



**THE LAW
FOUNDATION
OF NEWFOUNDLAND
AND LABRADOR**

**Annual Report
2008**

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.

M. Beverley L. Marks, Q.C.

Linda M. Rose, Q.C.

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

The Law Foundation, established in February, 1980, 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 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.

At the Annual Meeting of the Board of Governors of the Law Foundation held on May 8, 2008, Aubrey L. Bonnell was appointed Vice-Chair. He will also serve as Acting Secretary-Treasurer until two vacancies are filled by appointment by Minister of Justice.

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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 knowledgebase 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 2008

The Law Foundation of Newfoundland and Labrador approved funding totaling \$13,671,071. for the period 1980 to 2008 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	\$ 1,803,293.
(b) law reform	126,809.
(c) legal aid	8,046,667.
(d) legal referral service	49,069.
(e) law libraries	3,287,733.
(f) law scholarships	357,500.
	<u>\$ 13,671,071.</u>

The Law Foundation in 2008 had revenues of \$1,201,992. (4.82% annual composite prime - acp), a decrease of \$574,456. from 2007 revenues of \$1,776,448. (6.10% annual composite prime - acp). Revenues in 2006 and 2005 were \$1,281,579. (5.758% acp) and \$501,074. (4.39% acp) respectively.

The Foundation's equity position at December 31, 2008, its fiscal year end, was \$1,173,875., comprising the Reserve Account of \$716,432. and, after the Board in 2008 approved a \$50,000. transfer to the Law School Scholarships Trust Fund capital, \$457,443. in undistributed revenue. The Foundation's equity position at December 31, 2007 was \$1,079,996. comprising the Reserve Account of \$721,432. and \$358,564. in undistributed revenue.

The Foundation maintains a separate Law School Scholarships Trust Fund, with \$250,000. in capital (increased from \$200,000. in 2008). The Law School Scholarships Selection Committee annually awards entrance scholarships valued at \$5,000. each.

With respect to the Reserve Account of \$716,432., it is the policy of the Foundation to maintain:

- a) a deposit of \$500,000. for grants stabilization in the event of revenue reduction;
- b) \$16,432. 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, after \$5,000. grant to Project Daisy Committee, Law Society, in 2008 for publication of the "Talbot Text", and,
- c) \$200,000. for administration.

Pursuant to the Law Society Act, 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.

The two-thirds contribution to the Legal Aid Commission for calendar year 2008 was \$729,954., compared to \$1,125,949. for calendar year 2007, \$787,737. for calendar year 2006 and \$265,806. for calendar year 2005.

Net revenues are defined as all interest earned, less office, salaries, professional fees and other administrative expenses.

The Law Foundation 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 2008 they marked their 25th, 12th and 23rd anniversaries, 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* and the *Rules of the Law Society*. This compliance requires that lawyers credited with interest earned on funds held in lawyers' mixed trust accounts shall remit it to the Foundation.

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 interest paid on lawyers' mixed trust accounts by banks 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 banks, on the average monthly credit balance.

The interest earned on lawyers' mixed trust accounts is calculated by financial institutions based on interest

rates and terms negotiated by the Foundation with the individual financial institutions. Several banks alternatively have used a tiered interest structure with competitive short-term deposit rates or prime minus various percentages, depending on account balances. A number of the banks, as well, waive basic service charges. The rates may differ between the banks and within the same bank nationally.

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 interest earned until such time as it is received from each individual financial institution, upon the lawyers' filed instructions. The interest is recorded by the Foundation upon receipt of the funds.

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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. Jonathan Hoyles of Botwood, a third year law student, received the award in the second semester 2007/2008.

The other scholarship is awarded on the basis of academic excellence to a student entering first year.

Adam Baker of Pasadena received the award in the first semester 2008/2009.

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.

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2008/2009 LAW SCHOOL ENTRANCE SCHOLARSHIPS

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 tenable for first year studies at any Canadian Law School. The Scholarships are awarded to residents of the Province of Newfoundland and Labrador on the basis of academic excellence. 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 2008/2009 and law schools they are attending are Charlotte H. Crosbie, Dalhousie University, and Adam L. Keeping, Osgoode Hall Law School, York University.

The Committee marked its 23rd Anniversary with this year's Competition for academic year 2008/2009.

The Committee comprised Norman J. Whalen, Q.C., Chair, Valerie L. Marshall, Q.C., and W. Wayne Thistle, Q.C.

Whalen, Q.C., Chair, retired at the conclusion of the Committee Meeting on June 11, 2008. In his letter to Whalen, Q.C., Benson, Q.C., Chair, Law Foundation, extended the Board's appreciation for his years of dedicated service as Committee Chair, which is only surpassed by his service on the Board of Governors from the Board's inception in 1979 to 2007. Benson, Q.C., wrote that the Law School Scholarship student recipients who have benefited from these scholarships owe a debt of gratitude to him, his colleagues on the committee and his fellow Governors for establishing and maintaining the Scholarships programme.

Valerie L. Marshall, Q.C., was appointed Committee Chair by Governors and Linda M. Rose, Q.C., Governor has joined the committee.

LEGAL RESEARCH AWARDS FOR STUDENTS OF MEMORIAL UNIVERSITY 2007/2008 Awards

The Law Foundation of Newfoundland and Labrador annually offers Legal Research Awards valued at \$500. each to undergraduate students for outstanding research papers on one or more legal issues, or topics treated in a legal context, in a senior level course in any discipline at the undergraduate level.

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. The Awards are made by the Senate Committee on Undergraduate Scholarships, Bursaries and Awards acting 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 twelfth annual 2007/2008 Competition, covering the three semesters Spring/Summer and Fall, 2007, and Winter, 2008, are (in alphabetical order by Department):

Shane Hickey

Faculty of Arts

Title: *The WTO: A Fundamental Groundwork for Strengthened Global Governance*

Course: Law and Society 4000

Lecturer: Trudi D. Johnson, Ph.D., Professor

Nicole Slaunwhite

Faculty of Arts

Title: *Indelible Property: Tattoos and Copyright Law in Canada*

Course: Law and Society 4000

Lecturer: Trudi D. Johnson, Ph.D., Professor

Kyle Rees

Department of Philosophy

Title: *International Law and Humanitarian Intervention*

Course: Philosophy 4832

Lecturer: Natalie Oman, Ph.D., Professor

Theresa Lee

Department of Political Science

Title: *Genocide by Any Other Name: A Lesson in Semantics*

Course: Political Science 3210

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

Samantha Ratnam

Department of Political Science

Title: *International Law and the Use of Force: Limitations in Contemporary Conflicts*

Course: Political Science 3210

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

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

The 2007/2008 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.B., appointees of Memorial University.

The Hon. J. Derek Green, Chief Justice, Supreme Court of Newfoundland and Labrador, Trial Division, Jeffrey P. Benson, Q.C., Chair, and Governors of the Law Foundation attended, with the Selection Committee, the students, lecturers and other guests, a luncheon presentation of the 2007/2008 Legal Research Awards at R. Gushue Hall on February 12, 2009, hosted by Dr. H.E.A. (Eddy) Campbell, Acting President and Vice-Chancellor, Memorial University.

2007/2008 HIGH SCHOOL LEGAL ESSAY COMPETITION

ANNOUNCEMENT OF WINNERS

In 1984, the Law Foundation of Newfoundland and Labrador 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 2007/2008 Twenty-Fifth Annual Competition are:

2007/2008 Provincial Winner:

Paxton Sheahan

Extraordinary Rendition

Corner Brook Regional High School, Corner Brook

Provincial 1st Hon. Mention:

Brandon Goulding

The Jury

Corner Brook Regional High School, Corner Brook

Provincial 2nd Hon. Mention:

Dylan Chrysochou

Should Stem Cells Be Researched and Publicly Funded?

Exploits Valley High School, Grand Falls-Windsor

Provincial 3rd Hon. Mention:

Brendan Allison

Human Rights: What Do They Mean To Us?

St. Bonaventure's College, St. John's

Selection Committee:

D. Gordon Woodland, B.A., B.Ed, LL.B., Chair, Crystal L. Eagan, B.A.(Ed.), CRRS, Hon. 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.

Awards: Student Provincial Winner \$500; Student Provincial 1st, 2nd and 3rd Hon. Mentions \$400., \$375 and \$350. respectively. Total prizes awarded to students \$1,625. Total matching cash prizes to schools, for legal materials and resources for school libraries \$1,625. Total prizes awarded: \$3,250.

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In 2008, the Foundation approved the following deferred grants, totaling \$7,749., which apply to 2009:

Canadian Bar Association, Newfoundland and Labrador, Law Day, April, 2009	\$ 1,199.
26th Annual Law Foundation High School Legal Essay Competition, 2008/2009	3,550.
13th Annual Law Foundation Legal Research Awards Competition for Students of Memorial University, 2008/2009	3,000.

The Foundation approved the following 2008 grants, totaling \$951,052.:

Canadian Bar Association, Newfoundland and Labrador, Law Day, April, 2008	1,848.
Law Society of Newfoundland and Labrador with distribution for acquisition of books: Law Libraries, St. John's, \$121,000.; Gander, \$10,000.; and West Coast, \$22,000.	153,000.
Law Society of Newfoundland and Labrador, Law Society Library Web Page Project	5,000.

The Web Page will provide online access, including online assistance through 'Ask a Librarian', to legal information for lawyers, judges, the public, university, college and high school students.

Law Society of Newfoundland and Labrador, Project Daisy Committee, Publication of the "Talbot Text"	5,000.
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The project funding, provided from the legal education, research and law reform component of the Reserve Account, is for publishing the sixth 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 "Talbot Text" is an account of his time in Newfoundland written for the Home Office by Irish immigrant Newfoundlander Thomas Talbot in August 1882. Talbot was a member of the House of Assembly, an apprentice member of the Bar (who did not complete his training) and a High Sheriff of Newfoundland for about twenty years. The account covers the period 1837 -1882 and provides useful context by a first hand witness covering the period dealt with by the other publications of the committee.

Legal Aid Commission: Two-thirds calendar year 2008 net revenues contribution	729,954.
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Provincial, National and International Project, 'A Child is a Child', by Canadian Law High School Students	5,000.
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Canadian Law students at St. Bonaventure's College, St. John's, with the support of Cecil Critch, Principal, and Dennis M. Browne, Q.C., and Andrew A. Fitzgerald, LL.B., law course teachers at the College, created and are undertaking this project. A website has been developed and the online petition has been launched by the students in a ceremony on February 24, 2009 at the College.

The project, A Child is a Child, will coordinate participation by students taking law courses in high schools, and their teachers, across Newfoundland and Labrador, Canada and beyond Canada's

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borders, in petitioning governments worldwide to enforce the international law conventions which prohibit the execution of youth for crimes committed in their minority.

The News Release stated in part:

CANADIAN STUDENTS LAUNCHING WORLDWIDE INITIATIVE TO STOP THE EXECUTION OF CHILD OFFENDERS

"Students from Canada are launching an initiative to stop the execution of child offenders.

Two United Nation's conventions prohibit execution for child offenders. The international law of majority is 18. Some countries are convicting children below the age of 18 and executing them after their 18th birthday in an attempt to circumvent the United Nations covenants.

'How can a youth be executed at 18 for an offence alleged to have occurred at age 13 or 15?' asks Heather Carroll, one of the students promoting the petition. 'The UN conventions which protect children's lives have to be respected.'

The website **www.achildisachild.com** has been established with financial support from the Law Foundation of Newfoundland and Labrador. The public is encouraged to show their support by signing the online petition, which will be presented to governments, sports federations and the United Nations."

A PROCLAMATION issued by Dennis O'Keefe, Mayor, City of St. John's, NL proclaimed the week of February 22-28, 2009 to commemorate the student initiative to stop child offender executions and to urge citizens everywhere to sign the online petition.

Public Legal Information Association, Newfoundland and Labrador Fiscal year April 1, 2008 - March 31, 2009 <i>(Note: this core funding, recorded under the object of legal education and legal research, also maintains the infrastructure for the Association's operation of the Lawyer Referral Service.)</i>	\$ 45,000.
25 th Annual Law Foundation High School Legal Essay Competition, 2007/2008	3,250.
12 th Annual Law Foundation Legal Research Awards Competition for Students of Memorial University, 2007/2008	3,000.

Respectfully submitted,



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



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