



**THE LAW  
FOUNDATION  
OF NEWFOUNDLAND  
AND LABRADOR**

**Annual Report  
2009**



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# 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](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 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.



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# LAW FOUNDATION OF NEWFOUNDLAND AND LABRADOR

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## ANNUAL REPORT 2009

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The Law Foundation of Newfoundland and Labrador approved funding totaling \$14,066,376. for the period 1980 to 2009 inclusive, on an annual basis, to over fifty separate recipients, with several of these receiving a number of grants for different projects, satisfying the following legislated objects:

(a) legal education and legal research	\$ 1,857,293.
(b) law reform	126,809.
(c) legal aid	8,134,972.
(d) legal referral service	49,069.
(e) law libraries	3,455,733.
(f) law scholarships	442,500.
	<u>\$ 14,066,376.</u>

The Law Foundation in 2009 had revenues of \$251,020. (2.44% annual composite prime - acp), a decrease of \$950,972. from 2008 revenues of \$1,201,992. (4.82% acp).

The Foundation's equity position at December 31, 2009, its fiscal year end, was \$872,028., comprising the Reserve Account of \$716,432. and, after the Board in 2009 approved a \$50,000. transfer to the Law School Scholarships Trust Fund capital, \$155,596. in undistributed revenue. The Foundation's equity position at December 31, 2008 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 maintains a separate Law School Scholarships Trust Fund, with \$300,000. in capital (increased by \$50,000. in each of 2008 and 2009). 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 \$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; 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. Net revenues are defined as all interest earned, less office, salaries, professional fees and other administrative expenses.

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

The 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 2009 they marked their 26<sup>th</sup>, 13<sup>th</sup> and 24<sup>th</sup> 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'

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trust accounts. Effective in 1987, the interest became paid 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. 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 paid on lawyers' mixed trust accounts (IOLTA) 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. In 2009, with the collapse in prime to 2.25%, the financial institutions following negotiations with the Foundation provided a floor rate of 0.25% or a revised calculation based on prime minus 2%.

The 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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## THE LAW FOUNDATION OF NEWFOUNDLAND AND LABRADOR

# 2009/2010 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 awarded to residents of the Province of Newfoundland and Labrador on the basis of academic excellence and are tenable for first year studies at any Canadian Law School. The Scholarships Trust Fund is separate from and in addition to the above stated equity position of the Foundation.

The Board of Governors is advised by the Law School Scholarships Selection Committee when the awards have been made. The successful candidates for 2009/2010 and law schools they are attending are Lyndsey K. Lawrence, Isle aux Morts, University of New Brunswick, Melissa A. Royle, St. John's, University of Toronto, and Conor E. Stack, St. John's, Osgoode Hall Law School, York University.

In May, 2009, Governors approved a \$50,000. transfer from Operating Funds to the Scholarships Fund capital, increasing it from \$250,000. to \$300,000. The Board approved the further recommendation of the Scholarships Selection Committee under Marshall, Q.C., Chair for reinstatement of up to three, increased from two, \$5,000.00 entrance scholarships, provided from investment income, for 2009/2010 and subse-

quent years. There will be 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 \$2,750. was made in 2009.

Also in May, 2009, Benson, Q.C., Chair, Law Foundation sent a letter of congratulations to The Hon. Valerie L. Marshall on her appointment as Justice of the Supreme Court of Newfoundland and Labrador, Trial Division. In his letter to Judge Marshall, Benson, Q.C. extended the Law Foundation's appreciation for her contribution throughout her many years of dedicated service as a member from 1993/94, and over the past year as Chair of the Law School Scholarships Selection Committee. Benson, Q.C. wrote "the Law School Scholarships Selection Committee marks its 24<sup>th</sup> Anniversary with this year's Competition for academic year 2009/2010. As a past recipient of a Law School Entrance Scholarship, you brought a vision from which has been carved a solid base for the future for the Scholarships programme."

Governors appointed W. Wayne Thistle, Chair, and M. Beverley L. Marks, Q.C., Governor, member of the Scholarships Selection Committee. With Linda M. Rose, Q.C., Governor and third committee member, the committee in June, 2009 selected the three recipients of the 2009/2010 Law School Scholarships.

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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, 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. Katie Roebothan of St. John's, a third year law student, received the award in the second semester 2008/2009.

The other scholarship is awarded on the basis of academic excellence to a student entering first year. Aaron Mintz of Corner Brook received the award in the first semester 2009/2010.

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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THE LAW FOUNDATION OF NEWFOUNDLAND AND LABRADOR

## LEGAL RESEARCH AWARDS FOR STUDENTS OF MEMORIAL UNIVERSITY

### 2008/2009 Awards

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

The papers, submitted by and with endorsement of course professor or lecturer, are judged initially by the Dean, Director, or Department Head who makes a recommendation to the Selection Committee for the Awards. The Selection Committee comprises appointees of Memorial University and the Law Foundation. In the case of undergraduates, the Awards are made by the Senate Committee on Undergraduate Scholarships, Bursaries and Awards. In the case of graduates, the Awards are made by the Dean, School of Graduate Studies. In both cases they act upon the recommendation of the Selection Committee. An additional \$500. is provided annually by the Law

Foundation to Queen Elizabeth II Library for the purchase of research materials and resources. Awards total \$3,000. annually.

The successful candidates in the thirteenth annual 2008/2009 Competition, covering the three semesters Spring/Summer and Fall, 2008, and Winter, 2009, are (in alphabetical order by Department):

#### ***School of Graduate Studies***

##### **Laurie Jones**

Faculty of Business Administration

Title: *The Elimination of Mandatory Retirement: Human Right or Economic Necessity?*

Course: Business 8210, Labour Relations

Lecturer: Lionel G. Clarke, LL.B.

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## **Undergraduate Papers**

### **Christopher Rolfe**

Faculty of Arts

Title: *The International Criminal Court:  
Promoting Global Peace and Justice*

Course: Law and Society 4000

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

### **Jeremiah Collins**

Department of Political Science

Title: *Environmental Law and Liability:  
Developing a Comprehensive Approach  
to Preventing and Remediating  
Environmental Damages*

Course: Political Science 3521

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

### **Michael Darcy**

Department of Political Science

Title: *Loosening the Snow Lion's Chains: An  
Examination of Tibet's Struggle for  
Independence under International Law*

Course: Political Science 3210

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

### **Ellen O'Gorman**

Department of Political Science

Title: *The Law on Trial: Criminal Jury  
Nullification in Canada*

Course: Political Science 3521

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 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 Award winning student Ellen O'Gorman's second paper entitled "Exceptionalism and Its Excuses: The United States' Objection to the International Criminal Court", while not receiving an Award, merited publication.

### **Ellen O'Gorman**

Faculty of Arts

Title: *Exceptionalism and Its Excuses: The  
United States' Objection to the  
International Criminal Court*

Course: Law and Society 3016

Lecturer: Justin S.C. Mellor, LL.B.

The 2008/2009 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 of Newfoundland and Labrador, The Hon. David B. Orsborn, Chief Justice, Supreme Court, Trial Division, The Hon. D. Mark Pike, Chief Judge, Provincial Court, 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 2008/2009 Legal Research Awards at R. Gushue Hall on February 11, 2010, hosted by Dr. Christopher W. Loomis, President and Vice-Chancellor *Pro Tempore*, Memorial University.



## 2008/2009 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 2008/2009 Twenty-Sixth Annual Competition are:

#### 2008/2009 Provincial Winner:

**Laura Bonnell**

*Tasers: A Shocking Weapon in Canada*  
Eric G. Lambert School, Churchill Falls

Ms. Bonnell also receives a “bonus prize” of \$300 awarded for the best legal essay by a Level III student tenable against tuition at Memorial University.

#### Provincial 1<sup>st</sup> Hon. Mention:

**Ryan Giles**

*Infanticide and Postpartum Depression*  
Corner Brook Regional High School, Corner Brook

#### Provincial 2<sup>nd</sup> Hon. Mention:

**Allie Carew**

*Get Rich or Die Trying: The Uphill Battle Against the Minor Injury Cap Legislation*  
Corner Brook Regional High School, Corner Brook

#### Provincial 3<sup>rd</sup> Hon. Mention:

**Heather Carroll**

*Atefeh: A Tragic Example of the Unjust Iranian Legal System*  
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; one “bonus prize” \$300. Total prizes awarded to students \$1,925. Total matching cash prizes to schools, for legal materials and resources for school libraries \$1,625. Total prizes awarded: \$3,550.

# THE LAW FOUNDATION OF NEWFOUNDLAND AND LABRADOR

In 2009, the Foundation approved the following deferred grants, totaling \$6,500., which apply to 2010:

27th Annual Law Foundation High School Legal Essay Competition, 2009/2010	\$ 3,500.
14th Annual Law Foundation Legal Research Awards Competition for Students of Memorial University, 2009/2010	3,000.

The Foundation approved the following 2009 grants, totaling \$381,554.:

Canadian Bar Association, Newfoundland and Labrador, Law Day, April, 2009	\$ 1,199.
Canadian Bar Association, Newfoundland and Labrador, Family Law Public Legal Education Program	2,500.

The Public Legal Education Program was held on the evening of June 18. The Program was conducted in conjunction with a Professional Development Program in family law on June 19 and the Canadian Bar Association National Family Law Section (NFLS) executive meeting held in St. John's, NL from June 19 to 20, 2009.

The Public Legal Education Program was open to all members of the public. The target group included unrepresented litigants, reported as being the majority at the Unified Family Court in St. John's who do not qualify for legal aid assistance yet cannot afford to hire a lawyer, interested in acquiring basic information about family law, at no cost. The presenters were members of the executive of NFLS.

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.
Canadian Legal Information Institute (CanLII)	15,000.

CanLII is a not-for-profit organization created by the Federation of Law Societies of Canada. CanLII's objective is to provide, by means of electronic access through the Internet, free access to primary legal materials for members of the legal profession and the public. The project provided extended and comprehensive coverage on the CanLII site for Newfoundland and Labrador by adding approximately 480 historical, as well as missing, decisions, comprising 250 from the Court of Appeal back to 1996, and 230 from the Supreme Court Trial Division back to 2000.

Legal Aid Commission: Two-thirds calendar year 2009 net revenues contribution	88,305.
Public Legal Information Association, Newfoundland and Labrador Fiscal year April 1, 2009 - March 31, 2010	45,000.

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.

# THE LAW FOUNDATION OF NEWFOUNDLAND AND LABRADOR

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

\$ 20,000.

The Reginald H. Brown, Q.C., Memorial Scholarship was established at Memorial University of Newfoundland in Mr. Brown's memory through lead donations by his widow, Pamela J. Brown, and his colleagues at his law firm, Cox & Palmer, and donations from members of the legal community and others, to recognize his many contributions to the legal profession, his family and the community generally. The Scholarship is awarded at Convocation to a student graduating from any area of study and accepted at a law school. Selection is made on the basis of academic excellence and demonstrated leadership qualities. The Scholarship is awarded by the Senate Committee on Undergraduate Scholarships, Bursaries and Awards.

Dalhousie Law School 125th Anniversary Scholarship  
for Newfoundland and Labrador Students

50,000.

The Newfoundland and Labrador Scholarship in Law was established on the occasion of the 125th Anniversary of Dalhousie Law School in 2008 in recognition of its strong relationship with this Province. This one-time contribution to this scholarship endowment fund, created by donations from Dalhousie Law alumni and others, will provide one or more renewable scholarships in the amount of \$10,000. or greater to students from Newfoundland and Labrador who have demonstrated academic excellence.

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 Board at the Annual Meeting, when approving grants for 2009 which were maintained at 2008 levels, also agreed to give core grant recipients notice of the potential of grant reductions for 2010 given the current interest rate environment.

Law Foundation revenues from interest on lawyers' mixed trust accounts (IOLTA) and developments from the bank negotiations across Canada were among the topics discussed at the National Annual Meeting of the Association of Canadian Law Foundations (ACLF) attended by the Chair and Executive Director in Ottawa, Ontario on October 1-3, 2009.

Respectfully submitted,



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



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