Serving 5,640 alumni world-wide, The University of Western Ontario Law Alumni Association (UWOLAA) aims to:

- Promote fellowship among its members through Homecoming and other special events as they relate to the Faculty of Law and Western in general
- Develop a bond of cooperation and assistance between UWOLAA and the Faculty of Law
- Provide assistance to the Administration, Dean and Faculty of Law as it relates to student relations, alumni development issues, fund-raising and communication
- Promote the strategic direction of the Faculty of Law.

If you have ideas, questions, suggestions or would like to partner with your local alumni branch to host a law alumni event please contact Carolyn Lamb, Alumni Outreach Officer, at clamb22@uwo.ca or call (800) 258-6896.

Upcoming Alumni Events

- Mustang Hockey Reception at the JLC in London
  Sunday, January 21, 2007 at 2:00 p.m.
- Alumni Denning Night in Toronto
  Wednesday, March 7, 2007
- Homecoming
  Saturday, September 29, 2007 (tentative date)
- Western Law Alumni Dinner in Toronto
  Thursday, October 25, 2007 (tentative date)

For more information about the above events visit www.alumni.ca/branches/law

UWOLAA Executive 2006/2007

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Online Contest

Update your email address to make sure you don’t miss alumni activities in law and in your hometown. Simply go to www.alumni.uwo.ca and fill out our online form and you’ll automatically be entered into a draw and could win a $100 gift card from Home Depot, HBC, Future Shop, Famous Player’s cinemas or Chapters.indigo.ca. Entries must be received by December 15, 2006.
A message from the Acting Dean

Craig Brown

As many of you know, Ian Holloway has completed a term as Dean and has signed on for a second term. Between terms, he is taking a well-deserved leave for a year and I am serving as Acting Dean in his absence. Many of the good things we have to report in this issue are products, directly or indirectly, of his vision and energy. We look forward to his return.

As in previous issues of Vox this edition contains stories that touch on what Ian calls “our thrust toward internationalization.” Our feature story is about graduates who have made their careers “across the pond” in the other London, and Prof. Chi Carmody writes about his research on the World Trade Organization. You can also read first-hand accounts from our six students who participated in our International Law Internship Program. The students spent the summer working at the Special Court of Sierra Leone in Freetown, the International Labour Organization in Geneva, the Inter-American Commission of Human Rights in Washington D.C., UNAIDS in Bucharest, Romania, and the Caribbean Court of Justice in Trinidad.

While we rejoice in our achievements and look forward to more great things to come, we recognize that our success is founded on a proud scholarly tradition stretching back nearly fifty years. We recognize our success is founded on a proud scholarly tradition stretching back nearly fifty years. I was reminded of that recently when I had the pleasure of speaking to Ronald St. John MacDonald, retired judge of the European Court of Human Rights. He delivered the very first lecture at Western Law in 1959 and recalled those other Canadian luminaries of international law, such as Douglas Johnston and Donald McRae, who were also part of that great tradition. I am sad to report that Ron passed away a few weeks after our conversation.

Of course, our scholarly traditions are not confined to international law. In October Western Law hosted “Interpreting the Constitution:”, a colloquium that brought together an elite group of legal philosophers and constitutional law scholars to discuss the interpretation of constitutions and constitutional rights. And in June we brought together some of the world’s biggest names in the tort field for a successful conference entitled “Emerging Issues in Tort Law:”. The conference was organized by Prof. Jason Neyes and we report on it on page 8. For me, the conference recalled the significant contribution to Canadian tort law made by former Western faculty members such as Gerald Friedman, Bruce Feldman and Mitchell McTavish as well as Robert Solomon who, as you will see in the story on page 16, is still very actively engaged here at Western Law.

And, in introducing our new faculty members, Christopher Nicholls, a leading scholar in securities law, and Jasmine Griggs, a recent graduate whose area of specialty is commercial law, I recall our long tradition of excellence in business law represented by Dan Prentice, Richard McLaren and Bruce Welling. Another new appointment and welcome addition is Christopher Sherrin. He brings a strong background in both practice and teaching (including heading the Innocence Project at Osgoode Hall Law School) to the criminal law area. You can read his contribution on page 32.

A field in which we have a growing international reputation is legal history. Randy Kozol and his new book, A Jurisprudence of Power: Victorian Empire and the Rule of Law, published by Oxford University Press, are profiled on page 43. This book follows his highly acclaimed work on the law and railway capitalism in nineteenth Century Britain. The continued vibrancy of the school depends on many things but the support of alumni and other friends is chief among them. It takes various forms including teaching courses, guest lecturing, moot judging, mentoring and, of course, financial support. For all these things, past and future, we thank you.

Chris Bredt ’79, Christina Litt ’03 and Steve Winder on top of Mt. Kilimanjaro

Western Law Alumni Christopher Bredt (’79) and Christina Litt (’03), along with their Borden Ladner Gervais colleague, Steve Winder, climbed Mount Kilimanjaro, Africa’s highest peak, in July to raise money for a children’s literacy program. The Summit of Literacy raised $101,000 for the Canadian Organization for Development through Education (CODE). CODE is an award-winning charitable organization that promotes education and literacy in developing countries by supplying locally published materials for training teachers and tutors to teach children to read. The program benefits more than 300 teachers and 49,000 children in 79 schools in Tanzania.

Bredt is Chair of CODE’s Board of Directors and the driving force behind the Summit of Literacy climb. “The climb was a once in a lifetime experience for each climber, but more than that, it was an opportunity to help thousands of children learn to read in Tanzania,” he said. “Literacy and education are essential to sustainable growth in the developing world. One of CODE’s primary focuses is literacy among women and children. Women who are literate have fewer children, healthier families, and better educated children.”

For more information go to www.codecan.org
Dean Holloway appointed Nova Scotia Queen's Counsel

In December, Dean Ian Holloway became the first dean of a law school, other than Dalhousie University, to be appointed a Nova Scotia Queen’s Counsel (QC). The appointment, made by Nova Scotia Lieutenant Governor Myra A. Freeman, recognized Holloway’s contribution to legal education and his work to promote the interests of the legal profession in Nova Scotia.

Holloway was appointed to the Bar of Nova Scotia in 1986, where he practiced for a number of years with the Atlantic Canadian law firm McInnes Cooper - focusing on labour, administrative and admiralty law.

Nova Scotia is among the jurisdictions to have reformed the QC appointments process. They are now made by the Crown on the recommendation of an independent committee - which is chaired by a judge of the Supreme Court of Nova Scotia.

Three LL.M. students completed their theses in 2006 and received their degrees on October 19th at Alumni Hall:

- Frances Chapman successfully defended her thesis entitled "Under Pressure: The Canadian Criminal Defence of Dures". Frances has begun work on her Ph.D. at Osgoode Hall Law School.
- Norm Piz zale successfully defended his thesis, "The Co-Evolution of Natural Law and International Trade Law".

Norm is a partner with McNamara Piz zale in London and is the first part-time student to complete the LL.M. program. Six new full-time LL.M. students, two from Nigeria and four from China began the program this fall, joining one continuing part-time student. As in the past, the current students are pursuing a wide variety of research interests, including:
  - global corporate responsibility of oil companies and human rights
  - the legal regulation of organic food in China (particularly labeling requirements)
  - the protection of geographic indications in international trade (e.g., why Champagne comes only from the Champagne region in France)
  - corporate governance of multinational enterprises and the impact on developing countries
  - the international protection of Chinese trademarks
  - a comparative analysis of anticipatory repudiation in the international sale of goods
  - a legal analysis of the Research in Motion patent disputes

The LL.M. program is offered on both a full and part-time basis. The part-time program might be of particular interest to alumni practicing in the London area and we would certainly like to encourage applications from local practitioners looking to undertake a major piece of scholarship.

To further enhance the level of the service the Clinic provides, and ensure all volunteers are well prepared to meet their clients’ needs, McMillan Birch Mendelsohn is hosting five training sessions for the Clinic during the coming school year.

Prof. Richard McLaren held court in Turin

Western Law Professor Richard McLaren was selected as an on-site arbitrator for the Court of Arbitration for Sport (CAS) at the 2006 Olympic Games in Italy. "These Olympics will undoubtedly see the continuation of doping cases which we saw in record numbers in Athens," he said at the time of his appointment. "It is also possible that the Italian laws of criminal nature and the doping procedures of the Olympics may clash despite the best efforts of the Olympic and Italian authorities to ensure that such a clash does not occur."

The Court’s power reached beyond just the athletes. “We were charged with dealing with any dispute arising from the Games. The Games, essentially, become a three-week society in which the CAS is the court,” he said.

Third-year Western Law student Srijan Agrawal accompanied McLaren to Italy as one of a select few Canadian students who conducted research for the CAS in Italy during the Games.
McLaren was an on-site arbitrator at the 1998 Winter Olympics in Nagano, Japan; the 2000 and 2004 Summer Olympics in Sydney and Athens respectively; and the 2002 Commonwealth Games in Manchester.

**The Fast Track**

Western Law is leading the way by offering the only combined three-year LLB/MBA program in Canada. Students will now be able to complete the program in three years instead of four academic years.

Deandra Schubert is the first candidate for the new LLB/MBA program. “A program such as this provides an exceptional level of education and will attract highly motivated and talented students,” says McLaren. “I hope to have a variety of careers and combining a business and law degree gives me a real edge in the marketplace.”

Western Law and Ivey were always the top schools of choice for Schubert and she’s excited about the level of education she will receive. “Legal education is not just for the practice of law - it gives one the ability to problem solve and use critical thinking. That’s a real plus in terms of business and directorship.”

And how does she feel about being on the fast-track? “Getting my LLB and MBA in three years is the icing on the cake.”

The combined program is administered on behalf of Western Law and the Richard Ivey School of Business. For more information about the program go to www.law.uwo.ca

**International Law Association’s 72nd Biennial Conference**

Two Western Law students, Christine McAlpine and Janice Ho, attended the International Law Association’s 72nd Biennial Conference held in Toronto from June 4-9, 2006. The conference covered a wide variety of international law issues, including international commercial arbitration, a United Nations reform, international trade and investment law, international migration, sustainable development and the future of international criminal justice. Keynote speakers included Lecht Waeser, former President of Poland and Nobel Peace Prize winner, Judge Philippe Kirsch, President of the International Criminal Court, Cherie Booth, O.C., human rights advocate, and Dr. Hans Blix, former head of the UN’s Monitoring, Verification and Inspection Commission in charge of monitoring Iraq. Hundreds of lawyers from around the world attended the conference. The Law Foundation of Ontario sponsored the participation of Western Law’s students.

That’s Professor William Schabas speaking on the failings and fortunes of the International Criminal Court (ICC) at a talk entitled “First Cases at the International Criminal Court” sponsored by Western Law’s International Law Association on September 28. Prof. Schabas, Director of the Irish Centre for Human Rights and author of numerous books on the ICC, spoke candidly about the challenges facing the ICC in Darfur and in the fragile peace process in Uganda.

One of the new challenges created by the emergence of the ICC is in respect to peace negotiations. In Uganda, for example, providing amnesty to someone charged with atrocities can now conflict with international justice. “An arrest by the ICC can stop peace negotiations,” says Schabas. “It’s a fascinating problem.”

**Western Law students place second in international competition**

Two Western Law students are celebrating after achieving second place honours at the 2006 International Negotiations Competition at Florida A & M Law School on July 4-8. Linda VandenBrink and Cameron Macdonald, both entering second year Western Law, competed against 46 teams representing 15 countries. The pair earned the privilege to represent Canada after being recognized by the American Bar Association as the best overall Canadian team in the 2005 ABA regional competitions.

UWO law students have developed an outstanding reputation in negotiation, often advancing to the finals at the international competition. Western’s team placed a close second behind the University of Oregon (New Zealand), Macquarie University (Australia), Harvard University (USA) and the National Law School of India University (India) rounded out the top 5.

Torys LLP supports the internal, regional and international competitions. Lawyers Davidson (04), Gillian Dingle (04) and Jennifer Lennon (04) provided coaching assistance.

“I’m extremely proud that Linda and Cameron have continued the strong tradition of negotiation at Western Law,” said Prof. Erika Chamberlain, the team’s faculty advisor. “Their achievement is even more impressive given that they are both coming out of first year, and they had to compete against several more experienced teams.”

**Western Law student on top of the world**

Third-year Western Law student, John Davidson, is on a high after successfully scaling North America’s highest mountain. Davidson, his brother, two U.S. marines and a Swedish climber were dropped off by bush plane on the Kahiltna glacier at the foot of Mt. McKinley in Alaska in early May. The temperature hit -40C, coupled with 40 mph winds at their highest camp at 17,000 ft., but after 20 days of climbing the group reached summit (20,320 ft.) in perfect weather. “It was an absolute miracle as it’s one of the coldest places on the planet,” Davidson said. “The mountain gods were definitely smiling at us. It was only about 20 below on the summit.”

**Around the world**

In this era of globalization, exposure to another legal system is of tremendous importance. Approximately one in five Western Law students participates in an exchange program during law school. That participation rate is the highest of any law school in North America. Currently, Western Law has exchange partnerships with 18 law schools around the world and this academic year, 41 Western Law students will be studying abroad. We are also attracting large numbers of international students to Western Law. In September we welcomed 20 visiting students, and in January we will welcome another five. Our visiting students are currently from: Bond University in Australia, ESADE in Barcelona, University of Auckland, University of Grenoble in the Netherlands, National University of Singapore, Stockholm University, Universite Jean Moulin in Lyon, Universite Rene Descartes in Paris and Universite Laval. And we’re pleased this year to have the first exchange of students with NALSAR University of Law in Hyderabad, India.

Western Law student on top of the world

Western Law student on top of world

**Visiting students celebrate at the start of term**

Visiting students celebrate at the start of term
Legal Briefs

The International Negotiations Competition promotes greater interest among law students in international legal negotiations and provides an opportunity to practice and improve their negotiating skills in cross-border transactions and disputes.

Western Law hosts the American Bar Association’s Regional Negotiation Competition on Nov. 11-12. Approximately 20 teams of negotiators from law schools in Canada and the United States will come to Western for the competition.

Brian Farmer
Lawyer in Residence

Brian Farmer LL.B is Western Law’s Lawyer-in-Residence for the 2006-2007 academic year. He will be working with Community Legal Services, lecturing in criminal law courses, and assisting in the faculty’s advocacy training programs.

Mr. Farmer has enjoyed a distinguished career with the Ministry of Attorney General. He recently retired from the Crown Attorney’s office, County of Middlesex, after serving as a Crown Attorney and Crown Counsel for 29 years. During his years with the Ministry, Mr. Farmer was involved in the development of Domestic Violence programs, Aboriginal Justice initiatives, the development of electronic case analysis systems and electronic Crown disclosure. He appeared for the Crown at all levels of court. Mr. Farmer was a frequent instructor for the Law Society of Upper Canada Police College, the Ottawa Police College, and was for many years an instructor for the Law Society of Upper Canada’s Bar Admission Course. Prior to joining the Ministry, he was in private practice in London with the firm of Peel, Chapman and Farmer. Mr. Farmer is an alumnus of Western.

Main reading room refurbished

Law Library users are enjoying shiny new digs following a major refurbishment of the Main Reading Room. The original wooden tables, sturdy but scarred, were professionally refinished over the summer. Besides receiving a beautiful new finish, the tables were retrofitted with pop-up electrical outlets, convenient for people needing a place to plug in their notebook computer. Green-shaded banker’s lamps were installed in the centre of each table, providing additional light for reading. As well, more than 100 new chairs were purchased.

“We’ve noted an increase in the number of students using the Main Reading Room,” said John Sadler, director of the Law Library. “They seem to like the new chairs and lamps and being able to use their computers there.”

Electrical work was the largest single largest expense in the $100,000 project. Extensive wiring was required underneath the floor to get electrical power into which the tables plug. Floor-mounted fixtures called “monuments,” roughly the size and shape of a dinner plate, were installed at various locations around the room. For special occasions such as faculty of Law receptions the tables can be moved entirely or rearranged in other configurations.

This summer’s work is the culmination of a series of upgrades to the Main Reading Room since 2001, including freshly painted walls, window blinds, a new circulation desk and illuminated display case for faculty publications.

Tributes for Prof. Jay McLeod

David W. Mundell Medal

On January 24, 2006, the Attorney General of Ontario posthumously awarded the David W. Mundell Medal to Professor Jay McLeod (’71) at the OBA annual institute in Toronto. The Medal was accepted by Jay’s widow, Madam Justice Margaret McSorley (’70). This was the first time that the Medal was awarded posthumously. Established in 1986, the Mundell Medal is awarded from time to time by the Attorney General for distinguished contribution to law and letters. The Medal honours the memory of the late David W. Mundell, a lawyer/scholar who was renowned for always speaking “trenchantly with clarity, imagination and grace” both at the Bar and in his writings.

The Alumni Distinction Award

The Alumni Distinction Award was presented posthumously to Professor Jay G. McLeod at the Western Law Alumni Dinner held on April 20, 2006. Madam Justice Margaret McSorley (’70) accepted the award on behalf of her late husband. Jay was also remembered by his friends Mr. Justice Tom Granger, Gordon Cudmore (’73), and Michael Lerner (’72). His colleague Alf Mamo (’70) wrote, “Jay encouraged lawyers to challenge decisions that were the product of unprincipled thinking. He dared judges to provide better reasons for their judgments. He had the courage to say ‘the Emperor has no clothes.’ He was the conscience of the family law bar and bench. Remarkably, Jay accomplished all this with a wit and sense of humour that always left us wanting more. Family law in this country will never be the same without him.”

Jay McLeod Memorial Golf Tournament

The first annual Jay McLeod Memorial Golf Tournament took place on Thursday, September 28 at the Fire Rock GC Club. The day began with a 90 percent chance of rain, but as the tournament was underway, the sun came out and rain showers did not occur. The event was a great success with 144 players taking part and over $50,000 raised for the Jay McLeod January-Term Professorship.

The tournament was organized by Western Law students Adam Banack and Andre Kuyntjes. “It was incredible to have an event that brought together lawyers, students and members of the local London business community to celebrate the life of a man who left an indelible mark on the faculty of law at Western, the legal community and the practice of Family law in Canada,” said Banack. Following the tournament, renowned family lawyer Alf Mamo (’70) spoke eloquently about Professor McLeod’s career and life accomplishments.
Interpreting the Constitution

Western Law hosted an elite group of legal philosophers and constitutional law scholars to discuss the interpretation of constitutions and constitutional rights. Seventeen papers were discussed at the colloquium called “Interpreting the Constitution,” held on October 13–14, 2006.

The colloquium, organized by Professor Grant Huscroft and Drs Randal Graham and Bradley Miller of Western Law, included participants from the United States, the UK, Australia, and New Zealand, as well as Canada. International participants included TRS Allan (Cambridge), James Allan (Queensland), Larry Alexander (San Diego), Simon Evans (Melbourne), Jeffrey Goldsworthy (Monash), Alison Kavanagh (Leicester), Paul Rishworth (Auckland), Steven Smith (San Diego), Adrienne Stone (Leicester), Paul Rishworth (Auckland), Mark Walters, Queen’s University, Trevor Allan, Cambridge University, Joanna Harrington, University of Alberta, James Allan, University of Queensland, and as part of this team, Prof. Jasmine Girgis of the Faculty of Law.

The insights generated from this colloquium should be of interest not only to political theorists and moral and legal philosophers, but to politicians, judges, and anyone interested in the proper functioning of our basic institutions. A book of essays from the colloquium will be published later in 2007.

new faces at western law

Prof. Christopher Sherrin

Christopher Sherrin joined the faculty in 2006. His primary areas of interest are criminal law and procedure, evidence, and constitutional law. He has a particular interest in the study of wrongful convictions and reliability in the criminal justice process. From 2003 to 2006 he acted as Director of the Innocence Project at Osgoode Hall Law School of York University. Previously, he practiced as defense counsel with the Toronto firm of Cooper, Sandler & West. He has also acted as part-time Assistant Crown Attorney, Consultant to the Commission on Proceedings Involving Gay Paul Morin, and Consultant to the Review of Nova Scotia’s Response to Claims of Institutional Abuse. He is currently completing his Ph.D., writing about Charter rights in regulatory and criminal proceedings.

Prof. Joanne Girgja

Joanne Girgja is Western Law’s new Communications Officer. She has extensive experience in both communications and news media. Prior to her role as Communications Specialist at London Life, she was an Executive Producer with Avision TV, a Current Affairs Producer with CHUM Television in London, and a News Researcher with CBC National TV in Ottawa from 1989 to 1997. Susanna received her BA from the University of Toronto at Trinity College. She is responsible for media relations, recruitment and calendar materials, branding and Western Law’s website. She is also the Managing Editor of Western Law’s Alumni Magazine.

Anita Lowrey

Anita is a Western Law’s new Director of Finance. She is an active member of the Dean’s planning committee and as part of this team participates in the integration of Faculty finances. Anita ensures processes and resources are properly aligned to enhance efficiencies, reduce redundancy and strengthen economies of scale to ensure the effective delivery of the Faculty’s academic programs.

Susanna Eayrs

Susanna Eayrs is Western Law’s new Communications Officer. Susanna has
War crimes prosecutor get good news at Western

Western Law students had a rare glimpse into the life of a war crimes prosecutor on March 29.

David Crane, former chief prosecutor of the Special Court of Sierra Leone, was addressing Western's Faculty of Law when his cell phone rang. Crane took the call, which informed him that former Liberian President Charles Taylor was securely in UN custody to await trial. "This is a huge day in history for Africa," said Crane.

The Special Court of Sierra Leone, was ad hoc international tribunal.

"The fact that the most powerful warlord in Africa has been humped before the law and taken into custody for a fair trial sends a huge signal to the people that they matter," said Crane.

The Sierra Leone Special Court was set up to try those responsible for war crimes and crimes against humanity committed during Sierra Leone’s decade-long civil war. Chief Prosecutor from 2002 to 2005, Crane indicted Taylor along with other regional warlords on charges that included murder, rape, extermination, sexual slavery, and the use of child soldiers. Taylor, one of the most notorious offenders, was apprehended in Nigeria, and then sent to the UN court jail in Sierra Leone’s capital, Freetown.

Crane is a distinguished visiting professor of law at Syracuse University College of Law, and was attending the Faculty of Law as part of its Distinguished Speakers Series. He is the first American since Nuremberg to be the Chief Prosecutor of an international war crimes tribunal.

While he was prosecutor, Crane was under protection 24 hours a day. He saw horrors that would haunt him for the rest of his life, he said. "There is nothing in any language in the world that can describe how these people died. Most of the horrors were done by children. Many were as young as seven."

Western Law professor Valerie Oosterveld, a former legal officer with Foreign Affairs Canada who was involved in the creation of the Sierra Leone Special Court, was excited by Crane’s visit and the news of Taylor's detention. "This is a great day for international justice," she said. "It demonstrates that it doesn’t matter who you are - you could be president of a state and still face charges."

Dick Pound alleges doping widespread in NHL

Dick Pound, chair of the World Anti-doping Agency and McGill University Chancellor, chose a speaking engagement at Western Law to make headlines across North America. As many as 250 of the NHL’s 700 players are taking some form of performance-enhancing drugs, he conjectured last November.

"I spoke with Gary (NHL Commissioner Gary Bettman) and he said, ‘We don’t have the problem in hockey,’" Pound told the London Free Press after addressing Western Law students. "I told him he does. You wouldn’t be far wrong if you said a third."

"I know former players, they are performing-enhancing drugs, Pound said, “yes.”

The response was fast and furious. NHL deputy commissioner Bill Daly and NHLP executive director Ted Saskin dismissed the allegations as having no basis in fact. NHL players also disregarded the comments.

Pound, a powerful figure in the world of sports, is no stranger to controversy. Flamboyant and outspoken, he has been on a personal mission to get professional sports to adopt the World Anti-Doping Code for international amateur athletes, which sets a two-year ban for the first positive drug test. NHL players under their new collective bargaining agreement are subject to a minimum of two drug tests a year without warning. Offenders are suspended for 24 games for their first offence, 60 games for their second, and then permanently banned.

A former Olympic athlete, Pound is a member of the International Olympic Committee and Chairman of the Olympic Games Study Commission. He was named to Time Magazine’s 100 most influential people in the world for his continuing efforts to promote and enhance the Olympic movement, and ensure that sport is fair and ethical. An honorary degree recipient from UWO, he spoke to Western Law students on the subject “Doping in Sport.”

Toews targets crime

Justice Minister Vic Toews wants to make our communities safer, and he laid out the government's plan at Western's Faculty of Law on April 12.

Toews’ major policy speech coincided with the motorcycle gang killings near London that shocked the country. "Rural areas are not immune to the problem (of gun crime)," Toews said to some 100 Western Law students. "The discovery of eight bodies not far from here this past weekend has underscored the fact that violent crime is not isolated to Canada's big cities."

Cracking down on gun, gang and drug crime are priorities for the Government and in his speech Toews outlined a detailed plan on how they would go about it. Planned reforms included getting tough on gun crime and other serious offenses. Specifically, the government would move to ensure safer streets and communities, responding to the concerns of police, prosecutors and Canadians, said Toews.

In addition to pursuing law reform initiatives, Toews said money from the gun registry will be used to hire police officers. Another area of focus for Toews is a new National Strategy. He suggested a change in prison sentences and fines, as well as programs to help young people stay drug-free. Toews urged preventing criminal behavior before it can take root by supporting communities and families with social programs and economic policies.
Major tort conference draws top Canadian and Anglo-American thinkers

A little more than a year ago Western Law Professor Jason Neyers decided that it was time for a major conference on tort law. "There had been a lot of new developments," he says. "I thought it would be a great idea to have it at Western, since we have such a large number of tort law academics."

The result, Emerging Issues in Tort Law, held on June 9th and 10th, brought together academics, lawyers, and judges from England, New Zealand, Australia, Singapore, Hong Kong, U.S., Israel, and Canada. The two-day conference focused on many areas in flux, such as the law of causation, vicarious liability, and the social host’s duty of care.

Each panel was moderated by an appellate judge, including the Chief Justices of B.C., Manitoba, Newfoundland, and Nova Scotia, the Honourable Justice Ian Binnie of the Supreme Court of Canada and several justices of the Court of Appeal for Ontario. In all, some 20 of the most senior judges in Canada were in attendance, ensuring the conference is likely to have a significant influence on Canadian case law.

The conference also attracted many leading international scholars, including Peter Cane (Australia), Stephen Todd, Geoff McLay and Allan Beever (New Zealand), Robert Stevens, Andrew Tettenborn, Richard Smith, Stephen Smith, Peter Benson, Ken Cooper-Stephenson and Shauna Van Praagh. Also on hand were many world-renowned Canadian tort law academics including Lewis Klar, Justice Allen Linden, Denise Réaume, Lionel Smith, Stephen Smith, Peter Benson, Ken Cooper-Stephenson and Shauna Van Praagh.

The conference goers were treated to a rich diet of serious scholarship, commentary, and informal exchange. A humorous note, though, was struck by Justice Binnie, who gave a light-hearted and entertaining after-dinner address to the assembled ‘tortaholics’ (as he named those in attendance). This was followed by the presentation of the John G. Fleming award to Stephen Todd, Professor at the University of Canterbury in New Zealand. This award is given every two years for outstanding tort scholarship, and the recipient is chosen by an international selection committee. "It was quite an honour that the committee decided to give the award at this conference," says Neyers.

The papers presented at the conference will be published in a book by Hart Publishing of the U.K. in early 2007. Emerging Issues in Tort Law, the book, will be edited by Neyers along with Professors Erika Chamberlain and Stephen Pitel also of Western Law.

Neyers believes the book represents a major contribution to scholarship, one that is likely to have an impact on the development of tort law. "It will be very interesting to a wide audience in Commonwealth countries and the U.S. and Israel," he says. "I expect to see these papers cited by appellate courts in the future."

The success of the conference reflects the growing internationalization of Western Law, says Neyers. "This was the largest Canadian tort law conference in recent memory. It shows we are a law school that has really arrived internationally."

The success of the conference was in no small part due to those who sponsored the event. Neyers expressed many thanks to the firms of Bennett Best Burn LLP, Ledroit Beckett, Lerners LLP, McTague Law Firm LLP, Siskind, Cromarty, Ivey and Dowler LLP, Sutts, Stromberg LLP, and WeirFoulds LLP and to the Social Sciences and Humanities Research Council of Canada, the Law Foundation of Ontario, and the Foundation for Legal Research. "It will be very interesting to a wide audience in Commonwealth countries and the U.S. and Israel. I expect to see these papers cited by appellate courts in the future."

Jason Neyers
The Faculty of Law hosted its 3rd annual Labour Law Lecture and Conference in October 2005, with the theme of Administering Labour Law. Focusing on the practice and substantive law of labour and employment tribunals in Canada, the weekend event heard presentations and papers from a number of Canadian legal scholars and prominent tribunal chairs. Over 130 people—judges, academics, tribunal administrators, legal practitioners, law students and industrial relations specialists—were in attendance.

“The Lecture and Conference has been an opportunity for a broad-based debate among labour law specialists about the future direction of Canadian labour law”, said co-organizer Michael Lynk, a professor at the Faculty. “Our labour market in Canada is under mounting pressure from a number of sources – such as globalization, technology and a better-educated workforce. Yet, the substantive laws and administrative processes which regulate the Canadian labour market have not changed substantially since mid-century. Do we need to re-think how we regulate labour law for the future?”

Since its inception in 2003, the annual labour law lecture and conference has been partnered with Heenan Blaikie LLP (a national firm with a significant management-side labour and employment practice) and Koskie Minsky LLP (a Toronto union-side labour firm). “The support from these firms is an excellent example of the labour bar’s recognition that we have to be equally concerned with the big issues in labour law. Building these bridges with the practising bar has enabled us to explore a range of serious labour law issues in a rigorous fashion that academics and practitioners alike have benefited from,” said Lynk.

David Mullan, professor emeritus at Queen’s University, gave the 3rd annual Koskie Minsky University Lecture in Labour Law. His topic—Labour and Administrative Law: Still the Tail and Wags the Dog?—was a legal tour de force by Canada’s pre-eminent administrative law expert. In this Lecture, Prof. Mullan analyzed, and largely applauded, the decisive role that labour law has played in shaping the principles of modern administrative law:

“Labour law cases have played a highly significant role in many of the cutting edge issues that have arisen in Canadian judicial review law over the past sixty years, especially in the field of substantive (as opposed to procedural) review… Labour law’s biggest ‘gift’ to administrative law remains… the theory of deference and the emergence of the pragmatic and functional approach to the determination of what in any particular instance is the appropriate standard of review. It was largely in the cauldron of labour law cases that this approach was articulated and its details settled upon.”

During the Heenan Blaikie conference the day following the Lecture, twelve scholars and tribunal chairs spoke on a broad range of modern labour and administrative issues. Some of the panel topics included: the use of social science in labour law; regulating precarious and atypical employment in Canada; incorporating human rights into labour law; and the past and future of labour relations board reform.

Many of the revised papers from the 2005 conference have appeared in two special issues of the Canadian Labour and Employment Law Journal, guest edited by John Craig (a partner at Heenan Blaikie and an adjunct professor at the Faculty) and Michael Lynk.
A growing number of Western Law alumni are working in the U.K.

In May 2006 Dean Ian Holloway hopped across the pond to the “other” London.

The mission of his visit was threefold: meet with a growing number of Western Law alumni working in the U.K., develop joint programs with English academic partners, and promote the School's continued thrust towards internationalization.

A self-confessed Anglophile, Dean Holloway was excited to be strengthening ties in a land "where great minds and great legal cultures come together.”

He was also buoyed by the enthusiasm of U.K. grads about reconnecting with Western Law.

In this issue we talked to three alumni about living and working in the U.K., and how Western Law has helped them in their careers.

Mark Uhrynuk ’86, Heather-Anne Hubbell ’91, Ray Werbicki ’74
Ray Werbicki ’74 says that the U.K. offers good opportunities for Canadian lawyers

Recently Ray Werbicki was described by a fellow lawyer as a “pioneer” - one of the first Canadian lawyers to work his way to the top of the U.K. legal profession. It may have been an unusual career path at one time, but no longer, says Werbicki. “There are more Canadians becoming partners and reaching the top levels of major U.K. and U.S.-based law firms here in London. And that’s a good thing.”

Werbicki did his undergraduate work at the University of Toronto and then enrolled at Western Law, where he enjoyed the camaraderie and the “work-hard, play-hard” culture. After his call to the bar, he joined Thomson, Rogers in Toronto, where he was mentored by a young partner, Laurie Mandel. Mandel had travelled the world some years before, and regaled Werbicki with stories of his adventures. Feeling some wanderlust, Werbicki decided to take his LL.M at the London School of Economics and Travel through Europe. “The LSE was a well-trodden path for Western Law grads, and a great place to get international experience,” he says. He also found time to cycle through the U.K., Ireland, Holland, Germany, Switzerland and France. Along the way, he met his wife, a British-educated Gibraltarian in the process of being called to the English bar.

Soon after returning to Canada, he joined the labour law firm of Matthews, Chirandale and Clark, where he developed a practice in litigation and arbitration. He and his wife frequently went back to Britain to visit her parents, and increasingly he began to feel the pull of London. When he learned that U.K. law firms were looking for people with legal qualifications from other countries, he inquired and immediately received offers.

In 1987 he joined the litigation department of Slaughter and May in London, England. Almost immediately, he found himself immersed in a £200 million claim arising out of the construction in Scotland of an oil rig destined for the North Sea. As the number two person on the case, he supervised a team of lawyers, engineers and accountants that worked hard and immediately received offers.

Werbicki leads the firm’s international arbitration and litigation team in London and is a co-leader of the firm’s worldwide arbitration and dispute resolution group. “It was a very good opportunity for me, one that I felt very comfortable with as a Canadian,” he says. “Having practiced for many years in London, I also knew the cultural lay of the land.”

For those looking to practice international law, London offers great opportunities, says Werbicki. “Commonwealth countries in Africa and Asia, India, Hong Kong and many other areas have legal systems based on the English model and long-standing historical links with the U.K. They are comfortable with the culture and the legal system here and frequently instruct London lawyers in large international matters.” Currently, he is working with clients from the U.S., Canada, France, Norway, Germany and Lithuania, as well as the U.K.

Werbicki believes that the international legal environment, usually dominated by large U.K. and U.S. firms, is an opportune one for Canadian lawyers, as long as they are prepared to work hard and be flexible about cultural differences. “There are more and more Canadians in the big firms here,” he says. “A lot of them go back to Canada, but they find it a very profitable experience to be here for a few years. I think Canadians have some advantages over many others in adapting to the U.K. way of doing things because of historical cultural ties.”

Werbicki is grateful for his education at Western Law, and believes that it gave him an excellent preparation. “There was always an international influence at Western Law of some breadth and scope, even though the School didn’t promote it at the time,” he says. This influence included a number of visiting professors from British and American universities, and the connection of many younger professors to the London School of Economics.

Werbicki and his wife, now a high-ranking government lawyer, enjoy living in Hertfordshire on the northern edge of London. With his son and their early teenagers usually away from home, Werbicki finds his main form of relaxation is on his bicycle in the beautiful English countryside. “On a Sunday I like to go for a ride on those quiet country lanes, find a pub, have a beer, and contemplate life.”
When Mark Uhrynuk graduated from Western Law, he decided that instead of qualifying in Canada, he would look for a job in New York. It was an unusual first step at the time, but he was set on an international career. Surprisingly, he received little encouragement from the legal community. “There were people who didn’t think that I was going to be able to do it,” he says. “I felt some pushback.”

Today, Uhrynuk is a partner in Mayer, Brown, Rowe & Maw, formed in 2002 by a highly successful merger between a U.S. and British law firm. For the past 18 years he has lived and practiced at the epicenter of international law: London, England.

Raised in Kenora, Ontario, Uhrynuk got his first taste of the broader world at Dartmouth College in New Hampshire, where he studied International Relations and Policy and played hockey. His plan after graduation was to play hockey in France and learn the language. Although he received offers, none were from France, so he and a friend developed a small wholesale fish business in New Hampshire while he pondered his next step. Unsure whether his future lay in law or business, he opted for Western’s joint LLB/MBA program. “It was the best combined program in Canada,” he says. “The Ivey MBA was well recognized, and the law school had a strong business and commercial focus.”

For Uhrynuk, the highlight of Western Law was his Small Group in first-year Contracts. He formed a close bond with his group members, and got to know Professor Rich McLaren. During the summer, he helped McLaren develop a new course that combined the case method approach of the Ivey Business School with Western Law’s rigorous legal analysis. His relationship with McLaren, who has remained a good friend, was influential in shaping his early career goals. “Working with Rich made up my mind that when I graduated I would initially focus on law, and then after a couple of years go back into business.”

Determined to land a job in New York, Uhrynuk hired a headhunter. A move he now feels probably limited his opportunities with the larger firms. Still, he ended up with some good offers, and accepted a position with Mayer Brown, a Chicago-based firm that was developing its New York office. After a couple of years of solid corporate experience, he began looking for some opportunities in business. When his colleagues got wind that he was talking to some investment banks, they encouraged him to think about an alternative: joining their fledgling office in London, England. “There was an element of adventure to everything I had done to that point,” he says, “and that same sense led me over here. I came with the intention of staying about two or three years.”

When Uhrynuk decided to move to London, Mayer Brown was looking to grow its small U.K. office and build its corporate practice. In the next few years, the firm expanded rapidly, and “almost by accident” developed a large presence in central Asia. Uhrynuk found himself spending a lot of his time doing privatization and investment work in places like Uzbekistan, Turkmenistan, Kazakhstan, and Kyrgyzstan.

Uhrynuk was in the process of opening a Moscow office in 1998 when the Russian market crashed. The firm decided to pull back from Central Asia and focus on Western Europe. It also began looking to partner with an “appropriate” English law firm. In 2002 it merged with Rowe & Maw to form one of the largest law firms in the world, with 1400 lawyers in seven U.S. and six European cities.

Now that Uhrynuk finds himself working within a large group of English corporate lawyers, he is tending to focus on his U.S. capabilities. “I am fortunate in that I am in the position to flip between English and New York law,” he says. “What keeps me going is every time I wonder what is the next challenge, there is always a next challenge.”

Uhrynuk lives with his family in central London by a large park, which makes his surroundings feel less urban. “With two girls eight and nine, he and his wife, a New Yorker, can’t take full advantage of the traveling opportunities that being in London offers.” “Still, it’s nice to be able to just jump on a train and go to Paris, or onto a plane and go to Prague,” he says.

Uhrynuk has stayed in touch with Western Law through his friendship with McLaren. A number of years ago he presented a case study to one of McLaren’s business law classes, and he is hoping to come back to the School to speak on an international topic. He feels it’s important to make students aware of the opportunities available. “The market has changed dramatically in law in the past 20 years,” he says. “If nothing else, I would like to give students this advice: don’t let anyone tell you that you can’t do something you want to do.”

When Heather-Anne Hubbell was at Western Law, she was sometimes asked by other students why she didn’t get picked on class. “The professors knew that if I came into class looking like death warmed over it wasn’t self-inflicted,” she says. “I had probably been sitting in Empanada with my kids all night.”

With two airmen, children ages four and one, and a husband who ran his own business in Toronto during the week, Hubbell didn’t spend a lot of time around the School. Still, she formed a deep bond with Western Law, and has very fond memories. “I loved the support of the staff,” she says. “The professors were always available and understanding.”

Hubbell started out in the fashion industry with a degree from Ryerson, but after her first child was born she was working with her husband part-time in his financial services business. When she began thinking about doing her MBA, she suggested law because she was so good at doing his firm’s legal work. Although she had pick of law schools, she settled on Western because London offered a good environment for their children.

At Western she developed an interest in business law and tax, and after graduating she took a job with the London firm of Siskind, Cromarty, Ivey and Dowler. After four years, she briefly set up her own tax practice before joining Canada Trust as in-house lawyer. Along the way she completed a Masters of Law in Tax at Osgoode Hall Law School. With the possibility of Canada Trust being acquired or moved to Toronto, Hubbell began thinking that a larger centre may be better for her career. Coincidentally, she saw an ad for a Canadian tax lawyer from a UK firm. Intrigued, she sent off her resume and received a call from a recruiter, Lorena Napata, also a Western Law classmate (now the principal of Napata Connex). “She told me that in England they were just begging for Canadian lawyers,” says Hubbell.

In March ‘98, Hubbell began work with Clifford, Chance, a large global law firm based in London, England. Her husband sold his business, and then joined her with their daughter and son, then 14 and 12, after school ended. At the time, business was booming, and Hubbell found herself immersed in a culture where lawyers endured long office hours. Still, she found the work fascinating, and was able to spend time with her family on weekends. “I learned so much,” she says. “For every year I got two years experience.”

After two years, she decided she was ready for a change, and joined the London based offices of Rabobank, based in The Netherlands. When interviewed for the position, she was asked why a Dutch bank would want to hire a Canadian lawyer with little UK tax experience. She answered: “You don’t need a lawyer who is an expert in Dutch Law or English law. You need a lawyer who understands how tax systems work in different countries, what questions to ask and how to find answers.”

In May 2004, Hubbell joined Citigroup as the Coordinator for the Capital Markets Approval Committee for Europe, Middle East and Asia, which looked at “multijurisdictional complicated structures.” At the end of March of this year she moved into her current role as “Interest Rate Exotics Global Project Coordinator,” a title that still makes her chuckle. Her job involves the global expansion of one of the bank’s businesses in the fixed income area. “My job is very business oriented,” she says. “I am not actually using any substantive law at all.”

Her job requires frequent trips between London, New York, Hong Kong, and Tokyo, but the international nature of the work makes it worthwhile, she says. “You never know what is going to cross your desk. No matter what you’re doing, it’s fascinating.”

She believes that her experience at Western Law, a long-standing centre of excellence in tax, helped give her the confidence to succeed in a global environment. “The tax professors were such good teachers, with a strong international perspective,” she says. “That must have made a difference, because I come across a lot of Western grads here.”

A Sense of Adventure
For Mark Uhrynuk, ‘86, there’s never a dull moment in international practice.

A Taxing Environment
Western Law’s specialty in tax law helped Heather-Anne Hubbell ‘91 succeed internationally.
Driving MADD Canada Forward

Western Law Professors Have Far-Reaching Influence

Western Law has had a significant role in efforts to reduce impaired driving deaths in Canada. The research generated by Faculty over the past 35 years has helped shape legislative policies and change societal attitudes towards impaired driving.

Western Law has a long history of interdisciplinary work in the fields of both drug and alcohol research. On his arrival at the Faculty in 1972, Professor Robert Solomon began a series of academic articles, book chapters and government reports on the illicit heroin trade and on cannabis policy. In the 1980s, his research focus shifted increasingly to alcohol law and policy. Professors Ben Hovius, Syd Usipich and Solomon co-authored academic articles and government reports on a broad range of issues including federal and provincial regulation of alcohol marketing, legal challenges to workplace alcohol and drug testing, the constitutional validity of provincial roadside administrative license suspensions, and alcohol-related civil liability. According to Solomon, “Given that my research interests cut across various legal fields, it has been essential to work with colleagues like Ben and Syd who have expertise in constitutional law, statutory interpretation, criminal law, and evidence.”

Most of the projects involved the analysis of both legal and social science research. In addition to generating traditional academic publications, the research often served as the basis for a legislative committee or government minister, or a policy position for a public health or similar agency. Most of the projects were funded externally and involved law students in various capacities ranging from proof-reading to initial drafting. In approximately 40% of the projects, the student contributions resulted in their acknowledgment as a co-author. Central to these projects has been the production of a series of publications ranging from guides of 100 pages with detailed endnotes to one-page pamphlets for the general public. To date, the issue of alcohol-related liability has generated by far the greatest public interest. For example, over 400,000 copies of a version of Solomon’s one-page pamphlet on social host liability have been distributed. “The public demand for this information remains high,” says Solomon, “and the investment in time is worthwhile if the pamphlets encourage licensed establishments, service clubs, municipalities, universities and social hosts to adopt more responsible practices in providing alcohol and hosting alcohol-related events on their property.”

Solomon began working informally with the predecessor of MADD Canada and other similar grassroots organizations in the early 1980s. As MADD Canada matured and grew into a national organization, its focus expanded to include not only assisting victims but also reducing impaired driving. It also recognized the importance of basing its policy initiatives on the best available traffic safety research and rigorous legal analysis. The growing sophistication of the organization has facilitated the establishment of a mutually-beneficial relationship between MADD Canada and researchers in the Faculty of Law.

In recent years, Professor Solomon and several newer faculty members have been working closely with MADD Canada. In addition to providing ongoing research funding, the relationship with MADD Canada ensures that the Faculty members’ work will be broadly disseminated and brought to the attention of senior federal and provincial officials who can implement proposed reforms. Working with MADD Canada also provides unique opportunities to be involved with cutting-edge issues and cases.

Professor Erika Chamberlain, while still a student, was the lead or co-author of several major studies. These led to research papers that were presented at international conferences and published in leading injury prevention journals and Canadian law reviews. One of the projects on which Professor Chamberlain was lead author has served as the basis for a private members’ Bill that was introduced in the Senate last November. While the Bill died on the order paper, Solomon is relatively optimistic that it will be re-introduced in this or the next legislative session. Chamberlain also co-authored a comprehensive recently published by MADD Canada entitled Youth and Impaired Driving: Opportunities for Progress.

Professor Stephen Pitel co-authored comprehensive reviews of provincial and territorial highway traffic legislation in 2003 and 2006. The studies identified the most promising traffic safety initiatives from Canada and abroad and summarized the measures that the provinces and territories could take to significantly reduce impaired driving deaths and injuries. These reports will provide the basis for face-to-face meetings with the provincial and territorial Attorneys General and Ministers of Transport. Since the inception of this initiative in 2000, there have been more than 80 amendments to provincial and territorial highway traffic safety statutes and regulations. With colleagues at Western Law, Professor Pitel assisted senior counsel at Lerners LLP in representing MADD Canada as an intervenor in the Childs v. Desormenex case at both the Court of Appeal for Ontario and the Supreme Court of Canada. Professor Pitel co-authored each of MADD Canada’s facts on the two intervention motions and the two appeals.

“Believe my colleagues and I have had unique opportunities to use our legal skills to influence legislative policy and contribute to reducing impaired driving deaths in Canada.”

Robert Solomon

Prof. Erika Chamberlain, Robert Solomon and Stephen Pitel are influencing legislative policy in Canada.
A piece of the puzzle

A Political Theory of the WTO

The WTO Agreement has attracted an immense amount of controversy over the past decade, but from a legal perspective it continues to be something of a puzzle.

BY PROF. CHI CARMODY

To put this question in some context, it’s useful to remember that we have a political theory of the WTO Agreement, that is, an arrangement designed to reinforce international peace by bringing producers and consumers in different countries together. We also have an economic theory of the WTO Agreement, that is, as a series of trade concessions exchanged among countries that are designed to promote efficiency. But we don’t yet have a legal theory of the WTO Agreement, that is, an integrated set of ideas to explain the treaty as a matter of law and justice. The lack of definition makes the treaty an easy target.

My thinking has led me to see if there’s a way to conceive of the treaty as a legally coherent whole. Recently I’ve come to the conclusion that there is.

We normally think about the WTO Agreement as being about “trade”, and of course, in some sense it is. Producers and consumers trade across national boundaries every day. An auto parts manufacturer in Brampton might conclude a deal to send dashboard electronics to an auto plant in Indianapolis. An architect in Burnaby might conclude a deal to supply architectural drawings to a construction project in Shanghai. These examples demonstrate that freer trade is an aim of the WTO Agreement.

But the foundation of my thinking about a theory of WTO law is that what the treaty is really concerned about is not trade today, but rather conditions about government behaviour in relation to trade tomorrow. The parts manufacturer in Brampton or the architect in Burnaby are only willing to enter into the deals that they do because they know what to expect – that certain conditions will prevail in future. In the case of the manufacturer it might be that the Canadian parts are entered into the United States at a pre-determined rate of duty. An architect might need to know that the Chinese government is going to allow Chinese firms to contract for foreign architectural services.

The point to be drawn from this insight is that principal task of the WTO Agreement is the protection of expectations about the trade-related behaviour of governments. These expectations are essentially future-oriented, and because of that, they’re also hard to quantify. In fact, the WTO itself cannot accurately calculate what the state of international trade is at any one time.

So, that’s one function of the WTO Agreement: the protection of expectations. But there’s something else at work as well. This is the adjustment to realities. The protection of expectations is all well and fine, but occasionally the treaty – indeed, the freedom to derogate from this general expectation, is an integral part of the WTO Agreement. No country would have agreed to the treaty otherwise.

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Over time then it seems accurate to recognize that their interaction can be thought about in a third way: as promoting interdependence. I’ve already mentioned the fact that the WTO Agreement makes conditions right for producers and consumers in different countries to do business. In doing so, however, people have come to depend on one another, something which has led to global supply chains and just-in-time delivery. That interdependence is vitally important. The philosophes of eighteenth century Europe recognized that trade tends to civilize. Somewhat later the German philosopher, Immanuel Kant, made his famous observation that countries which trade with each other rarely go to war. It’s no a coincidence that Saudi Arabia is the latest country to join the WTO, and that Afghanistan is negotiating its own entry at the moment.

From all of this we can see that a theory of the treaty as law is really based on the rationalization of three functions, none of which is immediately evident. We have to think deeply and carefully.

In saying this I do not want to be taken to have been described something perfect. The theory of WTO law conceives of the law’s subjects – countries – as formally equal with each other. A sharp eye will recognize, however, that the treaty’s equality masks great inequality: some WTO countries are rich, but most are very poor. Few people in developing countries have the same expectations of doing business that people in Canada do, although this is often for reasons such as corruption or poor infrastructure that have little to do with the WTO’s mandate. However, it is these sorts of considerations that have prompted an “Aid for Trade” agenda in the WTO recently. That agenda would see greater coordination between the WTO and World Bank, with enhanced aid commitments to developing countries being enforceable through WTO dispute settlement.

Yet “Aid for Trade” and other similar initiatives still lie in the future. My current aims are more modest: they are to set out a theory of what WTO law is. As I’ve suggested, the theory is discernible if we are prepared to think in wide perspective and to piece the various parts together. This may help to determine what WTO law should be. 

Prof. Chi Carmody pieces together the WTO agreement

To put this question in some context, it’s useful to remember that we have a political theory of the WTO Agreement, that is, an arrangement designed to reinforce international peace by bringing producers and consumers in different countries together. We also have an economic theory of the WTO Agreement, that is, as a series of trade concessions exchanged among countries that are designed to promote efficiency. But we don’t yet have a legal theory of the WTO Agreement, that is, an integrated set of ideas to explain the treaty as a matter of law and justice. The lack of definition makes the treaty an easy target.

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Chris Nicholls will help Western create a centre of excellence in business law

When Christopher Nicholls was at Harvard in the spring of 1997, he had a defining moment: it came when Robert Mer- ton, Finance Professor (and later Nobel Prize winner in Economics), mentioned to him that he had once been involved in a sophisticated finance transaction where the lawyers involved—some of Wall Street’s brightest and best—stumbled when amending the deal docu-
ments. They didn’t fully understand why the financial economics of the deal required that documents be crafted in one specific way. “I
understood the frustration he was describing,” Nicholls explains. “There is a conventional legal language and a legal paradigm, and they tend to lay the dynamic world of innovative finance.”

That was the moment Nicholls decided to return to Canada to teach business law. At the time Nicholls was completing graduate work at Harvard, on leave from his law firm in Bermuda. “There are some terrific busi-
ness law professors who have never practiced law. But I realized there was also a compelling need for experienced business lawyers to make a serious commitment to help the next generation of legal professionals integrate real-world business lawyering skills with modern financial theory and innovation,” he says. “Certainly I know that teaching at a university would be a major financial sacrifice, as all public service work is. But public service is an important part of legal professionalism.”

With that goal, Nicholls has become one of Canada’s leading scholars and teachers in the corporate and business law field. Until recently with Dalhousie Law School, Nicholls is joining Western to help it achieve its goal to be the preeminent business law school in Canada.

Originally from Orillia, Ontario, Nicholls is a graduate of Osgoode Hall Law School. After practicing corporate and securities law for two major law firms in Toronto, he joined a Bermudian firm that

was looking to attract more international corporate finance work. “Bermuda had become a real hub for certain kinds of finance, and is one of the most important re-insurance centres in the world,” says Nicholls. “The firm was looking for international lawyers with significant corporate expertise who could train young Bermudians and run deals out of Bermuda rather than take more limited roles in deals run primarily out of New York or London.”

There were two very hot finance topics in Bermuda at that time: developing innovative ways of delivering re-insurance through the capital markets, and finding new securitization solutions to finance major public proj-
ects. Nicholls took a leave from his firm to study at Harvard, trying to learn more about innovative finance solutions that would benefit his international clients and the government and people of Bermuda.

Nicholls’ decision moment at Harvard did not come out of the blue. As a student and practitioner, he had often thought about a career in academia, and never missed an opportunity to teach. He was an instructor in the Business Law Section of the Law Society’s Bar Admission course, and he taught a course in corporate finance and securities regulation at Osgoode Hall Law School.

After graduating from Harvard, Nicholls spent nine years at Dal-

housie Law School, where he made an enormous contribution to the development of its corporate law program. In addition to being ap-
pointed the first holder of the $a million Purdy Crawford Chair in-

Business Law, he expanded the business law curricu-

lum, and provided over three prestigious visiting profes-
sor and visiting lecture programs. Under his leadership the School also created a business law specialization program, the first of its kind in Canada.

Nicholls was also a two-time recipient of the Excellence in Teaching Law Award, and was awarded the class ring by the graduating LL.B. class of 2000, one of his proudest accomplishments. Teaching, he says, is one of the most “selfish” of jobs, and reminds him of being a par-
et. “You get a chance to relieve the excitement of young people finding out about things for the first time; he
says. “I never got tired of that, especially when I have the luxury of teaching such tremendously bright and motivated students. It’s a very energizing experience.”

With research interests in corporate finance, securities, capital markets, and the regulation of financial institu-
tions, Nicholls is a prolific scholar. He has written three books, Corporate Finance and Canadian Law (Carwell, 2000), Securities Law (Erwin, 2002), co-written with Jeffrey MacIntosh, and Corporate Law (Emond-Mont-
gomery, 2009). He is currently putting the finishing touches on a book about mergers and acquisitions, to be published by Irwin Law, and is under contract with Lex-

ius for a book on regulating financial institutions.

Nicholls writes for scholarly, student and practitioner audi-
ences. His book on securities has been used as a text by law schools across the country, whereas his book on corporate finance, focused on modern financial innovation, is geared to practicing professionals. His recently published book on corporate law takes both a doctrinal and theoretical approach, and is intended for people learning about the subject for the first time as well as young practitioners trying to bring the pieces together. “My primary re-
search interest is in the financial sector—financial institu-
tions and the capital markets;” he says, “and in particular integrating transactional approaches with insights offered by modern financial economics. It’s common today for legal scholars to describe their research interests as lying at the intersection of two related fields. I sometimes like to joke that my research interests lie at the intersec-
tion of King and Bay.”

Nicholls is looking forward to making Western Law his new home. “I know that experienced business law schol-
ars are very much in demand at every law school—in Canada and elsewhere. What excited me about Western Law is its aspiring law school’s centre of excellence,” he says. “Western is the one and only law school in Canada—perhaps in North America—that has chosen to have its own business law specialization program, the first of its kind business law program in the global environ-
ment.”

Nicholls believes that Western Law’s focus on business law will benefit other programs and research interests across the Faculty as well. “Business Law in the Global Environment means much more than simply prepar-
ing people to practice on Wall Street, Bay Street or the U.K.; I want to work with other faculty members to develop exciting initiatives at Western that will enhance all areas of scholarship,” he says. “I think we can be the best business law program in Canada, and also have an excellent and richly diverse curriculum in both the traditional and trend-leading fields of legal study and critical thinking.” Nicholls is an exciting challenge and an important goal,” he

Girgis found the School to be exactly what she was looking for. “Western Law is full of the warmest, most accessible faculty members I’ve ever met,” she says. “This culture also breeds a sense of closeness and friendship among the students.” Now a first-year professor in business law, Girgis is looking forward to recreating the same kind of environment in her classes that she enjoyed so much when she was a Western Law student.

When Girgis first came to Western, she thought her interests would tend toward international human rights or criminal law, areas that intrigued her. To her surprise, she soon discovered both a talent and passion for corporate and commercial law. The silver medalist, she also won an award for the highest stand-

ing in several corporate, commercial, income tax, and insolvency courses.

After graduating, Girgis served as a Law Clerk to the Hon. Mr. Justice Edgaridge, a Western Law grad of the Federal Court of Appeal in Ottawa. She found it an “innovative experience” to learn what judges find relevant and how they make their decisions. “I also discovered that I really enjoyed policy issues, which forced me to think more about the basis of the law and how it should work.”

The next stop for Girgis was the University of Cambridge in the U.K., where she completed her LLM under a prestigious Right Honourable Paul Martin Scholarship. Awarded to only two people each year, the Paul Martin Scholar-

ship was founded by the Canadian Institute of Advanced Legal Studies and the Cambridge Commonwealth Trust. “Cambridge was fascinating in every way, not just scholar
cships, but also the culture, which is full of the warmest, most accessible faculty members I’ve ever met,” she says. “This culture also breeds a sense of closeness and friendship among the students. She also wants to get to know her students well. “My experience here has taught me that if a professor is accessible and excited about the subject matter then students are much more excited about the law.”

Open Door

In her first year of teaching business law, Jassmine Girgis ’04 wants to build on the Faculty’s unique culture
The fight against wrongful conviction

BY PROF. CHRIS SHERRIN

It is often said, rather dismissively, that everyone in jail claims to be innocent. The implication, of course, is that an assertion of innocence by a resident of our country’s penal institutions is not worth much. In my experience, that is not really true.

Going in, I had expected to receive numerous (perhaps even endless) applications from individuals making implausible claims of innocence in the face of damning evidence to the contrary. I had assumed the clinic’s major problem would lie in separating the wheat from the chaff, in finding that odd plausibly claim of innocence in a pile of more fanciful assertions. But a few months into the job I came to a strange realization: our problem was not that we were being flooded with implausible claims of innocence, but that we were being drowned in claims of guilt. To be sure, most of our applicants made a facial claim of innocence, in their application form they said something to the effect of “I’m innocent”. But when we scratched the surface of that claim we very often (and often very rapidly) determined that they were not actually alleging innocence, in the sense that they did not commit the crime. They were most often claiming that they had been treated unfairly in the prosecution process, or that their lawyer had = failed them, or that they were only guilty of six of the seven offences of which they were convicted (or, occasionally, that the prosecution, police, judge and some Member of Parliament had conspired to get them). I was amazed at how rare a genuine claim of innocence was made, and how easy it was to uncover a fake one; you usually only had to ask the applicant to explain what he had done prior to his arrest. At one point I almost began to wish that our clients would lie to us more, so that we would have more of a challenge.

From this experience I drew two conclusions. First of all, no one in jail claims to be innocent. Secondly, and more importantly, real claims of innocence are deserving of real consideration. Without question, there are individuals inside and outside of our prisons who falsely claim to have been wrongly convicted. But serious claims of innocence cannot (or should not) be lightly dismissed. A claim by itself certainly does not prove innocence, but it is a relevant and significant piece of evidence. It is especially significant when it works to the detriment of the claimant. Within the correctional system there are actually powerful forces to admit guilt. Most importantly, parole is usually only granted to those who confess and bemoan their guilt. So when a person not only claims innocence but maintains that claim to their prejudice we should sit up and take notice. Their claim is worthy of our attention. In fact, I sometimes wonder how many wrongly convicted inmates refuse to claim innocence for fear of jeopardizing their chances of getting parole.

Another lesson that I learned is how unbelievably difficult it is to prove innocence, even if only to a reasonable degree of certainty. The wrongly convicted who have been exonerated so far very often owe their good fortune to good fortune. They were able to prove their innocence because they were lucky. A sample of biological material was found at the crime scene and retained by the police long enough for advances in scientific (usually DNA) technology to make it useful and probative. The true perpetrator had a crisis of conscience and fessed up to his sins to someone respectable. The case was entered into the National DNA database. The wrongly convicted knew of their innocence in the face of damning evidence to the contrary but was not heard of for so long or was someone that the authorities, got left in the file, available to be happened upon by an interested person many years later. I do not mean to minimize the incredibly important contributions of lawyers, investigators, family members and others who worked to free the innocent convicts. I simply mean to suggest that hard, intelligent work is often not enough. You sometimes need the assistance of Lady Luck, and she is not always available. There is, of course, something terribly wrong with this. Our criminal justice system should not have to rely upon chance to correct its mistakes. I am not the first person to make this point, but it deserves to be repeated. The simple reality is that if we really want to fix the problem of wrongful conviction we have to prevent the convictions from being entered in the first place. Corrections after the fact are far too unpredictable.

keeping their files. Crown Attorney’s offices sometimes keep a lot of information and sometimes not so much. Some police forces and forensic laboratories are very careful to hold on to evidence as long as possible; others have ambiguous or non-existent guidelines, with little supervision of whether or not, for not having retained material. The simple reality is that we have never had many clear rules on the books for advances in scientific (usually DNA) technology to make it useful and probative. The true perpetrator had a crisis of conscience and fessed up to his sins to someone respectable so far very often owe their good fortune to good fortune. They were able to prove their innocence because they were lucky. A sample of biological material was found at the crime scene and retained by the police long enough for advances in scientific (usually DNA) technology to make it useful and probative. The true perpetrator had a crisis of conscience and fessed up to his sins to someone respectable. The case was entered into the National DNA database. The wrongly convicted knew of their innocence in the face of damning evidence to the contrary but was not heard of for so long or was someone that the authorities, got left in the file, available to be happened upon by an interested person many years later. I do not mean to minimize the incredibly important contributions of lawyers, investigators, family members and others who worked to free the innocent convicts. I simply mean to suggest that hard, intelligent work is often not enough. You sometimes need the assistance of Lady Luck, and she is not always available. There is, of course, something terribly wrong with this. Our criminal justice system should not have to rely upon chance to correct its mistakes. I am not the first person to make this point, but it deserves to be repeated. The simple reality is that if we really want to fix the problem of wrongful conviction we have to prevent the convictions from being entered in the first place. Corrections after the fact are far too unpredictable.
Making a world of difference

Student internships go global

Western Law student David Aaron is talking about his internship with the newly formed Caribbean Court of Justice (CCJ) this summer. The CCJ was inaugurated in April 2005 as a court of last resort for member states of the Caribbean Community, replacing the Privy Council. Attending the inauguration were three Canadians: the Rt. Hon. Chief Justice Beverley McLachlin, Minister of Justice Irwin Cotler, and Dean of Western Law Ian Holloway. Thanks to the efforts of Dean Holloway, the CCJ had its first legal interns this summer, Western Law students David Aaron and Jonathan Weisman.

The internship program with the CCJ is one of a number of opportunities for Western Law students to experience international law first-hand. This past summer, the Faculty of Law’s International Law Internship Program (ILIP) sent six students to the Special Court of Sierra Leone in Freetown, Sierra Leone, the International Labour Organization in Geneva, Switzerland, the Inter-American Commission on Human Rights in Washington D.C., UNAIDS in Bucharest, Romania, and the CCJ in Trinidad.

Western Law is one of only a few law schools in Canada that offers a formal international law internship program. Professor Valerie Oosterveld, a former legal officer in the UN, Human Rights and Economic Law Division at the Department of Foreign Affairs, is spearheading ILIP, which was launched in March 2006. Oosterveld, who also directed the International Human Rights Program at U of T, got her start as a law intern in the early ‘90s with the UN and the International Commission of Jurists. "There is a major difference between learning about the UN in a classroom and learning about the UN by working there," she says.

Oosterveld is working to build the program to provide more internships for students. She is currently looking at the World Trade Organization, the World Health Organization, and institutions like the International Criminal Court as potential new internship locations. To expand the program, she is also hoping to raise more funds. Currently, all the internships are funded by Western Law, except for the Robert White International Student Internship in Labour Law.

International law internships benefit not only students, but also the firms that eventually hire them, says Oosterveld. "International law is expanding very quickly, so students who have the opportunity to do an internship will have an advantage in terms of experience." Andrea Marlowe, a former legal intern at the International Criminal Court in the Hague, now works for the World Health Organization.

"The CCJ internship has four main qualities: gaining experience at a court, working closely with highly qualified jurists, learning about multiple foreign legal systems, and doing so in an exotic and radically different social environment. "Cases ranged from an appeal in a capital case to a dispute over inheritance. We dealt with questions on the treatment of Crown prerogative, incorporation of treaties, and human rights in respect of capital punishment. "In addition to a small project on the use of videoconferencing with witnesses, we were asked to review and elaborate on the court's rules of audience. The project presented an open slate for research and was an excellent opportunity to practice the kind of open and analytic thought that we are rarely called upon to use at law school - I certainly enjoyed it." — Jonathan Weisman

Excerpts from student reports on their experience in the International Law Internship Program

Jonathan Weisman
Caribbean Court of Justice, Port-of-Spain, Trinidad

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Andrea Marlowe
Special Court for Sierra Leone, Freetown, Sierra Leone

"While I was living in Freetown for my internship, I had the opportunity to tag along on a hunting trip to Lungi Island, and we were wandering through the small farming villages there. We stopped to rest in one village, and were immediately surrounded by curious and smiling Mende people. One woman approached me with a shy smile and handed me her infant daughter to hold. While I was holding her little girl, I thought - what a different thing it is to hold a baby in a country with one of the highest infant mortality rates in the world. With any other baby I had ever held, I had taken for granted that he or she would grow up strong and healthy - with this one, there was a significant chance that she might not grow up at all. Although I thought I understood the perilous situation of all children born in Sierra Leone from a study of development statistics, I realized while holding that baby, that I really had no idea. When you have the opportunity to travel to a foreign country and live what you have only previously studied in an academic sense, you understand it in a richer, more meaningful, and often entirely different way." — Andrea Marlowe
"The world is a book, and those who do not travel read only a page."

St. Augustine

Corinne Brule
Inter-American Commission on Human Rights, Washington D.C.

“The people I worked with at the IACHR were some of the most passionate and devoted lawyers I have met, and their dedication to protecting human rights was truly inspiring. They shared their personal stories, which not only made me feel fortunate to have grown up in Canada and away from some of the atrocities they faced, but also made me more aware of the importance of the work being done at the Commission. With this kind of work, a support system is key. I found the IACHR to have a strong “family” feel, in that everyone was helpful, worked together and was very supportive. As well, they took the time to have fun together and always made sure no one person was under too much stress.”

David Aaron
Caribbean Court of Justice

“My clerkship at the Caribbean Court of Justice has been an extremely rewarding and valuable experience. I have had the opportunity to learn from some of the most respected jurists in the Caribbean region, including the former Chief Justices of Trinidad and Tobago and Guyana, both of whom now sit as judges of the CCJ. I am proud that my research and work over the course of the summer has assisted the judges, particularly as they prepare their judgment in the landmark constitutional case of Boyce and Joseph. Law students at Western are truly privileged to have such an incredible resource at their disposal.”

Carolyun Janusz
International Labour Organization, Geneva, Switzerland

“The internship was an invaluable experience. Over the course of fourteen weeks, I was able to work on a variety of projects that allowed me to increase my knowledge regarding a variety of issues and significantly improve my researching and writing under short-term deadlines. Sharing the new experiences of living abroad, traveling and interning at the ILO with other interns from around the world was absolutely as valuable as the internship work. The insight and stories they contributed in response to shared new experiences while traveling or at the ILO, or to my requests for help in my projects impressed me immensely.”

Ciara McLean
UNAIDS and Save the Children, Bucharest, Romania

“This past summer I gained a greater understanding of the Laws and Regulations in a country only 15 years out of communism. It was not only a crash course in a very rigid civil law system but also a great lesson in the patience necessary to maneuver within it. I learned a great deal of the laws and regulations of children protection in Romania as well as the European Union and the subsequent interaction between the two. I saw that those most seriously affected are always the most vulnerable, and knew immediately how critical it is for lawyers and legal experts to become involved to bring about change.

“The work experience, combined with my volunteer experience, offered me a hands-on approach to the public international human rights - child protection law that I will practice upon graduating from law school. For those students who do not know where their legal career will take them, this kind of internship opportunity will help them fine tune their decision.”

I can not begin to stress enough how valuable this internship opportunity was for me. It dramatically increased my determination, focus and confidence as I continue to forge my own path towards my career in International Law.”

1. Corinne Brule at the Inter-American Commission on Human Rights in Washington D.C.
2. Corinne Brule at the Inter-American Commission on Human Rights in Washington D.C.
3. Ciara McLean in Bucharest, Romania where she worked for UNAIDS and Save the Children.
For Andrea Gonsalves ‘05, clerking in Canada’s Top Courts is a “phenomenal experience.”

When Andrea Gonsalves was in Grade six she took part in a debate on the resolution, “when eating smarties, eat the red ones first.” She became quite passionate on the subject, and sometimes shouted to get her point across. She never forgot the words of her teacher: “Andrea, you’re too aggressive to be a good debater, but I think you would make a great lawyer.”

Gonsalves still carries that advice with her as she continues to hone her advocacy skills. At Western Law, she loved mooting, and Michael Douglas, a professor in the program, was a mentor. She attended a panel of judges and former clerks put on by Western’s career services office, and was hooked. She applied to jobs at both the Ontario Court of Appeal and Supreme Court of Canada. When she was nearly accepted by the Supreme Court, she tried again, this time successfully.

A day in the life of a clerk is always different, says Gonsalves, who as one of 12 clerks worked with four different judges during her time with the Court of Appeal. “In any one day I might go from family law to criminal bankruptcy to pensions, and then cup it off with an enforcement of Letters Rogatory. It’s a whole day in my pursuits.” She’s also been involved in a number of cases: “I really appreciate having had an exposure to that human dimension.”

She’s also grateful to Western Law for equipping her with the skills she needed to clerk, so she didn’t have to “learn on the go.” She found Western’s Legal Writing and Advocacy program a great preparation, along with the opportunity to do major research papers in many of her courses. She was also inspired by the enthusiasm of her professors. “They really are passionate about the law, and that got me excited about it too.”

At the Supreme Court of Canada Gonsalves is one of three clerks working with The Honourable Mr. Justice Louis LeBel, from Quebec. She found her first month of clerking to be quite intimidating. “As someone just out of law school, I asked myself, ‘who am I to be interacting with judges?’ But as they encouraged me to foster relationships with them I became more comfortable, and that helped ease the process.”

“Although clerks do not influence decisions, judges still want to know what we think. Judges like to discuss and even debate with us. They expect us to step up to the plate, and yes, they do listen to our perspectives.”

His work as a clerk included a number of constitutional law cases that involved the Charter of Rights and Freedoms. He found the work demanding but very satisfying. “Public policy areas like this can be very challenging because you are often faced with a complex case that you have to break down in a way that is clear, precise, and balanced.” He adds, “Judges are very good at what they do, of course, so your work has to be top notch.”

“I found a lot of mentors at the Court,” says Douglas. “The clerkship experience is indispensable for a future litigator. The opportunity to sit behind the Bench and interact with judges on a personal level is one that I’ll cherish forever. Fact is, I won’t be on the other side of the Bench again unless I’m a judge.”

The clerkship experience is indispensable for a future litigator. The opportunity to sit behind the Bench and interact with judges on a personal level is one that I’ll cherish forever. Fact is, I won’t be on the other side of the Bench again unless I’m a judge.
As an upper-year student at Western Law, Rande Kostal ’81 took a seminar course in legal history. It led to an important insight: “There can be no profound understanding of our law without history, and no profound understanding of history without law.”

“It’s a pretentious aphorism, but I stand by it,” says Kostal, who has been a professor at Western Law for 20 years. His new book, A Jurisprudence of Power, Victorian Empire and the Rule of Law, employs historical and legal scholarship to shed light on one of the most important questions of our time: how to exercise political power within the rule of law.

When Kostal first came to Western Law, after two years of undergraduate history, he felt that he was leaving behind his dream to become an historian. In those days there were few jobs for scholars, and Kostal felt that the practice of law was a safer way to make a living. During his articling year, though, he decided to take one more stab at history, and talked his way into a Master’s program at McMaster University. After completing his Masters, he received his call to the bar and joined a Hamilton law firm. Shortly after he began practice, he received a telegram from England informing him that he was the recipient of a full scholarship to study law and history at Oxford University.

Kostal’s doctoral dissertation at Oxford focused on the role of law and lawyers in the industrial revolution, and later became a book, Law and English Railway Capitalism. The book won the 1995 Ferguson Prize, awarded by the Canadian Historical Association, for the best book written by a Canadian on a subject other than Canadian history. After Oxford he accepted a fellowship at McGill, and then was recruited to Western Law. While doing his doctoral research, Kostal came across newspaper accounts of the bloody revolt in the British colony of Jamaica. The peasantry, mostly former black slaves, suffered terribly from drought and poverty, a plight made worse by religious and political tensions. Enraged by a blatant miscarriage of justice, a group of black peasants attacked a parish courthouse in 1865 and killed some white officials, including the Magistrate. The colony’s Governor, Edward Eyre, declared martial law, and initiated a reign of terror. The brutal suppression resulted in the shooting and hanging of hundreds of innocent blacks, as well as the execution of the most prominent black leader in the country, who had willingly come forward to be exonerated.

Jurisprudence of Power, the runner-up for this year’s Ferguson Prize, follows the legal and political controversy that erupted in England when news of the massacre reached its shores. Liberal politicians, radicals, philanthropists, and church leaders formed a coalition that pressed to investigate the events and charge Edward Eyre with murder. On three occasions the matter was laid before a Grand Jury, which in each instance refused to indict. “While the Jamaica controversy had its historians, no-one had ever made a serious study—
of the important legal dimensions of the episode,” says Kostal. “That left me with a lot of good timber to cut.”

As an imperial state, England had to wrestle with a contradiction: how to dominate foreign lands and peoples while keeping faith with its commitment to the principle of government by law. The attempt to prosecute Edward Eyre for the murder of Jamaican rebels became one of the most pressing challenges of the day. Although he admits it’s a daunting undertaking, Kostal is excited by his research. “The beauty of law. The attempt to prosecute Edward Eyre for the murder of Jamaican rebels became one of the most pressing challenges of the day. Although he admits it’s a daunting undertaking, Kostal is excited by his research. “The beauty of

“fort liberal nations, the tension between power and law never goes away.”

The articles in this collection focus on the intersection of competition law and class actions. They consider the role that class actions can play in achieving an optimally competitive market for goods and services and in providing compensation for those who have suffered as a result of anticompetitive conduct. They examine key issues such as the appropriate test for class action certification and acceptable methodologies for calculating damages, and in doing so, bring the views of legal academics, economists, and experienced practising lawyers to bear.

This book grew out of a symposium held at the Faculty of Law at the University of Western Ontario in late March 2005. The symposium brought together Canadian academics working in either the competition or class action field, practitioners involved in competition class actions, judges who had heard some of these cases, and American academics who contributed a valuable comparative perspective.

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Homecoming 2006

More than 15,000 alumni celebrated this year’s homecoming and despite the soggy weather, purple spirit flourished.

Western Law alumni enjoyed a buffet breakfast and a tour of the new wing of the Law School. It was then over to TD Waterhouse stadium for a BBQ lunch in the Law All Classes Alumni Tent where alumni, faculty and current students mixed and mingled. Alumni from the classes of ‘66 and ‘81 renewed old friendships as they celebrated their 40th and 25th anniversaries.

A damp but spirited crowd cheered on their Mustangs to a 28-18 victory over the Windsor Lancers. With the win, the Mustangs remain undefeated on home turf.

Saturday evening brought numerous reunions, among them the Golden Anniversary Dinner at Great Hall for the graduates of 1956 or earlier and the 100th anniversary celebration of the Gazette at the Wave.

Western Law students Andre Kuyntjes, David Aaron, Soniya Bhasin, Nicole Washington, Roxanne Chow, Erin Rankin Nash, Michael Paoula ‘06 with Acting Dean Craig Brown

Nathan Ferguson ‘03, Sacha Babic ‘04, Dara Lambe ‘03, Erin McDermid ‘03, Karl McNamara ‘06 with Acting Dean Craig Brown

Class of ‘66
Graham Scott, Larry Wright, Bruce Walsle, George Chris, John Whaley, John Whaley ‘66 and UWOLAA President Rick Morelli ‘95

Class of ‘81
Frank Ricci, Linda Henry, James Lebo, Derek Schmuck ‘82, Steven Hartley, Rande Kostal

Class of ‘76
Pierre Label, Betty Label, Tony Seth, James Shanks, Gayanne Phelan, Lenore Rowntree, John Sproat, Mike Spears, Linda Spears, Andre Raven, Ron Durand, Isabel Weeks Lambert, and Acting Dean Craig Brown

Class of ‘96
Supporting Excellence

Western Law receives a $300,000 donation from Fasken Martineau

“A major gift and will have a major impact,” says Acting Dean Craig Brown. “It will enrich the education of Western law students by increasing their opportunities for study and work experience abroad and for practical legal experience. A gift of this magnitude is invaluable in what it helps us do.”

In recognition of this generous gift, Western Law named the Moot Court Room the Fasken Martineau Moot Court Room. The Moot Court Room has launched the career of many a great advocate, says Brown. “It’s a place of special significance in the law school. Every Western Law student remembers forever the rite of passage of that first moot. For generations of students to come, those memories will be associated with the name Fasken Martineau.”

Walter Palmer, Managing Partner in the Toronto office of Fasken Martineau spoke about the moot experience from a legal perspective. He also delighted that Fasken Martineau has had the opportunity to participate in the continuing development of Western Law as one of Canada’s premier law schools. Our firm has had a long association with Western and we look forward to working together with the Law School to find opportunities to continue to build our relationship.”

Madame Justice Lynne Leitch (’78) spoke eloquently about the importance of the Moot Court Room to the school and Western Law students Jared Gordon and Jesse Langdon spoke about the most experience from a student perspective and thanked Fasken Martineau for their support of legal education.

Attending the naming ceremony were Western Law alumni from Fasken Martineau including John Morin (Managing Partner) (’68), Christine Tabbert (’98), Munier Saloojee (’99), Cheryl Dusten (’99), Nadia Jandali (’09) and Stacey Stoneham (’09). Also representing Fasken Martineau were Wally Palmer (Managing Partner) and Sally Woods (Co-chair student committee).

Fasken Martineau is a leading national business and litigation law firm in Canada. With more than 500 lawyers in offices in Vancouver, Calgary, Toronto, Montreal, Quebec City, New York, London and Johannesburg, they provide services to clients in virtually all areas of the law, on a national and international basis. The firm has a strong presence in the Toronto office, two in Vancouver and one in Calgary.
Peter Barton
During the last academic year, Professor Barton's work as co-editor of the internationally known Canadian Journal of Law and Jurisprudence continued, and the second edition of his monograph, 'Canadian Civil Procedure,' was published by Kluwer in Belgium.

Craig Brown
Professor Brown is Acting Dean for a year while Dean Holloway is on leave. For the previous three years he had been Associate Dean (Academic). He continues to write updates for the looseleaf edition of Insurance Law in Canada and the 2nd edition of his book, Introduction to Canadian Insurance Law, was recently published by Butterworths.

Chi Carmody
In 2005-06 Professor Carmody was Emile Noel Fellow at the Jean Monnet Centre, NYU Law School. His recent work has appeared in the European Journal of International Law and the American Journal of International Law. He has also presented work recently at NYU Law School, Temple University Law School, George Washington University Law School and at the Biennial Meeting of the European Society of International Law in Paris. He is currently working on two books: A Theory of WTO Law (Cambridge University Press) and a new book on international law and international rights, and published articles in the European Journal of International Law and the American Journal of International Law.

Erika Chamberlain
During her first year at Western Law, Professor Chamberlain continued her work on impaired driving law and policy. Along with Professor Solomon, she completed a major study for MADD Canada and Allstate entitled Youth and Impaired Driving in Canada: Opportunities for Progress, and presented their research at the Ontario Injury Prevention Conference. She also assisted with MADD Canada's intervention in the Supreme Court of Canada's social host liability case (Child v Dearman) and participated in a Department of Justice Roundtable on the Carter Defence. Professor Chamberlain presented a paper at the Emerging Issues in Tort Law conference hosted by Western Law in June and, together with Professors Neyers and Pitel, edited the conference proceedings, which will be published by Hart in 2007.

Misty Clapton
Professor Clapton presented a paper on post-litigation narratives at the Association for the Study of Law, Culture and the Humanities Annual Conference in Syracuse in March. More recently, she participated in the New Scholars' Workshop Program hosted by the Southeastern Association of Law Schools at their annual conference in Florida. Her paper focused on the principles underlying rescission of contract.

Michael Coyle
In January the Canada Council announced that a national research project in which Professor Coyle is participating has been awarded a five-year grant totalling $2.5 million. Researchers from across the country will be examining different aspects of the challenge of developing new governance arrangements with aboriginal peoples. Professor Coyle’s research will focus on the role of negotiation strategies in fostering creative, fair and enduring outcomes. In April he was appointed by the federal government to a fact-finding mission in response to an ongoing protest near Caledonia, Ontario, involving members of the Six Nations. His mandate included investigating the nature of the grievances, identifying the jurisdictional implications and exploring the possibility for mediation.

In October Professor Coyle appeared as an expert witness before the Senate Standing Committee on Aboriginal Peoples in Ottawa. He was one of two academics chosen from across Canada to address the Committee on the adequacy of Canada's present approach addressing Specific Land Claims.

Gillian Demeyere
Gillian completed her third year at the faculty. She continues to research in the area of Employment Law, with an emphasis on the relationship between public and private law principles in the law governing the employment contract.

Tim Edgar
Tim Edgar co-authored a paper with an economist on the international income taxation of portfolio debt capital flows. He also has a paper on the design of a general anti-tax avoidance rule forthcoming in a volume of essays on the subject of tax avoidance. This paper is an abridged version of a lengthier work-in-progress that was presented at "The James Hausman Tax Law and Policy Workshop Series" at the University of Toronto in September. He spent time in China on two technical assistance missions. One was with the OECD on the subject of thin capitalization. The other was with the IMF on the application of a VAT to financial services. A third mission in India and presented at the OECD, on the subject of financial innovation. He assumed the role of Associate Dean (Administration) in January.

Randal Graham
Dr. Graham was awarded the Bank of Nova Scotia, UWO Alumni Association and University Students' Council Award for Excellence in Undergraduate Teaching. This award is Western's "University Wide" teaching award, and is awarded to four professors selected from all undergraduate faculties as the University's best teachers. Dr. Graham currently stands nominated for the title of “Ontario's Best Lecturer”, an award sponsored by TVOntario. Dr. Graham is one of only three Ontario law professors nominated for that title.

Over the last year Dr. Graham has published two articles on the microeconomic implications of ethical decision-making. He has also published an issue. The implications of the recent Supreme Court of Canada's decision finding notwithstanding, he continues to research and write about the challenge of developing new governance arrangements with aboriginal peoples.

Gian-Maria Fossati
Gian-Maria Fossati is a specialist in international tax law and policy. He was a member of the 2006-07 Harvard Law School faculty, and a visiting research professor at the University of Toronto in September. He spent time in China on two technical assistance missions. One was with the OECD on the subject of thin capitalization. The other was with the IMF on the application of a VAT to financial services. A third mission in India and presented at the OECD, on the subject of financial innovation. He assumed the role of Associate Dean (Administration) in January.

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Winifred Holland

Ian Holloway
Dean Holloway is currently on study leave. From January to May 2007, he will be a Visiting Professor at the National University of Singapore, teaching a course on Comparative Administrative Law. In December Dr. Holloway was appointed a Nova Scotia Queen's Counsel by the Nova Scotia Court. The appointment, made by Nova Scotia Lieutenant Governor Myra A. Freeman, recognizes Prof. Holloway's contribution to legal education and his work to promote the interests of the legal profession in Nova Scotia.

An article on student exchanges as an element of training lawyers for transnational challenges was published in the Journal of Legal Education. This stemmed from a special symposium sponsored by the Association of American Law Schools that Dean Holloway was invited to participate in.

Ben Hovius


Grant Huscroft
Professor Huscroft assumed the position of Associate Dean (Academic) in July. He continues to research in the area of judicial review and constitutional rights, and published articles in the United States and Canada in 2006. Inside and Outside Canadian Administrative Law a book of essays co-edited with Professor Michael Taggart of the University of Auckland, was published by the University of Toronto Press in October.

In April, he visited the University of Auckland in New Zealand to teach an intensive Masters course on human rights law. He delivered a paper at the Ospode Hori Constitutional Law Conference also in April, and was keynote speaker at a symposium on bills of rights at the University of Queensland Faculty of Law in Brisbane in August. While in Australia he also gave a public lecture at the University of Melbourne and participated in a public debate on the adoption of bills of rights held at the Queensland Supreme Court.

In October, he hosted a colloquium called "Interpreting the Constitution" with Professors Randal Graham and Brad Miller.

Rande Kostal
In 2006 Professor Kostal's monograph, A Jurisprudence of Power: Victorian Empire and the Rule of Law published by Oxford University Press 2005 (OUP; 2005) received the "Honourable Mention" of the Ferguson Prize Committee of the Canadian Historical Association. Later this year he will present invited papers to the law faculties at Columbia and Cal-Berkeley on the subject of his new project, "The Legal Reconstruction of Germany and Japan, 1945-52."
Michael Lynk
In October 2005 Professor Lynk co-hosted Western’s 3rd annual Labour Law Conference in partnership with Heenan Blaikie and Koskie Minsky, on the theme of administering labour law. The revised papers from the conference that he and John Craig edited have been published in two recent issues of the Canadian Labour and Employment Law Journal. In April 2006 a book of essays edited by him and John Craig — Globalization and the Future of Labour Law — was published by Cambridge University Press.

In 2006, Prof. Lynk delivered papers on labour law and human rights at academic conferences in Paris, Calgary, Toronto and London. He was also an invited speaker at academic conferences on international humanitari an law in Ramallah, on the West Bank, and in Exeter, England. He also delivered presentations on disability law and the workplace to industrial relations gatherings in Halifax, Fredericton, London, Ottawa, Toronto and Saskatoon.

He will be on sabbatical during 2006-07 and will endeavou r to teach a seminar on international labour law at Victoria University in Wellington, New Zealand in November 2006.

Richard McLaren
Professor McLaren was selected as an on-site arbitrator for the Court of Arbitration for Sport (CAS) at the 2006 Olympic Games in Turin, Italy. In January he presented a paper ent itled “An Overview of Non-Analytical Positive & Circumstantial Evidence Cases in Sports” at the Annual Meeting of the Association of American Law Schools in Washington, D.C. In June he was invited to be a Member of the Board of the International Centre for Olympic Studies at the University of Western Ontario. Currently Richard is serving as a member of the Ontario Bar Association Committee to review the Ontario Uniform Security Transfer Act and its impact on the Personal Property Security Act. He is involved in two components of this review; the complete revamping of the Ontario Business Corporations Act and updating and modernization of the Ontario PPSA. This would be the first major revision of the PPSA since the implementation of the existing Act in October of 1989 (originally proclaimed in force in 1979).

He is also continuing his work as an arbitrator to the International Commission on Holocaust Era Insurance Claims which initiated the process to resolve the unpaid insurance claims for Holocaust victims, survivors, their heirs and beneficiaries for life, education and dowry policies issued between 1920 and 1945.

In October, he presented a paper entitled “New Strategies in Prosecuting Doping Violations under the Code: Revisions to Anti-Doping and Arbitration Rules” at the 2006 International Association of Athletics Federations World Anti-Doping symposium in Lausanne, Switzerland. More recently he participated on a panel at Marquette University Law School’s National Sports Law Institute Conference on Individual Performer Sports: Current Legal and Business Issue. His presentation was entitled “Tennis: A sport without drugs?” At the end of October he was invited to present a paper at the 2006 International Seminar on Arbitration for Sports held at the Law School at Wuhan University in China. His paper was entitled “Enforcement of Sports Arbitral Awards”.

Bradley Miller
In 2005-06, Professor Miller joined Western Law from Lerners LLP in Toronto, where he had been practicing constitutional and commercial litigation. His research focuses on the relationship between moral reasoning and constitutional adjudication. His paper, “Dollars v. Right” resulted in a paper on section 1 of the Charter of Rights and Freedoms, which will be presented at a conference on at Western Law called “Interpreting the Constitution” co-hosted with Professors Huscroft and Graham.

Jason Neyers
Professor Neyers was granted tenure and appointed to the rank of Associate Professor of Law on July 1, 2006. Over the past year he published work in the Law Quarterly Review, Alberta Law Journal, Canadian Business Litigation Journal, Insurance Law Journal and Tort Law Journal on the topics of vicarious liability, charitable trusts, and the recent history of duty of care. He was also awarded the Scholarly Paper Award by the Canadian Association of Law Teachers for his work on vicarious liability.

In June 2006, Professor Neyers hosted the international conference entitled Emerging Issues in Tort Law which brought together academics, lawyers, and judges to analyze and discuss under theorized and unexplored areas of tort law. (For more on the conference see article on page 16. You can also view the conference website at www.law.uwo.ca/emergingissues). He is currently co-editing the conference papers for a book of the same name which will be published by Hart Ltd. of the United Kingdom in March 2007. Professor Neyers also created and administers the Obligations Discussion Group (ODG), an international mailing list devoted to all aspects of the law of obligations. The ODG has more than 150 members from seven different countries. An archive of the group's discussions can be found at www.ucc.ie/law/odg/home.htm. To be added to the list please send a message to obligations-request@uwo.ca.

Valerie Oosterveld
Professor Oosterveld joined the faculty in July 2005. She published “Gender-Sensitive Justice and the International Criminal Tribunal for Rwanda: Lessons Learned for the International Criminal Court” in the New England Journal of International and Comparative Law. She also spoke on “Addressing Gender-Based Violence in International Criminal Justice” at a symposium on “International Criminal Tribunals in the 21st Century” at American University in Washington D.C., entitled “International Criminal Justice, Peace and Politics: Making Gender Matter” at Columbia Law School in New York, and “Gender, Sex and International Criminal Justice” at the University of British Columbia in Vancouver. She participated as an expert in the UNICEF Expert Discussion on Transitional Justice and Children in Florence, Italy, and the Department of Foreign Affairs and International Trade’s Roundtable in Ottawa on Building Justice in Fragile States. She worked with Dean Holloway, Associate Dean Martin to create and launch Western Law’s new International Law Intern Program and the International Law Interns’ Roundtable in Ottawa on Building Justice in Fragile States. She worked with Dean Holloway, Associate Dean Martin to create and launch Western Law’s new International Law Intern Program and the International Law Interns’ Roundtable in Ottawa.

Adam Parachin
Over the last academic year, Pro fessor Parachin continued his research in the areas of trusts, estates and property law, with a particular emphasis on charitable purpose trusts. He delivered a paper on a charity law topic at the Fourth National Symposium on Charity Law. Professor Parachin continued as an editor of Charities Law, the third edition of which was published this year. Works in progress include papers dealing with recent income tax amendments of relevance to registered charities, the privileged status of “charity” in Canadian law and the justifications offered by courts for excluding advocacy activities from the common law understanding of charity.

Mark Perry
The last academic year saw Professor Perry on sabbatical, spending most of that time graciously hosted by Queensland University of Technology in Brisbane. He worked on several projects, including the Open Access to Knowledge Law project centered at QUT, which has released a major report on a legal framework that can support open access to Australian academic and research output. Concomitantly he worked on papers in both Law and Computer Science, leading to several publications, such as refereed proceedings, such as refereed proceedings at the International Conference on E-Commerce Technology, E-Services and Enterprise (with H Kamiski). Presentations with publications at the Electronic Theses and Dissertation Conference (with P Callan), “FLOSS as Democratic Principle” Technology and Citizenship Conference (with B Fitzgerald) and the Best Paper at the International Conference on Autonomous and Autonomous Systems (Gian Zhao, Yuzhou, Mark Perry “Agreement-aware Semantic Management of Services”). He also had two book chapters published, began his own biotechnology book and was invited to speak at several Australian venues, such as the Digi- tal Rights Management Conference in Sydney, and at the University of Queensland, where he spoke on “Biotechnology Regulation at Large”. He also won a prize for an exhibit on Material Transfer Agreements (with Profs. Krishna and Fitzgerald) at the Agricultural Biotechnology International Conference. In addition to the more traditional venues, he also was one of the organizers of the first audio enabled interactive Copyright Developments in 21st Century Conference that was held in the virtual environment ‘Second Life’.

Dr. Pitel was granted tenure and promoted to Associate Professor on July 1, 2006. During the past year he co-authored “The Impact of Recent Central Legal Developments on Liability Insurance”, a study for the Insurance Bureau of Canada that was subsequently published in the Insurance Law Review. In addition, he edited Litigating Conspiracy: An Analysis of Competition Class Actions (To ronto: Irwin Law, 2006), which also appeared as a special issue of the Canadian Class Action Review, and co-authored an article on jurisdiction in the Canadian Bar Review.

In 2005-06 Dr. Pitel spoke on conflicts of interest at the Law Society of Upper Canada and on Charities and Social host liability at the Emerging Issues in Tort Law conference held at the Faculty.
Melanie Randall


In addition to these academic presentations, Professor Randall was a Parsons Visitor to the Faculty of Law, University of Sydney, Australia, in March, 2006, where she delivered a paper, “Reducing the Adventure in Venture Capital - Sharpening the Divide between Capital Gains and Ordinary Income”, at the Australasian Tax Teachers Association Conference, Melbourne, Australia, January 30 – February 1, 2006. The paper was subsequently published in Tax Notes International.

On May 18, 2006, Professor Sandler spoke on “Evaluating State Venture Capital Tax Incentives” at the National Association of Seed and Venture Fund’s first “State Venture Capital Symposium” in Washington, DC. This talk was based on her report, “The Effective Use of Tax Credits in State Venture Capital Programs”, which was published as Appendix D in The National Association of Seed and Venture Funds, Seed and Venture Capital: State Experiences and Opinions, May 2006.

From February to April, 2006, he participated in a Working Group advising the US House Small Business Committee on the introduction of a bill creating a national “angel tax credit”.

In May 2006, he began working on a report together with Professors Stephen Barkoczy and John Glover of the Faculty of Law, Monash University titled Venture Capital Tax Expenditure Programs: An International Comparative Analysis of Legal Structures and Benefits. The report is being prepared for the Department of Industry, Tourism and Resources, Commonwealth of Australia.

Robert Solomon

Professor Solomon has continued his research and public speaking in the fields of impaired driving, alcohol policy and healthcare. He recently co-authored, with Prof. Pitel, a comprehensive review of the provincial and territorial traffic legislation relating to impaired driving. The report will serve as the basis for meetings with Attorneys-General and Ministers of Transportation across Canada. Professors Solomon and Chamberlain also recently published a detailed study of legislative measures to reduce impaired traffic deaths among youth.

Professor Solomon participated in an Expert Forum, hosted by the federal Ministry of the Attorney-General, on introducing a new Criminal Code offence for driving with a blood-alcohol concentration above 0.05%. Professors Solomon and Chamberlain have been prime advocates of this initiative. In addition to their article in Injury Prevention, they published a report on the rationale for and key elements of such an offence. The report served as the basis for an article that will be published shortly in the Criminal Law Quarterly.

Professor Solomon worked with counsel for the appellant and MADD Canada on the Chids case (social host liability), which was heard by the Supreme Court of Canada. Professors Solomon, Chamberlain and Pitel and Ms. S. Kettle wrote a series of commentaries on the case for The Globe and Mail and The Lawyers Weekly. Professor Solomon also remains active in the field of healthcare and counselling law. He co-authored A Legal Guide for Social Workers, which was published by the Ontario Association of Social Workers and presented a two-day workshop for the Manitoba College of Registered Psychiatric Nurses.

Thomas Telfer

Professor Telfer’s paper “The Proposed Federal Exemption Regime for the Bankruptcy and Insolvency Act” was based in part on an earlier report that he had prepared for the Uniform Law Conference of Canada on the issue of uniform provincial exemption statutes. He also published a paper in the Australian Journal of Legal History entitled “A Canadian ‘World Without Bankruptcy Law: The ‘Failure of Bankruptcy Reform at the End of the Nineteenth Century’” Professor Telfer also reviewed David Skeie’s De’A’s Dominus: A History of Bankruptcy Law in America for the Law and Politics Law Review.

Professor Telfer continues to contribute several chapters on the New Zealand Personal Property Securities Act to Morrison’s Company and Securities Law, a leading New Zealand text published by Butterworths.

Earlier this year Professor Telfer was invited to join the Canadian delegation to represent the Uniform Law Conference of Canada (ULCC) at a meeting of the National Conference of Commissioners on Uniform State Law (NCCUSL). The ULCC, and NCCUSL along with the Mexican Center for Uniform Law are currently working on a “Project to Create a Harmonized Legal Framework for Unincorporated Associations in North America”.

Syd Usprich

A bill that Professor Usprich drafted to add a new offence of driving with a blood-alcohol content of .05% to the Criminal Code was introduced as Bill S-47 in the Senate on November 22, 2005 by Senator M. LeBreton. In addition to the new offence, the bill also would have created a unique ticketing procedure for dealing with the new charge. Along with Professor Solomon, who has long been the leading advocate of this change to the criminal law, and Professor Chamberlain, Professor Usprich has written about the need for this modernization of drinking-driving law.

He continues to pursue his research in criminal law and is currently working on a paper relating to the law on criminal accomplices. As well, with Professor Emeritus Greg Brandt, he annually produces updates for their book, Evidence and Procedure in Criminal Labour Arbitration.

Bruce Welling


Margaret Ann Wilkinson

Dr. Wilkinson completed work on her initiatives in the New Economy (INE) program funded by the Social Sciences and Research Council of Canada (SSHRC) and has now obtained a further Outreach grant pursuant to the INE program. She will be mounting a national conference looking at public and legal education in the areas of intellectual property and information law and the possible intersection with clinical legal education. She has also been working as principal investigator, with colleague Mark Perry, on a national survey of ethics policies and privacy law requirements in Canadian universities, also funded through SSHRC. On sabbatical for 2006-2007, she is Distinguished Visiting Professor at the Law and Technology Institute in the Faculty of Law (and Visiting Scholar at the School of Information Management) at Dalhousie University this fall. She is also involved in the Biotechnology program at the Ivey School of Business this year. Through her work with the Intellectual Property Institute of Canada (IPIC), she is now editor of the Canadian Intellectual Property Review. Her chapter “Filtering the Flow for the Fountains of Knowledge: Access and Copyright in Education and Libraries” appeared in, It’s the Public Interest: The Future of Canadian Copyright Law. Her article “The Public Interest in Moral Rights Protection,” appeared in the Michigan State Law Review.
A glimpse back and a look forward

My first term as your University of Western Ontario Law Alumni Association (UWOLAA) President has ended and I am pleased to have been re-elected to serve as UWOLAA President for another term. Over the past year, we held a number of meetings and achieved some important goals. Following our annual general meeting, I can report that we have set a number of objectives for this coming year to strengthen UWOLAA and our connection to the law school. These objectives include improving communications between alumni and the law school, increasing alumni, student and faculty participation at next year’s Homecoming reunion and making this year’s Law Alumni Dinner in Toronto another great success.

The highlight of the past year was the second annual Western Law Alumni Dinner held on April 20th. This year’s dinner was in honor of our late friend, colleague and teacher, Jay McLeod. The event at the beautifully restored Great Hall in Somerville House on the Western campus was attended by more than 150 alumni, guests, faculty and students. Mr. Justice Tom Ganger, Gordon Cadmus (’73), Dean Ian Holloway and Michael Lerner (’72) on behalf of Alfred Mamo (’70) all shared wonderful stories about Jay, and fondly remembered the role he played at the school and in his community. Madame Justice Margaret McSorley (’81), Jay’s widow, accepted the Western Law Distinguished Alumni Award given posthumously to him.

I also attended Western’s Homecoming on Saturday, September 30th and was pleased to see more than seventy law alumni had returned to the school. We enjoyed an informal meet and greet in the law school’s new faculty lounge after which students gave tours of the building. We then moved down to an all-class law school tent next to the new football field for lunch and the Mustang game. There was representation from alumni, faculty and current students. Special mention goes to the classes of ’66 and ’81, celebrating their 40th and 25th anniversaries respectively, which were well represented. This was the first year that we set up a dedicated tent down at the field and we are planning a similar format for next year.

I thank my executive for their participation and dedication over the past year. I am very fortunate to have most of the executive back and I expect that the continuity will be of tremendous assistance in building on the momentum that has been created in UWOLAA. I would also like to thank Alumni staff for all their work with the executive and Carolyn Lamb, in particular, who makes my job a pleasure. Special thanks must also go to Dean Ian Holloway for his work, dedication and especially his enthusiasm in revitalizing UWOLAA.

As we begin this academic year, I strongly encourage your participation in UWOLAA events. We are working hard to make these events both enjoyable and meaningful. If you are interested in volunteering on the executive, please let me know. I would be pleased to discuss with you the opportunity and the commitment.

Finally, I invite you to submit nominations for the 2007 Distinguished Alumni Award. This award was established to honor Western Law graduates with exemplary records of public or professional service and who have a significant record of past service to Western Law. Thank you for the continued privilege to serve as President of UWOLAA. I look forward to building on the success and momentum created to date.

Your participation will help ensure Western Law continues to be a place of excellence. Richard Morelli (’95) Borden Ladner Gervais LLP Waterloo Region (519) 741-3100 x241 rmorelli@blgcanada.com

Class action

1965 Carl E. Flock, Q.C. was granted the H. Bruce T. Billing Award “in recognition of his outstanding contributions to the cause of civil justice”, on May 27, 1966.

1966 Graham Scott stepped down as Managing Partner of McMillan Binch Mendelsohn on January 31, 2006 but continues his practice dealing mainly with health and non-profit governance issues. On February 17, Graham was presented with membership in the Order of Canada and continues his voluntary efforts as Chair of the Canadian Institute for Health Information and Vice Chair of the Institute for Research in Public Policy.

1968 George Carruthers retired from the federal Department of Justice after 35 years of service with the Vancouver Regional Office. As a General Counsel he litigated many high profile and precedent setting complex civil litigation cases. George and his wife Marica have raised six children in North Vancouver and are proud grandparents.

1970 Alfred Mamo received the Award for Excellence in Family Law from the Ontario Bar Association on January 25, 2006 during the OBA’s Family Law Dinner. This year’s award, which is sponsored by Navigant Consulting, is in memory of Professor Jay McLeod.

Bill Donaldson was reappointed by Order in Council to the Ontario Review Board, where he has been acting as an Alternate Chair & Legal Counsel to the Board, until June 24, 2009.

1972 Paul E. Kennedy was appointed by the Deputy Prime Minister to the post of Acting Chair of the Commission for Public Complaints Against the RCMP.

1976 Jon Allin was appointed Ambassador to the State of Israel.

1977 S. Enam Bukhari, a.k.a. Mr. B, has developed a program called “Food for Wills”. This program started 5 years ago as a method of filling food banks in the Niagara Peninsula.

1979 Michael St. Patrick Baxter has been named one of the leading lawyers in Bankruptcy/Restructuring by Chambers USA 2006. Michael is a partner at Covington & Burling LLP in Washington, D.C. and is an adjunct professor of law at George Washington University. A member of the American Law Institute and a founding member of the International Insolvency Institute, he is a fellow of the American College of Bankruptcy and a contributing editor of Norton Bankruptcy Law and Practice ad.

1980 John McNair returned to McKenzie Lake Lawyers LLP following a 1½ year posting in Bosnia and Herzegovina as Deputy Chief Prosecutor and Head of the Special Department for Organized Crime, Economic Crimes and Corruption in the state-level Prosecutor’s Office.

1981 Douglas Mah, Secretary & General Counsel of the Workers’ Compensation Board of Alberta, was re-elected as a bencher of the Law Society of Alberta. The second edition of his book, “Workers’ Compensation Practice in Alberta” was published by Carswell.

1983 Jeff Schlemmer has been elected Chair of the London Public Library Board. Major C. Edmund Thomas, Defence Counsel, JAG, wrote an article published in the Canadian Criminal Law Review, entitled “Lowering the Standard: R. v. Doolie and the Confession Rule in Canada”.

1987 Ramon Andal was profiled in the Fall/Winter 2005 issue of the Ontario Lawyers Gazette. He was recently appointed by the Lieutenant Governor in Council as member of the Consent and Capacity Board.

Mark Nicholson, adjunct professor and an associate at Cassels Brock & Blackwell LLP, was listed for the second time in Chambers Global, The World’s Leading Lawyers 2005-2006 in the area of Competition Law.

Suzanne M. Dajczak was recently Certified by the Law Society of Upper Canada as a Specialist in Workplace Safety and Insurance Law and is practicing in Windsor.

1989 Mike Eizenga and Andre Michel (’86), of Siskinds, were selected as The Best Lawyers in Canada based solely on votes cast by their peers across the country, making this the highest form of professional accolade.

1991 Warren Bongard, Vice-President and Co-Founder of 25A, manages all lawyer recruitment operations of the company while focusing his practice on partnership-level lateral hires, international recruitment and special in-house assignments. He has also spoken widely on topics such as legal recruitment, career management, international mobility and marketing for lawyers in the 21st century.

Sharon Hassan (nee Brak) and her husband Hamoody organized a fundraiser to assist Sharon’s twin sister and her husband whose three year old daughter Olivia suffers from a rare brain disorder.
Kelly Bourassa (nee Fraser) was named co-recipient of the first annual Lloyd Houlden Research Fellowship, awarded by the Canadian Insolvency Foundation. Kelly is currently completing her LL.M. degree at Osgoode Hall Law School.

Michael Mosny, a leading community activist, has been appointed to head the organization’s key government relations and diplomatic affairs portfolio.

2001
Steve Broussard got engaged to Renee Bruseau at the Coliseum in Rome and the wedding is scheduled for Labour Day 2007.

Andrew Whitehill and his husband Lee Riding announce the birth of their daughter Emma Sydney Smart Riding on October 6, 2005.

2002
Lynn Iding is currently Policy Council at Legal Aid Ontario, and is completing her LL.M. at the University of Toronto.

Michael Mahoney will be working on his MBA at the Kellogg School of Management starting in the fall.

Lauri Wall (nee Ressor) and her husband Andrew are pleased to announce the birth of their first child, Charlie Joseph, born on July 19, 2006.

Jennifer Friedman left her in-house counsel position with the Real Estate Council of Ontario for her dream job, the first ever in-house counsel position with the Ontario Society for the Prevention of Cruelty to Animals.

Elise Pulver was married in Spring 2006. Elise is an associate at Thorntonos LLP.

2003
Jonathan Mosiano-Crookston has been awarded the Intellectual Property Institute of Canada Educational Foundation Prize.

Kelli is currently working as an Investment Banking Associate for Octagon Capital.

Jonathan Mesiano-Crookston was named to Toronto’s entry for Mundiavocat’s The Evolution of National Treatment – The Development of National Treatment Approaches in International Trade published in Etty Centre Journal of International Law and Trade Policy.

Lanna孜 bargain David Barrison on September 4, 2005.

Dave Rickards and his wife Kelly announce the birth of their daughter, Scarlett Elizabeth, born on July 7, 2005.

Roelf Swart announces the birth of his daughter Catherine Mary Elizabeth Swart on September 5, 2005.

Grant Cool will be working on his LLM at Cambridge in International Law on a Commonwealth Trust Scholarship.

2006
Melodie Jane Fay Hughes has been selected to intern with Chambers at the International Criminal Tribunal for the Former Yugoslavia (ICTY) in The Hague, the Netherlands. This position will last for 6 months, beginning in September, 2006.

In Memoriam


David Rickards (‘05) initiated a memorial project in his memory.

August 10, 2005 - Retired judge Maurice Genest, a family court justice for 27 years, passed away after suffering a stroke at the age of 76. During his time on the bench, he was central to the founding of the London Family Court Clinic (now known as the Centre for Children and Families in the Justice System) and to the incorporation of the Big Brothers of London. He taught family law at Western for 10 years. After his retirement in 1995, the City of London renamed the Maurice H. Genest Detention Centre for Youth in his honour and also created the Justice General Fund for Youth.

Sept. 7, 2006 in Halifax - Ronald St. John Macdonald, a noted Canadian internationalist and a former professor of International Law at Western (1959-61), Ron was a legendary figure. He left Western for the University of Toronto Faculty of Law in 1961, where he eventually served as Dean (1967-72), and later became both a Dean at Dalhousie Law School (1972-79) and the first (and so far the only) non-European judge of the European Court of Human Rights in Strasbourg (1980-98). 24
This is a question I’m asked more than any other these days: what’s it like to be on study leave, after six years as dean? And I’ve got to say that that it’s not always easy to come up with a simple answer.

On one hand, it’s wonderful to be able to spend more time with my wife and children. My son is a year and a half and my daughter five, and I’m really enjoying playing a bigger part in their lives. It’s also fun to reconnect with my research (which deals with Lord Sinha, the first non-European appointed to the Judicial Committee of the Privy Council). But I’d be fibbing if I didn’t admit to more than a little separation anxiety. Still the time away from the School has given me the chance to reflect—both on Western and what I’ve learned as dean.

We’ve accomplished a lot at the law school in the past decade or so. We’ve got a number of new faculty and staff. We have a strategic plan, and our programs are ambitious and forward-looking. Faculty are producing high-level scholarship and engaging in public debate on important issues. We’ve got a completely renovated and expanded building—with all of the technological bells and whistles, to boot. And we’ve got a tremendously diverse and accomplished student body who are graduating from law school and going on to do wonderfully interesting things. So our today is a good one, and the future looks bright. But in my moody moments, I realize that there are two observations that colour the way I see my job—and our future.

The first is that the pressures facing us as an institution resemble those facing private sector enterprises more than we might care to admit. The fact is that we are competing—fiercely!—on at least four fronts. We are competing for the best students. We are competing for the best faculty and staff. We are competing as agents for our students—to help them get the jobs they want. And we are competing within the university for resources.

“Closing argument”

It goes without saying that a profound difference between a law school and the private sector is that we are not trying to make a profit, and it is not likely that we will become insolvent. But the competitive imperative is exactly the same. The happy news is that provided we manage it well, the competition can only make us stronger.

The second observation is more troubling. That is that the gulf between the practicing bar and the law schools seems to be as wide as ever. To be sure, on an individual basis, our relations with alumni, and with the employers of our graduates, are stronger than they’ve ever been. But as entities, the bar and academy seem not to view each other as partners in a common mission. As with most such things, responsibility for the problem can be dolloped onto both plates. And I’d be failing as a teacher of legal history if I did not note out that the problem has roots that (in Ontario, at least) go back generations. Yet this makes it no less a tragedy in my view, for if ever any two entities should really align. Far from it. Nor is it to say that our interests will always align. Far from it. Nor is it to say that the law societies should be able to dictate what the law school curriculum should be. This I would resist—as would all law deans. But it is to say that an almost every issue—whether that be the content of twenty-first century legal education (including the content of the curriculum), extra-curricular preparation for the profession, the cost of legal education (yes, the tuition issue), the process of bar admission, the notion of life-long learning—it is shameful that we behave as two solitudes. We are not. We are two arms of a common profession, and we share a common end—the preservation of the rule of law. I know that this sounds a bit cynic, but we owe it to ourselves—we owe it to Canada—to behave differently. It’s a good one, and the future looks bright.

Did you know?

• Almost one half of Western’s funding now comes from private sources
• Over 60% of our students receive bursaries and scholarships
• Ten years ago, annual tuition was $2,228; now it is $10,500
• Western Law’s placement rate is 99% (average of last five years) and is one of the highest in Canada
• Western has been the national leader in new program development. The Small Group Program and the January Term are both Western innovations
• Western continues to maintain the broadest core curriculum of any law school in Canada
• Western has the largest student exchange program of any law school in North America

You help us:

• Recruit the country’s brightest students
• Prepare tomorrow’s leaders for the bar and bench
• Preserve the value of a Western law degree
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Thank you for your support!
Many of the services and activities of the Career Services Office would not be possible without the enthusiastic support of Western Law alumni, for which we are very grateful.

The Mentorship Program matches students with Western Law alumni for the purpose of addressing student concerns about law school and the legal profession. Meetings with mentors are informal and often a lot of fun. They might take place in the mentor’s office, over lunch or coffee, by phone or by email. When, where and how often the meetings take place is entirely up to you. As a guideline, students will be advised that meetings take place once each term.

This is an invaluable opportunity for students to discuss various topics including the advantages and disadvantages of different types of practice, the articling process, course selection, etc. with someone who is familiar with the practice of law.

For more information on the Mentorship Program, please visit www.law.uwo.ca and click on “Community Resources”. You may also contact Michele Martin, Director of Career Services, at 519.661.2071 or mmartin7@uwo.ca.

Should you wish to register as a Mentor and become a part of this very rewarding Program, please visit www.thementoredge.com. You will be asked to enter a validation code which is “mentor”.

Thank you and do not hesitate to contact Michele Martin for more information.