

**THE LAW
FOUNDATION
OF NEWFOUNDLAND
AND LABRADOR**

**Annual Report
2005**

**25th Anniversary
1980 - 2005**

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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.

The Law Foundation, established in February, 1980, provides grants to advance public understanding of the law and access to legal services.

LAW FOUNDATION OF NEWFOUNDLAND AND LABRADOR

25th Anniversary

February 1, 1980 - 2005

Board of Governors and 25th Anniversary, Law Foundation

M. Francis O'Dea, Q.C., Chair
Norman J. Whalen, Q.C., Vice-Chair
Crystal L. Eagan, B.A.(Ed.), CRRS, Secretary
D. Paul Althouse, Q.C., Treasurer
Hector M. Hussey
Glen L.C. Noel, LL.B.
John F. Roil, Q.C.
Lawrence E. Collins, B.A., C.G.A.,
Executive Director

Hon. P. Derek Lewis, Q.C., Chair, Board of Governors, chaired the first meeting of the Board 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, establishing the Law Foundation.

Mr. Lewis chaired the Annual Meeting of the Law Foundation and with governors hosted the 25th Anniversary Celebrations Reception attended by current and former governors, Law Foundation committees, past and present members and invited guests at the Murray Premises on February 1, 2005.

Mr. Lewis presented the 2004 Annual Report of the Law Foundation at the Annual General Meeting of the Law Society in June, 2005. He retired in the Fall as Chair and as a member of the Board.

The Law Foundation, Law Society and Government of Newfoundland and Labrador extended gratitude to Hon. P. Derek Lewis, Q.C., for his years of service as Chair.

Benchers appointed M. Francis O'Dea, Q.C., Chair and Glen L.C. Noel, governor.

The Board appointed Norman J. Whalen, Q.C., Vice-Chair and Crystal L. Eagan, Secretary.



**Current and former Governors of
The Law Foundation of Newfoundland and Labrador**

M. Francis O'Dea, Q.C., *first Secretary, 1979; second Vice-Chair, 1986 - 2005; Chair, 2005 - present*

Hon. P. Derek Lewis, Q.C., *Chair, 1979 - 2005*

The Hon. Mr. Justice John J. O'Neill, *first Vice-Chair, 1979 - 1986*

Norman J. Whalen, Q.C., *1979 and second Secretary, 1986; third Vice-Chair, 2005 - present*

Crystal L. Eagan, B.A.(Ed.), CRRS, *1986 and third Secretary, 2005 - present*

Dr. Ann Perry, C.A., *first Treasurer, 1979 - 1984*

Michael J. Conran, *second Treasurer, 1984 - 1992*

D. Paul Althouse, Q.C., *1985 and third Treasurer, 1992 - present*

The Hon. J. Derek Green, Chief Justice, Trial Division, *1986 - 1992*

Hector M. Hussey, *1998 - present*

Thomas R. Kendell, Q.C., *1992 - 1997*

Glen L.C. Noel, LL.B., *2005 - present*

The Hon. Madam Justice Mary E. Noonan, *1979 - 1986*

John F. Roil, Q.C., *1997 - present*

Martha A. Shinkle, B.A., B.Ed., *1994 - 1997*

The Hon. Mr. Justice Frederick R. Woolridge, *1979 - 1985*

LAW FOUNDATION OF NEWFOUNDLAND AND LABRADOR

25th Anniversary

ANNUAL REPORT 2005

The Law Foundation of Newfoundland and Labrador over the twenty-five year period from 1980 to the Special Meeting on November 30, 2005 approved funding on a year by year basis to over fifty separate recipients, with several of these receiving a number of grants for different projects, totalling \$10,581,026. for the following objects:

a) legal education & legal research	\$ 1,681,388.
b) law reform	126,809.
c) legal aid	5,403,027.
d) legal referral service	49,069.
e) law libraries	2,990,733.
f) law scholarships	330,000.
	<hr/>
	\$ 10,581,026.

The Law Foundation in 2005 had revenues of \$501,074. (4.39% annual composite prime - acp), an increase of \$141,699. from 2004 revenues of \$359,375. (4.005% acp)

Revenues: 2000, \$846,208. (7.23% acp); 2001, \$679,943. (6.01% acp); 2002, \$242,859. (4.19% acp); 2003 \$406,890. (4.69% acp).

The Foundation's equity position at December 31, 2005, its fiscal year end, comprised the Reserve Account of \$470,416. (Reserve Account \$530,780., December 31, 2004 with nil Undistributed Revenue).

Undistributed Revenue: December 31, 2005, nil; 2004, nil; 2003, nil; 2002, nil; 2001, \$132,549. (in 2001 the Board of Governors transferred \$50,000. of the year 2000 excess of revenue over expenses to the Law School Scholarships Trust Fund, increasing the Scholarships reserve to \$200,000.); 2000, \$185,351.

The Foundation maintains a separate Law School Scholarships Trust Fund. The Law School Scholarships Selection Committee annually awards entrance scholarships valued at \$5,000. each.

With respect to the Reserve Account of \$470,416., it is the policy of the Foundation to maintain a deposit of \$243,748. for grants stabilization in the event of revenue reduction, \$26,668. for legal education, research and law reform (\$42,368., December 31, 2004, with \$15,700. reduction to \$26,668. listed under grants approved in 2005 Annual Report), and \$200,000. for administration.

The Board maintained total annual funding, inclusive of and from the year 2000 through 2005, at approximately \$190,000., not including legal aid contribution.

The \$500,000., highest level, for grants stabilization in the event of revenue reduction was reduced by \$6,591. in 2002 (4.19% acp, down from 6.01% acp in 2001 and 7.23% acp in 2000); \$91,752. in 2003 (4.69% acp); \$113,245. in 2004 (4.005% acp); and \$44,664. in 2005 (4.39% acp) (Balance: \$500,000., December 31, 2001; \$493,409., December 31, 2002; \$401,657., December 31, 2003; \$288,412. December 31, 2004; \$243,748., December 31, 2005).

The Board reduced a number of grants by approximately \$36,000. for 2006, which is 20% from their 2005 grants.

The grants approved for 2006 total \$157,204. and the change in the grants stabilization portion of the Reserve Account at December 31, 2006 will be dependent on 2006 revenues to the Foundation.

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. 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 was \$265,806. for calendar year 2005 (4.39% acp), compared to \$173,839. for calendar year 2004 (4.005% acp), \$206,639. for 2003 (4.69% acp), \$100,121. for 2002 (4.19% acp), \$392,778. for 2001 (6.01% acp), and \$504,581. for 2000 (7.23% acp).

The interest rate applied through 2000 averaged 3.23% (7.23% acp), using the then prime minus 4% (a negotiated 1% improvement from the historic rate of prime minus 5%), and yielded revenues of \$846,208. A further improved rate of prime minus 3% (a negotiated 2% improvement from the historic rate of 5%), which came into effect in 2002 and which will continue in 2006, and beyond, is referenced below.

Composite prime, for the month, in 2001 started at the high of 7.50% at January 1, and steadily declined to 6.25% at June 30 and 4.00% at December 31. The interest rate applied through 2001, using prime minus 4%, moved from 3.50% to 2.25% to what would have been 0.0% except for the banks applying the provisions of a previously negotiated minimum rate approximating 1.15%, or a tiered rate or interim rate of prime minus 3%, with or without service charges, depending on the financial institution.

In 2002 through 2005 these negotiated rates were applied. A number of banks during this period through continued negotiations have removed the interim status and the rate of prime minus 3% or the tiered rate, depending on the bank, will continue to be applied for periods beyond 2006.

Prime has increased to 5.75% at April 30, 2006, which provides an interest rate applied of 2.75% at prime minus 3%, versus 1.75% at prime minus 4%.

Composite prime, for the month, in 2005 started at 4.25% at January 1, and, from August 31, started to steadily increase to 4.75% at November 30, 2005, to 5.54% at March 31, and prime is 5.75% at April 30, 2006.

Further, the improved rate of prime minus 3% will continue to be applied to a revenue base, being the total amount of monies on deposit in all lawyers'

mixed trust accounts across the province, that has increased significantly over these past twenty-five years. The total amount of the provincial revenue base can be estimated from the revenues received by the Law Foundation, which are net of service charges where a bank applies them, and the applicable interest rates.

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, for the past few years, 3% at a number of banks, on the average monthly credit balance. 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 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. The interest is recorded by the Foundation upon receipt of the funds.

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 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 Trust Account 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.

LAW SCHOOL ENTRANCE SCHOLARSHIPS



Pictured at 2005/2006 Law Foundation of Newfoundland and Labrador Law School Entrance Scholarships presentation in St. John's are (l to r): Norman J. Whalen, Q.C., Chair, Selection Committee and Vice-Chair, Law Foundation, Dana D. Byrne, Valerie L. Marshall, Q.C., member of Selection Committee, and M. Francis O'Dea, Q.C., Chair, Law Foundation.

The Law Foundation of Newfoundland and Labrador in 1984 established funding for annual Law School Entrance Scholarships, 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 successful candidates, in the twentieth year of this competition, for the academic year 2005/2006 are Dana D. Byrne of St. John's, studying at the

University of Toronto, and Danielle R. Rumbolt of Stephenville, studying at Dalhousie University.

The Scholarships Selection Committee for the 2005/2006 Competition comprised Norman J. Whalen, Q.C., Chair, Valerie L. Marshall, Q.C., and W. Wayne Thistle, Q.C.

The Board of Governors of the Law Foundation is advised when the awards have been made.

The Law School Scholarships Trust Fund is separate from and in addition to the above stated equity position of the Foundation.

THE LAW FOUNDATION OF NEWFOUNDLAND AND LABRADOR LEGAL RESEARCH AWARDS FOR STUDENTS OF MEMORIAL UNIVERSITY



Pictured at luncheon presentation at R. Gushue Hall, Memorial University of the 2004/05 Law Foundation Legal Research Awards are:

Standing (l-r): Morgan Cooper, M.I.R., LL.B., member of Selection Committee and Appointee of Memorial University, Christopher P. Curran, LL.B., Chair of Selection Committee and Appointee of Law Foundation, M. Francis O’Dea, Q.C., Chair, Law Foundation, Hon. Dr. John C. Crosbie, P.C., O.C., Q.C., Chancellor, Memorial University, Dr. Axel Meisen, President and Vice-Chancellor, Memorial University, The Hon. Dr. Clyde K. Wells, Chief Justice of Newfoundland and Labrador, The Hon. M. Reginald Reid, Chief Judge, Provincial Court of Newfoundland and Labrador;

Seated (l-r): Amanda Power, Steven Schott, Leah Miller and Michael Rose, Awards recipients.

The Law Foundation of Newfoundland and Labrador annually offers up to five Legal Research Awards valued at \$500. each to undergraduate students for best research term paper 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, or Director, or Department Head who makes a recommendation to a 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 and Financial Aid 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. Total Awards \$3,000.

The successful candidates in the ninth annual 2004/2005 Competition, covering the three semesters Spring/Summer, Fall, 2004, Winter, 2005, are (in alphabetical order by Department; all five awards have equal standing):

Amanda Power,
Faculty of Arts,
A "Provision for the Prevention of Nuisances":
Mumming, the Law and the 1861 Ban in
Newfoundland,
Law and Society 4000,
Christopher English, LL.B., Ph.D., Professor

Steven Schott,
Faculty of Arts,
Victim Impact Statements: The Strengths and
Shortcomings of Victim Participation in Sentencing,
Law and Society 4000,
Christopher English, LL.B., Ph.D., Professor

Nicole Squires,
Faculty of Arts,
Canadian Criminal Juries: Impartial and
Representative or Predisposed and Prejudiced,
Law and Society 4000,
Christopher English, LL.B., Ph.D., Professor

Leah Miller,
Department of Political Science,
From Borders to Brothers: The Cosmopolitanization
of International Law,
Political Science 3210,
Francis P. O'Brien, LL.M., Lecturer

Michael Rose,
Department of Political Science,
Are Expanding Aboriginal Rights to Natural
Resources a Threat to Canadian Society?,
Political Science 3720,
Francis P. O'Brien, LL.M., Lecturer

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

The 2004/2005 Competition Selection Committee comprised Christopher P. Curran, LL.B., Chair, appointee of Law Foundation, John A. Scott, Ph.D., Professor, Department of Philosophy, and Morgan Cooper, M.I.R., LL.B., appointees of Memorial University.

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.

William Sheppard of Mount Pearl, a second year law student, received the award in the second semester 2004/2005.

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

Stephanie Hillier of Mount Pearl received the award in the first semester 2005/2006.

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.

HIGH SCHOOL LEGAL ESSAY COMPETITION

Mount Pearl Senior High School, Mount Pearl
Provincial and Eastern Region Award Winner



Pictured at Law Foundation High School Legal Essay Competition Awards presentations are (l-r):
John Murrin, Principal, Mount Pearl Senior High School,
Amy King, Provincial and Eastern Region Award Winner, D. Gordon Woodland, Chair, Selection Committee,
Krista Fudge and Michael Barry, 1st and 2nd Hon. Mentions, Eastern Region respectively,
Crystal L. Eagan, Secretary of the Law Foundation and member of Selection Committee, and
Douglas Mercer, teacher, Law and History.

D. Gordon Woodland, B.A., B.Ed, LL.B., Chair,
Crystal L. Eagan, B.A.(Ed.), CRRS, Secretary of the
Law Foundation, 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.

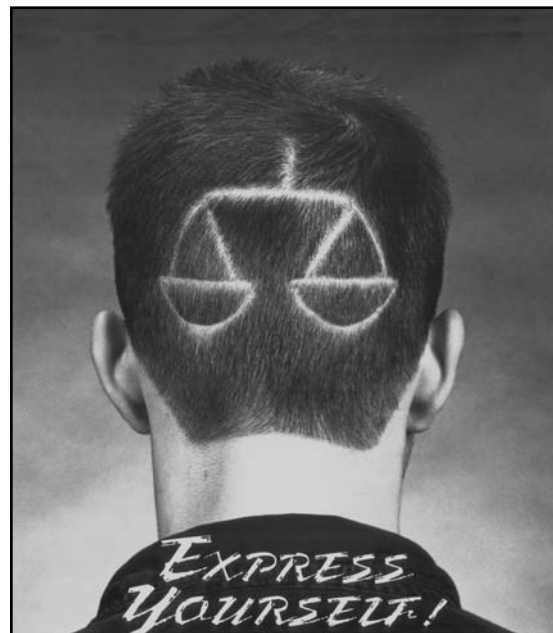
Amy King commenced university studies in
September, 2005, and was the winner of the

bonus prize of \$250. awarded for the best legal
essay by a level III student tenable against tuition
at Memorial University. She was invited, with the
High School Legal Essay Selection Committee,
Governors of the Law Foundation and other
guests, to the luncheon for the 2004/2005 Legal
Research Awards recipients at R. Gushue Hall
hosted by Dr. Axel Meisen, President and Vice-
Chancellor, Memorial University.

THE LAW FOUNDATION OF NEWFOUNDLAND AND LABRADOR

LAW FOUNDATION OF NEWFOUNDLAND AND LABRADOR

2004 / 2005 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 2004 / 2005 Twenty-Second Annual Competition are:

2004/2005 Provincial and Eastern Region Winner:

Amy King, Impaired Driving, Mount Pearl Senior High School, Mount Pearl

Ms. King also receives a bonus prize of \$250 awarded for the best legal essay by a level III student tenable against tuition at Memorial University.

1st Hon. Mention:

Krista Fudge, Fundamental Freedoms Under The Canadian Charter of Right and Freedoms, Mount Pearl Senior High School, Mount Pearl

2nd Hon. Mention:

Michael Barry, The Legalization of Marijuana: For or Against?, Mount Pearl Senior High School, Mount Pearl

Central Region Winner:

Adam Pike, Impaired Driving Legislation, Heritage Collegiate, Lethbridge

1st Hon. Mention:

Adam Elliott, Assisted Suicide, Botwood Collegiate, Botwood

Western Region Winner:

Kristen Bonnell, Canada as a Constitutional Monarchy, Herdman Collegiate, Corner Brook

1st Hon. Mention:

Julian Dawe, The Criminal Code and Cruelty to Animals, Herdman Collegiate, Corner Brook

2nd Hon Mention:

Robert Sparrow, War Criminals: Restitution Through Prosecution, Herdman Collegiate, Corner Brook

Awards: Student Provincial and Regional Winner \$500; Student Regional Winner \$250; one "bonus prize" \$250; Total prizes awarded to students \$1,750; Total matching cash prizes to schools, for legal materials and resources for school libraries \$1,000; First and Second Honourable Mentions, each valued at \$100 for students, where merited, were also awarded. Total prizes awarded: \$2,750.

P.O. Box 5907, St. John's, NL A1C 5X4 Tel. (709) 754-4424 Fax. (709) 754-4320 Murray Premises
Web Site: www.atyp.com/lawfoundationnl/

THE LAW FOUNDATION OF NEWFOUNDLAND AND LABRADOR

The Board at the Annual Meeting on February 1 and Special Meeting on November 30, 2005 approved the following deferred grants, totalling \$157,204., which apply to 2006:

Canadian Bar Association, Newfoundland and Labrador, Law Day, April, 2006 (twenty percent reduction from 2005 grant)	\$ 1,454.
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Canadian Bar Association, Newfoundland and Labrador: Canadian Bar Association Canadian Legal Conference, St. John's, NL, August, 2006 The funds will be provided from the legal education, research and law reform component of the Reserve Account. (The Canadian Legal Conference is a comprehensive continuing legal education program with seminars and debates on significant legal issues. The Law Foundation sponsored this event for the same amount when it was first held in this province in St. John's in August, 1998.)	10,000.
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Law Society of Newfoundland and Labrador with distribution for acquisition of books: Law Libraries, St. John's, 2006 - \$88,000.; Gander, 2006 - \$7,200.; and West Coast, 2006 - \$16,000. (twenty percent reduction from 2005 grant)	111,200.
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Public Legal Information Association, Newfoundland and Labrador Fiscal year April 1, 2006 - March 31, 2007 (twenty percent reduction from 2005 grant) See Note under Public Legal Information Association below	28,000.
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23 rd Annual Law Foundation High School Legal Essay Competition, 2005/2006, up to	3,550.
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10 th Annual Law Foundation Legal Research Awards Competition for Students of Memorial University, 2005/2006, up to	3,000.
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The Board approved the following grants (\$193,267. in funding and \$265,806 for Legal Aid Commission, two-thirds net revenues contribution) totalling \$459,073., which apply to 2005:

Association In Defence of the Wrongly Convicted (AIDWYC): AIDWYC Conference held June 10 - 11, 2005 in St. John's	3,000.
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Canadian Bar Association, Newfoundland and Labrador, Law Day, April, 2005	1,817.
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Law Society of Newfoundland and Labrador with distribution for acquisition of books: Law Libraries, St. John's, 2005 - \$110,000.; Gander, 2005 - \$9,000.; and West Coast, 2005 - \$20,000.	139,000.
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Legal Aid Commission: \$ 265,806.
two-thirds net revenues contribution

Newfoundland and Labrador Speech and Debate Union (SDU) 3,000.

(Note: The grant is for SDU's programmes from September, 2005 to June, 2006 with 50% of the funds to be specifically applied to speech and debate activities for high school students, and 50% for Youth Parliament activities, which closely follow the rules and forms of the House of Assembly, involving the Newfoundland and Labrador Youth Parliament (NLYP).)

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 (funds provided from the legal education, research and law reform component of the Reserve Account) for:

1. publication of "Down North on the Labrador Circuit: The Court of Civil Jurisdiction, 1826 to 1833", an essay by Nina J. Goudie to commemorate the opening of the Supreme Court courthouse in Happy Valley-Goose Bay 5,000.

and,

2. restoration of First Edition of R.A.Tucker Select Cases from Records of the Supreme Court of Newfoundland and Labrador 700.

Public Legal Information Association, Newfoundland and Labrador
Fiscal year April 1, 2005 - March 31, 2006 35,000.

(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.)

22nd Annual Law Foundation High School Legal Essay Competition, 2004/2005 2,750.

9th Annual Law Foundation Legal Research Awards Competition for
Students of Memorial University, 2004/2005 3,000.

Respectfully submitted,

M. Francis O'Dea, Q.C.
Chair, Board of Governors



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