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THE
NORTHWEST TERRITORIES
LAW FOUNDATION
SIXTH
ANNUAL REPORT
FOR FISCAL YEAR ENDING
JUNE 30th, 1988

CHAIRMAN'S REPORT

To the Executive Law Society of the Northwest Territories

I respectfully submit to you the sixth Annual Report of the Law Foundation of the Northwest Territories.

I draw your attention to the new format for our Annual Report and, in particular, the centrefold write-up and photographs. It is planned that this will be the first in a series of yearly articles included in our Annual Report about significant legal matters in the Northwest Territories. I wish to acknowledge and thank John U. Bayly for his kind assistance in writing the premier article. The Foundation invite suggestions for future topics and would appreciate any text or photographs for inclusion in future reports.

The audited financial statements are included in this Report along with an itemized list of contributions made by the Foundation. They will illustrate that both the Foundation's revenue and grants have increased dramatically over the past year. The revenue increase is as a result of a much improved bank interest rate on lawyers' trust accounts. The grants have increased dramatically as well as this is a result of increased applications for grants, and larger grant awards. The Foundation is pleased with the growth of its work in the past year and hopes that the next year will reflect substantial growth once again.

Many thanks to this year's Directors, namely Cheryl Walker, Richard Hardy, Richard Spaulding, and our new lay member, Ronald Williams. Special thanks to Gordon Carter, Executive Manager, for his skilled guidance and initiative.

**Loraine F. Minish-Cooper
Chairman**

1987-88 BOARD OF DIRECTORS



Loraine F. Minish-Cooper
Chairman



Richard L. Hardy
1st Vice Chairman



Cheryl Walker
2nd Vice Chairman



Richard Spaulding
Member



Ron Williams
Appointed Member



Gordon R. Carter
Executive Manager

THE N.W.T. LAW FOUNDATION

The Northwest Territories Law Foundation was enacted pursuant to Part VII of the Legal Profession Ordinance for the purpose of receiving the interest which banks must pay on clients' funds held by lawyers in mixed trust accounts. It is similar in form to Law Foundations established in most of the provinces.

Objectives

The objectives of the Foundation are to use the funds collected in this manner to provide funding in the following areas:

- (a) conducting research into and recommending reform of the law and the administration of justice;
- (b) establishing, maintaining and operating law libraries;
- (c) contributing to the legal education and knowledge of members and the people of the Northwest Territories and providing programmes and facilities therefor;
- (d) providing assistance to legal aid programmes and programmes of like nature;
- (e) contributing to the Assurance Fund; and,
- (f) doing all other things that, in the opinion of the Directors, are incidental or conducive to the attainment of these objects.

Administration

The Foundation is administered by a Board of Directors consisting of five members: four being members of the Law Society and appointed by the Executive of the Society and one who is not a member of the Law Society and appointed by the Commissioner. The Directors serve for a term of two years.

The Directors meet as required to decide on policy matters, to consider requests for funding and to deal with the general administration of the Foundation including policy as to the collection and investment of funds.

Administration and management services are provided through an Executive Manager who is engaged on a contract basis.

For information about the Northwest Territories Law Foundation and to request financial assistance forms, write or telephone

Gordon R. Carter
Executive Manager
The Northwest Territories Law Foundation
Box 2594, Yellowknife, N.W.T. X1A 2P9
Telephone (403) 873-8275

GRANTS 1987-88

UNIVERSITY OF SASKATCHEWAN	\$ 2,500.00
Assistance to the University in their program to assist Native people gain admission to the study of law and to carry out research and publication issues on native issues. \$7,500 commitment to be paid over the next three years.	
LAW SOCIETY OF THE NORTHWEST TERRITORIES.....	\$ 9,000.00
Assistance to the Law Society of approximately 50% of the cost of publishing and distributing the Northwest Territories Law Reports.	
MALIGANIK TUKISIANIAKVIK	\$ 3,000.00
Assistance to stage a Human Rights Conference in the Baffin Region of the Northwest Territories at Iqaluit (Frobisher Bay).	
ARCTIC PUBLIC LEGAL EDUCATION.....	\$14,000.00
Assistance to PLEI amounting to about 10% of their budget to explain the law and the legal system to the residents of the N.W.T.	
CANADIAN BAR FOUNDATION.....	\$ 500.00
Assistance to CBA in their program of publishing The Canadian Bar Review.	
CANADIAN LAW INFORMATION COUNCIL.....	\$ 1,100.00
Assistance to CLIC in their program of research, education and dissemination of information.	
CANADIAN BAR - LAW FOR THE FUTURE FUND	\$ 1,000.00
Assistance in the CBA program of research, study and analysis on a number of issues. \$5,000 commitment to be paid over the next five years.	
CANADIAN BAR ASSOCIATION	\$10,000.00
Assistance to CBA for their study of native justice issues and preparation of a report on the same.	

Morrow on Aboriginal Rights

Fifteen years ago, Francois Paulette and 15 other Dene Chiefs presented a caveat to the Registrar of Land Titles for registration against their ancestral lands. The interest in the lands they sought to encumber was their aboriginal rights which they claimed had never been extinguished.

The Registrar of Land Titles referred the matter of registration to the Supreme Court of the Northwest Territories. That court was presided over by Mr. Justice W.G. Morrow, the only resident Justice in the Territories. There followed some of the most interesting sittings ever seen in the territorial courts.

Mr. Justice Morrow decided to examine the claim of the Chiefs to determine whether there was a basis in law for the filing of a caveat against lands in the Territories. He took his court to the settlements, villages and towns of the Western Arctic over a period of months. He heard evidence from chiefs, elders and others about the treaties, Dene history and the way they lived on and used the land.

Some of those who had witnessed the signing of the treaties were very old. In several cases, the court heard evidence at their bedsides. In his judgement Mr. Justice Morrow says how moved he and the court party were by the evidence they had heard.

“I think almost every member of the Court party felt that for a short moment the pages of history were being turned back and we were privileged to relive the treaty negotiating days in the actual setting. The interest shown by today’s inhabitants in each settlement helped to recreate some of the atmosphere. These witnesses, for the most part very old men and women, one of them 101 years old, were dignified and showed that they were and had been persons of strong character and leaders in their respective communities. One cannot but be reminded of the words of Thomas Gray:

Full many a gem of purest joy serene
The dark unfathomed caves of ocean bear;
Full many a flower is born to blush unseen,
And waste its sweetness on the desert air.

There is no doubt in my mind that their testimony was the truth and represented their best memory of what to them at the time must have been an important event. It is fortunate indeed that their stories are now preserved.”

Re Paulette et al and the Registrar of Land Titles (No. 2) 1973, 42 DLR (3d) 8, 13



Colville Lake

Like the treaty parties of former days the Morrow court set up wherever it could in the small settlements. In Colville Lake, for example, sittings were held out of doors, the court party surrounded by the community residences.

In his judgement, Mr. Justice Morrow ruled that the unextinguished aboriginal title which Athapaskan people held to the lands formed the basis upon which they could file their caveat. Subsequently higher courts ruled that the caveat could not be filed because the lands were not patented, but the appellate courts chose not to disturb Mr. Justice Morrow's findings regarding aboriginal title.



Hearing being held in the open



Hearing Party arriving

It was not long after the Morrow decision that Canada approved the Dene and Metis land claims for negotiation. Today the settlement of those claims appears imminent.



Typical building

Perhaps one day, using resources the land claims settlement provides, Dene and Metis historians will go back to the volumes of evidence Mr. Justice Morrow heard and the court recorded as a starting point for their own historical scholarship.



AUDITORS' REPORT

**Board of Directors
Northwest Territories Law Foundation**

We have examined the Balance Sheet of the Northwest Territories Law Foundation for the year ended June 30, 1988 and the Statement of Revenue and Expenditure for the year then ended. Our examination was made in accordance with generally accepted auditing standards and accordingly included such tests as we considered necessary in the circumstances.

A major part of the Foundation's revenue is interest from trust accounts of its members which is not susceptible to complete audit verification because of the lack of a system of control. Accordingly, our verification of receipts from this source was limited to accounting for the amounts recorded in the accounts of the Foundation.

In our opinion, except for the effect of adjustments, if any, which might have been required had interest from trust accounts been susceptible to complete audit verification, these financial statements present fairly the assets and liabilities of the Foundation as at June 30, 1988 and the results of its operations for the year then ended, in accordance with the accounting principles set out in the Notes to the Financial Statements, applied on a basis consistent with that of the preceding year.

Hinchey, Wowk, Williams, Avery & Co.

**Hinchey, Wowk, Williams, Avery & Co.
Certified General Accountants
Yellowknife, N.W.T.**

August 9, 1988

STATEMENT I

NORTHWEST TERRITORIES LAW FOUNDATION
BALANCE SHEET
June 30, 1988

	ASSETS	1988	1987
CURRENT			
Cash		\$ 111,659	\$ 52,767
Term Deposits		100,000	100,000
Accounts Receivable		8,473	1,281
		<u>\$ 220,132</u>	<u>\$ 154,048</u>
	LIABILITIES AND SURPLUS		
CURRENT			
Accounts Payable and Accruals		\$ 900	\$ 800
SURPLUS			
Opening Balance		153,248	91,252
Prior Period Adjustment		115	—
Excess of Revenue Over Expenditure per Statement II		65,869	61,996
Closing Balance		<u>219,232</u>	<u>153,248</u>
		<u>\$ 220,132</u>	<u>\$ 154,048</u>

APPROVED:

_____ Director

_____ Director

The attached notes are an integral part of these financial statements.

STATEMENT II

NORTHWEST TERRITORIES LAW FOUNDATION
STATEMENT OF REVENUE AND EXPENDITURE
For the Year Ended June 30, 1988

	1988	1987
REVENUE		
Interest on Trust Accounts	\$ 115,662	\$ 66,096
Interest on Term Deposits and Bank	12,052	7,199
Donation	500	500
	<u>\$ 128,214</u>	<u>\$ 73,795</u>
EXPENDITURE		
Administration Fees	\$ 7,500	\$ 5,265
Bank Charges	—	26
Dues	205	210
Executive	3,206	397
Office	1,596	100
Grants	46,700	3,500
Printing	1,738	851
Professional Fees	1,400	1,450
	<u>62,345</u>	<u>11,799</u>
EXCESS OF REVENUE OVER EXPENDITURE	<u>\$ 65,869</u>	<u>\$ 61,996</u>

The attached notes are an integral part of these financial statements.

NORTHWEST TERRITORIES LAW FOUNDATION
NOTES TO THE FINANCIAL STATEMENTS
June 30, 1988

NOTE 1 STATUS

The Foundation is incorporated under the laws of the Northwest Territories.

NOTE 2 SIGNIFICANT ACCOUNTING POLICIES

The Foundation records revenue from interest on members' trust accounts as these amounts are received from members of the Law Society of the Northwest Territories.

Legal Profession Ordinance Chapter 4
Part VII

NORTHWEST TERRITORIES LAW FOUNDATION

50. There is hereby established a body corporate and politic to be known as the Northwest Territories Law Foundation (in this Part called the "Foundation").

Northwest
Territories Law
Foundation

51. The objects of the Foundation are

Objects

(a) to receive moneys and property and to maintain and manage a fund, the interest and capital of which is to be used from time to time as the board of directors of the Foundation see fit for

(i) conducting research into and recommending reform of law and the administration of justice;

(ii) establishing, maintaining and operating law libraries;

(iii) contributing to the legal education and knowledge of members and the people of the Territories and providing programs and facilities therefor;

(iv) providing assistance to legal aid programs and programs of like nature;

(v) contributing to the Assurance Fund; and

(b) doing all other things that are, in the opinion of the directors, incidental or conducive to the attainment of the objects enumerated in paragraph (a).

52.(1) The affairs of the Foundation shall be conducted by a board of directors composed of

Board of
directors

(a) a person who is not a member of the Society and who shall be appointed by the Commissioner; and

(b) four other persons to be appointed from among the membership of the Society by the Executive in accordance with the rules.

(2) The term of office of the directors of the Foundation shall be for a period of two years.

Tenure

(3) The Executive shall designate one member of the board of directors as chairman.

Chairman

(4) Three members of the board of directors constitute a quorum.

Quorum

53.(1) The board may make by-laws respecting calling of meetings of the board and the conduct of business thereat, the duties and conduct of members and generally as to the conduct of the business and affairs of the Foundation.

By-laws

Legal Profession Ordinance Chapter 4

Idem	<p>(2) Without limiting the generality of subsection (1), the board may make by-laws regarding</p> <ul style="list-style-type: none">(a) the number and designation of officers of the Foundation;(b) the appointment of and terms of office of officers of the Foundation and all matters relating to their offices;(c) the resignation or removal from office of officers of the Foundation;(d) the number and designations of employees of the Foundation other than officers, and their terms and conditions of employment;(e) the remuneration, if any, of officers and employees of the Foundation, and(f) the operation of the Law Foundation Account.
Application of funds	<p>54.(1) The board shall apply, and cause to be applied, the funds of the Foundation, in such manner as the board may decide, in carrying out the objects of the Foundation.</p>
Funds	<p>(2) The funds of the Foundation shall consist of all sums paid to the Foundation pursuant to section 57, interest accruing from investment of the funds of the Foundation, and any other moneys received by the Foundation.</p>
Disbursements from funds	<p>(3) There shall be paid out of the funds of the Foundation the costs, charges and expenses involved in the administration of the Foundation, and the costs, charges, and expenses incurred by the board in carrying out the objects of the Foundation.</p>
Expenses of directors	<p>(4) No director may receive any remuneration for his services but the directors shall be entitled to be paid out of the funds of the Foundation their reasonable travelling and living expenses while absent from their respective ordinary places of residence in the course of their duties as members of the board.</p>
Deposit of funds	<p>(5) All funds of the Foundation shall, pending investment or application in accordance with this section, be paid into a bank, treasury branch, credit union or trust company in the Territories to the credit of a separate account to be called the "Law Foundation Account".</p>
Investment of funds	<p>(6) Any funds that are not immediately required for the purposes of the Foundation may be invested in the name of the Foundation by the directors but in so doing the directors are not subject to the provisions of the <i>Trustee Ordinance</i> respecting the investment of trust funds.</p>

Legal Profession Ordinance Chapter 4

(7) The accounts of the Foundation shall be audited annually by a chartered accountant or a certified general accountant appointed by the board. Audit

55.(1) After the end of each year, the Foundation shall prepare and submit to the Executive a report consisting of Annual report

- (a) a general summary of its transactions and affairs during that year, its revenues and expenditures during that year,
- (b) an audited balance sheet, and
- (c) such other information as the Executive may require.

(2) Upon receiving a report under subsection (1), the Executive shall cause a copy of it to be tabled in Council if it is then in session, and if not, within five days after the commencement of the next ensuing session. Tabling of report before Council

56. The Foundation may borrow or raise or secure the payment of money upon the credit of the Foundation from time to time as the board of directors thinks fit to fulfil the objects of the Foundation and may for that purpose issue notes, bonds, debentures, debenture stock or other evidences of indebtedness. Borrowing

57.(1) Every member (or firm of more than one member which shall be included in the term "member") shall maintain an interest-bearing trust account in a bank, trust company, credit union or treasury branch into which he shall deposit any moneys received by him upon trust from or on account of any client and shall instruct the bank, trust company, credit union or treasury branch to remit the interest earned thereon to the Foundation semi-annually and such interest thereupon becomes the property of the Foundation. Trust accounts

(2) A member is not liable, by virtue of the relation between the member and his client, to account to any client for interest earned on money deposited in the bank, trust company, credit union or treasury branch pursuant to subsection (1). Interest

(3) Nothing in this Part affects any arrangement made between a member and his client to deposit money received from or on behalf of the client or to which the client is entitled, in a separate account for the client at interest, which interest shall be the property of the client. Idem

58. Upon the dissolution of the Foundation, the net assets thereof shall be paid to the Society to be used for such purposes as the Society shall determine. Dissolution of foundation



