



The Law
Society
OF TASMANIA

ANNUAL REPORT

2003 – 2004

**To be Presented at the Annual General Meeting
The Law Society of Tasmania
28 Murray Street, Hobart
Friday 15 October 2004 at 4.00 pm**

**THE LAW SOCIETY COUNCIL
2003 - 2004**

President

D J Gunson SC

Vice-President

D F M Zeeman

Hon Treasurer

W M Griffiths

Council

K A M Agh	[S]	A E Nicholson	[NW]
M B Bartlett	[NW]	K B Paterson	[N]
C A Cunningham	[S]	K A M Pitt QC	[S]
W M Griffiths	[N]	N R Readett	[S]
D J Gunson SC	[S]	H V E Schnierer	[N]
R A Hart	[N]	L S Topfer	[NW]
P L Jackson	[S]	N J Ware	[S]
E K Maclaine-Cross	[N]	D F M Zeeman	[S]

Executive Director

M Hagan

Representative on the Law Council of Australia:

P L Jackson

COMMITTEES 2003 - 2004

[as from October 2003]

Executive Committee

D J Gunson SC [Chairman]
C A Cunningham, W M Griffiths, P L Jackson,
N R Readett, L S Topfer and D F M Zeeman

Regional Committees

SOUTHERN

D J Gunson SC [Chairman]
K A M Agh
C A Cunningham
P L Jackson

K A M Pitt QC
N R Readett
N J Ware
D F M Zeeman

NORTHERN

W M Griffiths [Chairman]
P J Lebski [Secretary]
J F Anderson
S P Bishop
M Brett
D P Cordell
B H Crawford
R J Dagleish
B R Doolan
C N Dockray
C J Foon

G L Jones
S B McElwaine
R M Murray
P R Page
K B Paterson
E G Stewart
D N Stewart
A Trezise
G Tucker
P A Welch
T J Whyte

NORTH-WEST

L S Topfer [Chairman]
A E Nicholson [Secretary/Treasurer]
C J Bartlett

D R Fairley
K E McLagan
P J Rowe

Litigious Issues Committee

P L Jackson [Convenor]

Criminal Law Committee

K L Baumeler [Convenor]

Business & Commercial Law

N R Reaburn [Chairman]

R A Curtis

R E Davey

J M French

F Grey

R A Hart

M Hunniford

A P Laning

S Larsen

P V Manser

J A Munnings

J Otlowski

M Pawson

P J Joyce

H V E Schnierer

P C Toomey

J R Upcher

T Whyte

P R Worrall

Continuing Legal Education

T G Bugg [Chairman]

K Warner

S Tennent

G Hay

C R Higgins

D H Polden

L S Topfer

M F Daly [Part Year]

K B Paterson [Part Year]

N R Reaburn [Part Year]

Employment & Equal Opportunities Committee

A R Mills [Chairman]

E M Archer

T J Badenach

J S Bronstein

Z Bright [President TULS]

C Green

J J O'Keefe

M Hagan

Investigations Committee

D J Gunson SC [Chairman]

K A M Agh

R A Brown

C A Cunningham

M F Daly

R M Grueber [Part Year]

P L Jackson

K A M Pitt QC

N R Readett

L O Rheinberger [Part Year]

N J Ware

D F M Zeeman

J Paxton [Legal Ombudsman]

Litigious Costs Standing Committee

W M Griffiths [Chairman]

D G Grey

D M Rees

P G J Zeeman

Membership Services

M Schyvens [Convenor]

M Hagan

Mediation & Arbitration

J B Walker [Chairman]

W J Friend

Property Law Committee

P A Kimber [Chairman]

G B G Bradfield

R T Fay

W C Justo

A P Laning

S W Law

P J Lebski

J P McMullen

H S Murray

J F Otlowski

J G Samec

H V E Schnierer

M D Schyvens

T J Tierney

J R Upcher

T J Whyte

A Wiss

**Solicitors' Accounts Rules
Committee**

P V Manser [Chairman]

R Byrne

M J Crisp

A N Morgan

C S Church [Part Year]

S Bayley [Part Year]

**Young Lawyers
Southern Committee**

President C R Higgins

Secretary L A Taylor

Treasurer L A Taylor

R L Benson, J A Campton, J E Shepherd, C A Scott, C L Buxton,
D L Harper, Y Cehtel, C M Lee, P E Grace, L A Fox [Part Year],
T Rowe [Part Year], T Brewer [Part Year] and E McCoy [Part Year]

Northern Committee

President J E Higgins

H V E Schnierer, S L Herighty and M L Doyle

North-West Committee

President D R Fairley

A E Nicholson and P J Rowe

Representative on National Young Lawyers Committee

Y Cehtel

The President is an ex officio member of all Law Society committees

**SOCIETY REPRESENTATIVES ON
OTHER BODIES**

Board of Legal Education

G L Jones
A B Walker

Council of Law Reporting

M J Crisp

Law Council of Australia - Access to Justice Committee

M B Bartlett

Legal Aid Commission

M B Bartlett
S J N Brown

Road Safety Consultative Committee

W M Griffiths

University Law Faculty

P A Griffiths

ASSOCIATED BODIES

Disciplinary Tribunal

[Appointed by the Judges of the Supreme Court under the *Legal Profession Act 1993*]:

K B Procter SC [Chairman]	M A Imlach
M L Bessell	R W Pearce
F B Dixon SC	M J Temple-Smith
C N Dockray	

Family Law Practitioners' Association

President	R M Murray
Vice-President [N]	A E Nicholson
Vice-President [S]	K Wylie
Secretary	E J Gelston
Treasurer	C E Trueman

Committee:

A E Barrenger, B A Baker, M Brett, C R Tilley,
K B Paterson, G Foster, P Fitzgerald, C J Gibson, C Gregg,
S Ikin, M-A Ryan, E J Turner

Centre for Legal Studies Ltd

Chairman of Directors	P A Dixon
Directors	The Hon Chief Justice W J E Cox AC RFD ED
	T G Bugg
	W M Griffiths
	K Warner
Public Officer/Company Secretary	M Hagan

Medico-Legal Society of Tasmania

President	R W L Turner
Medical Vice-President	B Linacre
Legal Vice-President	G L Johnston
Medical Secretary	B Linacre
Legal Secretary	K Baumeler
Treasurer	G L Johnston

Committee

C A Cunningham, J Isles, J A V Buckley,
N R Readett, R Pargiter, M Otlowski,
G Whyte, S Pridmore and M-A Ryan

Solicitors' Trust

M J Crisp [Chairman], J Doyle and P Kuzis

The Women Lawyers' Association of Tasmania

President	C E Trueman
Vice President	K M McQueeney
Secretary	C R Higgins
Hon. Treasurer	J Castillo

Committee

O M McTaggart, C Flint, A R Mills, M-A Ryan,
J J O'Keefe, P J Ashworth, A Wijay and C Graves

The Law Foundation of Tasmania

President, Law Society of Tasmania	D J Gunson SC
Vice-President, Law Society of Tasmania	D F M Zeeman
Chairman, Solicitors' Trust	M J Crisp
President, Tasmanian Bar Association	D J Barclay [Part Year] M K Wilkins [Part Year]
Nominee, Attorney-General	M Otlowski K M McQueeney [Part Year]
Nominee, Law Society of Tasmania	T G Bugg
Public Officer/Secretary	M Hagan

PRESIDENT'S REPORT TO THE ANNUAL GENERAL MEETING OF THE LAW SOCIETY OF TASMANIA 2004

As I prepare this report, The Law Society of Tasmania faces an uncertain future given the government's decision to adjourn further debate of the Legal Profession Amendment Bill 2004. Neither the Tasmanian public nor the legal profession know with any certainty whether the Attorney-General will completely withdraw the bill or reintroduce it at a later date. Whilst the Attorney-General has publicly announced that she does not intend to proceed with the bill, nonetheless the Society has received clear indications from senior public servants that the Attorney-General may reintroduce the bill. Such indecision and uncertainty is an unacceptable way to govern.

I take this opportunity once again to make clear the Society's position on the Legal Profession Amendment Bill. While the Society supports the establishment of an independent board to investigate complaints and to commence disciplinary proceedings against members of the profession, it remains implacably opposed to that same board also being responsible for the regulation of the profession. It is the Society's view that the board should not be responsible for the issuing of practising certificates, the making of rules of practice and the inspection of trust accounts of legal practitioners. Such a structure would be inconsistent with reforms around the rest of Australia and make it very difficult for the Society to negotiate competitive professional indemnity insurance or be involved in any other professional legal standards regime in Tasmania. The Attorney-General's proposed amendments would remove Tasmania from the common model adopted by all other states and territories. The Attorney-General's policy that the legal profession should be administered in the same way as nurses and teachers is wrong and does not bear close scrutiny.

Thankfully, the independent members of the Legislative Council understood the importance of the Law Society's opposition to parts of the Attorney-General's bill and successfully moved for amendments. These amendments provided the government with its policy objective with removing the power of the Society to investigate and discipline its own members while at the same time providing for the Society to continue to have a role in the regulation of the profession.

However, for reasons that remain obscure, the Attorney-General took umbrage at the amendments. Claims by her that the Law Society's motivations were financial are clearly false and have been demonstrated to be false. The Law Society has repeatedly advised the government that the legal profession has acknowledged the need to pay for its own governance through practising certificate fees, as it currently does, and that those fees should be paid directly to the board. The Society would only receive remuneration for regulatory work it performed on a fee for service basis. The Attorney-General's suggestions that the Society is involved in some sort of cash grab are untrue and unsustainable. Equally, the Attorney-General's recent announcement in a national paper that the Law Society was in financial difficulties is absurd.

Unfortunately for the foreseeable future the governance of the Tasmanian legal profession will remain in limbo until such time as the Attorney-General either formally withdraws the bill or continues the debate.

In the meantime, the Law Society is considering the establishment of a system that mirrors the proposed structure under the now adjourned bill. If it proves feasible the Society would establish a new disciplinary committee comprising an independent chairman, lay people and representatives from the legal profession. The committee would be supported by an employed investigations officer. The aim of such a move

would be to ensure that the momentum of positive law reform in Tasmania is not lost through the Attorney-General's inertia.

Notwithstanding these time consuming struggles with the Attorney-General, the Law Society has managed this year to achieve some notable successes. In particular, I believe that the continuing legal education programme has proved to be a success with some 30 seminars attracting close to 900 attendees.

Similarly, the Society has tried to refocus its attention towards providing member services. Members would have noticed the introduction of a range of benefits with American Express, Hertz, AMP Banking along with accommodation deals and alliances with St Lukes Health, the RACT and Qantas Club membership. The focus next year will be on improving all of those services as well as establishing a counselling service for those members in need of assistance.

The Society's committees have continued their good work and a wide range of submissions have been made to the government on important law reform. This is, and should remain, one of the areas of interest for the Law Society and I encourage members to consider joining one of the many committees run by the Society.

Finally, the Council has recently established an ethics committee which will comprise the President of the Society for the time being along with practising senior counsel. Once operating, the aim is for this committee to provide the profession with guidance and rulings on ethical matters. Members of the profession will be able to apply to the committee for a ruling on any particular ethical issue that might be troubling them.

The past 12 months has been a difficult time for the Society and a vast amount of time and effort has been expended in dealing with the Legal Profession Amendment Bill. I would particularly like to thank the Executive Director, Martyn Hagan, for the outstanding assistance that he has provided to me throughout the year. The position of President is a time consuming one and without Martyn's assistance, I am sure that I would have struggled to fulfil the role. Martyn has been untiring in his assistance to me throughout the year and to the Council and the members of the Society. I would also like to thank the members of the Council and the staff of the Society for their support and assistance during the year.

I cannot conclude this report though without also thanking those individual members of the Society who rallied to support the Society's stand in respect of the Legal Profession Amendment Bill and who took the time to speak with members of both the House of Assembly and the Legislative Council to explain the Society's position and to seek support. I was heartened by the level of support from individual practitioners who were prepared to assist the Society in this regard.

David Gunson SC
President

ANNUAL REPORT OF THE HON TREASURER
THE LAW SOCIETY OF TASMANIA

The attached figures show the accounts of the Society during the last twelve months.

For some 7 years the Society has continued to fund its statutory “public benefit” duties despite the absence of funding from the Trust excess.

The Society has managed to fulfill this function almost entirely out of funds provided to it by practitioners.

The Society has continued to attend to its “public benefit” functions without an increase for many years in the cost of practicing certificate fees.

It has managed to do all this by careful management of its funds and by taking advantage of the fact that many hundreds of thousands of dollars worth of work is done each year by practitioners either upon a wholly voluntary basis or by virtue of them undertaking work on behalf of the Society for fees considerably less than commercial rates.

Whilst providing resources in relation to discipline the Society has long accepted the fact that the need for transparency for the benefit of both the public and practitioners requires that the Society’s traditional role in discipline be reconsidered.

While still waiting for a solution to the manner in which discipline is to be dispensed, the Society continues to live within its means, although budgeting from year to year for the cost of its disciplinary function remains an all but impossible task. Carefully considered provisions are made each year by way of forecast but that forecasting has been made even more difficult by recent uncertainty of how the role of the Society may change.

Not all prosecutions succeed, and of those that do it is often the case that the costs, when ordered in favor of the Society, cannot be collected.

With the failure of the recently proposed legislation to pass the Upper House, the Society continues to receive income from the issue of practising certificates, continues to provide for regulation and discipline of the profession and, largely for that reason, continues to be able to make available to the profession compulsory insurance cover at an affordable rate.

The Society and its members owe a considerable debt of gratitude to those various elected and non-elected practitioners who have given selflessly of their time for little or no return in order to contribute to the cost of undertaking the traditional roles of the Society, and thereby reduce the cost to the profession and the public of the provision of the various services provided within those roles.

It is to be hoped that practitioners and the public will not be ultimately disadvantaged by a careless discounting of the established cost saving regime.

W M GRIFFITHS
HON. TREASURER

STATISTICS – THE LEGAL PROFESSION

AS AT 22 SEPTEMBER 2004

	INTERSTATE	SOUTH	NORTH	NORTH- WEST	TOTAL
NO. OF FIRMS					
12 Partners	0	1	0	0	12
11 Partners	0	1	0	0	11
10 Partners	0	1	0	0	10
9 Partners	0	1	0	0	9
8 Partners	0	1	0	0	8
7 Partners	0	1	0	0	7
6 Partners	0	0	1	0	6
5 Partners	0	2	1	0	15
4 Partners	0	1	1	1	12
3 Partners	0	3	2	2	21
2 Partners	0	14	5	7	52
Single Practitioners	1	49	13	14	77

Members of the Law Society

Partners in firms		108	31	24	163
Single Practitioners	1	49	13	14	77
Employed Practitioners		152	40	26	218
Community Legal Services		4	1	1	6
Environmental Defenders Office		1			1
Women's Legal Service (Tas) Inc.		3			3

Barristers

Queens Counsel and Senior Counsel in private practice		4			4
Juniors		20	4		24

Associate/Non Practising 22

**THE LAW SOCIETY OF TASMANIA
STATEMENT OF FINANCIAL POSITION
AS AT 30 JUNE 2004**

	Note	2004 \$	2003 \$
CURRENT ASSETS			
Cash	2	98,940	1,173,775
Investments	3	1,654,164	1,629,229
Receivables	4	245,428	162,144
		1,998,532	2,965,148
TOTAL CURRENT ASSETS			
NON-CURRENT ASSETS			
Property, Furniture and Equipment	5	1,188,010	943,159
		1,188,010	943,159
TOTAL NON-CURRENT ASSETS			
TOTAL ASSETS			
CURRENT LIABILITIES			
Accounts Payable	6	376,837	417,085
Provisions	7	209,546	1,129,383
		586,383	1,546,468
TOTAL LIABILITES			
NET ASSETS			
SOCIETY'S FUNDS			
Reserves	8	43,843	43,843
Accumulated Funds		2,556,316	2,317,996
		2,600,159	2,361,839

The accompanying notes form part of this Financial Report

**THE LAW SOCIETY OF TASMANIA
STATEMENT OF FINANCIAL PERFORMANCE
FOR THE YEAR ENDED 30 JUNE 2004**

	Note	2004 \$	2003 \$
Revenue from Ordinary Activities		2,601,818	2,445,315
Other Revenue	5c	213,000	-
Depreciation Expense		(24,584)	(23,931)
Salaries and Employee Benefits		(227,599)	(254,157)
Other Expenses from Ordinary Activities		(2,324,314)	(2,049,800)
PROFIT FROM ACTIVITIES		----- 238,321 -----	----- 117,427 -----

The accompanying notes form part of this Financial Report

**THE LAW SOCIETY OF TASMANIA
STATEMENT OF INCOME
FOR THE YEAR ENDED 30 JUNE 2004**

	2004	2003
	\$	\$
INCOME		
Administration Fees – Solicitors’ Trust	9,668	10,232
Brochure Distribution	2,000	1,700
Capitation Fees	36,148	33,797
Certificate of Fitness	2,317	3,400
Continuing Legal Education	25,398	5,854
Disciplinary Action – Costs Recovered	94,376	75,316
Hire of Council Room	1,110	1,109
Interest Received	116,283	118,452
Membership Benefits	12,370	-
Practising Certificate Fees	381,957	374,621
Professional Indemnity Insurance Premiums and Fees	1,871,660	1,770,095
Revaluation Land & Buildings	213,000	-
Sales – Forms	4,873	4,843
Sponsorship	35,000	35,000
Subscriptions	7,656	10,182
Sundry Income	1,002	714
	-----	-----
TOTAL INCOME	2,814,818	2,445,315
	-----	-----

The accompanying notes form part of this Financial Report

**THE LAW SOCIETY OF TASMANIA
STATEMENT OF EXPENDITURE
FOR THE YEAR ENDED 30 JUNE 2004**

	2004	2003
	\$	\$
EXPENDITURE		
Advertising and Public Relations	1,113	1,104
Audit and Accounting Fees	12,808	5,324
Bad Debts	1,662	-
Bank Charges	1,786	1,762
Capitation Fees Law Council	34,518	33,942
Computer Supplies and Services	5,974	4,672
Consulting Fees	61,945	3,489
Contribution Professional Legal Training Program	1,000	1,000
Depreciation - Equipment	10,584	9,931
Depreciation – Buildings	14,000	14,000
Honorariums	41,130	41,130
Insurance	14,730	13,024
Lease Payments - Photocopier	5,099	5,478
Light and Power	6,832	4,407
Meetings, Functions, Travel and Accommodation	29,114	26,725
Membership Benefits	11,313	-
Printing, Postage and Stationery	12,632	8,978
Professional Development	35,144	15,029
Professional Fees - Disciplinary Actions	196,238	32,607
Professional Indemnity Insurance Paid – Firms	1,762,700	1,735,500
Professional Indemnity Insurance – Society	16,807	15,062
Publications – Legal Forms and Handbooks	2,752	3,173
Rates and Taxes	22,391	21,746
Recruitment Expenses	-	17,226
Repairs, Maintenance and Cleaning	15,977	19,950
Salaries	199,571	225,483
Security and Fire Alarms	7,243	5,905
Subscriptions	1,847	1,150
Sundry Expenses	3,102	5,066
Superannuation	28,028	28,674
Telephone and Web Site Expenses	18,457	26,351
	-----	-----
TOTAL EXPENDITURE	2,576,497	2,327,888
	-----	-----

The accompanying notes form part of this Financial Report

**THE LAW SOCIETY OF TASMANIA
STATEMENT OF CASH FLOWS
FOR THE YEAR ENDED 30 JUNE 2004**

	Notes	2004 \$	2003 \$
CASH FLOWS FROM OPERATING ACTIVITIES			
Receipts from Members, Clients and Others		2,409,176	2,307,169
Payments to Suppliers, Employees and Others		(3,517,138)	(1,590,295)
Interest Received – Net		114,497	116,690
		-----	-----
NET CASH INFLOW FROM OPERATING ACTIVITIES	9	(993,465)	833,564
		-----	-----
CASH FLOW FROM INVESTING ACTIVITIES			
Payments for Property, Plant and Equipment		(56,435)	(17,799)
Purchase of Term Deposits		(24,935)	(12,045)
		-----	-----
NET CASH OUTFLOW FROM INVESTING ACTIVITIES		(81,370)	(29,844)
		-----	-----
Net Increase/(Decrease) in Cash Held		(1,074,835)	803,720
Cash at Beginning of the Financial Year		1,173,775	370,055
		-----	-----
CASH AT THE END OF THE FINANCIAL YEAR	9	98,940	1,173,775
		-----	-----

The accompanying notes form part of this Financial Report

THE LAW SOCIETY OF TASMANIA
NOTES TO AND FORMING PART OF THE FINANCIAL
STATEMENTS
FOR THE YEAR ENDED 30 JUNE 2004

NOTE 1: STATEMENT OF ACCOUNTING POLICIES

- (a) This financial report is a special purpose report which has been prepared specifically for distribution to members in accordance with the Law Society By-Laws 1994 made under the Legal Profession Act 1993. The Council has determined that the Society is not a reporting entity.

The Financial report has been prepared in accordance with the following Australian Accounting Standards:

AAS4	Depreciation
AAS5	Materiality
AAS8	Events Occurring After Reporting Date
AAS21	Acquisition of Assets

No other applicable Accounting Standards, Urgent Issues Group Consensus Views or other authoritative pronouncements of the Australian Accounting Standards Board have been applied.

The financial report is prepared on an accrual basis from the records of the Society. It is based on historical costs and does not take into account changing money values or, except where specifically stated, current values of non-current assets.

The following specific policies that are consistent with prior periods unless stated otherwise have been applied in the preparation of this financial report.

(b) Property, Furniture and Equipment

Property

Properties are included at valuation less provision for depreciation (excluding land content). Valuations have been determined from independent advice. These revaluations take no account of potential capital gains tax. Net revaluation increments, which arise, are transferred to the asset revaluation reserve, apart from those reversing previous decrements, which were charged against operating profit. Net revaluation decrements apart from those reversing previous increments are charged against operating profit.

Furniture and Equipment

Furniture and equipment is included at cost. Assets are depreciated over their estimated useful lives commencing from the time the asset is ready for use.

(c) Comparative Figures

When required by accounting standards, comparative figures have been adjusted to conform to changes in presentation for the current financial year.

**THE LAW SOCIETY OF TASMANIA
NOTES TO AND FORMING PART OF THE FINANCIAL
STATEMENTS
FOR THE YEAR ENDED 30 JUNE 2004**

	2004	2003
	\$	\$
NOTE 2: CASH		
The cash assets held by the Society are as follows :		
At Banks	98,649	1,171,723
On Hand	291	2,052
	-----	-----
	98,940	1,173,775
	-----	-----

NOTE 3: INVESTMENTS

Perpetual Trustees –Members Professional Development Fund	1,323,463	1,583,977
Perpetual Trustees – Society Funds	330,701	45,252
	-----	-----
	1,654,164	1,629,229
	-----	-----

NOTE 4: RECEIVABLES

Amounts due to the Society are as follows:

Trade Debtors	83,693	36,921
Other Debtors	152,915	108,723
Solicitors' Trust	-	12,720
GST Refund	-	3,780
Wine – Membership Benefits	8,820	-
	-----	-----
	245,428	162,144
	-----	-----

**THE LAW SOCIETY OF TASMANIA
NOTES TO AND FORMING PART OF THE FINANCIAL
STATEMENTS
FOR THE YEAR ENDED 30 JUNE 2004**

	2004	2003
	\$	\$
NOTE 5: PROPERTY, FURNITURE and EQUIPMENT		
(a) Land and Buildings		
Land – At Fair Value	550,000	370,000
Buildings – At Fair Value	565,000	546,000
	-----	-----
Total Land and Buildings	1,115,000	916,000
	-----	-----
Furniture and Equipment		
At Cost	345,623	289,188
Less: Accumulated Depreciation	(272,613)	(262,029)
	-----	-----
Total Furniture and Equipment	73,010	27,159
	-----	-----
Total Property, Furniture and Equipment	1,188,010	943,159
	-----	-----
 (b) Land & Buildings – at Independent Valuation		
28 Murray St, Hobart		
Land – Opening Balance	220,000	220,000
Revaluation Increment	140,000	-
	-----	-----
	360,000	220,000
	-----	-----
Building – Opening Balance	331,500	340,000
Depreciation Expense	(8,500)	(8,500)
Net Revaluation Increment	7,000	-
	-----	-----
	330,000	331,500
	-----	-----

THE LAW SOCIETY OF TASMANIA
NOTES TO AND FORMING PART OF THE FINANCIAL
STATEMENTS
FOR THE YEAR ENDED 30 JUNE 2004

NOTE 5: PROPERTY, FURNITURE and EQUIPMENT cont.

(b) Land & Buildings – at Independent Valuation
56A Charles St, Launceston

Land – Opening Balance	150,000	150,000
Revaluation Increment	40,000	-
	-----	-----
	190,000	150,000
	-----	-----
Building – Opening Balance	214,500	220,000
Depreciation Expense	(5,500)	(5,500)
Net Revaluation Increment	26,000	-
	-----	-----
	235,000	214,500
	-----	-----

Valuations – the fair values of land and buildings have been determined by reference to independent valuations as at the 30th June 2004. 28 Murray Street was valued by Mr A Pitt a Certified Practising Valuer of Saunders & Pitt. 56 Charles Street was valued by Mr A K Cubbins a Certified Practising Valuer of Harrison Cubbins Pty Ltd.

(c) The total net revaluation increment of \$213,000 has been taken to revenue in accordance with AASB 1041 – Revaluation of Non-Current Assets as it partly reverses revaluation decrements against Land & Buildings of \$1,190,660 that have previously been expensed.

**THE LAW SOCIETY OF TASMANIA
NOTES TO AND FORMING PART OF THE FINANCIAL
STATEMENTS
FOR THE YEAR ENDED 30 JUNE 2004**

	2004	2003
	\$	\$
NOTE 6: CURRENT ACCOUNTS PAYABLE		
Trade Creditors	11,712	3,996
Other Creditors and Accruals	18,510	21,286
Solicitors' Trust S.105 / S.76(13)	143,769	188,641
Subscriptions Received in Advance	2,750	2,990
Practising Certificate Fees Received in Advance	188,140	180,975
Grant – Law Foundation (Web Development)	11,956	19,197
	376,837	417,085
NOTE 7: PROVISIONS		
Provision has been made for the following purposes:		
Employee Provisions		
Provision for Annual Leave	14,156	11,758
Provision for Long Service Leave	7,027	6,388
	21,183	18,146
Other Provisions		
Provision for Risk Management	---	45,000
Provisions for Professional Fees – Disciplinary Action	40,000	130,000
Provision for Professional Indemnity Insurance 2003 Payment	---	816,750
Provision Payment to Integrated Library	148,363	119,487
	188,363	1,111,237
Total Provisions	209,546	1,129,383
NOTE 8: SOCIETY'S FUNDS RESERVES		
Capital Profits Reserve	43,843	43,843

**THE LAW SOCIETY OF TASMANIA
NOTES TO AND FORMING PART OF THE FINANCIAL
STATEMENTS
FOR THE YEAR ENDED 30 JUNE 2004**

	2004	2003
	\$	\$

NOTE 9: CASH FLOW INFORMATION

(a) Reconciliation of Cash

For the purpose of this Statement of Cash Flows, cash includes:

(i) Cash on hand and deposits at call with financial institutions;

Cash at the end of the year is shown in the Statement of Financial Position as:

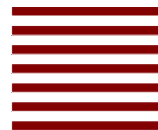
Cash on Hand	291	2,052
Cash at Bank	98,649	1,171,723
	-----	-----
	98,940	1,173,775
	-----	-----

(b) Reconciliation of Operating Profit after Income Tax to Net Cash Inflow (Outflow) from Operating Activities

Operating Profit after Income Tax	238,321	117,427
Non Cash Items		
Depreciation	24,584	23,931
Revaluation Land & Buildings	(213,000)	
Changes in Assets and Liabilities		
(Increase) Decrease in Receivables	(83,284)	(19,694)
Increase (Decrease) in Payables	(40,248)	79,410
Increase (Decrease) in Provisions	(919,838)	632,490
	-----	-----
Net Cash Inflow (Outflow) from Operating Activities	(993,465)	833,564
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NOTE 10: CONTINGENT LIABILITIES

There are possible claims against the Society, the aggregate amount of which cannot be accurately assessed. Where some loss is probable, appropriate provisions have been made.



Wise Lord & Ferguson

Chartered Accountants
Representative of Ernst & Young in Tasmania
ABN 23 563 132 864

advice to advantage

INDEPENDENT AUDIT REPORT

To the members of the Law Society of Tasmania

Scope

We have audited the attached special purpose financial report comprising the Statement of Financial Position, Statement of Financial Performance, Statement of Income, Statement of Expenditure, Statement of Cash Flows and Notes to the financial statements, of the Law Society for the year ended 30 June 2004. The Law Society of Tasmania is responsible for the financial report and has determined that the accounting policies used are consistent with the financial reporting requirements of the organisation and are appropriate to meet the needs of members. We have conducted an independent audit of the financial report in order to express an opinion on it to the members of the Law Society of Tasmania. No opinion is expressed as to whether the accounting policies used are appropriate to the needs of members.

The financial report has been prepared for distribution to the members for the purpose of fulfilling the company's financial reporting requirements under the Law Society of Tasmania By-Laws. We disclaim any assumption of responsibility for any reliance on this report or on the financial report to which it relates to any person other than the members, or for any purpose other than that for which it was prepared.

Our audit has been conducted in accordance with Australian Auditing Standards. Our procedures included examination, on a test basis, of evidence supporting the amounts and other disclosures in the financial report and the evaluation of significant accounting estimates. These procedures have been undertaken to form an opinion as to whether, in all material respects, the financial report is presented fairly in accordance with the accounting policies described in Note 1 to the financial statements. These policies do not require the application of all Accounting Standards and other mandatory professional reporting requirements in Australia.

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

Audit Opinion

In our opinion, the financial report presents fairly in accordance with the accounting policies described in Note 1 to the financial statements, the financial position of the Law Society of Tasmania as at 30 June 2004 and its financial performance for the year then ended.

H J GIBSON
PARTNER

D J McCARTHY
PARTNER

WISE LORD & FERGUSON
CHARTERED ACCOUNTANTS
160 Collins Street
HOBART TAS 7000
Dated: 1/10/2004

ANNUAL REPORT OF THE DISCIPLINARY TRIBUNAL ESTABLISHED UNDER THE LEGAL PROFESSION ACT 1993

This report is provided pursuant to s.71 of the Legal Profession Act 1993 (*“the Act”*).

At the time of the last report, there were five outstanding complaints before the Tribunal, one of which was part-heard. The others were awaiting a hearing. Since then, eight further complaints have been received.

One of the earlier complaints was withdrawn by the Law Society, when the two practitioners concerned ceased to practise in Tasmania and had their names removed from the roll of practitioners.

Two of the more recent complaints are awaiting the holding of a hearing.

The remaining 10 complaints have all been heard. At the time of writing, the Tribunal’s decision with respect to two of them is reserved.

Details of the eight complaints which have been finalised are set out below.

PRACTITIONER 1

The practitioner was found to have misled the Law Society’s Investigations Committee when responding to a complaint from a client. The Tribunal determined that this was professional misconduct and ordered that the practitioner :

- (a) pay a fine of \$3,000.00 and
- (b) pay \$2,000.00 towards the costs of the Law Society, including the costs incurred by the Council in investigating the complaint.

PRACTITIONER 2

The practitioner admitted that he had :

- (a) failed to provide a client with the statement in writing concerning costs required by s.143A (1) of the Act,
- (b) failed to respond to her written request for an itemised bill of costs, contrary to s.132 (1) of the Act and
- (c) levied an excessive charge for certain conveyancing work.

Because the first two matters were breaches of the Act, the Tribunal was obliged, by subparagraph (a) (i) of the definition of *“professional misconduct”* in s.56 of the Act, to determine that this was what they constituted. The overcharging was found to be unprofessional conduct.

The Tribunal ordered that the practitioner be reprimanded on each of the three complaints and pay the Law Society’s costs, in the sum of \$2,146.00.

PRACTITIONER 3

The practitioner admitted a breach of rule 12 of the Rules of Practice made under the Act. Again, by virtue of the above definition, this constituted professional misconduct.

The Tribunal ordered that he be reprimanded, pay a fine of \$1,000.00 and pay the Law Society's costs of the application, including any costs incurred by the Council in investigating the complaint.

PRACTITIONER 4

Seven complaints against the practitioner for breaches of the Act and the Rules of Practice relating to his trust account were found to be established and, once again, the conduct was, by definition, professional misconduct.

On a complaint of failure to reconcile trust account records, contrary to r.26, a fine of \$1,500.00 was imposed. A further fine of \$500.00 was ordered on a complaint of failure to maintain a trust account cash book (rr.26, 27 and 28). On five less serious breaches of the Act or the Rules, the practitioner was reprimanded. He was also ordered to pay the Law Society's costs, including costs incurred by the Council in investigating the complaints.

PRACTITIONER 5

The Tribunal found that the practitioner was guilty of unprofessional conduct, in that his behaviour fell short of the standard of conduct that a member of the public is entitled to expect of a practitioner of good repute and competency. It was found by the Tribunal that, by attending a taxation of a disputed itemised bill of costs after writing to the client saying that he was prepared to adjust his account to achieve a fair result, he had induced the client to expect that he would refund any sum taxed off, even though he had a default judgment for the whole amount of the bill. His refusal to make that refund was the behaviour about which complaint was made.

Orders were made imposing a fine of \$2,000.00 and requiring the practitioner to pay the Society's costs of the hearing. There was also an order for publication under s.76 (1) (t) of the Act.

PRACTITIONER 6

The practitioner admitted that she had signed a document as witness to a signature purporting to be that of client "A", which had, in fact, been executed by client "B" with the authority of client "A", and then used that document to effect settlement of a transaction.

The Tribunal found this to be professional misconduct. It ordered that the practitioner be reprimanded and pay the costs of the Law Society, including any costs incurred by the Council in investigating the complaint.

PRACTITIONER 7

This was a complaint of delay in dealing with a litigious matter, as a result of which a client's right of appeal was lost. The Tribunal determined that the conduct constituted serious neglect or undue delay and was professional misconduct. The practitioner was ordered to pay a fine of \$3,000.00 and to pay the Society's costs, including any costs incurred by the Council in investigating the complaint.

PRACTITIONER 8

This was a complaint of a breach of the ethical rule which prohibits a practitioner from communicating with a person who is, to his knowledge, represented by another practitioner in the same matter.

After a hearing, the Tribunal dismissed the complaint.

In addition to the above matters, the Tribunal heard an application by a practitioner for a costs order with respect to a complaint against him which had been heard and dismissed during the period covered by the Tribunal's report dated 15 July 2003. An order was made that the Law Society pay the practitioner's costs.

DATED: 15 July 2004

K.B. PROCTER SC
Chairman