

**THE LAW  
FOUNDATION  
OF NEWFOUNDLAND  
AND LABRADOR**

**Annual Report  
2013**



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# Law Foundation of Newfoundland and Labrador

## Board of Governors

Aubrey L. Bonnell, Q.C., Chair

Daniel M. Boone, LL.B., Vice-Chair

Jeffrey P. Benson, Q.C., Past Chair

Adam J. Sparkes, LL.B., Secretary-Treasurer

F. Geoffrey Aylward, Q.C.

L. Wade Locke, Ph.D.

Sheri H. Wicks, LL.B.

Lawrence E. Collins, B.A., C.I.P., 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.

In January, 2013, the Chair thanked M. Beverley L. Marks, Q.C., whose one year term, following a four year term, as a Governor ended on December 31, 2012. Marks, Q.C.'s time devoted to travel from Port aux Basques and attendance at Board Meetings was recognized by her fellow Governors, and the Board enjoyed this association over these past five years.

The Annual Meeting of the Board of Governors of the Law Foundation was held on May 15, 2013. The Chair welcomed Daniel M. Boone, LL.B., Governor, appointed by Benchers, to the meeting and to the Board of Governors.

Benchers, pursuant to Section 65.(3) of the *Law Society Act, 1999*, appointed Aubrey L. Bonnell, Q.C. as Chair effective January 1, 2014, following Jeffrey P. Benson, Q.C.'s resignation as Chair, at the end of the second year of his second four year term on December 31, 2013, thereby allowing for Bonnell, Q.C., to move up to Chair, after serving as Vice-Chair and Acting Secretary-Treasurer, for succession purposes. Benson, Q.C., will continue to serve as Governor to the end of his second term.

Kenneth L. Baggs, Q.C., having joined the executive committee of Benchers, resigned as Governor effective July 19, 2013, pursuant to Section 66.(1)(f) of the *Act*.

Linda M. Rose, Q.C., finished her two year, second term on December 31, 2013. Both Baggs, Q.C. and Rose, Q.C. were appointed Governors for their first four year terms effective January 1, 2008.

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F. Geoffrey Aylward, Q.C. and Sheri H. Wicks joined the Board pursuant to Section 65.(2)(c) of the *Act*, upon their appointment as Governors by Benchers for the term of four years, effective January 1, 2014.

At the Annual Meeting on May 16, 2014, the Chair thanked Benson, Q.C., Past Chair, former Governors Baggs, Q.C. and Rose, Q.C. and welcomed Aylward, Q.C., Governor and Wicks, LL.B., Governor, appointed by Benchers, to the meeting and to the Board of Governors.

The Board of Governors appointed Daniel M. Boone, LL.B. as Vice-Chair and Adam J. Sparkes, LL.B. as Secretary-Treasurer.

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### **Website**

The Law Foundation website, [www.lawfoundationnl.com](http://www.lawfoundationnl.com), was redesigned in 2013 to add PDFs prepared in-house at the Law Foundation Office. The site now includes information about offered programs, copies of annual reports and forms, including the standard grant application form and IOLTA Form LF1, and related links.

The Law Foundation of Newfoundland and Labrador is heritage partner for the *History of Law and the Courts*, [www.heritage.nf.ca](http://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 2013

The Law Foundation of Newfoundland and Labrador approved funding totalling \$15,716,342. for the period 1980 to 2013 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:

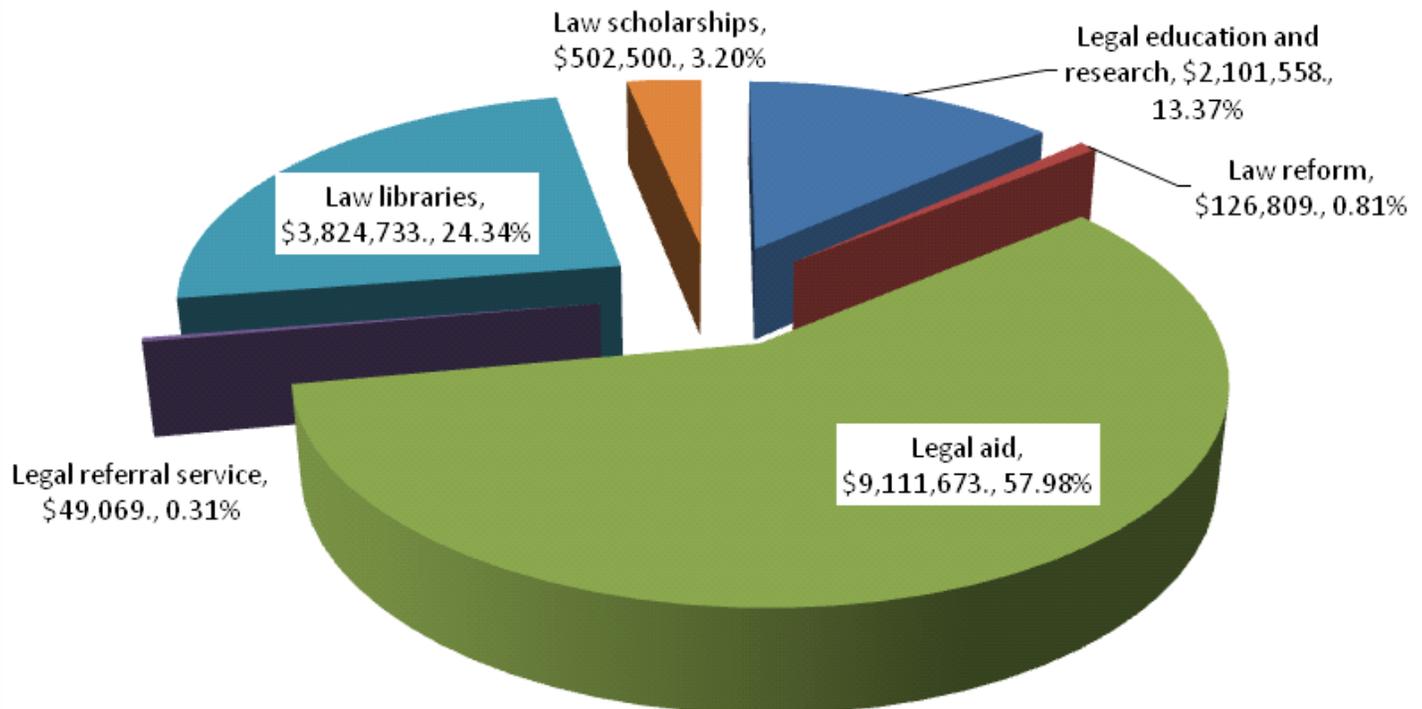
(a) legal education and legal research	13.37%	\$ 2,101,558.
(b) law reform	0.81%	126,809.
(c) legal aid	57.98%	9,111,673.
(d) legal referral service	0.31%	49,069.
(e) law libraries	24.34%	3,824,733.
(f) law scholarships	3.20%	502,500.
	<u>100.00%</u>	<u>\$ 15,716,342.</u>

The Law Foundation in 2013 had revenues of \$635,279. (3.00% annual composite prime – acp), a decrease of \$11,102. from 2012 revenues of \$646,381. (3.00% acp).

The Foundation's equity position at December 31, 2013, its fiscal year end, was \$730,343. comprising the Reserve Account of \$700,000. and, after the transfer in 2013 of \$5,000. to the Law School Scholarships Fund with standing Board approval, \$30,343. in undistributed revenue.

The Foundation's equity position at December 31, 2012, its fiscal year end, was \$737,324. comprising the Reserve Account of \$700,000. and, after the transfer in 2012 of \$3,000. to the Law School Scholarships Fund with standing Board approval, \$37,324. in undistributed revenue.

### Allocation of \$15.71 M in Funds from 1980-2013



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The Foundation maintains a separate Law School Scholarships 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 \$700,000., it is the policy of the Foundation to maintain:

- a) \$500,000. for grants stabilization in the event of revenue reduction; and,
- b) \$200,000. for administration.

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 2013, they marked their 30th, 17th and 28th anniversaries, respectively.

The Board of Governors at the Annual Meeting in May, 2013 accepted the recommendation of the Law Foundation Executive Committee and the High School Legal Essay Competition Selection Committee that the competition conclude with its Thirtieth Anniversary 2012/2013 Competition year.

High school students entering university from the high school program are now eligible to compete for an Award in the new, first year 2012/2013 introductory course *Law and Society (LWSO) 1000: Law, Democracy and Social Justice* under the amended Terms and Conditions of the 2012/2013 Seventeenth Annual Legal Research Awards Competition at Memorial University. This course examines the nature and aims of democracy and contemporary issues related to social justice through a law and society perspective. LWSO 1000 replaced LWSO 2000 as the required introductory course in the LWSO programme. There is no prerequisite for LWSO 1000.

With the concluding of the Law Foundation High School Legal Essay Competition, commencing with the 2013/2014 Legal Research Awards Competition, the Awards and contribution to Queen Elizabeth II

Library were increased to \$750. Awards total \$6,000. annually.

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 Newfoundland and Labrador Legal Aid Commission.

The Foundation's two-thirds contribution to the Legal Aid Commission for calendar year 2013 was \$287,576., compared to \$305,895. for calendar year 2012. 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 *Uniform Trust Account 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 monthly average prime minus an agreed upon percentage, historically 5%, then 4%, and, until recent years, 3% at a number of financial institutions, on the average monthly credit

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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 2013 was 3.00%, unchanged from 2012.

While 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 and future increases in prime should increase Law Foundation IOLTA revenue, increases in prime may also see financial institutions review their IOLTA rates.

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## Law Foundation of Newfoundland and Labrador Legal Aid Contribution

The Board of Governors of the Law Foundation recognizes the need to increase the funds available to the Foundation to benefit existing core grantees and new worthy organizations and applicants. Governors feel it is imperative to reallocate the Foundation's annual legislated two-thirds net revenue contribution to the Newfoundland and Labrador Legal Aid Commission and increase the funds available to the Foundation to benefit existing core grantees, and for prior and new applicants and worthy organizations to receive their fair share of Law Foundation revenue under the other five legislated objects of the Foundation.

Specifically, Governors sought the implementation of the Board's proposed legal aid contribution formula by legislative amendment. The proposed formula is the same as New Brunswick's Legal Aid contribution agreement, stated as:

- **\$150,000.00 per annum or 50% of available grant funds, whichever is the lesser.**

The Chart, Figure 1 on page 6, shows annual and total shares of Law Foundation net revenue from 1980 to 2013, inclusive, by the Newfoundland and Labrador Legal Aid Commission and Law Foundation.

Hon. Darin King, Minister of Justice, Government of Newfoundland and Labrador, in his letter dated February 12, 2013, to the Foundation, stated that important consideration must be given to the current public sector fiscal climate and the competing financial demands and pressures currently facing the provincial government. Further, he pointed out that the federal government's contribution to provincial legal aid plans has not increased since 2003, while the demand for legal aid services has increased. As such, he advised that the Department was not in the position to accommodate the Foundation's request at that time.

At the Annual Meeting in May, 2013, the Board of Governors considered the Minister's reply. The Board agreed that Government will be asked to reconsider its decision. Jeffrey P. Benson, Q.C., Chair, in his letter dated July 5, 2013, wrote Minister King and advised that while the Board agrees with the Minister that

“accessibility and right to counsel are integral to the administration of justice and the Rule of Law in our democratic system’, the Board wishes to emphasize that the Foundation’s aim in recommending the proposed legal aid contribution formula is not for the purpose of seeking extra funds to broaden the Foundation’s scope, but rather to restore both fairness and sustainable funding for the other five statutory objects of the Foundation to benefit the vast majority of the general public, who do not qualify for legal aid and who have lost access to programs that would otherwise be offered, if there were sufficient funds available.

Democracy requires fairness. It is the view of the Board that applicants representing the full spectrum of public interest are not at present receiving their fair share of revenue given the legislated objects of the Foundation.”

In March 2014, the Provincial Government issued the following in a press release:

“To help ensure that those who require legal aid have access to justice, the Provincial Government is investing an additional \$7.1 million in the legal aid system in Newfoundland and Labrador over the next three years, with \$2.1 million being funded through Budget 2014. This investment is tied directly to recommendations from an external review that was commissioned by the Provincial Government.

**‘Ensuring that residents have fair access to justice is a fundamental right in a democratic society and these additional resources will assist those who must avail of the province’s legal aid system. This investment will be used by the Legal Aid Commission to improve services to those who are dealing with important legal matters and who cannot afford private legal representation.’**

- The Honourable Darin King, Minister of Justice

The external review of legal aid was completed by John F. Roil, Q.C., and contains 13 recommenda-

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tions related to the operations and management of the Legal Aid Commission, all of which have been accepted by the Provincial Government. The additional resources will be used by the commission to address issues around workload, delivery of service and the use of private counsel. In addition, several of the recommendations will require legislative changes to the *Legal Aid Act*.

The report is available online at [www.justice.gov.nl.ca/just/publications/pdf/legal\\_aid\\_review\\_march2014.pdf](http://www.justice.gov.nl.ca/just/publications/pdf/legal_aid_review_march2014.pdf).

The Report entitled “External Review of Legal Aid in Newfoundland and Labrador” by John F. Roil, Q.C. under Section 5, “Recommendations on Changes to Legal Aid Services”, “(e) Sources of Funding”, p. 110

states, “The Law Foundation: *It is recommended that Government should allow the Law Foundation to retain \$300,000 of its net annual resources to apply to its other worthwhile and mandated objectives, after which the 2/3 contribution to the Commission from the Foundation should apply*”.

The Board of Governors, at the Annual Meeting of the Law Foundation held on May 16, 2014, approved the recommendation of John F. Roil, Q.C., Reviewer as it affects the Foundation.

Government has advised the Law Foundation that the legislative changes to the *Legal Aid Act*, as well as the *Law Society Act*, should be made by the Fall, 2014.

## FIGURE 1

Annual and total shares of Law Foundation net revenue from 1980 to 2013, inclusive, by Legal Aid Commission and Law Foundation

Year	Annual Composite Prime (ACP); Best Rate at Prime Minus X	Law Foundation Total Annual Net Revenue	Legal Aid Commission Net Revenue Contribution	Law Foundation Share of Net Revenue
			2/3 Net Revenue*	1/3 Net Revenue*
<b>TOTAL</b>		<b>\$16,424,536.</b>	<b>\$9,111,673.</b>	<b>\$7,312,863.</b>
2013	3.00%; 1.00% at p – 2	431,364.	287,576.	143,788.
2012	3.00%; 1.00% at p – 2	458,843.	305,895.	152,948.
2011	3.00%; 1.00% at p – 2	402,126.	268,084.	134,042.
2010	2.58%; 0.58% at p – 2	172,719.	115,146.	57,573.
2009	2.44%; 0.44% at p – 2	132,457.	88,305.	44,152.
2008	4.82%; 1.82% at p – 3	1,094,931.	729,954.	364,977.
2007	6.10%; 3.10% at p – 3	1,688,923.	1,125,949.	562,974.
2006	5.76%; 2.76% at p – 3	1,181,605.	787,737.	393,868.
2005	4.39%; 1.39% at p – 3	398,709.	265,806.	132,903.
2004	4.00%; 1.00% at p – 3	260,758.	173,839.	86,919.
2003	4.69%; 1.69% at p – 3	309,958.	206,639.	103,319.
2002	4.19%; 1.19% at p – 3	150,181.	100,121.	50,060.
2001	6.01%; 2.01% at p – 4	589,168.	392,779.	196,389.
2000	7.23%; 3.23% at p – 4	756,872.	504,582.	252,290.
1999	6.42%; 1.42% at p – 5	545,171.	363,448.	181,723.
1998	6.65%; 1.65% at p – 5	500,372.	333,582.	166,790.
1997	4.92%; 1.00% floor	103,439.	68,960.	34,479.
1996	6.18%; 1.18% at p – 5	294,018.	196,013.	98,005.
1995	8.63%; 3.63% at p – 5	598,428.	398,953.	199,475.
1994	6.76%; 1.76% at p – 5	254,054.	169,370.	84,684.
1993	5.99%; 0.99% at p – 5	190,056.	126,705.	63,351.
1992	7.44%; 2.44% at p – 5	309,881.	206,588.	103,293.

\*Effective January 1, 1992 - Government by legislative amendment increased the Legal Aid contribution to two-thirds Law Foundation net revenue.

1992-2013 Legal Aid Commission 2/3 Subtotal: \$7,216,031.

In addition to the **\$250,000. depletion** of the Law Foundation's share of net revenue in 1991 by the one time grant requested by Government, since the increase of the Legal Aid Commission contribution by Government to 2/3 in 1992 the Law Foundation's **loss of 1/3 share of net revenues from 1992 to 2013, inclusive, amounts to \$3,608,015.50, which would have been available for the other objects of the Foundation.**

	Legal Aid, one time grant in 1991:		\$250,000.	(250,000.)
			1/3 Net Revenue*	2/3 Net Revenue*
1991	9.75%; 4.75% at p - 5	\$770,366.	\$256,790.	\$513,576.
1990	14.07%; 9.07% at p – 5	1,155,774.	385,258.	770,516.
1989	13.27%; 8.27% at p – 5	1,014,600.	338,200.	676,400.
1988	10.29%; 5.29% at p – 5	559,601.	186,535.	373,066.
1987	9.54%; 4.54% at p – 5	351,593.	117,199.	234,394.

Interest paid by financial institutions became based on average monthly balance in lawyers' trust accounts effective in 1987.

1986	10.56%; 5.56% at p – 5	272,234.	90,746.	181,488.
1985	10.60%; 5.60% at p - 5	262,856.	87,620.	175,236.
1984	12.13%; 7.13% at p – 5	299,489.	99,831.	199,658.
1983	11.14%; 6.14% at p – 5	250,389.	83,463.	166,926.

\*Effective January 1, 1983 Government by legislative amendment added Legal Aid as an object to receive one-third Law Foundation net revenue.

1982	344,223.	-	344,223.	
1981	246,276.	-	246,276.	
1980	73,102.	-	73,102.	

Interest paid by financial institutions on the minimum monthly balance in lawyers' trust accounts.

When Part IV, Law Foundation of the *Law Society Act* was proclaimed on February 1, 1980, Legal Aid Commission was not one the then five legislated objects for funding from Foundation revenue.

## LAW SCHOOL SCHOLARSHIPS

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

The Law Foundation of Newfoundland and Labrador in 2009 contributed \$20,000. 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 Spring 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 2013/2014 *Reginald H. Brown, Q.C. Memorial Scholarship* in the amount of \$3,250 was awarded to Vanessa Carroll of Grand Falls-Windsor.

### ***The Hon. John C. Crosbie Weldon Tradition Scholarship in Law, Schulich School of Law, Dalhousie University***

In 2009 the Board of Governors of the Law Foundation of Newfoundland and Labrador contributed \$50,000. to the Newfoundland and Labrador Scholarship in Law Fund.

*The Newfoundland and Labrador Scholarship in Law* was established on the occasion of the 125<sup>th</sup> 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. In early 2012, the Scholarship was renamed *The Hon. John C. Crosbie Weldon Tradition Scholarship in Law* and a demonstration of 'selfless public service' was added to the criteria.

*The Hon. John C. Crosbie Weldon Tradition Scholarship in Law* was not awarded in 2013/2014.

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THE LAW FOUNDATION OF NEWFOUNDLAND AND LABRADOR

## CENTENNIAL LAW SCHOOL SCHOLARSHIPS

In honour of the 100<sup>th</sup> 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 for students enrolled in the Faculty of Law who are residents of the Province of Newfoundland and Labrador.

UNB advises that since 2008 expectations for investment earnings have been lowered as interest rates have fallen dramatically and financial markets continue to be erratic. As a result of these conditions, expectations for annual spending have also been lowered. UNB has taken a prudent, fiscally responsible approach to endowment spending, making incremental changes to the spending rate to ensure that the rate is sustainable while remaining competitive with other Canadian universities.

In 2013, the Faculty of Law and Development and Donor Relations, after reviewing the account and consulting with the Law Foundation, changed the value of the Law Foundation Centennial Scholarships from \$1,750. to \$1,250., effective with the academic year 2013/2014.

The original value of the scholarships in 1992 was \$1,250., which UNB, upon recommendation to the Foundation, increased to \$1,750. in 2006 due to then higher interest rates, where it remained until this latest change. Since 1992, the fund awarded over \$61,000.

in financial aid, and had a balance in excess of the Foundation's capital donation of \$50,000. at September 30, 2013.

One scholarship is awarded to an upper year student based on a combination of financial need and demonstrated academic ability in the JD program Faculty of Law.

Matthew Moulton of Winterland received the Law Foundation Centennial Scholarship of \$1,750.00 in the second semester 2012/2013.

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

James Locke of Mount Pearl received the Law Foundation Centennial Entrance Scholarship of \$1,250.00 in the first semester 2013/2014.

The scholarships are awarded annually by the Scholarships Committee, 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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THE LAW FOUNDATION OF NEWFOUNDLAND AND LABRADOR  
**2013/2014 LAW SCHOOL ENTRANCE SCHOLARSHIPS**



Pictured at 2013/2014 Law Foundation of Newfoundland and Labrador Law School Entrance Scholarships presentation in St. John's are:  
(l-r) Jeffrey P. Benson, Q.C., Past Chair, Law Foundation, Aubrey L. Bonnell, Q.C., Chair, Law Foundation, Kirsten M. Morry and  
Dr. Barbara G. Barrowman, LL.B., member of Selection Committee.

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 recipients of the Law Foundation 2013/2014 Law School Entrance Scholarships and their law schools are: Ryan M. Belbin, Pasadena, University of New Brunswick, Faculty of Law, Shane Belbin, Pasadena, Schulich

School of Law, Dalhousie University, and Kirsten M. Morry, St. John's, McGill University, Faculty of Law.

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 \$5,000. was made in 2013.

The 2013/2014 Competition Selection Committee comprised Linda M. Rose, Q.C., Governor, Committee Chair, Dr. Barbara G. Barrowman, LL.B., and Crystal L. Eagan, B.A.(Ed.), CRRS.

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THE LAW FOUNDATION OF NEWFOUNDLAND AND LABRADOR

## LEGAL RESEARCH AWARDS FOR STUDENTS OF MEMORIAL UNIVERSITY

### 2012/2013 Awards



Pictured at luncheon presentation at R. Gushue Hall, Memorial University of the 2012 / 2013 Seventeenth Annual Legal Research Awards are (standing l-r): Justin S.C. Mellor, LL.M., member, Selection Committee, Aubrey L. Bonnell, Q.C., Chair, Law Foundation, Dr. Susan Dyer Knight, Chancellor, Memorial University, Dr. Gary Kachanoski, President and Vice-Chancellor, Memorial University, 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 William J. Janes, Chief of Police, Royal Newfoundland Constabulary; (seated l-r): Melissa Jefford, Victoria Young, Alex Marshall and Scott Loranger, Awards recipients.

The Law Foundation of Newfoundland and Labrador annually offers up to seven 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, in a 2000 level course or beyond in any discipline at the undergraduate level and in any graduate course for students at the graduate level. A first year course is not eligible, with the sole exception of *LWSO 1000: Law, Democracy and Social Justice*. Preference will be given for one of the seven awards to an undergraduate student in their first year of studies, who is currently enrolled in, or has completed, the first year introductory course *LWSO 1000* at the time their paper in this course is submitted for consideration.

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 \$4,000. annually.

The successful candidates in the seventeenth annual 2012/2013 Competition, covering the three semes-

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ters Spring/Summer and Fall, 2012, and Winter, 2013, are (*in alphabetical order by Department*):

#### School of Graduate Studies Paper

##### **Melissa Jefford**

Department of Political Science

Title: *The Supremacy of the Courts: How Judges Dictate Morality for Canadians on the Basis of Section 7 of the Charter of Rights and Freedoms*

Course: Political Science 6700

Lecturer: Dr. Scott Matthews

#### Undergraduate Papers

##### **Lucas Hillier**

Department of Law and Society

Title: *The Status of Organized Crime in Canadian Law*

Course: Law and Society 3400

Lecturer: Dr. Albert Jones

##### **James Parsons**

Department of Law and Society

Title: *R. v. Sinclair: Modifying Civil Liberties?*

Course: Law and Society 4000

Lecturer: Dr. John Hoben

##### **Victoria Young**

Department of Law and Society

Title: *Transnational Environmental Crime: An Analysis of the Structures and Individuals that Facilitate Environmental Crime in Canada and Abroad*

Course: Law and Society 3400

Lecturer: Dr. Albert Jones

##### **Brian Henwood**

Department of Political Science

Title: *Maritime Piracy and International Law: The Case of Ambiguity Hiding Prosecutorial Inaction*

Course: Political Science 3210

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

##### **Scott Loranger**

Department of Political Science

Title: *International Law and the Use of Force*

Course: Political Science 3210

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

##### **Alex Marshall**

Department of Political Science

Title: *Self-Determination and International Law*

Course: Political Science 3210

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

The Law Foundation reserves the right to publish all or any of the research papers, whether selected for Awards or not.

The Selection Committee decided that both Award winning student Lucas Hillier's second paper entitled *Mandatory Minimum Sentences in Canada* and Award winning student Alex Marshall's second paper entitled *Freedom of Expression and the Constitution*, while not receiving Awards, merited publication.

##### **Lucas Hillier**

Department of Political Science

Title: *Mandatory Minimum Sentences in Canada*

Course: Political Science 3620

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

##### **Alex Marshall**

Department of Political Science

Title: *Freedom of Expression and the Constitution*

Course: Political Science 3820

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 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, Memorial University, Grenfell Campus, Queen Elizabeth II Library, the Centre for Newfoundland and Labrador Studies and Departmental Libraries, the Law Society of Newfoundland and Labrador and public libraries in the province.

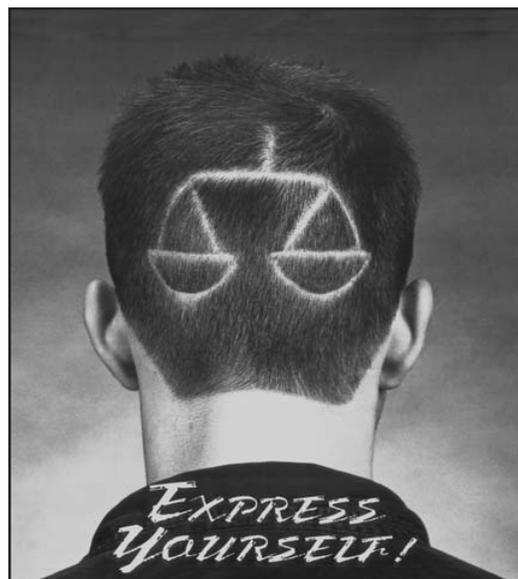
The 2012/2013 Competition Selection Committee comprised Christopher P. Curran, Q.C., Chair, appointee of Law Foundation, John A. Scott, Ph.D., Professor, Department of Philosophy, and Justin S.C. Mellor, LL.M., appointees of Memorial University.

**NOTE:** Commencing with the 2013/2014 Competition, the Legal Research Awards and contribution to Queen Elizabeth II Library were increased to \$750. Awards total \$6,000. annually.

THE LAW FOUNDATION OF NEWFOUNDLAND AND LABRADOR  
2012 / 2013 HIGH SCHOOL LEGAL ESSAY COMPETITION



LAW FOUNDATION OF NEWFOUNDLAND AND LABRADOR  
2012 / 2013 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 2012 / 2013 Thirtieth Annual Competition are:

<b>Provincial Level III Winner:</b> <b>Ian Anobis</b>	<i>Freedom of Expression and the Necessity of Being Offended</i> Holy Heart of Mary High School, St. John's  <i>Mr. Anobis also receives a "bonus prize" of \$500. awarded for the best legal essay by a Level III student tenable against tuition at Memorial University.</i>
<b>Provincial Level III Hon. Mention:</b> <b>Ana Velez</b>	<i>Lethargy in the Face of the Sexual Exploitation of Child Slaves</i> Corner Brook Regional High School, Corner Brook
<b>Provincial Level II Winner:</b> <b>Mandy Gould</b>	<i>The Wrongfully Accused</i> Holy Trinity High School, Torbay
<b>Provincial Level II Hon. Mention:</b> <b>Megan Engram</b>	<i>Lower Income People and the Justice System</i> Mount Pearl Senior High, Mount Pearl
<b>Provincial Level I Winner:</b> <b>Zachary Fox</b>	<i>The Important Choices</i> Corner Brook Regional High School, Corner Brook
<b>Provincial Level 1 Hon. Mention:</b> <b>Kelsey Warren</b>	<i>Jury Qualifications</i> 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.

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Ian Anobis, Provincial Level III Winner, commenced university studies in September, 2013, 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, attended the Luncheon on March 18, 2014 for the 2012/2013 Legal Research Awards recipients at R. Gushue Hall hosted by Dr. Gary Kachanoski, President and Vice-Chancellor, Memorial University.

The Board of Governors at the Annual Meeting in May, 2013 accepted the recommendation of the Law Foundation Executive Committee and the High School Legal Essay Competition Selection Committee that the competition will conclude with its Thirtieth Anniversary 2012/2013 Competition year.

The High School Legal Essay Competition was established by the Law Foundation in 1984 in honor of the incorporation of the Law Society in 1834.

The Board of Governors extend sincere appreciation to the High School Legal Essay Competition Selection Committee:

D. Gordon Woodland, BA, B.Ed, LL.B., Committee Chair, 2003 to present and member, 1986–2003.

Hon. John C. Ottenheimer, M.Ed., QC, Committee Chair, 1986 to 2003, remained a committee member to present.

Hon. George J. Furey, M.Ed., QC and Crystal L Eagan, BA (Ed), CRRS, former Governor, 1986 and third Secretary, Law Foundation, 2005/2007, joined the Selection Committee in 1991/92, and both served to present.

High school students entering university from the high school program are now eligible to compete for an Award in the new, first year 2012/2013 introductory course Law and Society (LWSO) 1000: *Law, Democracy and Social Justice* under the amended Terms and Conditions of the 2012/2013 Seventeenth Annual Legal Research Awards Competition at Memorial University. This course examines the nature and aims of democracy and contemporary issues related to social justice through a law and society perspective. LWSO 1000 replaced LWSO 2000 as the required introductory course in the LWSO programme. There is no prerequisite for LWSO 1000.

In recognition of this new first year course, the 2012/2013 Law Foundation Legal Research Awards Competition made LWSO 1000 an eligible course to receive 1 (one) of the Awards, where merited. No other first year courses are eligible.

The interdisciplinary program in Law and Society was instituted in 1996/1997 at Memorial University, the same year the Law Foundation Legal Research Awards were established.

# THE LAW FOUNDATION OF NEWFOUNDLAND AND LABRADOR

In 2013, the Foundation approved the following deferred grants, totaling \$6,000., which apply to 2014:

18th Annual Law Foundation Legal Research Awards Competition for Students  
of Memorial University, 2013/2014 \$ 6,000.

The Foundation approved the following 2013 grants, totaling \$436,076:

Law Society of Newfoundland and Labrador Law Libraries  
January 1 – December 31, 2013, 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.

See NOTE re. Article X (below):

Law Society, Law Libraries January 1 – December 31, 2014

Canadian Legal Information Institute (CanLII) Phase 5 \$ 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 grant is the fifth approved for a further \$15,000., bringing the total funding to date to \$75,000., to continue adding historical decisions and provide extended and comprehensive coverage from Newfoundland and Labrador Courts on the CanLII site.

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, which commenced in 2009 for this project, 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 2013 net revenues contribution \$ 287,576.

Public Legal Information Association, Newfoundland and Labrador

Fiscal year April 1, 2013 – March 31, 2014 \$ 50,000.

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 in this period totalling \$46,569. from the Law Foundation. In 1995 responsibility for the Service passed from the Law Society to the Association.

# THE LAW FOUNDATION OF NEWFOUNDLAND AND LABRADOR

30th Annual Law Foundation High School Legal Essay Competition, 2012/2013	\$ 3,500.
17th Annual Law Foundation Legal Research Awards Competition for Students of Memorial University, 2012/2013	\$ 4,000.

In addition to grants approved to date, the Board of Governors has made \$20,000. available in 2013 for prior grantees and new applicants. No applications were received at December 31, 2013.

Since the establishment of the Law Foundation in February, 1980 to 1996, the Law Society Bar Admission Course and Continuing Legal Education programs received funding totaling \$306,683. and \$119,544., respectively. At the Annual Meeting in May, 2012, the Board of Governors considered a resumption application from the Law Society for Bar Admission Course and Continuing Legal Education programs. Following a subsequent meeting to which the matter was referred between the Officers of the Law Society and Law Foundation, it was agreed that a specific application for video conferencing, which was then being considered by the Law Society, would benefit both programs. At the Annual Meeting in May, 2013, the Board set aside \$10,000. pending receiving this specific application.

At the Annual Luncheon between the Officers of the Law Society and Law Foundation on December 10, 2013, the Law Society Officers advised that the Society, after completing a study, has decided not to proceed with filing an application for video conferencing, as the costs involved were prohibitive, and the Society, as in the period prior to 2012, prefers all available funding for the Society to be directed towards law libraries.

NOTE: 'Article X - Reports by the Board' of the by-laws of the Law Foundation provide that the "Board... shall present an annual report to the (Law) Society at the annual meeting of the Society [June 6, 2014]."

The Annual Meeting of the Board of Governors of the Law Foundation was held on May 16, 2014. The Board approved a total grant, matching previous year, of \$76,000. to the Law Society for law libraries for January 1 – December 31, 2014, with distribution for maintenance of holdings, including electronic licenses: St. John's, \$62,000; Gander, \$3,000. (amount requested); and West Coast, \$11,000. (amount requested).

Other applicants are being advised of the results of their grant applications.

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## Law Libraries

The Law Society's Library in St. John's provides an excellent collection of legal texts, journals and electronic resources for the use of its members and delivers high quality reference services to members of the legal community (judges, lawyers and law students), public and libraries throughout the Province.

In 2013, the Foundation provided a total grant of \$76,000. for a fourth consecutive year to Law Society for law libraries, St. John's, Gander and West Coast.

Since the proclamation of 'Part IV - Law Foundation' of the *Law Society Act* on February 1, 1980, to December 31, 2013, the Law Foundation has provided \$2,918,594. in funding to the Law Society for Law Library, St. John's for electronic licences, website and enhancement, and book acquisitions.

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. The Law Library, Law Society is now located at 196-198 Water Street, St. John's.

The West Coast Law Library serves as the focal point of legal research and information for the practicing Bar and Judiciary on the West Coast of the Province. This facility has been jointly funded by the Law Society of Newfoundland and Labrador (via a grant from the Foundation) and the Provincial Department of Justice since its inception in 1983. Since then to December 31, 2013, the Foundation has provided \$534,939. in funding for book acquisitions.

Since the establishment of the jointly funded Gander Law Library in 1994 to December 31, 2013, the Foundation has provided \$146,200. in funding for book acquisitions.

## CanLII

Information provided by Colin Lachance, President and CEO, CanLII on May 10, 2013:

"In 2009, CanLII obtained \$15,000 in funding from the Law Foundation of Newfoundland and Labrador to enhance the historical coverage on the CanLII website of the reported decisions from the appellate and trial divisions of the Superior Courts of Newfoundland and Labrador. In 2010, the funding was extended in a second phase (again, at a level of \$15,000).

These two phases allowed CanLII to contract with Lexum Inc. (CanLII's technology supplier) to add a total of 1,032 reported decisions to the CanLII website. Of these, 489 were decisions issued by the Court of Appeal and 543 were decisions issued by the Trial Division. As a result of these two phases, current continuous coverage goes back to 1994 for the Court of Appeal and to 2001 for the Trial Division.

In early 2011, CanLII requested a third phase of funding in the same amount of \$15,000. ... to add a further 500 cases to the historical collection.

Phase three exceeded the target and CanLII added 615 cases through application of the allotted funds. The addition of 202 reported cases to the Trial Division collection closed all prior gaps for the years 2006 to 2009 while also adding many cases between 1998 and 2005. The addition of 413 cases from the Court of Appeal expanded and completed CanLII's collection of reported decisions all the way back to 1985 - a 9 year increase in coverage.

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In 2012, the Law Foundation approved a fourth phase and granted CanLII a further \$15,000. Once again, through efficient execution, CanLII was able to exceed the proposed case target of 600. In April of 2013, CanLII added 925 cases to the Trial Division collection, thereby closing all gaps in our coverage of reported decisions of that court for the period of 1997 to 2006. Among equivalent courts in other provinces and territories, only Alberta (1971), British Columbia (1990) and PEI (1993) have deeper coverage available on CanLII.

The combined effect of the prior two grants have dramatically transformed the quality and importance of the Newfoundland and Labrador case law collections. CanLII is extremely grateful to the Law Foundation of Newfoundland and Labrador for its leading role in delivering this transformation.

### **Current Status**

The fifth phase, pending success in this application (Law Foundation Note: Application approved May 15, 2013), (will) begin immediately and will similarly result in at least 925 historical cases being added to CanLII. (It will be directed solely to the Trial Division, (and) could add an additional decade worth of report cases to the collection.

### **About CANLII**

CanLII's mission is to make law available for free on the Internet. For over 10 years, CanLII has been Canada's foremost provider of free law. Our site, [www.CanLII.org](http://www.CanLII.org), contains over one million Canadian court and tribunal decisions as well as nearly 30,000 current and historical versions of statutes and regulations. In respect of court decisions and statutory material, current and continuously updated material from all Canadian provincial, territorial and federal jurisdictions are included.

### **Value to Newfoundland and Labrador**

As a publicly-accessible and easy to use resource, CanLII offers particular benefit to the general public, small firm, solo practitioners and to residents and practitioners in rural or remote locations. The utility of the database is reflected in the escalating rate at which it is accessed (with daily access in the thousands) and in which it is becoming a trusted reference point in the public sphere (with dozens of weekly social media links to unique or topical CanLII cases).

Over and above the efficiencies of time and money, and the removal of location and access barriers facilitated by CanLII, the benefits of the site for teaching purposes are enormous. Teachers in community colleges and secondary schools where law course are taught are generally unable to afford comprehensive access to all legal materials necessary to support classroom learning. Moreover, in the Google-era, a public or student body comfortable with search tools still needs the assurance that comes from authoritative sources.

This funding will enable CanLII to continue to develop a unique product that is available without cost to the user. Specifically, this project is particularly important as it sets a new standard of comprehensiveness among provincial collections and will thus greatly assist CanLII in evolving to become the most relevant and complete legal information database possible.

### **Results of CanLII survey underscores value to Newfoundland and Labrador**

The survey took place in June of 2012, which, it is important to note, pre-dates successful completion of Phase Three and Four of this project. 193 members of the Law Society of Newfoundland and Labrador participated in the survey, representing approximately 25% of the full-time membership. 80% of respondents were from St. Johns, and 20% from elsewhere in the province.

From these results, we can conclude the following about Newfoundland and Labrador lawyers:

1. 69% frequently conduct legal research; a number that rises to 88% among lawyers under 34 years of age
2. 76% rely predominantly on online service, compared to 2% that rely mostly on print/offline services (the balance rely on each equally)

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3. Among lawyers who have conducted legal research over the past 12 months, more report using CanLII than any other service:

- CanLII 90%
- Provincial court/legislative sites 78%
- Westlaw 72%
- Internet search engines 61%
- Federal court/legislative sites 53%
- Quicklaw 45%

4. When researching case law, lawyers start with CanLII far more frequently than with any other service:

- CanLII 44%
- Westlaw 35%
- Quicklaw 16%

5. CanLII usage is gaining momentum and garnering a growing share of total online research among Newfoundland and Labrador lawyers, with 46% reporting increased usage relative to commercial legal research services and 0% reporting decreased CanLII usage relative to those services.

Finally, although an amazing 54% of respondents declare themselves "very satisfied" and 44% "satisfied" with the CanLII service, a few key areas were called out as needing improvement. Most notably: completeness of the database (historical as well as within the coverage period), relationship between cases and search filtering capabilities.

As noted above, since the time this survey was taken, CanLII has delivered on the number 1 request through the addition of over 1500 cases to the appellate and trial division collections of the Supreme Court of Newfoundland and Labrador. Moreover, we have also made major improvements to our systems to meet the other demands, including, on May 1st of this year, the roll-out of a new search interface with advanced filtering capabilities. <http://beta.canlii.org/en/index.html>"

The Board of Governors is pleased to support the publication by CanLII of historical decisions of the Newfoundland and Labrador Courts on the CanLII site.

## **PLIAN**

The Public Legal Information Association of Newfoundland and Labrador (PLIAN) is a non-profit organization which receives core funding from the Law Foundation and the Federal Department of Justice, and in-kind support from the Provincial Government.

PLIAN is the Newfoundland and Labrador component of Public Legal Education Association of Canada (PLEAC). The Provincial Department of Justice has designated PLIAN as the sole PLEI provider for Newfoundland and Labrador until the year 2017.

PLIAN receives project funding from the both Federal and Provincial Governments.

The Foundation's annual contribution has allowed PLIAN to continue to provide core operations to the people of Newfoundland and Labrador, host its website, provide its Lawyer Referral Service, Legal Information Telephone Line, Community Information Sessions, school presentations and publications, as well as assist an umbrella group of service providers from which the public directly benefits.

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PLIAN provides public legal education and information services with the intent of increasing access to justice. PLIAN offers legal information sessions via webinar, enhancing its ability to reach remote parts of the island and Labrador.

Since PLIAN's establishment in the Province in 1984, to December 31, 2013, the Association has received annual funding totaling \$1,019,000. from the Law Foundation.

## **Newfoundland and Labrador Legal Aid Commission**

Legal Aid operates under the *Legal Aid Act*, and provides a range of legal services to low income individuals in the areas of family and criminal law. Legal Aid counsel represent eligible residents of the Province of Newfoundland and Labrador charged with offences under the *Criminal Code*, other federal statutes and provincial statutes, and to persons with family disputes or other civil matters. Duty Counsel services are provided to non-residents, and legal counsel may be appointed for non-residents either through the legal aid plan of the province in which they reside or this Province's legal aid program.

Legal Aid is funded by the Federal and Provincial Governments and by the Law Foundation of Newfoundland and Labrador.

Since Government, effective January 1, 1983, added Legal Aid as an object to receive Law Foundation funding by legislative amendment of the *Law Society Act*, the Law Foundation, to December 31, 2013, has provided \$9,111,673. in funding to the Newfoundland and Labrador Legal Aid Commission.

Website: [www.legalaid.nl.ca](http://www.legalaid.nl.ca)

## **ACLF**

The Foundation attended the National Annual Meeting of the Association of Canadian Law Foundations (ACLF) held September 26-28, 2013 in Vancouver, British Columbia

At the National Annual Meeting, issues addressed included Law Foundation IOLTA revenues and rate negotiations with financial institutions across Canada, Access to Justice Fund, cy pres awards, grantee relations, and developments in legal education and legal research, law reform, legal referral services, law libraries, and legal aid.

Respectfully submitted,



Aubrey L. Bonnell, Q.C.  
Chair, Board of Governors



**THE LAW**  
**FOUNDATION**  
**OF NEWFOUNDLAND**  
**AND LABRADOR**