

**THE LAW
FOUNDATION
OF NEWFOUNDLAND
AND LABRADOR**

**Annual Report
2010**

Law Foundation of Newfoundland and Labrador

Board of Governors

Jeffrey P. Benson, Q.C., Chair

Aubrey L. Bonnell, Q.C., Vice-Chair, and Acting Secretary-Treasurer

Kenneth L. Baggs, Q.C.

L. Wade Locke, Ph.D.

M. Beverley L. Marks, Q.C.

Linda M. Rose, Q.C.

Adam J. Sparkes, LL.B.

Lawrence E. Collins, B.A., C.G.A., Executive Director

The Law Foundation provides grants to advance public understanding of the law and access to legal services. Its objects for funding are legal education, legal research, law reform, legal aid, legal referral service, law libraries and law scholarships.

The first meeting of the Board of Governors was held on February 26, 1979, when the work began to allow for the proclamation of Part IV of the *Law Society Act* on February 1, 1980.

The Board of Governors consists of seven members. Five governors, including the Chair, are appointed by Benchers of the Law Society of Newfoundland and Labrador and two by the Minister of Justice.

Hon. Felix J. Collins, Minister of Justice appointed Adam J. Sparkes and Dr. L. Wade Locke to the Board of Governors pursuant to Sections 65(2)(a) and (b) respectively of the *Law Society Act*, 1999. Their appointments are for a term of four years effective January 27, 2011.

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The Law Foundation of Newfoundland and Labrador is heritage partner for the *History of Law and the Courts*, www.heritage.nf.ca on the Newfoundland and Labrador Heritage Web Site at Memorial University. This public history project presents the province's rich heritage in a format that combines text, graphics, audio and video. Six major areas, involving heritage partners, are featured: Natural Environment, Aboriginal Peoples, Exploration and Settlement, Government and Politics, Society, Economy and Culture, and the Arts. In addition to this cultural and academic knowledge base being available on the Internet to university students and the general public, as a further educational resource, high school students are able to access high school curriculum-specific modules on the law and constitutional issues.

LAW FOUNDATION OF NEWFOUNDLAND AND LABRADOR

ANNUAL REPORT 2010

The Law Foundation of Newfoundland and Labrador approved funding totalling \$14,351,799. for the period 1980 to 2010 inclusive, on a year by year basis, to over fifty separate recipients, with several of these receiving a number of grants for different projects, for the following objects:

(a) legal education and legal research	13.35%	\$ 1,916,570.
(b) law reform	0.88%	126,809.
(c) legal aid	57.48%	8,250,118.
(d) legal referral service	0.34%	49,069.
(e) law libraries	24.75%	3,551,733.
(f) law scholarships	3.19%	457,500.
	<u>100%</u>	<u>\$ 14,351,799.</u>

The Law Foundation in 2010 had revenues of \$309,819. (2.58% annual composite prime - acp) an increase of \$58,799. from 2009 revenues of \$251,020. (2.44% acp). Law Foundation revenues in 2008 were \$1,201,992. (4.82% acp).

The Foundation's equity position at December 31, 2010, its fiscal year end, was \$770,323., comprising the Reserve Account of \$711,434. and, after the transfer in 2010 of \$4,000. to the Law School Scholarships Trust Fund capital under standing Board approval, \$58,889. in undistributed revenue. The Foundation's equity position at December 31, 2009 was \$872,028., comprising the Reserve Account of \$716,432. and, after the Board approved a \$50,000. transfer in 2009 to the Law School Scholarships Trust Fund capital and after a further transfer in 2009 of \$2,750. to the Law School Scholarships Trust Fund capital under standing Board approval, \$155,596. in undistributed revenue.

The Foundation maintains a separate Law School Scholarships Trust Fund, with \$300,000. in capital (increased by \$50,000. in both 2009 and 2008). The Law School Scholarships Selection Committee annually awards up to three entrance scholarships valued at \$5,000. each.

With respect to the Reserve Account of \$711,434., it is the policy of the Foundation to maintain:

- a deposit of \$500,000. for grants stabilization in the event of revenue reduction;
- \$11,434. for legal education, research and law reform, which is the balance of funds remaining from funds returned to the Foundation upon the dissolution of the Law Reform Commission in this Province in 1992; and,
- \$200,000. for administration.

Pursuant to the *Law Society Act, 1999*, the Board must contribute two-thirds (increased by government from one-third effective January 1, 1992) of the net revenues received in each calendar year directly to the Legal Aid Commission. Net revenues are defined as all interest earned, less office, salaries, professional fees and other administrative expenses.

The two-thirds contribution to the Legal Aid Commission for calendar year 2010 was \$115,146., compared to \$88,305. for calendar year 2009 and \$729,954. for calendar year 2008. Historically, the highest and lowest two-thirds contributions were \$1,125,949. and \$68,960. for calendar years 2007 and 1997 respectively.

The Foundation assumes that lawyers who receive or hold funds in trust for, or on account of, clients comply strictly with section 69 of the *Law Society Act, 1999*, and the *Rules of the Law Society*. This compliance requires that lawyers credited with interest earned on funds held in lawyers' mixed trust accounts (IOLTA) shall remit it to the Foundation. The lawyers' mixed trust accounts are not the property of, nor administered by, the Foundation. The Foundation is, therefore, unable to determine the amount of IOLTA until such time as it is received from each individual financial institution, upon the lawyers' filed instructions. IOLTA is recorded by the Foundation upon receipt of the funds.

IOLTA is calculated by financial institutions based on interest rates and terms negotiated by the Foundation

with the individual financial institutions. When the Law Foundation was established in February, 1980, interest was paid by financial institutions on the minimum monthly balance in lawyers' trust accounts. Effective in 1987, the interest became paid on the average monthly credit balance. The rates may differ between financial institutions and within the same financial institution nationally. A number of financial institutions, as well, waive basic service charges. Certified cheque and draft charges are charged against the lawyer's general account.

IOLTA currently paid by financial institutions in the Province is generally calculated on the monthly average prime minus an agreed upon percentage, historically 5%, then 4%, and, in recent years, 3% at a number of financial institutions, on the average monthly credit balance. In 2009, with the collapse in prime to 2.25%, the financial institutions, following negotiations with the Foundation, provided a floor rate of 0.25% or a revised calculation based on prime minus 2%. These rates remain in effect.

Annual composite prime (acp) in 2010 was 2.58%. Monthly composite prime (mcp) from Jan 1 - May 31, 2010 was 2.25% and increased from 2.49% at June 30 to 2.93% at September 30, and was 3.0% from October 1 to December 31, 2010. By comparison, in 2009, acp was 2.44%, and, in reverse to 2010, mcp started the year at 3.32% and declined to 2.25% at May 31, where it remained for the remainder of 2009.

The Law Foundation has also established and administers the Law Foundation High School Legal Essay Competition for Level I, II and III students in the Province, the Law Foundation Legal Research Awards for Students of Memorial University and the Law Foundation Law School Entrance Scholarships for residents of the Province, tenable at any Canadian Law School. In 2010 they marked their 27th, 14th and 25th anniversaries, respectively.

The Governors formally express their condolences on the passing of Dr. Anne Perry, C.A. in 2010, founding Governor and Treasurer, 1979 - 1984.

THE LAW FOUNDATION OF NEWFOUNDLAND AND LABRADOR

CENTENNIAL LAW SCHOOL SCHOLARSHIPS

In honour of the 100th Anniversary of the Faculty of Law, University of New Brunswick in 1992, the Law Foundation of Newfoundland and Labrador provided a \$50,000. grant to the Heritage Campaign establishing a Scholarships Fund to award two scholarships, valued at \$1,750. each, for students enrolled in the Faculty of Law who are residents of the Province of Newfoundland and Labrador.

One scholarship is awarded to an upper year student based on a combination of financial need and demonstrated academic ability in the LLB program. Cletus Flaherty of St. John's, a third year law student, received the award in the second semester 2009/2010.

The other scholarship is awarded on the basis of academic excellence to a student entering first year. Sarah Clarke of Mount Pearl received the award in the first semester 2010/2011.

The scholarships are awarded annually by the Admissions and Scholarships Committee of the Faculty of Law. The Law Foundation of Newfoundland and Labrador is advised when the awards have been made.

In 1986, the Law Foundation of Newfoundland and Labrador provided a \$50,000. grant to Dalhousie University, as part of the Campaign for Dalhousie, following the August 16, 1985 fire, for the reestablishment of the Dalhousie law library.

LAW SCHOOL SCHOLARSHIPS

Reginald H. Brown, Q.C., Memorial Scholarship

The Law Foundation of Newfoundland and Labrador in 2009 contributed \$20,000.00 to the Memorial Scholarship Fund.

The *Reginald H. Brown, Q.C., Memorial Scholarship* was established at Memorial University of Newfoundland in memory of Reginald H. Brown, K.St.J., Q.C., through lead donations by his widow, Pamela J. Brown, and his colleagues at his law firm, Cox & Palmer. Mr. Brown was managing partner of this Atlantic Canadian law firm, established only two weeks before his death in early 2007. He served as President of the Law Society in 1995. Donations came from members of the legal community and others, to recognize his many contributions to the legal profession, his family and the community generally. The Scholarship is awarded at Convocation to a student graduating from any area of study and accepted at a law school. Selection is made on the basis of academic excellence and demonstrated leadership qualities. The Scholarship is awarded annually by the Senate Committee on Undergraduate Scholarships, Bursaries and Awards.

The third annual Memorial Scholarship was presented to Daniel William Bennett at Spring Convocation 2010.

The previous recipients were Morgan Blakeley and Melissa Ann Royle in 2008 and 2009 respectively.

Schulich School of Law Scholarship for Newfoundland and Labrador Students

The Law Foundation of Newfoundland and Labrador in 2009 contributed \$50,000.00 to the Newfoundland and Labrador Scholarship in Law Fund.

The *Newfoundland and Labrador Scholarship in Law* was established on the occasion of the 125th Anniversary of Dalhousie Law School in 2008 in recognition of its strong relationship with this Province. This one-time contribution to this scholarship endowment fund, created by donations from Dalhousie Law alumni and others, will provide one or more renewable scholarships, which in time will be in the amount of \$10,000.00 or greater as further donations are made, to students from Newfoundland and Labrador who have demonstrated academic excellence.

The recipient of the first annual entrance Newfoundland and Labrador Scholarship in Law in 2010 in the amount of \$3,000.00 is Maria Constantine of St. John's.

THE LAW FOUNDATION OF NEWFOUNDLAND AND LABRADOR

2010/2011 LAW SCHOOL ENTRANCE SCHOLARSHIPS



Pictured at 2010/2011 Law Foundation of Newfoundland and Labrador Law School Entrance Scholarships presentation in St. John's are:

(l-r, standing) Jeffrey P. Benson, Q.C., Chair, Law Foundation, Linda M. Rose, Q.C., Governor, Law Foundation and member, Scholarships Selection Committee, and Dr. Barbara G. Barrowman, LL.B., member of Selection Committee;

(l-r, seated) Michael J. Darcy and R. Trent Skanes.

The Law Foundation of Newfoundland and Labrador established funding for annual Law School Entrance Scholarships in 1984, in honour of the incorporation of the Law Society in 1834. The Scholarships, valued at \$5,000. each, are awarded to residents of the Province of Newfoundland and Labrador on the basis of academic excellence and are tenable for first year studies at any Canadian Law School. The Scholarships Trust Fund is separate from and in addition to the above stated equity position of the Foundation.

The Board of Governors is advised by the Law School Scholarships Selection Committee when the awards have been made. The successful candidates for 2010/2011 and law schools they are attending are Michael J. Darcy, Brookfield, Schulich School of Law, Dalhousie University, Sophie E. Dold-Donovan, St. John's, Schulich School of Law, Dalhousie University, and R. Trent Skanes, Gander, University of Ottawa.

In May 2009, Governors increased the Scholarships Fund capital from \$250,000. to \$300,000. The Board reinstated the awarding of up to three, increased from two, \$5,000. entrance scholarships, provided from investment income. Pursuant to standing Board approval, there is an annual transfer from Law Foundation general revenues towards funding any investment income shortfall on the Scholarships Fund capital,

should one occur. A transfer of \$4,000. was made in 2010.

W. Wayne Thistle, Q.C. retired as Chair of the Law School Scholarships Selection Committee following the presentation of the 2009/2010 Law School Scholarships. In his letter to Thistle, Q.C. in April, 2010, Benson, Q.C., Chair, Law Foundation extended the Board's appreciation for his invaluable service as a member and most recently Chair of the Selection Committee. Benson, Q.C. noted that in 1986/87 Thistle, Q.C. was a founding member of the Law School Scholarships Selection Committee and upon his retirement from the committee he is the longest serving member. Benson, Q.C. wrote that the Law School Scholarships recipients over these past twenty-four years, many of whom became his colleagues at the Bar, and Governors appreciate this contribution he has made to the benefit of the legal community in this Province.

Governors appointed Linda M. Rose, Q.C., Governor as Committee Chair and Dr. Barbara G. Barrowman, LL.B., a 1988/89 Law Foundation Scholarship recipient, as a member of the Scholarships Selection Committee. With M. Beverley L. Marks, Q.C., Governor and third committee member, the committee in June, 2010 selected the three recipients of the 2010/2011 Law School Scholarships.

THE LAW FOUNDATION OF NEWFOUNDLAND AND LABRADOR

LEGAL RESEARCH AWARDS FOR STUDENTS OF MEMORIAL UNIVERSITY

2009/2010 Awards



Pictured at luncheon presentation on February 16, 2011, at R. Gushue Hall, Memorial University of the 2009/2010 Fourteenth Annual Legal Research Awards are, *standing (l-r)*: Christopher P. Curran, Q.C., Chair, Selection Committee, Jeffrey P. Benson, Q.C., Chair, Law Foundation, Dr. Gary Kachanoski, President and Vice-Chancellor, Memorial University, Robert E. Simmonds, Q.C., Chair, Board of Regents, The Hon. David B. Orsborn, Chief Justice, Supreme Court of Newfoundland and Labrador, Trial Division, The Hon. D. Mark Pike, Chief Judge, Provincial Court of Newfoundland and Labrador, and Robert P. Johnston, Chief of Police, Royal Newfoundland Constabulary; *seated (l-r)*: Dr. John A. Scott, member, Selection Committee, Mu Li, Barbara Mason and Neil Penney, Awards recipients, and Justin S.C. Mellor, LL.M., member, Selection Committee.

The Law Foundation of Newfoundland and Labrador annually offers Legal Research Awards valued at \$500. each to students at Memorial University. The Awards are for outstanding research papers on one or more legal issues, or topics treated in a legal context.

The papers, submitted by and with endorsement of course professor or lecturer, are judged initially by the Dean, Director, or Department Head who makes a recommendation to the Selection Committee for the Awards. The Selection Committee comprises appointees of Memorial University and the Law Foundation. In the case of undergraduates the Awards are made by the Senate Committee on Undergraduate

Scholarships, Bursaries and Awards. In the case of graduates the Awards are made by the Dean, School of Graduate Studies. In both cases they act upon the recommendation of the Selection Committee. An additional \$500. is provided annually by the Law Foundation to Queen Elizabeth II Library for the purchase of research materials and resources. Awards total \$3,000. annually.

The successful candidates in the fourteenth annual 2009/2010 Competition, covering the three semesters Spring/Summer and Fall, 2009, and Winter, 2010, are (in alphabetical order by Department):

School of Graduate Studies Papers

Mu Li

Faculty of Arts

Title: *Chinese Masculinity in Newfoundland before Confederation: Socially Deconstructed and Personally Reconstructed*

Course: Folklore 6370: Folklore and Gender

Lecturer: Beverley Diamond, Ph.D., Professor

Rebecca Dawe

Department of Political Science

Title: *Principal-Agency Theory and the Role of the MP in Canada: A Case Study of the Trudeau Years*

Course: Political Science 6905

Lecturer: Alex Marland, Ph.D., Professor

Undergraduate Papers

Barbara Mason

Department of Political Science

Title: *The Dangers of Decriminalizing Somatic Cell Nuclear Transfer: Linguistic and Legal Loopholes That Threaten the Efficacy of Canada's Assisted Human Reproduction Act*

Course: Law and Society 3620

Lecturer: Francis P. O'Brien, LL.M.

Hilary Wicks

Department of Political Science

Title: *An Analysis of Judicial Intervention in Foreign Affairs when there is a Question of a Charter Violation*

Course: Canadian Constitutional Law 3820

Lecturer: Francis P. O'Brien, LL.M.

Neil Penney

Department of Psychology - Grenfell Campus

Title: *Undergraduate Attitudes toward Differing Justice Models and Perceptions of Rehabilitative Principles*

Course: Psychology 4951/4959

Lecturer: Kelly Warren, M.Sc.

The Law Foundation of Newfoundland and Labrador Legal Research Award for the particular course appears on the student's official University transcript.

The annual volumes and 1997/2001 Consolidated Volume have been sent to the Reference Section of Canadian University Faculties of Law, the National Library of Canada, Ottawa, Law Libraries of Supreme and Provincial Courts, Department of Justice, Sir Wilfred Grenfell College, Queen Elizabeth II Library and Departmental Libraries, the Centre for Newfoundland and Labrador Studies, Memorial University, the Law Society of Newfoundland and Labrador and public libraries in the province.

After the 2009/2010 Competition, the Awards recipients continued their career paths.

Mu Li is a Ph.D. student in the Department of Folklore, Memorial University.

Barbara Mason is attending Memorial University, Faculty of Medicine.

Neil Penney is enrolled in the RNC Recruit Training Program at Memorial University.

Rebecca Dawe and Hilary Wicks enrolled in first year law programmes at McGill University and at the Schulich School of Law, Dalhousie University respectively. Their admission to law school recognizes the success of the Legal Research Awards programme in encouraging Memorial University students in their interest and studies in law at the undergraduate and graduate levels, and to consider law as a career.

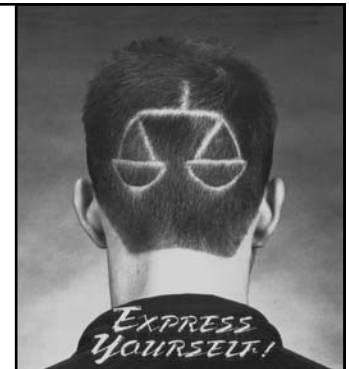
The 2009/2010 Competition Selection Committee comprised Christopher P. Curran, Q.C., Chair, appointee of Law Foundation, John A. Scott, Ph.D., Professor, Department of Philosophy, and Justin S.C. Mellor, LL.M., appointees of Memorial University.

2009/2010 HIGH SCHOOL LEGAL ESSAY COMPETITION

ANNOUNCEMENT OF WINNERS

The Law Foundation of Newfoundland and Labrador in 1984 established a High School Legal Essay Competition for legal research writing on aspects of the law, in honour of the incorporation of the Law Society in 1834.

The winners in the 2009 / 2010 Twenty-Seventh Annual Competition are:



**Provincial Level III Winner:
Meagan Ryan**

Polygamy: The Unprosecuted Criminal Offence
Corner Brook Regional High School, Corner Brook

Ms. Ryan also receives a "bonus prize" of \$500. awarded for the best legal essay by a Level III student tenable against tuition at Memorial University.

**Provincial Level III Hon. Mention:
Ann Marie Kieley**

Transparency and Accountability in the Legal Process
St. Bonaventure's College, St. John's

**Provincial Level II Winner:
Maurica Codner**

The Abortion Issue and Dr. Henry Morgentaler
Holy Trinity High School, Torbay

**Provincial Level II Hon. Mention:
Marah Gaudet**

Fundamentally Unjust: Section 7 and Omar Khadr
St. Bonaventure's College, St. John's

**Provincial Level I Winner:
Bethany Joyce**

Rights, Wrongs, and Reasons: Embryonic Stem Cell Research
Corner Brook Regional High School, Corner Brook

**Provincial Level I Hon. Mention:
Oliver Dingwell**

Fifty Percent Plus Luck Wins
Corner Brook Regional High School, Corner Brook

Awards: Student Provincial Winners \$500; Student Provincial Hon. Mentions \$250; one "bonus prize" of \$500. The three Provincial Winner students' schools each receive cash prizes of \$250 for legal materials and resources for the school libraries. Total prizes awarded to students \$2,750. Total prizes awarded to schools \$750. Total prizes awarded: \$3,500.

D. Gordon Woodland, B.A., B.Ed., LL.B., Chair, Crystal L. Eagan, B.A.(Ed.), CRRS, on. John C. Ottenheimer, M.Ed., Q.C., and Hon. George J. Furey, M.Ed., Q.C. are the members of the Law Foundation Selection Committee.

Meagan Ryan, Provincial Level III Winner, commenced university studies in September, 2010, and, as the

recipient of the "bonus prize" of \$500. awarded for the best legal essay by a Level III student tenable against tuition at Memorial University, was invited to the Luncheon on February 16, 2011 for the 2009/2010 Legal Research Awards recipients at R.Gushue Hall hosted by Dr. Gary Kachanoski, President and Vice-Chancellor, Memorial University.

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In 2010, the Foundation approved the following deferred grants, totaling \$6,500., which apply to 2011:

28th Annual Law Foundation High School Legal Essay Competition, 2010/2011	\$ 3,500.
15th Annual Law Foundation Legal Research Awards Competition for Students of Memorial University, 2010/2011	3,000.

The Foundation approved the following 2010 grants, totaling \$265,425.:

Canadian Bar Association, Newfoundland and Labrador, Law Day, April, 2010	1,879.
Law Society of Newfoundland and Labrador, Project Daisy Committee, Publication of Barrels to Benches: <i>The Foundations of English Law on Newfoundland's West Coast</i>	5,000.

The volume is the seventh in the series of publications by Project Daisy, the Committee of the Law Society responsible for gathering and preserving the history of the law, legal profession, Law Society and Courts in Newfoundland and Labrador.

The Publication marked the official opening of the new Corner Brook Law Courts Building on May 3, 2010. It contains essays by Christopher English, Olaf U. Jansen, Michael Wilkshire, James K. Hiller, Melvin Baker and Christopher P. Curran, Q.C., with an Epilogue by Justice Clyde K. Wells.

The grant was provided from the \$16,432. balance of funds in the Reserve Account returned to the Foundation upon the dissolution of the Law Reform Commission in this Province in 1992, leaving a designated balance of \$11,434. for legal education, research and law reform.

Law Society of Newfoundland and Labrador Law Libraries, with distribution for maintenance of holdings, including electronic licenses:	76,000.
St. John's,	\$60,000.
Gander,	\$5,000.
and West Coast,	\$11,000.

The Board, in addition to book acquisitions, supports electronic licenses, which provide wider public access to legal information.

Since the establishment of the Law Foundation in 1980, Law Library, St. John's has received annual funding totalling \$2,738,594. for acquisition of books and electronic services. Similarly, since the establishment of the Law Libraries in Corner Brook and Gander, in 1983 and 1994, the Law Foundation has provided annual funding totalling \$501,939. and \$131,200., respectively.

In 1992, when the Law Library vacated the Court House in St. John's, the Board of Governors provided the Law Society with \$100,000. in the Reserve Account for the establishment of the Law Library at its then location in Atlantic Place.

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Canadian Legal Information Institute (CanLII)

\$ 15,000.

CanLII is a not-for-profit organization created by the Federation of Law Societies of Canada. CanLII's objective is to provide, by means of electronic access through the Internet, free access to primary legal materials for members of the legal profession and the public. The project provides extended and comprehensive coverage on the CanLII site for Newfoundland and Labrador.

The grant is for a further \$15,000. to continue adding historical material from Newfoundland and Labrador Courts to the CanLII site. The grant will enable CanLII to add 250 cases, approximately 3.5 years of reported cases, back to 1993 from the Court of Appeal and 250 cases, approximately 2 years of decisions, back to 1999 from the Supreme Court, Trial Division. One further application may be made to bring the retrospective additions of the court decisions back to 1990 for the project to be considered complete.

The Board recognizes the importance of funding this online legal resource for the purposes of research and maintaining an accessible historical archive of court decisions. The CanLII site eliminates barriers related to location and supports public access to justice. The funding helps to ensure that Newfoundland and Labrador keeps pace with other jurisdictions in the accelerating global shift towards electronic access to legal information.

Legal Aid Commission:

two-thirds calendar year 2010 net revenues contribution

115,146.

Public Legal Information Association, Newfoundland and Labrador

Fiscal year April 1, 2010 - March 31, 2011

45,000.

This core funding, recorded under the object of legal education and legal research, also in part maintains the infrastructure for the Association's operation of the Lawyer Referral Service. The Service was established and administered by the Law Society from 1986 to 1994 with annual funding totalling \$46,569. from the Law Foundation. In 1995 responsibility for the Service passed from the Law Society to the Association.

Since its establishment in the Province in 1984, the Association has received annual funding totalling \$879,000. to date from the Law Foundation.

Newfoundland and Labrador Aids Committee:

Symposium on HIV, Law and Human Rights, June 10-12, 2010, Toronto, ON
organized by Canadian HIV/AIDS Legal Network

900.

A representative from NL AIDS Committee (ACNL) attended the *2nd Annual Symposium on HIV, Law and Human Rights: "From Evidence and Principle to Policy and Practice"*.

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27th Annual Law Foundation High School Legal Essay Competition, 2009/2010 \$ 3,500.

14th Annual Law Foundation Legal Research Awards Competition for Students of Memorial University, 2009/2010 3,000.

In 1989, the Board established the Grants Stabilization Fund for grant applicants in the event of revenue reduction with a transfer of \$500,000. from Undistributed Revenue, which was maintained at this ceiling through 2001.

In the previous low interest rate environment from 2002 to 2005 inclusive, with annual composite prime ranging from 4.00% to 4.69% and the best bank rate at prime minus 3% or a floor of 1%, the Board made annual grants that, with no undistributed revenue remaining throughout this period, utilized all of the Foundation's legislated one-third share of net revenue and significantly reduced the Grants Stabilization Fund each year. Annual composite prime increased to 5.75% in 2006, and in 2007 the \$500,000. ceiling in the Grants Stabilization Fund was restored.

In 2009, with the collapse in prime to 2.25%, the financial institutions, following negotiations with the Foundation, provided a floor rate of 0.25% or a revised calculation based on prime minus 2%. The Board, while maintaining grants for 2009 at 2008 levels, gave core grant recipients notice of the potential of grant reductions for 2010 given the current low interest rate environment.

While Law Foundation revenue has fluctuated with changes in annual composite prime, the total amount of funds held in lawyers' mixed trust accounts across the Province has steadily risen since the Law Foundation was established in 1980. In 2010, while a number of banks waive basic service charges, IOLTA revenue to the Foundation is nominally higher in 2010 than the service charges at the other financial institutions where approximately one-half of lawyers' trust funds are held. With an increase in prime from 2.25% to 3.0% in 2010, Law Foundation revenues slightly surpassed 2009 revenues. Further, Law Foundation revenues in 2010 were sufficient to cover Law Foundation operations and grants approved for 2010. The Grants Stabilization Fund and Administration Fund in the Reserve Account were maintained at their \$500,000. and \$200,000. respective ceilings at December 31, 2010.

Law Foundation IOLTA revenues and IOLTA rate negotiations with financial institutions across Canada were among the topics discussed at the National Annual Meeting of the Association of Canadian Law Foundations (ACLF) attended by the Chair and Executive Director in Halifax, Nova Scotia on September 30 - October 2, 2010.

At the Annual Meeting in 2010, the Board, cautiously foreseeing the current low interest rate environment continuing for the three year period 2010 through 2012 and, anticipating no net revenue at year end, allocated approximately \$166,000., an annual one third reduction in the Grants Stabilization Fund, to grants other than the legislated two-thirds net revenue contribution to the Legal Aid Commission, for 2010. The Law Society received a grant of \$76,000., 45% of the Grants Stabilization Fund allocation, for law libraries for 2010. All core grant recipients were again given a strong warning of the potential of future grant reductions.

While the first year in the three year period has passed and the Grants Stabilization Fund ceiling has been maintained, the current low interest rate environment continues despite the 0.75% increase in prime. Grants approved for 2010 reduced undistributed revenue by \$96,707.00, from \$155,596.00 to \$58,889.00. With prime at 3% for three months at the end of 2010, Law Foundation revenues were sufficient to cover Law Foundation opera-

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tions and administration. Should prime remain at 3% for twelve months in 2011, the Grants Stabilization Fund may still be reduced as a result of a continued annual, one-third allocation of approximately \$166,000.00 to grants approved for 2011 and 2012, other than the legislated two-thirds net revenue contribution to the Legal Aid Commission. The amounts of the reductions, if any, will depend on whether, and when, prime increases over this two year period. However, increases in prime may also see financial institutions review their IOLTA rates.

Respectfully submitted,



Jeffrey P. Benson, Q.C.
Chair, Board of Governors



THE LAW
FOUNDATION
OF NEWFOUNDLAND
AND LABRADOR