complaints Tribunal Fines		29,000	-
Sundry Income		30	-
Costs Recovered		56,688	42,616
		1,684,286	1,690,625
<b>EXPENDITURE</b>			
Audit Fees		7,300	4,250
Administration Expenses	3	2,142,173	2,133,826
Legal Ombudsman Expenses		49,776	31,754
Claims and Investigations	4	398,145	1,745,147
		2,597,394	3,914,977
Deficiency before abnormal item		(913,108)	(2,224,352)
Abnormal item	2	1,000,000	3,238,165
		86,892	1,013,813
<b>Surplus/(Deficiency) for the Year</b>			
<b>Retained Funds at the beginning of the Financial Year</b>		202,199	(811,614)
<b>Retained Funds at the end of the Financial year</b>		289,091	202,199

The accompanying notes form part of the accounts.



**LEGAL PRACTITIONERS' FIDELITY GUARANTEE FUND  
BALANCE SHEET AS AT 30 APRIL 1999**

	NOTES	1999 \$	1998 \$
<b>CURRENT ASSETS</b>			
Cash		15,968	118,760
Receivables	5	1,759	501,257
Investments		625,753	3,737
<b>TOTAL ASSETS</b>		643,480	623,754
<b>CURRENT LIABILITIES</b>			
Creditors	6	148,889	240,255
Provisions for Employee Benefits		82,000	66,300
<b>TOTAL CURRENT LIABILITIES</b>		230,889	306,555
<b>NON-CURRENT LIABILITIES</b>			
Provisions for Employee Benefits		123,500	115,000
<b>TOTAL NON-CURRENT LIABILITIES</b>		123,500	115,000
<b>TOTAL LIABILITIES</b>		354,389	421,555
<b>NET ASSETS</b>		289,091	202,199
<b>EQUITY</b>			
Retained Funds		289,091	202,199

The accompanying notes form part of the accounts.

**LEGAL PRACTITIONERS' FIDELITY GUARANTEE FUND  
STATEMENT OF CASH FLOWS  
FOR THE YEAR ENDED 30 APRIL 1999**

	NOTES	1999 \$ Inflows (Outflows)	1998 \$ Inflows (Outflows)
<b>CASH FLOWS FROM OPERATING ACTIVITIES</b>			
Contributions by Practitioners and Cost Recoveries		155,606	232,132
Distribution Received from the ITA Account		1,503,010	1,451,972
Claim Payments and Administration Expenses		(2,650,719)	(3,768,052)
Interest Received		11,329	20,446
Net Cash Used in Operating Activities	7	(980,776)	(2,063,502)
 <b>CASH FLOWS FROM FINANCING ACTIVITIES</b>			
Proceeds from:			
Advance Qld Law Society Inc		1,500,000	1,500,000
<b>Net Cash Provided by Financing Activities</b>		1,500,000	1,500,000
Net Increase/(Decrease) in Cash held		519,224	(563,502)
Cash at the beginning of the Financial Year		122,497	685,999
Cash at the end of the Financial Year	7	641,721	122,497

The accompanying notes form part of the accounts.

## LEGAL PRACTITIONERS' FIDELITY GUARANTEE FUND NOTES TO AND FORMING PART OF THE ACCOUNTS

### Scope of Operation

The Legal Practitioners' Fidelity Guarantee Fund is established under the *Queensland Law Society Act 1952* ("the Act") and is administered by the Queensland Law Society.

The Fund is applied to reimburse persons who suffer loss through stealing or fraudulent misappropriation by a practitioner (or his or her clerk or employee) of any money or other property held on trust.

The Fund is also used to defray costs incurred in the administration of disciplinary matters, audit of solicitors' trust accounts and receivership of solicitors' trust accounts.

The major source of income for the Fund is a share of interest earned on solicitors' trust accounts. The Fund is subject to a statutory cap under section 20(5) of the Act. Because of this cap the Fund has had no opportunity to build up reserves in periods of high interest rates. The current period of low interest rates has significantly reduced the income of the Fund and consequently the financial position of the Fund has been deteriorating. In response, and with a view to ensuring that all approved claims can be paid, the Council of the Society has imposed a special levy on practitioners (refer Note 2). However, the long term financial viability of the Fund can only be achieved by legislative change. The Society has made submissions to Government for appropriate changes.

### NOTES

#### 1 Statement of Significant Accounting Policies

The significant policies which have been adopted in the preparation of the Legal Practitioners' Fidelity Guarantee Fund's financial statements are:

##### (a) Basis of Preparation

The financial statements are a general purpose financial report which has been prepared in accordance with the provisions of the Financial Management Standard, which requires compliance with Australian Accounting Standards.

They have been prepared on the basis of historical cost and except where stated, do not take into account changing money values or current valuations of non-current assets. These accounting policies are consistent with those of the previous year, except where there is a change which has been separately disclosed (refer note 2).

##### (b) Investments

Investments during the year comprising short term deposits are valued at cost. Investment income is brought to account under the accrual basis.

##### (c) Income Tax

The Fund has been granted exemption from income tax by the Australian Taxation Office per Section 23(d) of the *Income Tax Assessment Act*.

**LEGAL PRACTITIONERS' FIDELITY GUARANTEE FUND**  
**NOTES TO AND FORMING PART OF THE ACCOUNTS - CONTINUED**

**(d) Employee Entitlements**

**Annual Leave**

The annual leave provision has been calculated based on current wage and salary rates, including on-costs and represents the amount which the Fund has a present obligation to pay resulting from employees' services provided up to the balance date.

**Long Service Leave**

The liability for long service leave entitlements represents the present value of the estimated future cash outflows to be made by the Fund resulting from the employees' services up to the balance date.

Liabilities for employee entitlements which are not expected to be settled within twelve months are discounted using the rates attaching to national government securities at balance date, which most closely match the terms of maturity of the related liabilities.

In determining the liability for employee entitlements, consideration has been given to future increases in wage and salary rates, and the Fund's experience with staff departures. Related on-costs have also been included in the liability.

**(e) Claims**

Claims are brought to account in the year they are paid/approved and no accruals are made for claims that are in the process of finalisation.

**(f) Comparative Figures**

Where necessary comparative figures have been reclassified to achieve consistency in disclosure with current financial year amounts and other disclosures.

**(g) Year 2000**

The Year 2000 issue concerns the potential failure of computer systems, personal computers and the wide variety of devices utilising microprocessors due to dates being programmed in only two digits, resulting in an ambiguity at the turn of the century or at times prior.

In 1998 a Year 2000 project was established to facilitate and co-ordinate the Year 2000 activities including, updating to deemed compliant operating systems and hardware, plus modification of existing programmes. At the date of this report the updating of operating systems and hardware was nearing completion and all main existing programmes requiring modification had been modified and tested. Review of PC based office software was still to be completed.

The estimated liability in relation to the Year 2000 activities is \$20,000 which is based on costs incurred to date and the expected cost to rectify non-compliant systems. This cost estimate is for external consultants only and does not include the cost of society staff allocated to the project.

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**LEGAL PRACTITIONERS' FIDELITY GUARANTEE FUND**  
**NOTES TO AND FORMING PART OF THE ACCOUNTS - CONTINUED**

**2 Advance - Legal Practitioners' Fidelity Guarantee Fund**

In accordance with Rule 7 of the Rules of the Queensland Law Society Incorporated the Council of the Society resolved to raise a special levy and create a reserve to enable advances to be made to the Legal Practitioners' Fidelity Guarantee Fund as and when required.

During the financial year ended 30 April 1999 the Queensland Law Society Incorporated provided an advance of \$1,000,000 to the Legal Practitioners' Fidelity Guarantee Fund. The Queensland Law Society Incorporated may provide further advances as and when required to assist the Legal Practitioners' Fidelity Guarantee Fund meet its ongoing financial commitments.

At the end of the financial year the Council of the Queensland Law Society Incorporated reviewed the financial position of the Legal Practitioners' Fidelity Guarantee Fund after considering Statement of Accounting Concepts SAC 4 and the requirements concerning disclosure of assets and liabilities. The Council resolved to change the terms of the advance made by the Queensland Law Society Incorporated.

The previous terms being, the advance was for a period of 20 years unless earlier payment was demanded by the Society, the new terms of the advance acknowledge the current financial position of the Fund with the advance now only due for repayment if the balance of the Fund attains or exceeds \$4,500,000. The Society has reserved the right to revert to the original terms of the advance only after twelve months written notice has been provided to the fund.

In recognition of SAC 4 and the change in the terms of the advance, the advance made during the year ending 30 April 1999 was brought to account as abnormal income \$1,000,000 and this advance disclosed as a contingent liability, refer note 8(b).

**LEGAL PRACTITIONERS' FIDELITY GUARANTEE FUND  
NOTES TO AND FORMING PART OF THE ACCOUNTS - CONTINUED**

<b>3 Administration Expenses *</b>	<b>1999</b>	<b>1998</b>
	<b>\$</b>	<b>\$</b>
General Expenses	161,323	210,825
General Professional Fees	13,506	30,301
Insurance	20,430	21,484
Payroll Tax	61,914	60,033
Postage	32,482	25,374
Printing and Stationery	48,028	29,027
Rent and Electricity	346,871	361,475
Salaries and Allowances	1,297,662	1,245,718
Superannuation	119,399	110,413
Staff Training	5,142	6,965
Telephone	35,416	32,211
	2,142,173	2,133,826

\* Includes contributions to the Queensland Law Society Incorporated for shared expenditure - Rule 116(3)(e). These contributions recognise the managerial and administrative tasks performed by Society staff on behalf of the Fund. The monetary level of the contributions is based on a detailed time survey conducted for a period of time by Society staff.

The Legal Practitioners' Fidelity Guarantee Fund has incurred the above listed administration costs to comply with the functions and duties which have been previously listed in the Scope of Operations note to the Accounts.

<b>4 Claims and Investigations</b>	<b>1999</b>	<b>1998</b>
	<b>\$</b>	<b>\$</b>
Claims Paid	79,976	1,464,319
Solicitors Disciplinary Tribunal Expenses	222,596	775
Statutory Committee Expenses	-	156,138
General Disciplinary Investigations	1,103	54,919
Receivership Expenses	30,561	31,988
Trust Account Audits	63,909	37,008
	398,145	1,745,147

<b>5 Receivables</b>	<b>1999</b>	<b>1998</b>
	<b>\$</b>	<b>\$</b>
Prepaid Fees and Accruals	1,442	500,977
Accrued Interest	317	280
	1,759	501,257

**LEGAL PRACTITIONERS' FIDELITY GUARANTEE FUND  
NOTES TO AND FORMING PART OF THE ACCOUNTS - CONTINUED**

<b>6 Creditors</b>	<b>1999</b>	<b>1998</b>
	\$	\$
Administration Fees and Accruals	148,889	240,255
	<u>148,889</u>	<u>240,255</u>

**7 Notes to the Statement of Cash Flows**

**(a) Reconciliation of Cash**

For the purposes of the statement of cash flows, cash includes cash on hand and in banks and investments on money market instruments, net of outstanding bank overdrafts. Cash at the end of the financial year as shown in the statement of cash flows is reconciled to the related items in the balance sheet as follows:

	<b>1999</b>	<b>1998</b>
	\$	\$
Cash	15,968	118,760
Short Term Investments	625,753	3,737
	<u>641,721</u>	<u>122,497</u>

**(b) Financing Facilities**

The Legal Practitioners' Fidelity Guarantee Fund has no external non-cash financing nor any standby credit facilities or any other loan facilities.

**(c) Reconciliation of Net Cash Used in Operating Activities to the Surplus/(Deficiency) for the Year**

	<b>1999</b>	<b>1998</b>
	\$	\$
Surplus/(Deficiency) for the Year	86,892	1,013,813
Changes in Assets and Liabilities		
Increase in Provision for Employees Benefits	24,200	14,900
Decrease /(Increase) in Receivables	499,498	(468,210)
Decrease / (Increase) in Creditors	(91,366)	114,160
Advance from Qld Law Society Inc	(1,500,000)	(2,738,165)
Net Cash Used in Operating Activities	<u>(980,776)</u>	<u>(2,063,502)</u>

**LEGAL PRACTITIONERS' FIDELITY GUARANTEE FUND  
NOTES TO AND FORMING PART OF THE ACCOUNTS - CONTINUED**

**8 Contingent Liability**

**(a) Claims**

Due to the nature of the Fund, it is not possible or practical to determine a definite value of contingent liabilities. At 30 April 1999 the Fund was in the process of considering a number of claims, the estimated value of which was approximately \$9,186,500 without regard to the value of any rights which may accrue to the Fund upon payment being made in relation to such contingent liabilities or to the value of any set-offs in respect of such claims.

There are no other known contingent liabilities of a significant nature as at balance date.

**(b) Advance - Queensland Law Society Incorporated**

Under the terms of the advance, no current obligation exists for the Fund to repay the amount advanced of \$4,238,165 as at 30 April 1999.

If the financial position of the Fund were to improve beyond \$4,500,000 in future years either part or full repayment of the advance may be necessary.

**9 Financial Instruments**

**(a) Cash**

Cash is represented by amounts held in bank accounts.

**(b) Investments**

Investments include cash invested on the short term money market 11am call account. The rate of return for the year was in the range 4.55% to 4.8%.

**(c) Receivables**

Receivables are carried at actual amounts and represent accruals for amounts received in the months after balance date or amounts prepaid. There is no credit risk in relation to these receivables.

**(d) Creditors**

Creditors are carried at actual amounts and represent accrued expenses applicable to the financial year ended April 1999 and paid in the months after balance date.

**(e) Net Fair Value**

Cash, investments, receivables and creditors carrying amounts all approximate fair value.



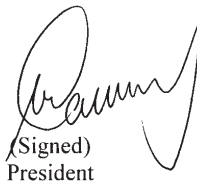
**CERTIFICATE OF  
LEGAL PRACTITIONERS' FIDELITY GUARANTEE FUND**

We have prepared the foregoing financial statements pursuant to the provisions of the *Financial Administration and Audit Act 1977* and other prescribed requirements and certify that –

- (a) the foregoing financial statements with other information and notes to and forming part thereof are in agreement with the accounts and records of the Legal Practitioners' Fidelity Guarantee Fund;
- (b) in our opinion –
  - (i) the prescribed requirements in respect of the establishment and keeping of accounts have been complied with in all material respects; and
  - (ii) the foregoing financial statements have been drawn up so as to present a true and fair view in accordance with prescribed accounting standards of the transactions of the Legal Practitioners' Fidelity Guarantee Fund for the financial year 1 May 1998 to 30 April 1999 and of the financial position as at the close of that year.

18/6/1999

(Date)

  
(Signed)  
President

  
(Signed)  
Chief Executive Officer

**INDEPENDENT AUDIT REPORT**

*To the President, Queensland Law Society Incorporated – Legal Practitioners’ Fidelity Guarantee Fund*

**Scope**

I have audited the financial statements of the Legal Practitioners’ Fidelity Guarantee Fund for the year ended 30 April 1999. The financial statements comprise the Income and Expenditure Account, Balance Sheet, Statement of Cash Flows, Notes to and forming part of the financial statements and certificates given by the President and the Chief Executive Officer as required by the *Financial Administration and Audit Act 1977*.

The Queensland Law Society Incorporated is responsible for the preparation and the form of presentation of the financial statements and the information they contain. I have audited the financial statements in order to express an opinion on them.

The audit has been conducted in accordance with *QAO Auditing Standards*, which incorporate the Australian Auditing Standards, to provide reasonable assurance as to whether the financial statements are free of material misstatement. Audit procedures included the examination, on a test basis, of evidence supporting the amounts and other disclosures in the financial statements and the evaluation of accounting policies and significant accounting estimates. These procedures have been undertaken to form an opinion as to whether, in all material respects, the financial statements are presented fairly in accordance with prescribed requirements which include Australian Accounting Standards so as to present a view which is consistent with my understanding of the entity’s financial position and the results of its operations and its cash flows.

The year 2000 issue has been addressed only in the context of my existing audit responsibility under Australian Auditing Standards to express an opinion on the financial statements. Plans and associated actions to address the year 2000 issue have been reviewed for action taken to date, but the adequacy of those plans has not been assessed. Accordingly, the audit of the financial statements does not provide specific assurance, nor is a specific opinion expressed that the systems of the Legal Practitioner’s Fidelity Guarantee Fund or other systems such as those of suppliers, vendors, service providers, customers, associates, joint venture parties or third parties are year 2000 compliant.

The audit opinion expressed in this report has been formed on the above basis.

**Audit Opinion**

In accordance with the provisions of the Financial Administration and Audit Act, I certify that I have received all the information and explanations I have required and, in my opinion -

- the prescribed requirements in respect of the establishment and keeping of accounts have been complied with in all material respects; and
- the statements have been drawn up so as to present a true and fair view in accordance with prescribed accounting standards and other prescribed requirements of the transactions of the Legal Practitioner’s Fidelity Guarantee Fund for the financial year ended 30 April 1999 and of the financial position as at the end of that year.

**Inherent Uncertainty Regarding Going Concern**

Without qualification to the opinion expressed above, attention is drawn to the following matter. The accounts have been prepared on a going concern basis which assumes continuity of normal activities of the Fund and the realisation of assets and the settlement of liabilities in the ordinary course of business. However limitations exist in the income available to the Fund and financial operations for the year ended 30 April 1999 resulted in a deficiency before abnormal item of \$913,108 (1998 deficiency \$2,224,352) raising a question of uncertainty as to the Fund’s ability to continue as a going concern.

The note in the accounts entitled “Scope of Operation” draws attention to limitations in the income of the Fund and statutory constraints prevailing over the Fund’s operations as well as measures taken by the Queensland Law Society to ensure all approved claims can be paid. As stated in the note, the Society has made submissions to Government for appropriate legislative changes to achieve the long term financial viability of the Fund.

*L J Scanlan*

L J SCANLAN  
Auditor-General of Queensland



Queensland Audit Office  
Brisbane

**GENERAL TRUST ACCOUNTS' CONTRIBUTION FUND  
INCOME AND EXPENDITURE STATEMENT  
FOR THE YEAR ENDED 30 APRIL 1999**

	NOTES	1999 \$	1998 \$
<b>INCOME</b>			
Bank Contributions		9,662,257	8,918,123
Interest on Investments		62,841	61,282
		9,725,098	8,979,405
 <b>EXPENDITURE</b>			
Administration	2	30,081	30,587
Distributions -			
Legal Aid Commission of Queensland		7,271,262	6,711,613
Department of Justice - Supreme Court Library		969,502	894,882
Queensland Law Society Inc Contributions Distribution Account		969,502	894,882
Grants Fund		484,751	447,441
		9,725,098	8,979,405
Surplus (Deficiency) for the Year		-	-
Retained Funds at the beginning of the Financial Year		-	-
Retained Funds at the end of the Financial Year		-	-

The accompanying notes form part of the accounts.

**GENERAL TRUST ACCOUNTS' CONTRIBUTION FUND  
BALANCE SHEET AS AT 30 APRIL 1999**

	NOTES	1999 \$	1998 \$
<b>CURRENT ASSETS</b>			
Cash		861	409
Receivables	3	796,145	904,990
Investments		827,989	600,000
<b>TOTAL ASSETS</b>		1,624,995	1,505,399
<b>CURRENT LIABILITIES</b>			
Creditors	4	1,624,995	1,505,399
<b>TOTAL LIABILITIES</b>		1,624,995	1,505,399
<b>NET ASSETS</b>		-	-
<b>EQUITY</b>			
Retained Funds		-	-

The accompanying notes form part of the accounts.

**GENERAL TRUST ACCOUNTS' CONTRIBUTION FUND  
STATEMENT OF CASH FLOWS  
FOR THE YEAR ENDED 30 APRIL 1999**

	NOTES	1999 \$ Inflows (Outflows)	1998 \$ Inflows (Outflows)
<b>CASH FLOWS FROM OPERATING ACTIVITIES</b>			
Bank Contributions		9,771,757	8,766,907
Distributions and Administration		(9,605,503)	(8,930,522)
Interest Received		62,187	61,862
		228,441	(101,753)
Net Increase (Decrease) in Cash held	5		
Cash at the beginning of the Financial Year		600,409	702,162
		828,850	600,409
Cash at the end of the Financial Year	5		

The accompanying notes form part of the accounts.

**GENERAL TRUST ACCOUNTS' CONTRIBUTION FUND  
NOTES TO AND FORMING PART OF THE ACCOUNTS  
FOR THE YEAR ENDED 30 APRIL 1999**

**NOTES**

**1 Accounting Policies**

In order to assist in the understanding of the figures presented in the accounts, the following explains the significant accounting policies that have been adopted in the preparation of the General Trust Accounts' Contribution Fund's accounts.

**(a) Basis of Preparation**

The financial statements are a general purpose financial report which has been prepared in accordance with the provisions of the Financial Management Standard, which requires compliance with Australian Accounting Standards.

They have been prepared on the basis of historical cost and except where stated, do not take into account changing money values or current valuations of non-current assets. These accounting policies are consistent with those of the previous year, except where there is a change which has been separately disclosed.

**(b) Investments**

Investments during the year comprising bank bills and short term deposits are valued at cost. Investment income is brought to account under the accrual basis.

**(c) Year 2000**

The Year 2000 issue concerns the potential failure of computer systems, personal computers and the wide variety of devices utilising microprocessors due to dates being programmed in only two digits, resulting in an ambiguity at the turn of the century or at times prior.

In 1998 a Year 2000 project was established to facilitate and co-ordinate the Year 2000 activities including, updating to deemed compliant operating systems and hardware, plus modification of existing programmes. At the date of this report the updating of operating systems and hardware was nearing completion and all main existing programmes requiring modification had been modified and tested. Review of PC based office software was still to be completed.

The estimated liability in relation to the Year 2000 activities is \$5,000 which is based on costs incurred to date and the expected cost to rectify non-compliant systems. This cost estimate is for external consultants only and does not include the cost of society staff allocated to the project.

**2 Administration**

The *Queensland Law Society Act 1952* authorises the Society to be recompensed for the costs and expenses incurred in the administration of the General Trust Accounts' Contribution Fund.

Society staff perform all managerial and administrative tasks on behalf of the Fund, and continually review bank contributions to ensure they are maintaining satisfactory levels. In order to determine an appropriate administration fee for the services provided by the Society a detailed time survey was conducted for a period by staff to provide a reasonable basis for costing of the administration fee recoverable by the Society.

**GENERAL TRUST ACCOUNTS' CONTRIBUTION FUND**  
**NOTES TO AND FORMING PART OF THE ACCOUNTS - CONTINUED**

**3 Receivables**

	1999	1998
	\$	\$
Accrued Bank Contributions	794,102	903,602
Accrued Interest on Investments	2,043	1,388
	796,145	904,990

**4 Creditors**

	1999	1998
	\$	\$
Administration Fees	6,033	6,307
Funds accumulated at 30 April 1999 to be included in 30 June 1999 distribution		
Legal Aid Commission of Queensland	1,214,222	1,124,320
Department of Justice - Supreme Court Library	161,896	149,909
Queensland Law Society Contributions Distribution Account	161,896	149,909
Grants Fund	80,948	74,954
	1,624,995	1,505,399

**5 Notes to the Statement of Cash Flows**

**(a) Reconciliation of Cash**

For the purposes of the statement of cash flows, cash includes cash on hand and in banks and investments on money market instruments, net of outstanding bank overdrafts. Cash at the end of the financial year as shown in the statement of cash flows is reconciled to the related items in the balance sheet as follows:

	1999	1998
	\$	\$
Cash	861	409
Short Term Investments	827,989	600,000
	828,850	600,409

**(b) Financing Facilities**

The General Trust Accounts' Contribution Fund has no external non-cash financing nor any standby credit facilities or any other loan facilities.

**GENERAL TRUST ACCOUNTS' CONTRIBUTION FUND**  
**NOTES TO AND FORMING PART OF THE ACCOUNTS - CONTINUED**

**(c) Reconciliation of Net Cash Provided by Operating Activities to the Result for the Year**

	1999	1998
	\$	\$
Result for the Year	-	-
Changes in Assets and Liabilities		
(Increase)/Decrease in Receivables	108,845	(140,155)
Increase/(Decrease) in Creditors	119,596	38,402
Net Increase/(Decrease) in Cash Held	228,441	(101,753)

**6 Financial Instruments**

**(a) Cash**

Cash is represented by amounts held in bank accounts.

**(b) Investments**

Investments include cash invested on the short term money market 11am call account. The rate of return for the year was in a range 4.55 % to 4.8 %.

**(c) Receivables**

Receivables are carried at actual amounts and represent bank contribution and interest accruals for amounts received in the month after balance date. There is no credit risk in relation to these receivables.

**(d) Creditors**

Creditors are carried at actual amounts and represent accrued distributions resulting from the interest accrual referred to above as part of receivables.

**(e) Bank Contributions**

Bank contributions represent interest paid by banks on solicitors' trust accounts. Interest is paid on these funds at rates negotiated between the Queensland Law Society and the individual banks. The negotiated interest rates are linked to money market rates of interest and automatically adjust for any interest rate movement.

**(f) Net Fair Value**

Cash, investments, receivables and creditors carrying amounts all approximate fair value.




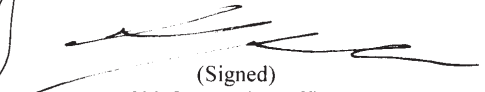
**CERTIFICATE OF  
GENERAL TRUST ACCOUNTS' CONTRIBUTION FUND**

We have prepared the foregoing financial statements pursuant to the provisions of the *Financial Administration and Audit Act 1977* and other prescribed requirements and certify that –

- (a) the foregoing financial statements with other information and notes to and forming part thereof are in agreement with the accounts and records of the General Trust Accounts' Contribution Fund;
- (b) in our opinion –
  - (i) the prescribed requirements in respect of the establishment and keeping of accounts have been complied with in all material respects; and
  - (ii) the foregoing financial statements have been drawn up so as to present a true and fair view in accordance with prescribed accounting standards of the transactions of the General Trust Accounts' Contribution Fund for the financial year 1 May 1998 to 30 April 1999 and of the financial position as at the close of that year.

18/6/1999  
(Date)

  
(Signed)  
President

  
(Signed)  
Chief Executive Officer

## INDEPENDENT AUDIT REPORT

*To the President, Queensland Law Society Incorporated – General Trust Accounts' Contribution Fund*

### Scope

I have audited the financial statements of the General Trust Accounts' Contribution Fund for the year ended 30 April 1999. The financial statements comprise the Income and Expenditure Account, Balance Sheet, Statement of Cash Flows, Notes to and forming part of the financial statements and certificates given by the President and the Chief Executive Officer as required by the *Financial Administration and Audit Act 1977*.

The Queensland Law Society Incorporated is responsible for the preparation and the form of presentation of the financial statements and the information they contain. I have audited the financial statements in order to express an opinion on them.

The audit has been conducted in accordance with *QAO Auditing Standards*, which incorporate the Australian Auditing Standards, to provide reasonable assurance as to whether the financial statements are free of material misstatement. Audit procedures included the examination, on a test basis, of evidence supporting the amounts and other disclosures in the financial statements and the evaluation of accounting policies and significant accounting estimates. These procedures have been undertaken to form an opinion as to whether, in all material respects, the financial statements are presented fairly in accordance with prescribed requirements which include Australian Accounting Standards so as to present a view which is consistent with my understanding of the entity's financial position and the results of its operations and its cash flows.

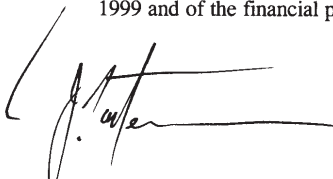
The year 2000 issue has been addressed only in the context of my existing audit responsibility under Australian Auditing Standards to express an opinion on the financial statements. Plans and associated actions to address the year 2000 issue have been reviewed for action taken to date, but the adequacy of those plans has not been assessed. Accordingly, the audit of the financial statements does not provide specific assurance, nor is a specific opinion expressed that the systems of the Queensland Law Society Incorporated or other systems such as those of suppliers, vendors, service providers, customers, associates, joint venture parties or third parties are year 2000 compliant.

The audit opinion expressed in this report has been formed on the above basis.

### Audit Opinion

In accordance with the provisions of the Financial Administration and Audit Act, I certify that I have received all the information and explanations I have required and, in my opinion -

- the prescribed requirements in respect of the establishment and keeping of accounts have been complied with in all material respects; and
- the statements have been drawn up so as to present a true and fair view in accordance with prescribed accounting standards and other prescribed requirements of the transactions of the Queensland Law Society Incorporated – General Trust Accounts' Contribution Fund for the financial year ended 30 April 1999 and of the financial position as at the end of that year.



J E HARTEN  
Acting Assistant Auditor-General - Audit  
Delegate of the Auditor-General



Queensland Audit Office  
Brisbane

**GRANTS FUND  
INCOME AND EXPENDITURE STATEMENT  
FOR THE YEAR ENDED 30 APRIL 1999**

	NOTES	1999 \$	1998 \$
<b>INCOME</b>			
Contributions from General Trust Accounts' Contribution Fund		484,751	447,441
Interest on Investments		20,198	17,867
Grants Recovered		4,166	3,333
		509,115	468,641
<b>EXPENDITURE</b>			
Administration and Committee Expenses	2	28,006	28,570
Grants Approved		249,024	67,569
Legal Aid for Community Legal Centres		302,969	279,184
		579,999	375,323
Surplus (Deficiency) for the Year		(70,884)	93,318
Retained Funds at the beginning of the Financial Year		361,071	267,753
		290,187	361,071

The accompanying notes form part of the accounts.

**GRANTS FUND  
BALANCE SHEET AS AT 30 APRIL 1999**

	NOTES	1999 \$	1998 \$
<b>CURRENT ASSETS</b>			
Cash		1,443	8,952
Receivables	3	87,535	78,358
Investments		399,684	395,500
<b>TOTAL ASSETS</b>		488,662	482,810
 <b>CURRENT LIABILITIES</b>			
Creditors and Borrowings	4	198,475	121,739
<b>TOTAL LIABILITIES</b>		198,475	121,739
 <b>NET ASSETS</b>		 290,187	 361,071
 <b>EQUITY</b>			
Retained Funds		290,187	361,071

The accompanying notes form part of the accounts.

**GRANTS FUND  
STATEMENT OF CASH FLOWS  
FOR THE YEAR ENDED 30 APRIL 1999**

	NOTES	1999 \$ Inflows (Outflows)	1998 \$ Inflows (Outflows)
<b>CASH FLOWS FROM OPERATING ACTIVITIES</b>			
Contributions from General Trust Accounts' Contributions Fund		480,201	446,989
Grants Paid and Administration Expenses		(503,263)	(342,954)
Interest Received		19,737	18,980
<hr/>			
Net (Decrease) Increase in Cash held	5	(3,325)	123,015
Cash at the beginning of the Financial Year		404,452	281,437
<hr/>			
Cash at the end of the Financial Year	5	401,127	404,452
<hr/>			

The accompanying notes form part of the accounts.

## GRANTS FUND

### NOTES TO AND FORMING PART OF THE ACCOUNTS

#### NOTES

##### 1 Accounting Policies

In order to assist in the understanding of the figures presented in the accounts, the following explains the significant accounting policies that have been adopted in the preparation of the Grants Fund's accounts.

###### (a) Basis of Preparation

The financial statements are a general purpose financial report which has been prepared in accordance with the provisions of the Financial Management Standard, which requires compliance with Australian Accounting Standards.

They have been prepared on the basis of historical cost and except where stated, do not take into account changing money values or current valuations of non-current assets. These accounting policies are consistent with those of the previous year, except where there is a change which has been separately disclosed.

###### (b) Investments

Investments during the year comprising bank bills and short term deposits are valued at cost. Investment income is brought to account under the accrual basis.

###### (c) Year 2000

The Year 2000 issue concerns the potential failure of computer systems, personal computers and the wide variety of devices utilising microprocessors due to dates being programmed in only two digits, resulting in an ambiguity at the turn of the century or at times prior.

In 1998 a Year 2000 project was established to facilitate and co-ordinate the Year 2000 activities including, updating to deemed compliant operating systems and hardware, plus modification of existing programmes. At the date of this report the updating of operating systems and hardware was nearing completion and all main existing programmes requiring modification had been modified and tested. Review of PC based office software was still to be completed.

The estimated liability in relation to the Year 2000 activities is \$5,000 which is based on costs incurred to date and the expected cost to rectify non-compliant systems. This cost estimate is for external consultants only and does not include the cost of society staff allocated to the project.

##### 2 Administration and Committee Expenses

Section 36M of the *Queensland Law Society Act 1952* provides that the Secretary of the Society shall be the Secretary of the Grants Committee, in the absence of any other such appointment by that Committee, to assist that Committee in the administration of the Grants Fund.

For administrative work performed by the Secretary and for maintenance of accounting records, management and investment of surplus monies, an administration fee is paid by the Grants Fund to the Society pursuant to Section 72 of the *Trusts Act 1973*. In order to determine an appropriate administration fee for the services provided by the Society a detailed time survey was conducted for a period by staff to provide a reasonable basis for costing of the administration fee recoverable by the Society.

**GRANTS FUND**  
**NOTES TO AND FORMING PART OF THE ACCOUNTS**

**3 Receivables**

	<b>1999</b>	<b>1998</b>
	\$	\$
Accrued Distribution Due from the -		
General Trust Accounts' Contribution Fund	80,948	74,955
Accrued Interest	1,734	1,273
Administration Fees	4,853	2,130
	87,535	78,358

**4 Creditors and Borrowings**

	<b>1999</b>	<b>1998</b>
	\$	\$
Grants Approved but not yet Paid	146,295	74,164
Audit Fees	1,200	800
Legal Aid for Community Legal Centres	50,980	46,775
	198,475	121,739

**5 Notes to the Statement of Cash Flows**

**(a) Reconciliation of Cash**

For the purposes of the statement of cash flows, cash includes cash on hand and in banks and investments on money market instruments, net of outstanding bank overdrafts. Cash at the end of the financial year as shown in the statement of cash flows is reconciled to the related items in the balance sheet as follows:

	<b>1999</b>	<b>1998</b>
	\$	\$
Cash/(Bank Overdraft)	1,443	8,952
Short Term Investments	399,684	395,500
	401,127	404,452

**(b) Financing Facilities**

The Grants Fund has no external non-cash financing nor any standby credit facilities or any other loan facilities.

**GRANTS FUND**  
**NOTES TO AND FORMING PART OF THE ACCOUNTS**

**(c) Reconciliation of Net Cash Provided by/(Used in) Operating Activities to the Surplus/(Deficiency) for the Year**

	1999	1998
	\$	\$
Surplus/(Deficiency) for the Year	(70,884)	93,318
Changes in Assets and Liabilities		
Decrease/(Increase) in Receivables	(9,177)	22,203
Increase/(Decrease) in Creditors and Borrowings	76,736	7,494
Net cash movement from operating activities	(3,325)	123,015

**6 Heal Street Building Grant**

A grant of \$88,999 was paid to the Queensland Law Society in March 1988 to enable the purchase of a building on behalf of the Caxton Street Legal Service. The building is held by the Society in trust for the Grants Fund and upon the sale of the property for whatever reason, the proceeds of the sale revert to the Grants Fund in total.

**7 Contingent Liabilities**

There were no known contingent liabilities at 30 April 1999.

**8 Financial Instruments**

**(a) Cash**

Cash is represented by amounts held in bank accounts.

**(b) Investments**

Investments include cash invested on the short term money market 11am call account. The rate of return for the year was in a range 4.55% to 4.8%.

**(c) Receivables**

Receivables are carried at actual amounts and represent accruals for amounts received in the months after balance date. There is no credit risk in relation to these receivables.

**(d) Creditors**

Creditors are carried at actual amounts and represent accrued distributions resulting from the accruals referred to above as part of receivables.

**(e) Net Fair Value**

Cash, investments, receivables and creditors carrying amounts all approximate fair value.




**CERTIFICATE OF  
GRANTS FUND**

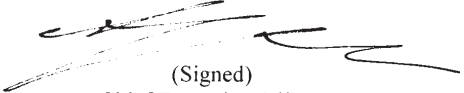
We have prepared the foregoing financial statements pursuant to the provisions of the *Financial Administration and Audit Act 1977* and other prescribed requirements and certify that –

- (a) the foregoing financial statements with other information and notes to and forming part thereof are in agreement with the accounts and records of the Grants Fund;
- (b) in our opinion –
  - (i) the prescribed requirements in respect of the establishment and keeping of accounts have been complied with in all material respects; and
  - (ii) the foregoing financial statements have been drawn up so as to present a true and fair view in accordance with prescribed accounting standards of the transactions of the Grants Fund for the financial year 1 May 1998 to 30 April 1999 and of the financial position as at the close of that year.

18/6/1999  
(Date)



(Signed)  
President



(Signed)  
Chief Executive Officer

## INDEPENDENT AUDIT REPORT

To the President, Queensland Law Society Incorporated – Grants Fund

### Scope

I have audited the financial statements of the Grants Fund for the year ended 30 April 1999. The financial statements comprise the Income and Expenditure Account, Balance Sheet, Statement of Cash Flows, Notes to and forming part of the financial statements and certificates given by the President and the Chief Executive Officer as required by the *Financial Administration and Audit Act 1977*.

The Queensland Law Society Incorporated is responsible for the preparation and the form of presentation of the financial statements and the information they contain. I have audited the financial statements in order to express an opinion on them.

The audit has been conducted in accordance with *QAO Auditing Standards*, which incorporate the Australian Auditing Standards, to provide reasonable assurance as to whether the financial statements are free of material misstatement. Audit procedures included the examination, on a test basis, of evidence supporting the amounts and other disclosures in the financial statements and the evaluation of accounting policies and significant accounting estimates. These procedures have been undertaken to form an opinion as to whether, in all material respects, the financial statements are presented fairly in accordance with prescribed requirements which include Australian Accounting Standards so as to present a view which is consistent with my understanding of the entity's financial position and the results of its operations and its cash flows.

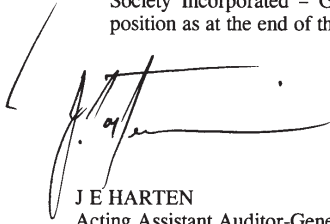
The year 2000 issue has been addressed only in the context of my existing audit responsibility under Australian Auditing Standards to express an opinion on the financial statements. Plans and associated actions to address the year 2000 issue have been reviewed for action taken to date, but the adequacy of those plans has not been assessed. Accordingly, the audit of the financial statements does not provide specific assurance, nor is a specific opinion expressed that the systems of the Queensland Law Society Incorporated or other systems such as those of suppliers, vendors, service providers, customers, associates, joint venture parties or third parties are year 2000 compliant.

The audit opinion expressed in this report has been formed on the above basis.

### Audit Opinion

In accordance with the provisions of the Financial Administration and Audit Act, I certify that I have received all the information and explanations I have required and, in my opinion -

- . the prescribed requirements in respect of the establishment and keeping of accounts have been complied with in all material respects; and
- . the statements have been drawn up so as to present a true and fair view in accordance with prescribed accounting standards and other prescribed requirements of the transactions of the Queensland Law Society Incorporated – Grants Fund for the financial year ended 30 April 1999 and of the financial position as at the end of that year.

  
J E HARTEN  
Acting Assistant Auditor-General - Audit  
Delegate of the Auditor-General

Queensland Audit Office  
Brisbane



**LAW CLAIMS LEVY FUND  
INCOME AND EXPENDITURE STATEMENT  
FOR THE YEAR ENDED 30 JUNE 1999**

	NOTES	1999 \$	1998 \$
<b>INCOME</b>			
Additional Levies		184,500	202,787
Investment Income	3	1,120,676	2,577,176
Solicitors' Deductibles		236,986	357,253
Commutation Receipt		-	559,995
		1,542,162	3,697,211
<b>EXPENDITURE</b>			
Claims and Legal Expenses - Levy Fund		4,018,835	6,463,586
Claims and Legal Expenses - Deductibles		234,190	353,348
Solicitors' Deductible Refunds		2,795	3,905
Fund Management Fees		89,305	98,517
Administration Expenses		67,941	35,131
Brokerage Fees		107,500	125,000
		4,520,566	7,079,487
<b>(Deficiency) for the year</b>		(2,978,404)	(3,382,276)
Retained Funds at the beginning of the Financial Year		29,034,809	32,417,085
<b>Retained Funds at the end of the Financial Year</b>		26,056,405	29,034,809

The accompanying notes form part of the accounts.

**LAW CLAIMS LEVY FUND  
BALANCE SHEET AS AT 30 JUNE 1999**

	NOTES	1999 \$	1998 \$
<b>CURRENT ASSETS</b>			
Cash		54,541	35,036
Receivables		3,028	1,816
Investments	4	<u>26,050,749</u>	<u>29,065,676</u>
<b>TOTAL ASSETS</b>		26,108,318	29,102,528
<b>CURRENT LIABILITIES</b>			
Solicitors' Deductibles		<u>51,913</u>	<u>67,719</u>
<b>TOTAL LIABILITIES</b>		<u>51,913</u>	<u>67,719</u>
<b>NET ASSETS</b>		<u>26,056,405</u>	<u>29,034,809</u>
<b>EQUITY</b>			
Retained Funds		<u>26,056,405</u>	<u>29,034,809</u>

The accompanying notes form part of the accounts.

**LAW CLAIMS LEVY FUND  
STATEMENT OF CASH FLOWS  
FOR THE YEAR ENDED 30 JUNE 1999**

	NOTES	1999 \$ Inflows (Outflows)	1998 \$ Inflows (Outflows)
<b>CASH FLOWS FROM OPERATING ACTIVITIES</b>			
Receipts from the Profession and Commutation Benefits		405,679	1,035,784
Claims and Expenses		(4,520,566)	(7,083,950)
Interest Received		1,119,465	2,577,508
		<hr/>	<hr/>
Net (Decrease) in cash held		(2,995,422)	(3,470,658)
Cash at the Beginning of the Financial Year		29,100,712	32,571,370
		<hr/>	<hr/>
Cash at the End of the Financial Year	5	26,105,290	29,100,712
		<hr/>	<hr/>

The accompanying notes form part of the accounts.

**LAW CLAIMS LEVY FUND**  
**NOTES TO AND FORMING PART OF THE ACCOUNTS**  
**FOR THE YEAR ENDED 30 JUNE 1999**

**NOTES**

**1 Statement of Significant Accounting Policies**

The significant policies which have been adopted in the preparation of the Fund's financial statements are:

**(a) Basis of Preparation**

The financial statements are a general purpose financial report which has been prepared in accordance with the provisions of the Financial Management Standard, which requires compliance with Australian Accounting Standards.

They have been prepared on the basis of historical cost and except where stated, do not take into account changing money values. These accounting policies are consistent with those of the previous year, except where there is a change which has been separately disclosed.

**(b) Investments**

Investments under the control of professional fund managers are disclosed at market value at balance date and any movement in market value is accounted for in the Income and Expenditure Statement. The cash float maintained by the Fund is invested on the short-term money market and valued at cost. Interest income is brought to account under the accrual basis.

**(c) Income Tax**

The Fund has been granted exemption from income tax by the Australian Taxation Office per Section 23(d) of the *Income Tax Assessment Act*.

**(d) Additional Levies**

Additional levies may be imposed in accordance with the indemnity rules and are accounted for separately and disclosed as income of the Fund.

**(e) Solicitors' Deductibles**

Solicitors' deductibles which are payable in accordance with the master policy agreement, are brought to account in the Income and Expenditure Statement. The unexpended balance is accounted for as a current liability at balance date.

**(f) Administration Expenses**

The administration expenses of the Fund are paid by the Queensland Law Society Incorporated out of a separate administration levy received by the Society. Administration expenses incurred by the Fund are those associated with the investment activities of the Fund or specific insurance advice sought by the Fund.

**(g) Claims**

Claims are brought to account in the year they are paid and no accruals are made for claims that may be in the process of finalisation or are yet to be notified.

## LAW CLAIMS LEVY FUND NOTES TO AND FORMING PART OF THE ACCOUNTS

### (h) Professional Indemnity Insurance

The Queensland Law Society Incorporated entered into a Master Policy agreement with Professional Indemnity Insurers to limit the maximum liability of the Fund for both individual claims and aggregate amounts. The Fund incurs all expenses up to a prescribed amount per individual claim until such time as the aggregate amount has been reached at which time the Professional Indemnity Insurers incur all future costs. The respective individual liability per claim and each funds aggregate amount are listed in Note 6.

### (i) Comparative Figures

Where necessary comparative figures have been re-classified to achieve consistency in disclosure with current financial year amounts and other disclosures.

### (j) Year 2000

The Year 2000 issue concerns the potential failure of computer systems, personal computers and the wide variety of devices utilising microprocessors due to dates being programmed in only two digits, resulting in an ambiguity at the turn of the century or at times prior.

In 1998 a Year 2000 project was established to facilitate and co-ordinate the Year 2000 activities including, updating to deemed compliant operating systems and hardware, plus modification of existing programmes. At the date of this report the updating of operating systems and hardware was nearing completion and all main existing programmes requiring modification had been modified and tested. Review of PC based office software was still to be completed.

The estimated liability in relation to the Year 2000 activities is \$20,000 which is based on costs incurred to date and the expected cost to rectify non-compliant systems. This cost estimate is for external consultants only and does not include the cost of society staff allocated to the project.

## 2 Scope of Operation

The Queensland Law Society Incorporated passed administrative responsibility of the Law Claims Levy Fund to Australia Pacific Professional Indemnity Insurance Company Ltd (APPIIL) on 25 March 1996 as per the Funds and Claim Management Agreement. From the year of insurance commencing 1 July 1996 insurance levies raised and collected by the Society will be paid to APPIIL and the company accepts sole responsibility for the provision of professional indemnity insurance to Queensland solicitors.

The Council of the Queensland Law Society Incorporated obtained an actuarial report of the Law Claims Levy Fund which disclosed a surplus of \$8,597,000 as at 30 November 1995. The Council resolved to transfer part of the actuarial surplus to APPIIL and an amount of \$7,300,000 was paid to APPIIL on 28 February 1996.

The Law Claims Levy Fund will receive no further premium income and its net asset position will progressively decline until all funds are extinguished or the respective years of insurance are closed off. Stop loss insurance cover was purchased to cap the remaining liability of the 1987-1994 insurance years and this was funded from the remainder of the actuarial surplus.

**LAW CLAIMS LEVY FUND**  
**NOTES TO AND FORMING PART OF THE ACCOUNTS**

**3 Investment Income**

	<b>1999</b>	<b>1998</b>
	<b>\$</b>	<b>\$</b>
Interest Received	19,493	22,108
Changes in Net Market Value of Investments	1,101,183	2,555,068
<b>Total</b>	<b>1,120,676</b>	<b>2,577,176</b>

**4 Investments**

	<b>1999</b>	<b>1998</b>
	<b>\$</b>	<b>\$</b>
Managed Funds at Market Value	25,327,554	28,815,676
Short Term Deposits at Cost	723,195	250,000
<b>Total</b>	<b>26,050,749</b>	<b>29,065,676</b>

**5 Notes to the Statements of Cash Flows**

**(a) Reconciliations of Cash**

For the purposes of the Statement of Cash Flows, cash includes cash on hand and in banks and investments on money market instruments, net of outstanding bank overdrafts. Cash at the end of the financial year as shown in the statement of cash flows is reconciled to related items in the balance sheet as follows:

	<b>1999</b>	<b>1998</b>
	<b>\$</b>	<b>\$</b>
Cash	54,541	35,036
Investments	26,050,749	29,065,676
	<b>26,105,290</b>	<b>29,100,712</b>

**(b) Financing Facilities**

The Law Claims Levy Fund has no external non-cash financing nor any standby credit facilities or any other loan facilities.



**LAW CLAIMS LEVY FUND**  
**NOTES TO AND FORMING PART OF THE ACCOUNTS**

**(c) Reconciliation of Net Cash Used in Operating Activities to the Surplus/(Deficiency) for the Year**

	<b>1999</b>	<b>1998</b>
	<b>\$</b>	<b>\$</b>
(Deficiency) for the Year	(2,978,404)	(3,382,276)
Changes in Asset and Liabilities		
Decrease/(Increase) in Receivables	(1,212)	332
(Decrease) in Creditors	-	(4,462)
(Decrease) in Solicitors' Deductibles	(15,806)	(84,252)
	(2,995,422)	(3,470,658)
Net Cash Used in Operating Activities	(2,995,422)	(3,470,658)

**6 Contingent Liabilities**

The nature of the Fund prohibits a definitive value to be determined for contingent liabilities. Under the present insurance agreements the total liability of the Fund for the respective years of insurance is limited to \$100,000 (1987-1994) and \$500,000 (1995) per individual claim and this amount is reduced by the amount of the solicitors' deductible. Also an aggregate limit per respective year of insurance applies and this limits the total liability of the Fund.

Based on the actuarial advice in respect of the position of the Fund as at 30 April 1998, the insurance in place with regard to the limits per file, the overall Fund's aggregate limit as at 30 June 1999 the Council are of the opinion that the funds on hand of \$26,105,290 together with future investment income and deductibles, and in conjunction with Stop Loss cover (see note 2) will ensure that all future claims (estimated gross value \$12,458,000) will be met as and when they fall due.

**LAW CLAIMS LEVY FUND  
NOTES TO AND FORMING PART OF THE ACCOUNTS**

**7 Financial Instruments**

**(a) Cash**

Cash is represented by amounts held in bank accounts.

**(b) Investments**

Investments include cash invested on the short term money market 11am call account and an Australian bond/cash portfolio managed by BT Funds Management Limited. The average term of the bond portfolio matches the liability profile of the Law Claims Levy Fund with the majority of bonds in the 0-3 years maturity range. The bond/cash portfolio managed by BT Funds Management Limited returned 3.92% for the year. The bond portfolio is carried at market value.

**(c) Receivables**

Receivables are carried at actual amounts and represent accruals for interest received after balance date. There is no credit risk in relation to these receivables.

**(d) Solicitors' Deductibles**

Solicitors' deductibles are carried at actual amounts and represent amounts received in advance of claim payments being made.

**(e) Net Fair Value**

Cash, investments, receivables and solicitors' deductibles carrying amounts all approximate fair value.

**CERTIFICATE OF  
LAW CLAIMS LEVY FUND**

We have prepared the foregoing financial statements pursuant to the provisions of the *Financial Administration and Audit Act 1977* and other prescribed requirements and certify that –

- (a) the foregoing financial statements with other information and notes to and forming part thereof are in agreement with the accounts and records of the Law Claims Levy Fund;
- (b) in our opinion –
  - (i) the prescribed requirements in respect of the establishment and keeping of accounts have been complied with in all material respects; and
  - (ii) the foregoing financial statements have been drawn up so as to present a true and fair view in accordance with prescribed Accounting Standards of the transactions of the Law Claims Levy Fund for the period 1 July 1998 to 30 June 1999 and of the financial position as at the close of that year.

12 JULY 1999

(Date)



(Signed)  
President



(Signed)  
Chief Executive Officer

## INDEPENDENT AUDIT REPORT

To the President, Queensland Law Society Incorporated - Law Claims Levy Fund

### Scope

I have audited the financial statements of the Law Claims Levy Fund for the year ended 30 June 1999. The financial statements comprise the Income and Expenditure Statement, Balance Sheet, Statement of Cash Flows, Notes to and forming part of the financial statements and certificates given by the President and Chief Executive Officer as required by the *Financial Administration and Audit Act 1977*.

The Queensland Law Society Incorporated is responsible for the preparation and the form of presentation of the financial statements and the information they contain. I have audited the financial statements in order to express an opinion on them.

The audit has been conducted in accordance with *QAO Auditing Standards*, which incorporate the Australian Auditing Standards, to provide reasonable assurance as to whether the financial statements are free of material misstatement. Audit procedures included the examination, on a test basis, of evidence supporting the amounts and other disclosures in the financial statements and the evaluation of accounting policies and significant accounting estimates. These procedures have been undertaken to form an opinion as to whether, in all material respects, the financial statements are presented fairly in accordance with prescribed requirements which include Australian Accounting Standards so as to present a view which is consistent with my understanding of the entity's financial position and the results of its operations and its cash flows.

The year 2000 issue has been addressed only in the context of my existing audit responsibility under Australian Auditing Standards to express an opinion on the financial statements. Plans and associated actions to address the year 2000 issue have been reviewed for action taken to date, but the adequacy of those plans has not been assessed. Accordingly, the audit of the financial statements does not provide specific assurance, nor is a specific opinion expressed that the systems of the Law Claims Levy Fund or other systems such as those of suppliers, vendors, service providers, customers, associates, joint venture parties or third parties are year 2000 compliant.

The audit opinion expressed in this report has been formed on the above basis.

### Audit Opinion

In accordance with the provisions of the Financial Administration and Audit Act, I certify that I have received all the information and explanations I have required and, in my opinion -

- the prescribed requirements in respect of the establishment and keeping of accounts have been complied with in all material respects; and
- the statements have been drawn up so as to present a true and fair view in accordance with prescribed accounting standards and other prescribed requirements of the transactions of the Law Claims Levy Fund for the financial year ended 30 June 1999 and of the financial position as at the end of that year.

  
J E HARTEN  
Acting Assistant Auditor-General - Audit  
(Delegate of the Auditor-General)



Queensland Audit Office  
Brisbane

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(e) *the circumstances of the sale of APPIIL shares by QLF;*

(f) *the circumstances of the sale of Themis by QLFTS.*

**This Motion was lost**

**Motion No. 4:** *That the members of the Society recommend to the Council of the Society that it obtain undertakings from the QLF, QLFTS and APPIIL to provide the Society with any further documents and information concerning the matters referred to in Motion No. 3 as may be reasonably required to permit members to form a view about such matters.*

**This Motion was lost**

**Motion No. 5:** *That members of the Society recommend to the Council of the Society that it invite the following persons to be present at the meeting to answer members' questions concerning the matters referred to in Motion No. 3:*

(a) *The current and former Directors of QLF*

(b) *The current and former Directors of QLFTS*

(c) *The Directors of APPIIL prior to 29 December, 1998, the date of the sale*

(d) *Members of the current Council of the Society*

**This Motion was lost**

**Motion No. 6:** *That the members of the Society recommend to the Council of the Society that at the conclusion of the meeting, a vote of members be taken as to what action, if any, do members of the Society wish the Council of the Society to take concerning the matters the subject of the meeting.*

**This Motion was lost**

**Motion No. 7:** *That in light of the intimation from APPIIL/GIO that insurance premiums for 2000 and 2001 will be increasing, the members of the Queensland Law Society Incorporated recommend to the Council of the Society that the Society reassess the Claims and Funds Management Agreement and the Insurance Agreement made between it and APPIIL forthwith and investigate alternative insurance for the 2000 and 2001 insurance years.*

**This Motion was lost**

**The President** invited Dr John de Groot to speak to his Notice of Motions.

Dr de Groot advised that notwithstanding he fully supported his Motions, he believed there was no purpose in debating the Motions at that time and was withdrawing his two Motions.

**No. 1:** *That the members of the Queensland Law Society Incorporated express their confidence in the Queensland Law Foundation Pty Ltd and its Directors and endorse the actions they have taken on behalf of members.*

**This Motion was withdrawn**

**No. 2:** *That the members of the Queensland Law Society Incorporated express their appreciation to the Queensland Law Foundation Pty Ltd and its Directors for their work on behalf of the profession.*

**This Motion was withdrawn**

**Vacation of the Chair**

The President, Mr Paul McCafferty, said his term as President expired at this meeting and he had pleasure in inviting Mr Peter Carne to come forward and address all present as the incoming President.

Mr Peter Carne, accepted the invitation and addressed the meeting.

“Might I first acknowledge the contribution of the outgoing President, Paul McCafferty, on what he has done in the last year on behalf of the Society. I’m conscious as I stand before you, the concern that many of you do have with respect to the changes that are occurring in our profession. This is my 24th year as a Solicitor. I have my own practice. I’ve been a Council member since 1992. I have been Vice-President on two occasions, then Deputy President. I’ve been on the Executive for quite some time and I’ve been involved in many committees particularly Professional Standards which is a committee that, if any council member hopes to go on to a higher office, they need to spend a lot of time on as you learn so much about the profession from addressing all those issues which come before such a committee.

When you consider the changes placed on the profession, they seem to come from the demands our consumers are placing upon us. I am sure I am not alone when I say that our consumers demand a great deal from us, sometimes a bit unrealistically, but we’re required to meet those demands. In order to meet those demands, we are

now turning towards technology. There is a high cost of implementing technology in order to deliver the service that is expected of us. As well there is the competition within our profession. We only have to look at the conveyancing war that's been going on for some five years or so. Not only within our profession but outside. And finally, of course, the forces that are imposed on us by government. We need to be able to meet each of those challenges.

When considering what I hope to bring to my term as President, I would like to convey a belief in ourselves as a profession. I really do think, when you listen to the way a lot of our members speak about ourselves, when we carry on about the attacks in the media whether fair or unfair, I believe that we've got this real chip on our shoulder. We become apologists. I believe we really need to put that aside. If I want to convey one thing to you, both here and throughout the profession during my coming year, I want to try and ensure a belief in ourselves and clearly that belief needs to be conveyed, not only amongst our profession but it needs to be conveyed out there in the community; it needs to be conveyed to media and it also needs to be conveyed to government.

Many would be aware that in my early years in the legal profession, I was active in social and political issues. It was from that activity that I became conscious of how important we are as a profession in the process of change. When I look back on what our community was like in the mid-70's and what the institutions, whether they be the government, the police, the courts or our own profession, and I consider our profession today, we have come a long way.

The mere fact that we can have a debate like this tonight; the mere fact that I can say to somebody from APLA "come to us, put your point of view". Twenty years ago as a profession and as an organisation, we weren't that responsive. I believe that criticism of our profession as to the service we deliver, our attitudes, in particular access to justice, I believe there is no basis for any criticism in that regard. I believe, when we look at our profession, we've been extremely responsive in meeting the challenges and the demands that are put upon us. I believe that we are probably one of the best organisations, professional groups, when you consider how we are meeting those challenges.

I believe that the pressures, the burdens, and the criticisms put upon us are unfair and unbalanced and I must say that the philosophy in the Green Paper conveys that point very strongly, particularly when you see that it's acknowledged in the Green Paper that the Society, on behalf of the profession made a submission to do away with all regulation. We said to Government "Let us get out there and compete", we sought for Government to take away from us totally all regulation because we believe that all of us can compete, it doesn't matter who it is. But while you continue to impose on us the regulations that you do, which restrict us in the way we set up our structures, our firms, our businesses, the way we get out there and compete with organisations like accountants, banks, financial advisers, when you also restrict our access to tribunals where we should be able to get in there and represent members of the community, then the people of Queensland lose out from the benefits that come from such competition. A classic example of this at the moment is the draft Retirement Villages Bill this government has before the Parliament which specifically excludes lawyers from the Retirement Villages Tribunal.

Now, when you think of that, you have got a situation where you have elderly people, more often than not up against the owners of the retirement village. What a huge power imbalance that is. There can be no justification in excluding our representative skills to put the balance back. But for some reason, there is this belief that lawyers need to be excluded. Of course, that is more work being taken away from us. But, as well as that, we've got a huge amount of regulation that's been imposed upon us that comes at a cost, on an overhead basis that restricts our ability to get out there and deliver a service and be a strong and viable profession.

I recently listened to a Law Talk program. There was an interview with the lawyer who was representing Peter Wallace, the Care Worker from Mackay. He was speaking in his second language, English, about the appeal process in Yugoslavia. He spoke in a clear and precise way on a very complex legal issue. I was impressed by his ability to get across in terms where a person, not necessarily being a lawyer, could understand why he believed the Military Tribunal was wrong with respect to the sentence imposed on Peter Wallace. It led me to think what a brave man he was. Here

he is in his country which is at war, acting for a convicted spy, and what was he doing? He was upholding the rule of law. This interview inspired this theme about the profession having a belief in itself. The community, the media and particularly government forget how integral we, as a profession, are in ensuring that our society endures.

As soon as I got my Law Degree I went overseas. I realised how insignificant Australia was to the rest of the world, but how lucky we were as a country. We are just so lucky, when you consider the lifestyle we've got, the freedoms we have, I believe a lot of that is due to the contributions made by our profession. A lot of that is due to men like that lawyer in Yugoslavia; like the lawyers acting for Ibrahim in Malaysia. When you consider the pressure they're under fighting for justice for their clients.

In preparation for my term as President, I read the history of the Law Society by Helen Gregory. What really struck home to me was how a lot of the issues we have today, were confronted by our profession a hundred years ago.

Chapter 2 starts off by saying:

Discussion and debate on the structure of the legal profession, the standard of legal practice and the cost and efficiency of the court system came increasingly into the arena of parliamentary debate and the public press during the 1870's. Honest lawyers demanded that a way be found to protect their domain against the encroachment of unqualified people dispensing legal services and well established solicitors were also determined to find a way to make their view known. They found a corporate voice in the establishment of the Queensland Law Society.

I note that at the commencement of that chapter, and it was with irony that I quote the Brisbane Courier which is now The Courier-Mail, on 9 October, 1874:

A conscientious honest lawyer is one of the best friends and safest protections that one can have against one's self, just as often as against one's enemies.

We must always keep that in mind. I still believe that that is a true statement. Now, how do we develop this belief in ourselves? The first way I

think is through *Proctor*. I believe that *Proctor* is one of the best things that this Society has got going for it. It is a high class periodical.

I personally get a lot of benefit out of the part that profiles various lawyers. I read that section avidly. What hits home to me is how really decent all those individuals are and how really ordinary they are. That's not a criticism. How they really believe that they can do some good for their clients and their community. I think that's probably one of the best parts in *Proctor*.

The other part is the obituaries. You read about those practitioners who in their life have achieved a great deal. In the latest *Proctor*, there is an obituary for Michael Vandeleur who was a lawyer for some 54 years in Innisfail. When you read his achievements, both in his local community, within the State and outside the State, he achieved a great deal. He epitomises what I believe is so important in our profession, that is the significant contribution our profession makes to the community. We must not lose sight of that.

I must talk about the Green Paper. The Green Paper is my biggest task. It's not going to be easy. The reality is there is going to be change; there is going to be reform. What I've been saying to the politicians is that there must be balanced reform.

The profession accepts reform. We've been asking for reform for a long time. We've been saying reform us and leave us alone. In 1997, we had amendments to the *Queensland Law Society Act* on the discipline process. In 1998, we had the *Civil Justice Act* dealing with costs. In 1999 we are going to have whatever comes out of the Green Paper. We need reform, but we need balance in that reform. The Green Paper doesn't give that balance. I believe that we can claw some of it back, but I need to know what's important to us. I rely on all of you to give me assistance.

I've moved very quickly to tap into the feeling out there. We've been living with this reform since 1994 when the Goss Government moved a long way towards that. Tomorrow, I've invited all the DLA representatives to come along to Council and we're going to sit down and we're going to talk about the reform agenda. The reform will come about. It will bring about change, but it is not going to be the end of the profession. We have got a great history behind us and a great history lies



ahead. I give you this pledge: We will work very hard to make sure that the reform is balanced and that the profession's needs and interests are addressed. But I also have to say to you: "Accept change, work with change and don't lose the belief in yourselves". That's the most important thing.

Thank you."

### **Conclusion**

Mr McCafferty thanked Mr Carne for his speech and declared the Meeting closed.

### **Executive Committee**

P E M McCafferty (Chair)

P D Carne

R M Giudes

J G Mann

J A Tooma

## **Council Members**

The Council of the Queensland Law Society at the time of writing this report is as follows:

### **Members**

P E M McCafferty, Bowdens Lawyers (President)

P D Carne, Carne & Herd (Deputy President)

R M Giudes, Giudes & Elliott (Vice President)

J M Batts, Harrington Batts

J M Bennett, Bennett & Associates

P A Conroy, Conroy & Associates

K R Copley, Wilson & Copley

P J Dickenson, Murray Lyons Dickenson

G W Ferguson, Ferguson Cannon Lawyers

R A Geldard, South & Geldard

J G Mann, Mallesons Stephen Jaques

J F O'Sullivan, Justin F. O'Sullivan & Edgar

J N L Pinder, Pescott Reaston

L D Pommer, Connolly Suthers

T M Sullivan, Davidson & Sullivan

J A Tooma, J.A. Tooma & Co.

R H Wallace, S.R. Wallace and Wallace

B P Kilmartin, Sciacca's Lawyers (Attorney-General's nominee)

### **Retired:**

G W Deeb 15 July 1998

M A Steen, 15 July 1998

D G Thomas 15 July 1998