

western law



A Perfect Match

DAVID SHOEMAKER '96 BRINGS WOMEN'S TENNIS TO CENTRE COURT

WHAT'S INSIDE

WAR & PEACE IN SIERRA LEONE

PROF. CRAIG BROWN ON
WHY LAWYERS LOVE GOLF

PROF. RICHARD MCLAREN AND
BASEBALL'S MITCHELL REPORT

A GREAT CASE - JOHN PELLER '80
- CANADA'S LEADING VINTNER

THE MAGIC OF DAVID BEN '87

It's *Your* Law Alumni Association

Law Alumni Events for You

ANNUAL WESTERN LAW ALUMNI DINNER

Save the date!

Wednesday, October 22, 2008
The Great Hall, Somerville House,
The University of Western Ontario

REUNIONS

Did you graduate in a year ending in 3 or 8?

If you're interested to see if a reunion is being planned for your class or you would like to get one going please contact Nicole Bullbrook at nicole.bullbrook@uwo.ca

HOMECOMING

Law Alumni Association Annual General Meeting
Saturday, October 4, 2008 at 9:30 a.m.
Dean's Boardroom, Faculty of Law

Manulife South End Zone Lunch and Football Game
Saturday, October 4, 2008 at 11:00 a.m.
TD Waterhouse Stadium, The University of Western Ontario

ALUMNI DENNING NIGHT IN TORONTO

Date to be announced (March 2009)

For more information about the above events visit www.alumni.uwo.ca



Serving more than 5,900 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

Your UWOLAA Executive

President, Richard J. Morelli ('95)
Past President, Mitch Frazer ('99)
Vice-President, Dara Lambe ('03)
Vice-President, Christine Tabbert ('98)

Directors

Warren Bongard ('91)	Alex Colandelo ('01)
Chris Bredt ('79)	Peter Fenton ('04)
Bob Brent ('97)	Danial Lam ('02)
Hayley Clarke ('95)	Anna Naud ('04)

Get Involved!

If you are interested in joining the UWOLAA executive please contact Carolyn Ross, Alumni Outreach Officer, at carolyn.ross@uwo.ca or call **1-800-258-6896**.

western law

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Comments and contributions are welcomed. Please email law.vox@uwo.ca





A Message from the Dean



**WESTERN LAW TODAY
IS A VIBRANT AND
EXCITING PLACE, AND
I FOR ONE COULDN'T
BE MORE PROUD TO BE
ASSOCIATED WITH IT.**

DEAN IAN HOLLOWAY



WELCOME TO THIS YEAR'S WESTERN LAW ALUMNI MAGAZINE. Our new issue makes clear just how far Western Law has grown from its origins, and how national - indeed, international - we've become in outlook.

This being an Olympic year we thought it would be fun to highlight some of our faculty, alumni and students who are involved in the world of sports as athletes and as lawyers. And as you will see, there is an impressive array of stories to tell.

Several of our articles also showcase the impressive level of research that is taking place in the law school today. We've included a feature on law and philosophy at Western - an area of historic strength, but one which is undergoing a period of sustained renaissance. There is a wonderful story on Professor Valerie Oosterveld's work on the special court for Sierra Leone and we report on some of Professor Mark Perry's scholarship in the fascinating arena of biotechnology law.

We also feature Doug Ferguson '81 and the important work being done by him and his colleagues in Community Legal Services, our legal aid clinic. Doug was recently elected President of the Liberal Party of Canada. For him, public service comes as second nature.

One of our great success stories this past year was the Pre-eminent Business Law Scholars Seminar Series, organized by Professor Chris Nicholls. Chris's series provided a unique opportunity for members of the Western Law community to hear and engage with some of the world's most influential corporate law scholars. There is no other course like it in Canada.

This year has brought several changes to the school: We've revamped our Career Services Office, enabling our students to have the best possible advantage in the work place, our Faculty Council has voted in favour of providing alumni the option of changing their degree to a J.D. (Juris Doctor) or retaining their LL.B. designation, and this July we welcomed two new Associate Deans. Mark Perry is the new Associate Dean for Research, Graduate Studies and Operations and Michael Lynk is Associate Dean, Academic. They are succeeding Grant Huscroft and Tim Edgar who brought a great deal of professionalism and dedication to their positions and to whom I owe a great deal of thanks.

I'm concluding my eighth year as Dean and my bullishness about our future is tinged with sadness over the retirement of our colleague, Syd Usprich. Syd is leaving Western Law after thirty-eight years as a member of faculty - the longest-tenure of anyone in the history of the law school. He will be greatly missed.

Western Law today is a vibrant and exciting place, and I for one couldn't be more proud to be associated with it. I hope that after reading what follows you will feel the same. **wl**

Dean Ian Holloway

From Around the School

Top lawyers reveal art of M & A deals

Five of Canada's top lawyers visited the law school in September to share their insights at a special mergers and acquisitions panel.



(L-R): Western Law alumni Garth M. Girvan (McCarthy Tétrault), Ronald K. Durand (Stikeman Elliott), Grant R. H. Haynen (Bennett Jones), Joan M. H. Wepler (Dofasco) and William J. Braithwaite (Stikeman Elliott)

The five alumni, all from the class of '76, provided Western Law students with a lively and insightful look at the high stakes world of mergers and acquisitions.

"The panel was a wonderful and exciting opportunity for our students to learn from some of the top M & A lawyers in the country," said Professor Chris Nicholls, the seminar's organizer. "We're grateful that the panelists very generously took time from their very busy schedules to share their wisdom and, I'm delighted to say, their wit with Western Law students."

Two new lecture series established by law alumni

Stephen R. Coxford '77, a member of Western's Board of Governors, has donated \$150,000 to endow the Coxford Lectureship Fund, which will be held at Foundation Western.

Beginning in the academic year 2008-09, this fund will allow Western Law to invite a prominent practising or academic lawyer each year to deliver an original lecture on the "rule of law" or another topic addressing questions related to the transparency and accountability of government.

"Although I haven't practised law for more than 15 years, in my current endeavours I'm reminded daily of the value of my time at the law school," says Coxford. "My interests as a student tended in the direction of corporate law and finance. But with the passage of time, one takes a more expansive view of the issues that shape society and I hope that this lecture series will direct attention to some questions of broad public importance."

It is anticipated that the annual lecture will appear in *Canadian Journal of Law and Jurisprudence*, published by the Faculty of Law, and that over a number of years a serious body of scholarship will develop.

Geoff Beattie '84, Deputy Chairman Thomson Reuters and President of The Woodbridge Company Limited has made a commitment of \$50,000 to establish the Beattie Family Speaker Series in Business Law. This Speaker Series will allow Western Law to bring a prominent speaker, to The University of Western Ontario. The Law School will host a public lecture on a topic in Law and Business, to which Western Law students, Ivey HBA and MBA students, faculty from both schools, members of the regional business and legal community, and others will be invited. The public lecture will profile topical issues in the field and will serve to promote the profile of business law at Western.

"These are magnificent gestures on the part of Steve Coxford and Geoff Beattie," says Western Law Dean, Ian Holloway. "The rule of law is perhaps the most precious stone in our national bedrock - yet it is something that we often take for granted. These new prestigious lecture series will remind ourselves afresh each year of the importance of taking the rule of law truly seriously."

Western Law welcomes new Director

Robyn Marttila, a lawyer with the London litigation firm of Cohen Highley, is the new Director of Career Services at Western Law. A graduate from the University of Windsor Faculty of Law, she was called to the Ontario Bar in 1995.



Robyn Marttila, Western Law's new Director of Career Services

"Robyn is an extremely impressive person," says Dean Ian Holloway. "She has an excellent reputation as a lawyer and brings a depth of skill and experience to this very important position."

During her ten-year career at Cohen Highley, Robyn worked in a variety of areas including class actions, environmental law, labour and employment law, tax appeals, oil and gas law and commercial litigation. She appeared before the Federal Court of Appeal, Divisional Court and various tribunals, and has litigated applications for leave to appeal to the Supreme Court of Canada. For the past five years she was the firm's Director of Student Programs and was responsible for recruiting, training and coordinating their summer and articling program.

Her first priorities at Western Law include improving and expanding career information and exploring new opportunities for students in New York and Chicago, as well as in emerging markets such as China.

Robyn looks forward to sharing her insights and experience with Western law students. "I want to ensure they receive the support and guidance they need to realize their career aspirations," she says.

'Law Talk' hits the airwaves

Law Talk a radio segment run through Pro Bono Students Canada (PBSC) and Community Legal Services (CLS), aired its first segment in November on the Western radio station, 94.9 CHRW. Six Western Law students researched, wrote and produced a series of short segments designed to provide Western students and the London community with legal information relevant to their lives. This year's topics included academic appeals, employee rights and landlord tenant issues.

"Both PBSC and CLS are very proud to continue their tradition of making legal information available to the London community," says Western Law student Jessica Boileau.



(L-R): Students Matthew Armstrong, Stephen Glanzberg, Jessica Boileau, Chris Karpacz, Stephanie Neate and Adrian Walrath produce radio segments on legal topics for the community

"Law Talk provides another means of reaching the public and we are hoping that this effort will help a larger portion of the community gain access to the legal information they require."

Student wins prestigious international Fellowship

Kate Leslie, a second-year Western Law student, has been awarded the American Society of International Law's 2008 Arthur C. Helton Fellowship. This prestigious fellowship, in the amount of \$1,500 US, will assist Kate as she undertakes her International Law Internship Program with the World Health Organization's Mental Health Improvements for Nations' Development (MIND) Project.

Leslie, who worked as a psychiatric nurse before entering law school, approached the World Health Organization (WHO) with a self-proposed internship

project that would allow her to tie in her nursing background.

"It's gratifying to be able to draw on both my nursing and legal training to work within the international mental health field," says Leslie. "It's a great way for me to gain relevant experience."

While at the WHO, Leslie will be working on the development of a new one-year International Diploma program in Mental Health Law and Human Rights. This is a collaborative program between WHO, MIND and the Indian Law Society (ILS), to be offered for the first time in October 2008 at the ILS Law College in Pune, India. The course will provide students from around the world with the skills necessary for supporting countries to put in place mental health laws and policies that conform with international human rights standards.

Leslie has also been awarded a one-year membership in the American Society of International Law (ASIL), one of the world's most respected international law societies.

The ASIL Helton Fellowships were founded in 2004 to recognize the legacy of Arthur C. Helton, an active ASIL member who died in the 2003 bombing of the United Nations mission in Baghdad, Iraq, along with UN High Commissioner for Human Rights Sergio Vieira de Mello and 20 others.

The Fellowships provide financial assistance to distinguished law students and young professionals to pursue field work and research on significant issues involving international law, human rights, humanitarian affairs and related areas.

New research project connects I.P. with the community

"The Canadian Intellectual Property Academy: Outreach and Audience" workshop brought together 30 leading intellectual property academics from across Canada to discuss Intellectual Property (I.P.) information and the community. Representatives from clinics and outreach programs at law faculties across the country also took part.

This was the fourth national intellectual property-related conference to be held at Western Law since 2002, and the second national workshop at Western to focus on fostering the Canadian intellectual property academy. The workshop is funded through a Social Sciences and Humanities Research Council Initiatives in the New



Kate Leslie

From Around the School

Economy Outreach grant held by Western Law Professor, Margaret Ann Wilkinson. The conference was co-hosted by Professor Wilkinson and Professor Mark Perry, Western Law's Graduate Chair. "The Canadian Intellectual Property Academy: Outreach and Audience" took place September 19-21, 2007.

Panels and discussions focused on existing relationships between the I.P. professoriate and the legal information needs of the courts, business and citizens. The principle aim of the outreach grant work is to explore ways of bringing the expertise of the academic bar in intellectual property in Canada to assist the clinical environment of public legal education.

Western Law has received a special grant of \$75,000 from the Law Foundation of Ontario to support a community-based project in I.P. law.

The research project will connect the intellectual property expertise in Ontario law schools and at the Ontario Bar with clinical education in Ontario's law schools to help underserved members of the public. The project will explore at least six potential models for delivery of intellectual property expertise to the public.

"There is an increasing depth of experience among the I.P. faculty in Ontario law and an increased awareness in the public that they need specific information about I.P.," says Wilkinson. "This project will examine the role of student law clinics to deliver an efficient and effective means of connecting the two."



Professor Margaret Ann Wilkinson

The project will have four phases over the next several years, including surveys, consultations, pilot study and historical analysis. The work will include consultations with other law school faculty and clinics, with university administrators, with members of the Bar and with members of the public. Professors Wilkinson and Perry will be joined by Doug Ferguson (Director, Community Legal Services), Professor Richard McLaren (Director, Western Business Law Clinic), and Margaret Capes (Faculty Advisor, Pro Bono Students program at Western, and Review Counsel, Community Legal Services).

Western Law team wins national hockey title

The Western Law hockey team took home its second consecutive trophy this past March at the Aird and Berlis hockey tournament championship in Kingston. Despite the cold outdoors, Western Law was red hot, finishing undefeated at the national inter-law school tournament, cementing its status as the only school ever to win the A&B cup.



The champs celebrated their victory at the Aird and Berlis hockey tournament this past March

The squad, composed equally of returning champions and new blood, made an impressive run to snag the hardware amid steep competition. The team was solidly anchored at the blue line by veteran defenceman Damien Liddle and rookies Jon Domanko, Bryan Ward and Ryan Nielsen. Firepower up front included vets Hugh McKee, Robert Kallio, Eli Cranley, Brendan Jones and Andre Kuyntjes along with young guns Gord Cameron and Sean Flaherty. The MVP of the tournament was goaltender Will Hooper, and the winning team's proud coaches were Dan Bellefontaine and Andrew Scott. The A&B Cup remains in London for yet another year as a symbol of a hard-fought tournament and a job well done.

Law's Faculty Council favours J.D. degree

The Western Law Faculty Council has voted overwhelmingly to change Western Law's degree designation from LL.B. to J.D.

"I was gratified by how collegially the debate took place," said Dean Ian Holloway. "This was an issue that could easily have enflamed passions. It says something special about the culture at Western that the whole process went as smoothly as it did - even when people disagreed with one another."

Alumni consultation was sought on this question and their input was made available to all members of Faculty Council prior to the vote.

Of the 178 Western Law alumni who waded in on the topic, responses were about two to one in favour of the change.

At Faculty Council, there were two “no” votes, and four abstentions. The remainder of council, which includes faculty and student representatives, voted in favour.

Under the proposal, Law alumni will have the option to change their degree to a J.D. (Juris Doctor) or retain their LL.B. designation. The issue will likely go to the university Senate in the fall.

With an eye to international employment, Western Law students also voted earlier this year in favour of changing their degree from LL.B. to J.D., matching similarly named degrees at U.S. universities.

The J.D. designation is typically regarded as a professional degree, requiring an undergraduate degree as well as a law degree. Outside of Canada, in countries such as the U.K. and Australia, it is possible to enter an LL.B. program directly from high school.

The University of Toronto adopted the J.D. in 2001, while Queen’s University and the University of British Columbia recently passed motions to adopt the change. Osgoode (York) and the universities of Windsor and Ottawa are also looking into making changes.

Law school hosts debate on electoral reform

On Monday, September 24, Western Law hosted a debate on the referendum on electoral reform in Ontario. The public forum drew a full house to Western Law’s moot courtroom where an expert panel provided a lively debate on the pros and cons on the new Mixed Member Proportional (MMP) system proposed by the Citizens’ Assembly. Debating the advantages of the new

system were Laura Stephenson, Assistant Professor of Political Science at The University of Western Ontario, and Paul Barker, Professor of Political Science at Brescia University College.

Making the arguments against the proposed system were Peter Woolstencroft, Professor of Canadian and comparative politics at The University of Waterloo and Grant Huscroft, Professor of Constitutional Law and Associate Dean at Western Law.

“We were pleased to provide a public forum for such an important policy debate,” said Susanna Eayrs, Western Law’s Communications Officer.

Jennifer Hall from A Channel News was the moderator of the evening’s debate.

Exchange Program partners with “Down Under”

Western Law’s exchange program continues to grow with some exciting news. We are pleased to announce a new Australian exchange partnership with the University of New South Wales in Sydney. A partnership with another leading Australian research-intensive law school of international standing is imminent. Our exchange program now includes the top law schools from Australasia. These new partnerships join our existing exchanges with Australian National University in Canberra, and the University of Auckland and the University of Otago, the leading law schools in New Zealand.

Andrea Streufert, Western Law’s Exchange Program Officer notes: “I’m thrilled to begin these new Aussie partnerships. I visited both universities last fall and was impressed with the facilities and programs at each school. I know that the staff there will be very helpful in assisting our students as we begin these new exchange programs.”

“This expansion is part of our plan to link with the world’s leading common law schools,” says Associate Dean, Grant Huscroft. “We are constantly reviewing our exchange partnerships with a view to improving not only the range of quality options available to Western Law students, but ensuring that Western Law attracts exchange students from the best law schools possible.”

Western Law’s current priority is to establish and maintain exchange relationships with leading research-intensive law schools in the United States, where graduates are increasingly likely to find work. The United Kingdom also presents tremendous opportunity for Western Law graduates, and Western Law is working on exchange partnerships with leading UK schools as well.

“The important thing is not the number of partnerships we have, but the quality of the schools with which we are partnered,” says Huscroft.



(L-R): Professor Paul Barker, Professor Grant Huscroft, Professor Laura Stephenson and Professor Peter Woolstencroft

January Term attracts international experts

In January, Western Law students undertook an intensive month-long course taught by 15 high-profile faculty and practitioners from across Canada and abroad.

The 'January Term', first introduced in 1999, provides upper-year students with an active learning experience and an opportunity to choose from a wide range of courses.

"The January Term is one of the most special parts of our curriculum," says Western's Dean of Law, Ian Holloway. "Through it, we are able to draw to Western each year a group of tremendously accomplished visitors from all over the world who teach courses we could not otherwise offer. It represents a way for us to broaden our institutional horizons and is a key part in our strategy for internationalization."

Courses offered this year included Law and Religion, National Security Law, and Corporate and White Collar Crime.

Professor Rick Bigwood from The University of Auckland in New Zealand taught Advanced Contract Law. Bigwood, a former Senior Solicitor with Australia's Federal Attorney-General's Department and editor of the New Zealand Law Review, enjoyed the different legal and cultural environment.



Back Row (L-R): Perry Dane (Rutgers), Rick Bigwood (University of Auckland), Hilary Josephs (Syracuse), Dean Ian Holloway, Poonam Puri (Osgoode), Geoffrey Leane (University of Canterbury), John Cross (Brandeis School of Law), John Blum (Loyola), Raymond Friel (University of Limerick) Front Row (L-R): Munir Maniruzzaman (University of Portsmouth), Barry Barton (University of Waikato), Cynthia Williams (Osgoode), Ron Atkey (Osler, Hoskin & Harcourt)

"It's a great opportunity to form collegial bonds with a new community of fine teacher-scholars at Western, as well as to experience the teaching and learning initiatives and practices of an institution that takes the student learning experience very seriously," says Bigwood. "It was a privilege to be associated with the Faculty, if only for such a short time."

Honorary Doctor of Civil Law - Sir David Williams

The University of Western Ontario conferred an honorary Doctor of Civil Law upon Sir David Williams for his work in the world of common law. Williams, jurist, lawyer and law teacher spoke to graduates from the faculties of Graduate Studies, Law, the Schulich School of Medicine & Dentistry and the Richard Ivey School of Business at the June 13 afternoon session of Western's 291st Convocation.



Sir David Williams

In his citation, Faculty of Law, Dean Ian Holloway, says Williams did much to professionalize and modernize the administration of the University of Cambridge during his time as Vice-Chancellor.

"David Williams is someone who typifies generosity of spirit, and is known by all as a paragon of fairness and integrity," says Holloway.

"Truly, his career exemplifies the old motto, labore et honore - by labour and honour. It is a tremendous source of pride for all of us at Western that someone of his stature and accomplishment stands among us today."

Williams, who served as Vice-Chancellor of the University of Cambridge from 1989 to 1996 and who has more than a dozen honorary degrees to his name, says the graduates have the ability to change the world with their actions, as long as ego remains in check.

"There is nothing that cannot be achieved if you don't worry about who should receive the credit," says Williams.

Jessup International Law Moot Court Competition - Call for Judges

The University of Western Ontario Faculty of Law will host the Canadian National Division Qualifying Tournament of the 2009 Philip C. Jessup International Law Moot Court Competition. The Jessup Competition will be held March 4 to 7, 2009 at the Lamplighter Inn & Conference Centre in London, Ontario.

Approximately 120 lawyers, legal academics and judges will be needed to act as competition judges. The 2009 topic will involve questions on the power and authority of the International Court of Justice. One need not have a specialty in international law, only knowledge of good advocacy.

More information on the competition will be available August 2008, at www.jessupcanada.org or contact the Canadian National Administrator, Jamie Larkam, at jd1arkam@aol.com.

Advance registration deadline is December 19, 2008.

Western Law wins gold

Western Law won the top prize in the 2008 Corporate/Securities Law Moot. The Western Law team of Michael Beeforth, Meredith Tapper, Zohaib Maladwala, Raphael Eghan and researcher Lindsay Rauccio beat out 11 other law schools from across Canada for their first place finish.

"We were extremely excited to represent Western in the final round, in front of a panel of esteemed judges. Winning the finals, and receiving the top factum award made our two months of hard work well worth it," said team member Meredith Tapper.

"Hard work, careful analysis and perseverance in the team's preparation led to great results," said Professor Richard McLaren, the team's faculty advisor.

Professors Nicholls and Pitel and lawyers from the firm McKenzie Lake assisted in the supervision of the practice moots.



(L-R): The Western Law team of Zohaib Maladwala, Raphael Eghan, Meredith Tapper, Lindsay Rauccio and Michael Beeforth with David A. Brown Q.C. (Davies Ward Phillips & Vineberg LLP)

The only competition of its kind in Canada, the annual Corporate/Securities Law Moot provides an opportunity for top students from Canadian law schools to debate current legal issues in corporate and securities law with senior practitioners from Toronto law firms and corporations, regulators from the Ontario Securities Commission and judges. The Moot is sponsored and administered by the Toronto law firm Davies Ward Phillips & Vineberg LLP and took place at the Federal Court of Appeal in Toronto on February 29 and March 1.

New book reflects Professor's profound influence



Professor Jay McLeod

Western Law Professor, Jay McLeod, left a profound legacy and influence on the world of family law. He was the author/editor of leading family law publications in Canada and his works have been cited with approval by every court in the country.

During his 33-year career at Western, Jay taught a variety of courses and his lectures were legendary for their insight, clarity and humour. His enormous contributions to the development of family law in Canada are reflected in a new book entitled *Contemporary Issues in Family Law: Engaging with the Legacy of James G. McLeod* published by Carswells.

The book, a collection of essays by lawyers, judges and academics, discusses and draws upon the scholarship of Jay McLeod. Western Law Dean, Ian Holloway, wrote the preface and Western Law professor, Ben Hovius, contributed one of the essays.

Hovius first encountered Jay McLeod as a student at Western Law in the mid-1970s and worked closely with him as a colleague for almost thirty years. He recalls Jay as a gifted teacher and an enthusiastic and witty colleague whose love for the study of law permeated his teaching and writings.

"Jay strove to demonstrate that Family Law was worthy of rigorous analysis and legal scholarship. His annotations to various cases could strike fear into the heart of any judge but they were always fair, to the point, and insightful. Above all, they were noticed. His stimulating and sometimes provocative insights did not always convince his readers or listeners, but they always made one think."

Hovius adds, "This collection of essays attempts to build on the foundation left to us by Jay McLeod. While only some of the essays focus specifically on Jay's views on particular issues, all of them strive to further his desire to ensure that lawyers, judges and academics think seriously about how Family Law should develop and to consider underlying policy issues."

All net revenues from this book will go to the James G. McLeod memorial fund at The University of Western Ontario. For more information on the book visit: www.carswell.com

From Around the School

■ International Symposium on Contract Law



Professor Jason Neyers

In January, Western Law hosted “Exploring Contract Law”. The international symposium investigated under-theorized and complex areas of contract law that are likely to be examined by appellate courts in the near future.

Western Law professor Jason Neyers, the Cassels Brock Faculty fellow in Contract Law, organized the conference.

“The basic fundamentals of contract law are very well understood but we wanted to take a closer look at the principles animating those legal rules and how the basic rules fit together with the more obscure,” he says.

The symposium attracted leading international academics from England, Hong Kong, Australia, New Zealand and the United States and senior appellate judges from across Canada.

“Having judges discuss and debate with scholars made for a wonderful interplay of theory and practice,” says Neyers. “We were fortunate to have had such a wide array of impressive speakers.”

International contract law scholars participating at the conference included Charlie Webb (London School of Economics); Robert Stevens (University College London); Ralph Cunnington (Birmingham Law School); Kelvin Low (University of Hong Kong); Mindy Chen-Wishart (University of Oxford); Andrew Robertson (University of Melbourne); Rick Bigwood (University of Auckland); Daniel Markovits (Yale Law School); Mark Gergen (University of Texas at Austin); and Andrew Gold (DePaul University College of Law).

Judicial participants in the symposium included the Honourable Justice W. Ian C. Binnie of the Supreme Court of Canada, the Honourable Justices Blair, Feldman and Sharpe of the Court of Appeal for Ontario, and the Honourable Chief Justice Finch of the British Columbia Court of Appeal.

Papers presented at the conference will be published in *Exploring Contract Law* by Hart Publishing of the U.K. in early 2009. The book will be edited by Neyers along with Professors Stephen Pitel and Richard Bronaugh, also of Western Law.

■ The Charter and Human Rights At Work

The role of the Canadian Charter of Rights and Freedoms in the workplace was the subject of a conference staged by the Faculty of Law this past October.

The Charter and Human Rights At Work: 25 Years Later brought together prominent international labour law academics, practising lawyers, chairs of Canadian labour relations boards, Canadian and international policy advisors, law students and representatives of employers, unions and government.

The conference, co-sponsored by the national law firm of Heenan Blaikie LLP, featured broad-based debate on the present and future direction of human rights and equality law in the workplace.

“Human rights and equality have become the leading legal issues in the Canadian workplace,” comments Western Law professor Michael Lynk, the conference coordinator. “Anti-discrimination clauses in collective agreements, human rights statutes and even the Charter of Rights and Freedoms are regularly litigated in labour and employment law cases. As our society becomes more diverse and more rights-oriented, and as our employment relationships become more transitional, workplace “glass ceilings” have become more visible and human rights talk has become more evident.”



(L-R): Dean Ian Holloway, Chief Justice Beverly McLachlin and Professor Michael Lynk

The Right Honourable Beverley McLachlin, Chief Justice of the Supreme Court of Canada, delivered the 5th Annual Koskie Minsky University Lecture in Labour Law on the topic The Charter of Rights and Freedoms and Canadian Labour Law. In her talk, the Chief Justice commented on the seminal court decision she co-authored called *BC Health Services*. Although the court had traditionally not interfered with imposed collective agreements such as the one put in place for *BC Health Services* employees, it broke precedent by doing so in that case.

■ During the past year Western Law invited a variety of speakers to provide unique perspectives on the law and current events

Think About Public Interest Law, Baker Says

Public interest law is a highly interesting practice that more law students should think about entering, said David Baker, founder of one of Canada's most prominent human rights advocacy firms at a talk at Western Law earlier this year.

"Canada has demonstrated a huge failing ... in recognizing the rights of people. There's a need for lawyers that can stand up to the government. There are hard realities out there ... you have to have a business model as well as a vision on what you want to do"

Nicole Chrolavicius, Western Law's 2000 Valedictorian works at Baker's firm and described her career path. Chrolavicius began by clerking at the Supreme Court before working for several years at a bay street firm specializing in commercial law.

Chrolavicius said that she had found her "dream job" at Bakerlaw, where she has developed a specialty in national security and human rights. The Bakerlaw talk was organized by Community Legal Services and Pro Bono Students Canada.

Cabinet minister says Canada terrorist target



Federal Minister of Public Safety Stockwell spoke at Western Law in March as part of the Faculty of Law's Distinguished Speaker Series. Day discussed Canada's role in the fight against terrorism.

"Canada is a target when it comes to global terrorism," he said. "This is the reality of life on our planet. We need to strike a correct balance for security purposes, but at the same time

have respect for individual rights and freedoms."

Day also discussed the 2006 arrest of 18 Toronto-area individuals in connection with proposed terrorist acts ranging from conspiracy to carry out a terrorist activity, to bomb making and illegally importing guns and ammunition.

Eddie Greenspan - keen "criminal" mind at Western

Renowned Canadian lawyer Eddie Greenspan spoke before a packed lecture hall at Western Law in February on the role of defence counsel in Canadian society.

Greenspan, who has represented many controversial and high profile defendants over the course of his long career and recently defended Conrad Black against mail fraud and obstruction of justice charges in Chicago, described the process of defending an accused in the U.S. as an uphill battle.

"The entire American justice system is warped, tilted against the accused person," he said. "U.S. prosecutors are not subject to the same disclosure requirement as their Canadian counterparts." Greenspan noted that while the Canadian Crown is required to provide an accused with the evidence against them as soon as possible, there is no similar requirement in the U.S.

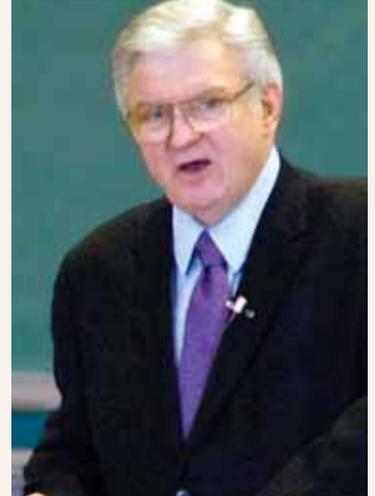
According to Greenspan, defence lawyers have a vital social role in ensuring a balanced justice system. The defence lawyer "doesn't merely keep an open mind about the accused, [but] is the accused's advocate," he said. "The defence lawyer chooses the occupation voluntarily but doesn't choose the role. Society defines the role."

Seeking reconciliation following genocide

"When people think of Rwanda, they think of genocide," Rwandan Ambassador to Canada Edda Mukabagwiza told nearly 200 people at Western's law school in April. "We would like to change this image."

Delivering a public lecture as part of Rwanda Day on campus, Mukabagwiza spoke of her country's efforts to rebuild following the 1994 genocide, and its attempts to bring perpetrators to justice - something she was tasked with in her role as Justice Minister.

"Our goal has been to get rid of the impression of impunity and to provide penalties that allow people to amend themselves and reintegrate into society," said Mukabagwiza. "The image of Rwanda is changing."



From Around the School

Entertainment lawyer talks about new music model

David Steinberg '89 is a man who really knows rock and roll well. He was a professional drummer with The Mods - a leading punk band of the 1970s that opened for the Police. On March 27 he gave a talk on some trends and buzz in the music industry at the law school.

Steinberg believes we are moving towards a subscription model in music. A recent suggestion by the Songwriters' Association of Canada is to tack on a \$5 surcharge on your ISP or cable bill to pay for music. People will pay it because they can not live without their Internet access.

Steinberg noted that recently Radiohead blew the lid off of the music industry when fans could buy their CD and pay what they want on the site. "The average amount people were paying was between \$6-8 going directly into the pockets of artists There is no absolute way they would have made more money than that on a record contract. They could have sold for \$2.50. It was nothing short of genius, the entire marketing campaign."

Binnie delivers Pensa lecture on Human Rights

In March, the Hon. Justice Ian Binnie of the Supreme Court of Canada delivered the 2nd annual Claude and Elaine Pensa Lecture on Human Rights at Western Law. His talk - The Reasonable Accommodation of Minorities - provided a wide-ranging and eloquent overview of the history of minority rights in Canada.



From the "honour of the Crown" obligations towards aboriginal peoples and linguistic educational rights embedded in the 1867 constitution to the contemporary social and legal debates over same-sex marriage, disability rights and reasonable accommodation, Mr. Justice Binnie stated that "those rights are at the very heart and soul of what Canada is, and has always been, about."

The Lecture series was established in honour of the 50th anniversary of Claude Pensa's call to the Ontario bar. The 2007 Lecture was given by Michael Ignatieff, deputy leader of the federal Liberal Party. The 2009 Lecture will be delivered by the Hon. Richard Goldstone of South Africa, former chief prosecutor at the United Nations International Criminal Tribunals for the former Yugoslavia and Rwanda.

Israel's ambassador on law and terror

Israel's ambassador to Canada, Alan Baker, spoke at Western Law in November on the "The legal challenges to fighting terror".

In his speech Ambassador Baker, considered one of Israel's most experienced diplomats, said, "Terror isn't something new, what is new are the techniques that are used by terrorists. A combatant is no longer the standard definition of a member of an army - in uniform - with a defined military structure.

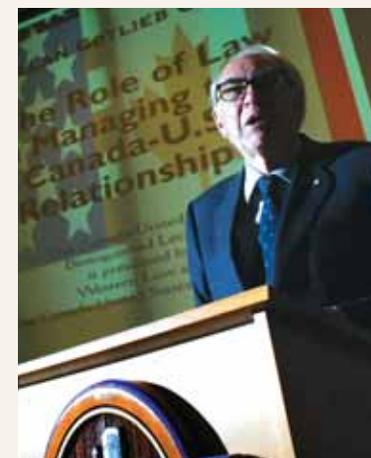
The new definition is someone who is not necessarily in uniform. We have to deal with the incitement; whether in universities, religious institutions, or on television, that glorifies the act of blowing oneself up and becoming a martyr. International law has not kept up with these changes."



Canada and the United States Security Issues

Allan Gotlieb delivered the inaugural Canadian-United States Distinguished Lecture at Western Law on Thursday October 4. The former Canadian Ambassador to the United States under Prime Ministers Trudeau and Mulroney called for the creation of a common security perimeter in order to ensure Canada's sovereignty and independence.

The lecture was sponsored by The Canada-United States Law Institute. The Institute is a bi-national, not-for-profit, multi-disciplinary entity created jointly in 1976 by Case Western Reserve University School of Law in Cleveland, Ohio and the Faculty of Law at The University of Western Ontario. It serves as a forum where the respective governments, business communities, legal professionals, academics, non-governmental organizations and the media explore and address the issues confronting the Canada-United States relationship.





LEGAL LEADER

BY KATHERINE LOW

IN APRIL OF THIS YEAR, DOUG FERGUSON, DIRECTOR OF WESTERN'S COMMUNITY LEGAL SERVICES AND ADJUNCT PROFESSOR OF WESTERN LAW, BECAME THE NEW PRESIDENT OF THE LIBERAL PARTY OF CANADA. FERGUSON, WHO HAS BEEN WITH WESTERN SINCE 2003, ADDS HIS LATEST ACCOMPLISHMENT TO AN ALREADY IMPRESSIVE LIST OF VOLUNTEER AND COMMUNITY SERVICE PROJECTS.

A 1981 graduate from Western Law, Ferguson specialized in litigation and handled federal prosecutions for the Canada Revenue Agency in private practice as a partner with Bitz, Szemenyei, Ferguson & MacKenzie (now Szemenyei Kirwin MacKenzie) before eventually returning to Western.

But politics have always been a passion of Ferguson's - and something he has remained active in despite his other commitments.

"I've followed politics since I was a child," he said. In fact, Ferguson's father was twice elected as an MP, served as Minister of Agriculture, and was in the House of Commons when the Charter of Rights and Freedoms was passed.

"Through my dad, I could see that one person can make a difference," Ferguson said. "By the time he was elected, my interest in politics was already in my soul."

So, Ferguson pursued his own political career, right from the time he became president of his high school students' council. And when it came time for university, the University of Ottawa was the logical choice so Ferguson could be close to the action at Parliament Hill. There, he earned his Bachelor of Administration in 1977 and his Bachelor of Commerce (Honours) in 1978. He also founded the Young Liberal club there.

“IT WAS A PERFECT FIT. I LOVE TO TEACH,
AND OUR STUDENTS HELP PEOPLE IN NEED
WHILE LEARNING HOW TO PRACTICE LAW.
I CAN'T THINK OF A BETTER PLACE TO BE.”

DOUG FERGUSON

After completing his LL.B. at Western and beginning his law practice, Ferguson joined the London West Federal Liberal Association, working his way from director to president. He became campaign manager for Sue Barnes in London West in the 1990s, before becoming Vice-President 'Organization' for the Ontario wing of the federal Liberals.

He said a moment of clarity came for him during the 1984 election when Brian Mulroney defeated John Turner. "The Liberal party was not ready," he said. "Despite the fact we're the ones that called the election, we were not ready. That experience taught me the value of being prepared and having a strong organization." As riding president, he organized the London West riding for the 1993 election, when they won the riding.

Then in 1998 he ran for office with the Liberal Party of Canada - and won - as National Organization Chair. He served two terms until 2003, and founded Liberal University, a training program that provided organization and campaign skills to thousands of grassroots Liberals.

In late 2006, he was campaign manager for Glen Pearson in the London North Centre by-election, while at the same time

running for Vice-President of the Liberal Party of Canada. He took so much on, he says, because "I wanted to make sure that party reform took root." He won the vice-presidency at the leadership convention, after which he re-energized Liberal University and took charge of governance issues. Then, in April of this year, he was elected President of the Liberal Party of Canada by its national executive following the resignation of Senator Marie Poulin due to illness.

As president, Ferguson's top priority is to modernize the party's fundraising. He also wants to rejuvenate ridings in areas that Liberals have had trouble winning in the past, as well as bring former Liberals back to the fold. "We need all Liberals to come back and help us to build a better country," he said.

He has already had the opportunity to address the Liberal national caucus. "That was an incredible experience. I'm grateful for the warm reception I've received from Liberals across the country. I've had to hit the ground running, and there is so much I want to get done."

But even with his new responsibilities, Ferguson plans to stay at Western - which is good news for the students involved in the extremely popular and successful Community Legal Services (CLS) at Western, which provides legal services to those in need in the London community in the areas of litigation, landlord and tenant law, criminal law, public legal education, estate law and immigration law.

"I'm a big believer in learning by doing," Ferguson said of the importance of CLS for students. "I really think that handling cases for real clients deepens your understanding of what you get in the classroom."

And he's never looked back on his decision to make the move back to Western. "I never dreamed I would be

back at the law school when I walked out the door when I graduated," he said. "But it was a perfect fit. I love to teach, and our students help people in need while learning how to practice law. I can't think of a better place to be."

Ferguson is grateful to his colleagues in CLS, Jason Voss, Margaret Capes, and Sue Latta, who "have built CLS to the high level it is today. They have been a huge help since my election as president."

Ferguson's work also extends to his volunteer experience - he is the president of the Canadian Club of London, was a club president and Lieutenant-Governor in the local Optimists, and was president of London's Covent Garden Market when it was rebuilt.

Ferguson is truly making a difference not only in the city of London, but also for students at Western Law.

"To come back to the beautiful campus once again, and to help create in our students the skills they need to succeed, that's a huge thing," he said. "Because their success speaks volumes for the program at Western." [w|](#)

A HEAVY HITTER

BY JEFF RENAUD

ALBERT EINSTEIN ONCE SAID, "YOU HAVE TO LEARN THE RULES OF THE GAME. AND THEN YOU HAVE TO PLAY BETTER THAN ANYONE ELSE."

Relatively speaking, that's all fine and dandy.

But when someone breaks the rules to get ahead, those who govern sport call in Richard McLaren. No arbitrator has ever been asked to hold court at more Olympic Games than the Western Law alumnus (five and counting) and when George Mitchell needed someone to bat cleanup for his 20-month investigation into the use of steroids and human growth hormone in Major League Baseball, the former United States senator called McLaren's number.

Quite simply, McLaren has ascended to the top of his game as one of the best sports arbitrators in the world.



McLaren, who continues his prolific roles as a professor at Western Law and as a counsel to McKenzie Lake Lawyers LLP in London, says sport has always been a big part of his life so when he pauses for a moment to consider some of the landmark cases he has been involved with over the past 15 years, he can hardly believe it.

"I loved sports growing up as a kid. I played everything that was going," says McLaren. "And when I look back at how this life in sport all got started, it wasn't something I went after, it just sort of happened."

McLaren entered the sports arena in the early 1990s as Alan Eagleson was on his way out of hockey, and the NHL and NHLPA were looking for replacements for salary arbitrators.

"Each side had a list of eight potential people and I was on the NHL's list," recalls McLaren. "I didn't know any of this was going on until I got a letter from the league's lawyers. It was unplanned. I hadn't even applied."

That was 1992. A year and half later, a second letter came. This time it was from the General Secretary for the Court of Arbitration for Sport. They were looking for North American-based arbitrators, who had professional sports experience.

McLaren had to apply this time around. He was successful and in 1993 he was elected to the adjudication body for the International Olympic Committee. He has since been an arbitrator at Nagano (1998), Sydney (2000), Athens (2004) and Torino (2006). And this summer, McLaren is scheduled to serve a record-setting fifth time at the Olympics in Beijing, China.

Like his NHL and Olympic posts, McLaren's work with Senator Mitchell regarding the use of steroids in baseball came from left field.

"I truly was not expecting it," laughs McLaren. "I got a call on my cell phone and Senator Mitchell invited me to come to New York about possibly joining his team."

"He liked what I had to say," says McLaren. "And he also recognized the role I had contributed to the USA Track & Field inquiry."

Following the Sydney Olympics and the resulting fallout surrounding C.J. Hunter's multiple failed drug tests, McLaren chaired an international independent review commission that led to drastic changes in how USA Track & Field handles its drug testing.

Mitchell asked McLaren to head up the group that evaluated the actual rules being used by Major League Baseball and how the league was administering those rules.

"The idea was to come up with a better set of rules and to investigate the current ones," explains McLaren. "That was my role and I worked with him pretty constantly through December when we had the press conference."



THE PRESS CONFERENCE WAS THE SHOT HEARD ROUND THE WORLD IN REGARDS TO STEROIDS AND BASEBALL. CARRIED LIVE ON DECEMBER 13 BY CNN, ESPN AND TSN, HIGHLIGHTS OF THE CONFERENCE, FEATURING MCLAREN (WHO SPOKE SECOND AFTER ONLY SENATOR MITCHELL), WERE ALSO SHOWN BY MEDIA OUTLETS ACROSS NORTH AMERICA OVER AND OVER AGAIN FOR DAYS AND DAYS.

The press conference was the shot heard round the world in regards to steroids and baseball. Carried live on December 13 by CNN, ESPN and TSN, highlights of the conference, featuring McLaren (who spoke second after only Senator Mitchell), were also shown by media outlets across North America over and over again for days and days.

McLaren says if Major League Baseball wants to fix itself the league can start by educating its players. But they need help from outside the game too.

"They also need to have a more rigorous testing regime and they need to apply it with consistency and vigour," offers McLaren. "That's what Baseball doesn't do. Every year, they have changed some part of their anti-doping regime rules but all of those changes have been marginal in their improvement. It's still dependent on running a system with a view to actually try to catch people and I don't think they are doing that as well as they could or should.

"And nor will they ever be able to. Because there is too much collective interest involved in not running the system independently and even-handedly with a complete transparency to it. That's what Senator Mitchell recommended. That there be an independent agency and Baseball hasn't gone there.

"They claim they have and they have changed things a little bit but it's still not an independent agency. And what they do have doesn't have any control over the actual testing process and how it's run. That's where all the weaknesses are.

"Baseball has moved a little further along the road but they really haven't moved to the point of being rigorous about it. And that's where they've got to be."

McLaren says people like to play sports themselves, so they are happy to recognize (and sometimes worship) others who perform better than they can.

But when professional athletes cheat in an effort to become better than the rest, that's when the "Average Joe" stops playing along.

Not to say they won't watch the Barry Bonds of the world self-implode.

"There is a human interest element to it," says McLaren. "Everyone loves the story of the fallen hero. It fascinates people, watching a Barry Bonds or a Marion Jones fall to earth.

"It's scandal. It's corruption. That seems to make news these days. Performance-enhancing drugs and their use is just a different way of the corruption of sport. In the same way, you can corrupt sport and destroy it by throwing games and by gambling.

But when it comes to baseball, the stakes are raised.

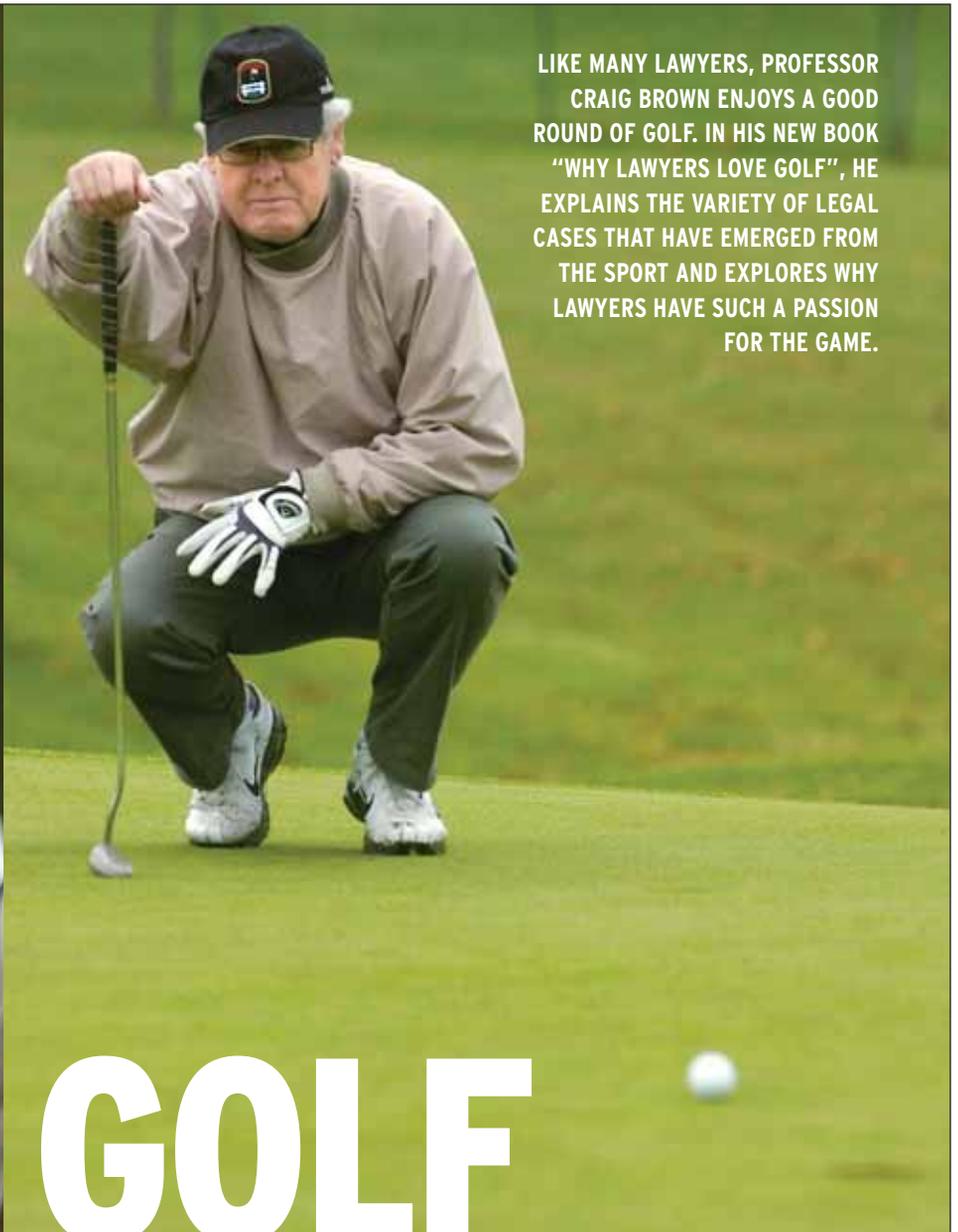
"Baseball is America's past time so when it is corrupt, America takes notice." [w|](#)



WHY LAWYERS

“GOLF AND THE LAW SEEM TO HAVE BEEN MADE FOR EACH OTHER. The game and all its related activities have given rise to a remarkable volume of litigation seemingly out of proportion to the scope of the game itself. On every fairway, in every stretch of rough, in every clubhouse, in every golf bag, at every swing at the ball, in every set of plans for a new course, in every application for club membership, there lurks a potential lawsuit.”

PROFESSOR CRAIG BROWN



LIKE MANY LAWYERS, PROFESSOR CRAIG BROWN ENJOYS A GOOD ROUND OF GOLF. IN HIS NEW BOOK "WHY LAWYERS LOVE GOLF", HE EXPLAINS THE VARIETY OF LEGAL CASES THAT HAVE EMERGED FROM THE SPORT AND EXPLORES WHY LAWYERS HAVE SUCH A PASSION FOR THE GAME.

LOVE GOLF

An excerpt from Craig Brown's new book, *Why Lawyers Love Golf...*

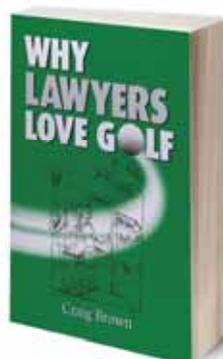
Since golf began many of its devotees have found themselves before the courts or have felt the need to summon others there so that the King's justice or the people's justice may be served. In the fifteenth century, hefty fines were levied against those who defied a ban on the game decreed by a Scottish statute. The law was enacted because golf was a threat to national security. Too many of the stout-hearted had succumbed to the temptations of the links when they should have been out practising their archery. In 1994, a Japanese gentleman was prosecuted in his country for "polluting the ocean" by driving more than two thousand golf balls into the sea for practice.

In between, in both time and geography, encounters of various kinds between golfers and the law have occurred with frequency. The law reports of England, Scotland, Ireland, Australia,

New Zealand and, especially, Canada and the United States, together contain literally hundreds of judgments delivered in cases which, but for the royal and ancient game, would not have arisen at all.

Every judgment tells a story. In their own way, these stories are part of golf history. They stand witness to some of the game's most significant developments. The emergence of professionals from the servant class to great prominence is a case in point. You and I might consider it flattering to be described publicly as a golf professional. But, in a particular time, place, and set of circumstances a court found that to depict an amateur golfer as a pro was to defame him. A few decades later another golfer was suing to gain admission to the ranks of professionals.

Caddies are another example. In North America at least, outside big-time tournaments, they have all but disappeared. But theirs is an important chapter in golf's story and some of





that chapter has been written by judges. The claims of women to greater equality in golf cannot be told at all without mentioning lawsuits. Technological developments in equipment have yielded their share of legal actions too. Lawyers and judges attended the birth of the wound-rubber golf ball and they were there too for the circumcision of the square-grooved iron. The ongoing popularity of golf has meant pressure on clubs, pressure on courses. This produces friction. And friction, often leads up the courthouse steps. At many a significant turning point in the story of golf, a court case has not been far away.

An entire law school curriculum could be taught using nothing but golf cases. There are those that raise issues of constitutional law. Some have to do with land law; ownership, easements, leases and mortgages. Others deal with zoning. There are contract cases, personal property cases, trademark cases, tax cases, patent cases, corporate cases and bankruptcy cases. There are criminal cases from theft to murder. Administrative law and municipal law, involving disputes with bureaucrats or club officials, feature too. Labour law, family law, human rights, insurance, defamation; they are all represented as well.

The most numerous are the tort cases; those where golfers or golf clubs have been accused of negligence or creating a nuisance for neighbouring landowners. To use a phrase popular among judges, these could be characterised as the “a golf ball is a dangerous missile” cases. The missiles have found unlimited ways to make unwelcome contact with the heads (it seems most often to be an eye) of other golfers, or passers-by, or adjacent residents. This explains, incidentally, why physicians love golf too. The road from the golf course leads to the emergency room. But then that road seems invariably to continue on from the hospital to a barrister’s chambers and thence, should necessity dictate, to the courthouse.

And no aspect of the game is immune. The subject matter might be the course you play on (seen any hidden hazards? been poisoned by the fertilizer?), the clubs you hit with (did the maker steal the trademark), the ball you hit (if it’s a former lost one, do you really own it?), the way you play (watch out for others), caddies, professionals, committee politics, greenkeepers, clubhouse incidents, membership applications, and so on.

Some of these legal golfing stories are about prominent players, like Jane Blalock, a leading contender on the women’s professional tour in the U.S. in the 1970s, and Cyril Tolley, Britain’s leading amateur in the 1920s. Some are about famous golfing places, such as Carnoustie, Prestwick,

Musselburgh, and Glen Abbey. Some are even about well-known equipment, like the Haskell golf ball and Ping clubs.

But most are about ordinary golfers or ordinary places, doing the kinds of things we hackers have all done or seen; things to which, one way or another we all relate. Hooks, slices and shanks, out-of bounds, lost balls, slow play, impatient golfers behind you hitting before you are out of range, the pressure of hitting a shot under the stony gaze of the slow group in front of you when they finally invite you to play through, reckless cart drivers, clubhouse celebrations; these are the seeds of many a plot that has had its climax

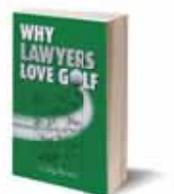
in court. There are stories too that bring to mind your secret golf dreams. Maybe it is building your own course. If it is you had better get a lawyer first. Perhaps it is representing your country or turning pro. Getting a judge on your side could help there. What about a hole-in-one? There is even a case about that.

With luck the telling will convey some of the snippets of history, some of the variety of law and circumstance, some of that which we presume to call “philosophy”, or at least some of the humour and irony that seem, to one golfing lawyer, to be contained there. But for the lawyer there is, may I presume to say, something more. In a sense this is a reference book containing sources to which reference may be made in legal argument or opinions (hence the footnotes). Of course, no claim is made to comprehensive coverage of the law of negligence, defamation, trademarks, contracts, land use planning, and so on. But when it comes to placing a case involving golf in the context of a broader legal subject, there may be some assistance to be found here.

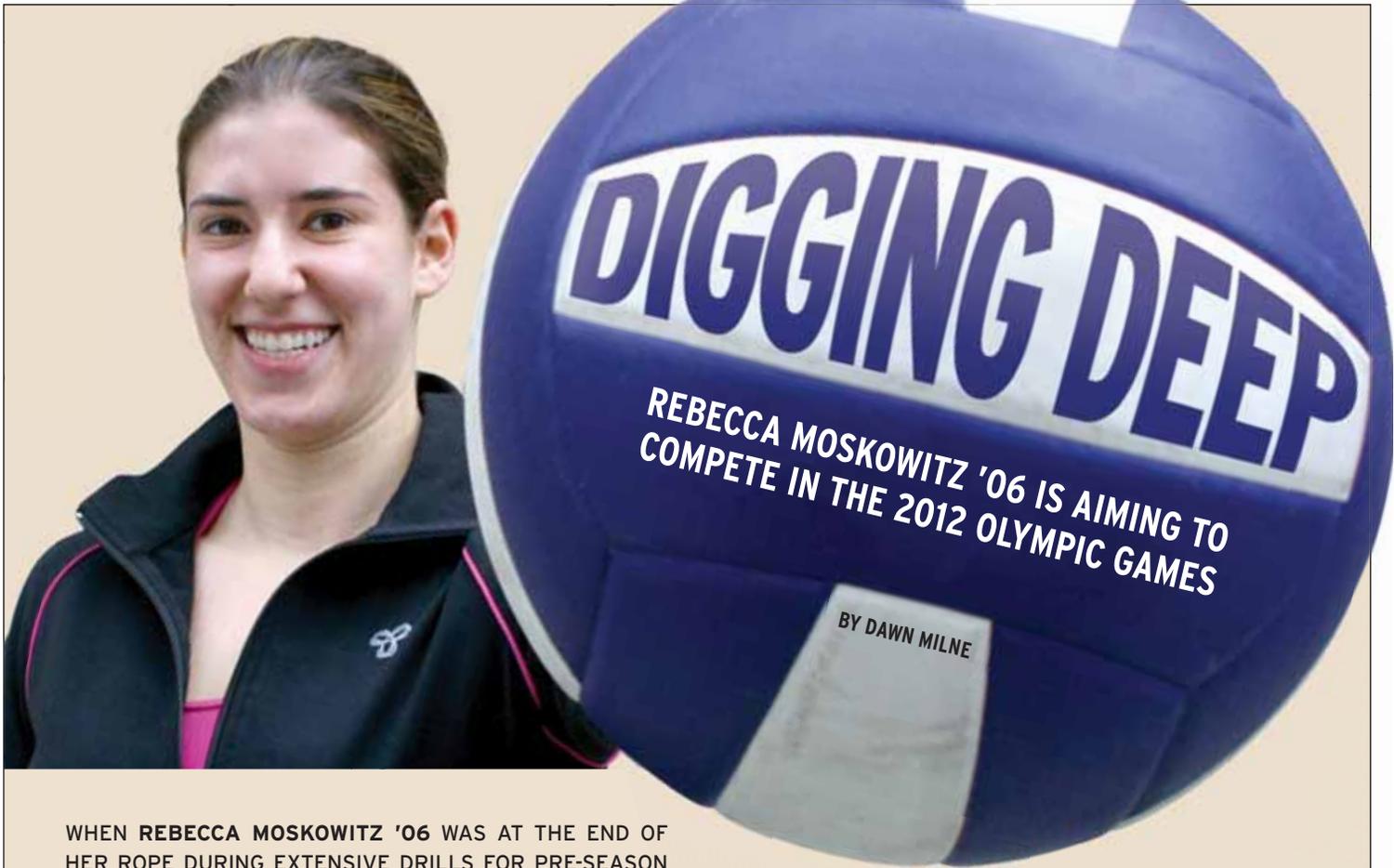
The great questions of the law have to do with humans trying to find ways to occupy the same space and identifying the rights they should enjoy as against each other and as against the bodies that govern them. Those questions include, who makes the rules? Are those people constrained in

any way, for example by some concept of morality? Various points of view are brought to bear in addressing these questions, such as feminism, economics. In the body of law discussed in this book, all of the approaches to legal theory, from positivism to natural law, from law and economics to feminist analysis are on display for those who wish to find them. [WI](#)

To purchase copies of **Why Lawyers Love Golf**, please contact: scribblerpublishing.com or the Canadian distributor Helen Reutis, at h.reutis@sympatico.ca



The ongoing popularity of golf has meant pressure on clubs, pressure on courses. This produces friction. And friction, often leads up the courthouse steps. An entire law school curriculum could be taught using nothing but golf cases.



WHEN REBECCA MOSKOWITZ '06 WAS AT THE END OF HER ROPE DURING EXTENSIVE DRILLS FOR PRE-SEASON BEACH VOLLEYBALL TRAINING, SHE PERSEVERED; RECALLING THAT SHE HAD ALREADY SURVIVED THIS KIND OF GRUELING DEMAND.

"In one particularly rigorous practice, I distinctly remember harkening back to my last year of Law School when I was on my last set of exams. I was totally exhausted, beaten down after so many years of studying while also training and starting my own business. My body was ready to quit, but mind said "no"; I have to keep going; I have to find a way," recalls Moskowitz. "When I was training for volleyball with the best coaches in the world, they were complimenting me and admiring my work ethic and my ability to push myself - my mental toughness - and that was very much trained and honed in law school."

Moskowitz, a professional beach volleyball player, enjoys challenging her mind as well as her body, referring to the mind as another "muscle" that requires rigorous training the same as the body. That's why she chose Western Law after getting an English degree from the University of Toronto. Coming from a family of lawyers, she was intrigued by the legal profession's use of language and the competitive nature of the work.

"I thought law school would be a great fit for me in terms of being able to challenge my mind," she says. "I would recommend law school to anybody, even if you don't want to be a lawyer, because it teaches you to use your mind and work your mind. I honestly feel like I left there mentally stronger than the day I arrived."

Since graduating, volleyball training has taken the forefront. She's focused on training full time for the next four years in hopes of qualifying to compete in the 2012 Olympic Games in London, England. Already she has won a silver medal in the 2001 Canada Games, won two gold medals at the Canadian National Championships, AA division, and represented Canada in the 2002 World University Games.



"MY WORK ETHIC, MY ABILITY TO PUSH MYSELF, MY MENTAL TOUGHNESS - THAT WAS VERY MUCH TRAINED AND HONED IN LAW SCHOOL."

REBECCA MOSKOWITZ

In addition, she'd like to help other athletes to achieve their Olympic dreams. Through her company, Dig Deep Inc., her staff organizes corporate beach volleyball events that bring the benefits of athletics to the business world in exchange for profit, some of which she invests in her sponsorship campaign and hopes to invest in other athletes as profit increases. "In addition to being fun, the events exemplify to participants how team work, communication and perseverance - critical to success in beach volleyball - are equally applicable to success in the business world," says Moskowitz.

Once she achieves her goal of competing in the Olympics, Moskowitz hopes for a career as a motivational speaker.

"What I feel I'm meant to be doing now is my athletic goals. I almost feel that it has been training me, just like law school did, for a future of helping people to achieve their dreams," explains Moskowitz. "There are lots of people who are excellent lawyers but not everybody has had the unique experiences that I have had and, therefore, I want to do something that combines them all to maximize the benefits for others." [wl](#)

A PERFECT



“

LAW ALLOWED ME TO MARRY
MY PERSONAL INTEREST IN
SPORTS WITH MY PROFESSIONAL
CAREER AND THE FIT WAS GREAT.

”

DAVID SHOEMAKER

MATCH

BY
KATHERINE
LOW

EIGHT YEARS AFTER GRADUATING AS THE GOLD MEDALLIST OF HIS WESTERN LAW CLASS, DAVID SHOEMAKER '96 WAS LIVING HAPPILY IN NEW YORK CITY, WORKING IN AND TEACHING SPORTS LAW, WITH NO PLANS TO LEAVE THE CITY ANYTIME SOON. HE WAS WORKING WITH PROSKAUER ROSE LLP ON PROJECTS WITH THE NHL, THE NFL, THE ATP MEN'S TENNIS TOUR, MAJOR LEAGUE SOCCER, MAJOR LEAGUE BASEBALL, AUTO RACING AND BOXING.

"IT ALLOWED ME TO MARRY MY PERSONAL INTEREST IN SPORTS WITH MY PROFESSIONAL CAREER AND THE FIT WAS GREAT," HE SAID.

But when an opportunity came up at the worldwide headquarters of the Women's Tennis Association (WTA) in St. Petersburg, Florida, Shoemaker, who was in his partnership year, couldn't say no. After all, tennis is in his blood. Shoemaker, 37, was born in Ottawa into a family well-versed with the sport. His grandfather, Gilbert Nunns, held the top men's ranking in Canada in the 1930s and his mother, Brenda Nunns Shoemaker, was a former Tour player and member of the Canadian Fed Cup team. She also played Wimbledon in the 1960s and shared the Canadian Open doubles title for one season.

And just over 18 months after being hired as WTA general counsel, Shoemaker was promoted to Chief Operating Officer. Now, he has been with the WTA for over four years and his fingerprint there is hard to miss. Shoemaker has negotiated multi-million dollar sponsorship and tournament deals for the WTA.

He also helped secure equal prize money for men's and women's tournaments at Wimbledon and the French Open, putting them on the same page as the Australian and U.S. Open. And he helped establish four tournaments that will pay equal prize money to both sexes.

"We're the only pro sport in the world where women and men compete for the identical amount of prize money at the highest level," he said. "We're not changing the world here at the WTA but I think it sends a pretty great message to young girls the world over. And I guess it sends a very positive message to moms and dads that they should cancel their daughters' golf lessons."

Shoemaker's work has caught the sports world's attention. He was recently named to the



SportsBusiness Journal's annual list of "Forty Under 40" which honours sports' top young executives. Shoemaker is the first tennis Tour executive to ever appear on the list.

"It was exciting," he said. "I was able to celebrate that night with all my colleagues at the WTA because I regard it as much of an acknowledgement of what the WTA has achieved in the past couple of years."

But now, Shoemaker has made another move - this time to Beijing, China to head the WTA's Asia-Pacific headquarters. With several rising tennis stars in Asia, he is seeing an increased popularity for the sport and many opportunities to promote it.

"Sports marketing in China is very much in its infancy," he said. "I don't think Chinese companies have really thought of sports marketing as the vehicle to grow their brands. At least not yet."

In order to make his move to Beijing go smoothly, Shoemaker has been learning Mandarin.

"It almost reminds me of my law school days," he said. "I cram every once in a while."

Shoemaker says he's thankful for his law school days at Western and has used his education to his advantage. After graduation, he worked as a law clerk for the Supreme Court of Canada for former Chief Justice Antonio Lamer. He then went to New York to work in the litigation department at Cravath, Swaine & Moore. There he was surrounded by the firm's other new hires - all Ivy League grads.

"And there I was, UWO Law grad, and I think people looked at me like I had three heads," he said. "And I can honestly say looking back that yeah, I would absolutely stack up my education against any single one of them. And I say that with great pride."

Shoemaker plans to stay in Beijing for a few years and hopes to eventually return to work in Canada. [wl](#)

Achieving his Goals

AS AN AGENT TO SOME OF HOCKEY'S BIGGEST STARS, WESTERN LAW ALUM CRAIG OSTER'S CAREER IS SHINING BRIGHT. BY SUSANNA EAYRS



analysis of salary arbitration results at the NHL Players Association.

"It was my first exposure to the world of sports law. Studying and working with Prof. McLaren was an outstanding experience and a great training ground. He gave me great insight into the sporting industry," Oster recalls.

After graduating from Western Law in 1994, Oster articulated at Fogler, Rubinoff, but when the opportunity came to shift out of legal practice and into sports management, Oster did not hesitate. He joined Newport Sports Management Inc. in 1995 where he has built his successful career.

CRAIG OSTER '94 RELIES ON TWO IMPORTANT SKILLS WHEN STICK HANDLING CONTRACT NEGOTIATIONS FOR NATIONAL HOCKEY LEAGUE STARS: HIS PROFESSIONAL BACKGROUND AS A PLAYER AND HIS LAW DEGREE FROM WESTERN.

A hockey fanatic since he was three, Craig turned down an opportunity to play on an NHL farm team to pursue a career in law. He was interested in the sports management side of the game and it was his own agent who suggested the best ticket to that goal was a law degree.

But Oster did not hang up his skates; he played professional hockey in Europe for a year to fund his law school studies.

"Western had great appeal. It was the only law school in Canada at the time to have an exchange program with the U.S. and gaining exposure to U.S. legal studies was a great advantage."

While at law school, Oster hoped to continue playing the game he loved, but before he could join the Mustangs hockey team, he had to regain his amateur eligibility. "My first challenge as a budding young lawyer was to see if there was anyway of getting around that, and I soon found out there wasn't," laughs Oster. He began playing for the Mustangs in his second year.

At Western Law, Oster became a research assistant for Prof. Richard McLaren and helped him prepare a comparative

Newport is the largest hockey agency in the world and represents 120 full-time NHL players, including some of the game's biggest stars. Oster conducts salary and contract negotiations, is involved with marketing and endorsement work and oversees the company operations in Western Canada and in Europe.

"When you work with a young hockey player who has a dream to become a National hockey league player and can assist in his development to achieve that dream, it's a really rewarding process," he says.

Though it's not a requirement to have a law degree to be a sports agent, Oster feels it's essential in order to be a successful one.

"Everything we do has a legal component - there's arbitration, grievances, immigration, taxation, family law and litigation. I'm extremely thankful for the legal education I received at Western."

Oster is keen on mentoring young people. As an adjunct professor at Western Law in the mid 90s teaching sports law he showed students the practical side of law.

He also feels it's important for students to understand the value of a law degree. "I tell them not to limit themselves. The critical analytical skills one learns is highly valued in any industry. A law degree can open so many doors." [wl](#)

On Your Marks...

WHEN CANADIAN OLYMPIC AND PARALYMPIC ATHLETES MARCH PROUDLY INTO THE STADIUM IN BEIJING THIS SUMMER, SOME WILL BE THERE AS A RESULT OF THE DEDICATED WORK OF TWO WESTERN LAW STUDENTS.

BY SUSANNA EAYRS

DAVID REYNOLDS AND STEVEN TEAL MANAGE SPORT SOLUTION, A PROGRAM OF ATHLETESCAN, RUN OUT OF WESTERN LAW. THEY PROVIDE MUCH NEEDED ASSISTANCE TO CANADIAN AMATEUR ATHLETES IN RESOLVING SPORTS-RELATED LEGAL ISSUES.

"We help them negotiate their way through the often complex world of amateur sport," says Teal. "There's more to being an athlete than just training. They have to also understand contracts, funding, discipline issues, doping rules and the appeals process."

Teal says while they can't offer legal advice, they can lay out a course of action to help amateur athletes understand all the resources and avenues available to them.

"We offer support throughout the dispute resolution process and give guidance on how to avoid conflict and understand the fair administration of sport."

Sport Solution was founded in 1996 when the Faculty of Law at Western joined forces with AthletesCAN, the Sports Law

Centre, and the Dispute Resolution Centre to create a not-for-profit program to help high performance Canadian amateur athletes resolve legal conflicts.

It is the only program of its kind in North America and Sport Solution offers its services free of charge to Canadian amateur athletes who are members of a national team.

"Often amateur athletes don't have the financial means to hire a lawyer. Sometimes our guidance is the only advice they receive, so it's really important for us to clearly explain the issues and help them understand their rights," says Reynolds.

In more serious cases, athletes are strongly encouraged to retain legal counsel and are referred to the list of legal representatives that have made themselves available on the Sport Dispute Resolution Centre of Canada website.

But the goal of Sport Solution is for issues to be resolved before that point.

"It's important for athletes to maintain positive relationships with their team and sports organization, and mediation is a great route," explains Reynolds. "Where an athlete's dispute is resolved via mediation as opposed to arbitration, the all-

important trust relationship between the athlete and their organization is maintained."

Sport Solution recently helped a national team athlete after their government-assisted funding was revoked when the athlete did not properly report their injury.

"We explained the appeal process, helped them file the appropriate forms and made sure the athlete was ready for battle. The process resulted in the athlete and organization coming to a mutually agreed upon middle ground in front of a mediator." This outcome provided the athlete with the financial means to continue to pursue their ultimate dream of the Olympics.

Calls to Sport Solution have increased leading up to the Games in Beijing. Athletes have been inquiring about various issues, ranging from funding to team selection.

Team selection issues are a common theme building up to events such as the Olympics. "Athletes want to know why they didn't make a team; it's a huge issue," says Teal. "We help them understand the selection criteria. If the athlete feels there was bias or the criteria was not accurately applied and wants to appeal, we help the athlete formulate their arguments, file the appeal and ensure all timelines are met."

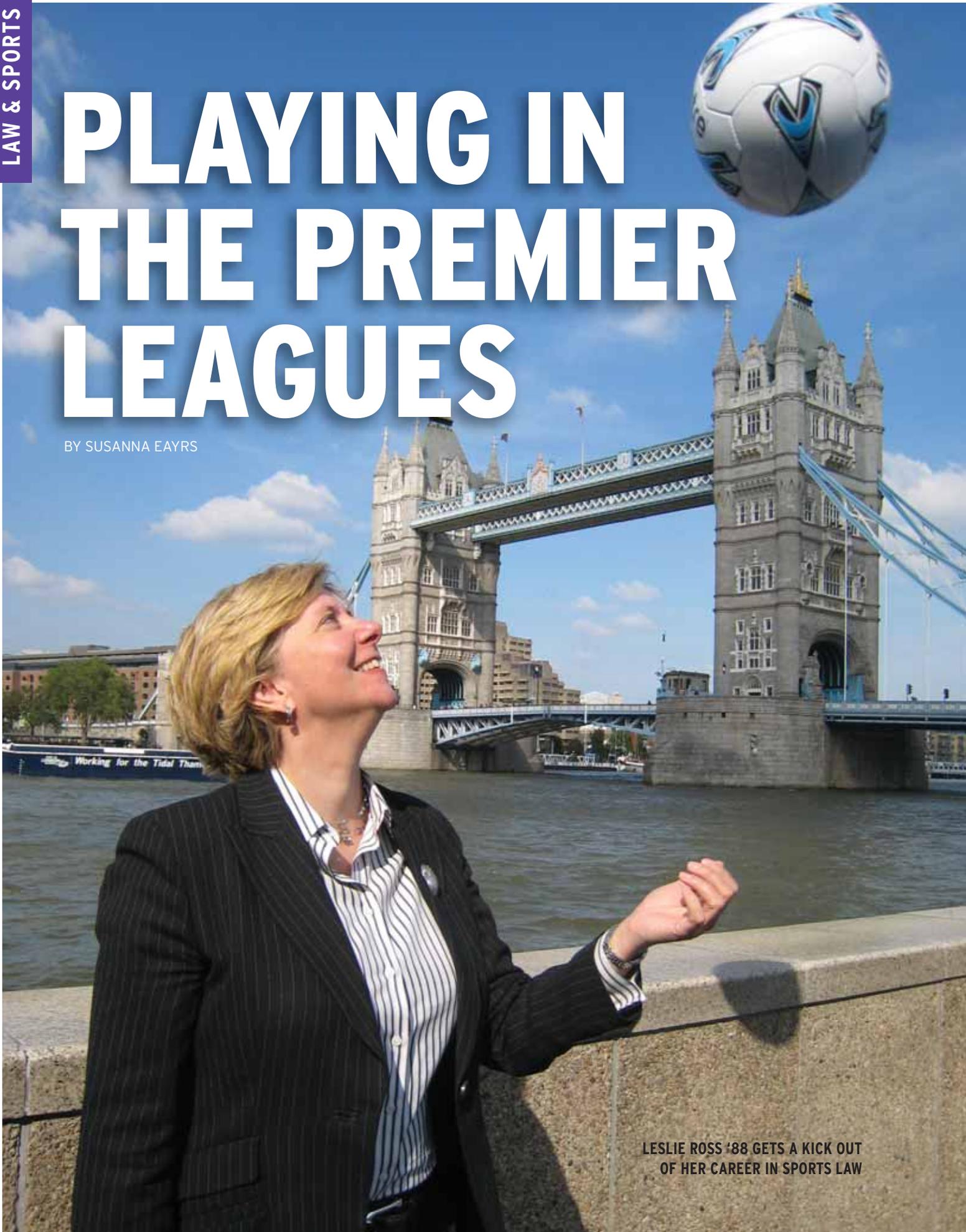
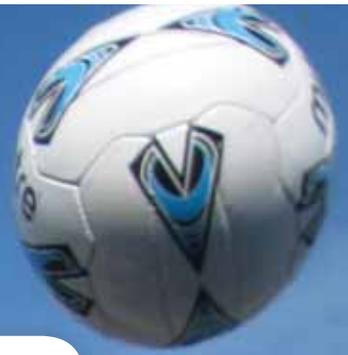
Working at Sport Solution gives students an opportunity to apply practically what they've learned in the classroom. But the experience goes beyond that. "It's very gratifying to help amateur athletes. They really appreciate the work we've done for them. In our own small way we are helping them with their Olympic dream," he says with a grin. "And that's very exciting." **WL**



WESTERN LAW STUDENTS DAVID REYNOLDS (LEFT) AND STEVEN TEAL OF SPORT SOLUTION

PLAYING IN THE PREMIER LEAGUES

BY SUSANNA EAYRS



LESLIE ROSS '88 GETS A KICK OUT OF HER CAREER IN SPORTS LAW

A FORMER COMPETITIVE ATHLETE IN BOTH HOCKEY AND EQUESTRIANISM, LESLIE ROSS '88 SAYS HER LOVE OF SPORT PROMPTED HER TO PURSUE HER DREAM CAREER OF SPORTS LAW.

"MOST PEOPLE WHO ARE INVOLVED IN THIS FIELD ARE PASSIONATE ABOUT SPORTS. People are attracted to sports law because it's interesting, it's dynamic and it's fascinating," says Ross. "I would say the proportion of dynamic people I have encountered who are absolutely passionate about sports law is much higher than those I have encountered who are enthralled with the much more traditional world of corporate or securities law." According to Ross, another advantage to a career in sports law is that it can take one into a wide range of areas of law.

"It really can mean just about anything. It can be employment law, commercial law, mergers and acquisitions and even criminal law, to some extent. So you need a really strong legal grounding in whatever particular field you want to pursue," she says.

Ross says her education in business and corporate law from Western provided her with a solid foundation on which to build her successful career.

To date, Ross has worked as an in-house solicitor for a major sports broadcasting rights holder and has acted as CEO of England Netball, the national governing body for the sport of netball (similar to women's basketball) in England.

"My education at Western Law was phenomenal. It really stood me in good stead. It's training I use in all aspects of my career," notes Ross.

Western Law continues to provide help with her career. Ross still calls upon Professor Richard McLaren, her former teacher, for advice.

"He certainly motivated and inspired a lot of his students and he has been an invaluable contact and resource for me," she says.

After graduation, Ross practised in the corporate finance and capital market areas in Vancouver and Toronto before joining the 'magic circle' firm of Freshfields Bruckhaus Deringer in London, England in 2000.

"I wanted to be involved with international sporting events like

the Olympics or the Tour de France. The opportunity to work in a truly international sports field was a real draw," explains Ross.

At Freshfields, she co-represented the International Olympic Committee (IOC) in a case involving a British skier who tested positive for a banned substance at the 2002 Salt Lake City Winter Olympic Games. It was a high-profile case and went all the way to the Court of Arbitration for Sport.

**"I GET TO LIVE
AND WORK IN AN
ENVIRONMENT THAT
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IT'S A PRETTY
PHENOMENAL WAY TO
PURSUE A CAREER."**

LESLIE ROSS

"It was one of the first major challenges where an athlete lost his medal and it was a tremendous experience to represent the IOC," recalls Ross.

She spent three years at Freshfields, allowing her to get a firm foothold in the United Kingdom market and the credibility to keep pursuing her love of sports law.

Ross then worked as a sports consultant, providing advice on legal and commercial matters arising from the licensing and distribution of broadcast rights to various international sports events.

She joined the law firm of Hextalls in 2007, where she now represents numerous football (soccer) clubs in the English FA Premier League, negotiating commercial

and licensing deals, including sponsorship and broadcast rights.

Ross is also legal counsel to the former lawyer-turned-professional boxer Laura Saperstein. Saperstein has created something of a media frenzy in the United Kingdom and is quickly becoming one of the hottest prospects in British boxing.

"She's the first female boxer to be signed to a major promoter," Ross explains. "She's fighting a lot of stereotypes. It reminds me of my hockey days when women had to battle simply to get the right to play. Laura is breaking new territory and fighting both literally and figuratively. It is fascinating to be part of her story. Women should have the right to participate in any sport they want, at any level."

Ross has fallen in love with her adopted city of London, England. She's also involved with the group London Legacy 2020, which is dedicated to helping East London capture the long-term benefits of hosting the 2012 Olympic Games. The group is partnering with companies in the City of London and Canary Wharf to assist in both the regeneration of the area and the creation of sporting opportunities for disadvantaged youth. Ross says there is excitement in London gearing up to the Olympics.

"We're going to have an amazing run up. It's a great time to be in this wonderful city," she says.

In her own way, Ross has already won her own Olympic medal.

"I get to live and work in an environment that I am absolutely passionate about. I work for my clients and part of my job is to attend world-class sporting events. In this field, you get to meet, represent and interact with athletes and sports organisations at the very top of the sporting world," says Ross. "Because I am so interested in sports, it's a pretty phenomenal way to pursue a career." [w|](#)

Strokes of Success

BY DAWN MILNE

“

WHETHER IT'S A HIGH-STAKES LEGAL BATTLE OR THE RIGOROUS RACE TO QUALIFY AS A ROWER IN THE 2012 OLYMPIC GAMES, THE MENTION OF A CHALLENGE APPEALS TO MACINTOSH'S COMPETITIVE NATURE

”

IF THERE IS ONE THING WESTERN LAW STUDENT COURTNEY MACINTOSH HAS PROVEN, IT'S THAT SHE IS NOT AFRAID OF A CHALLENGE.

Whether it's a high-stakes legal battle or the rigorous race to qualify as a rower to compete in the 2012 Olympic Games in London, England, the mention of a challenge appeals to MacIntosh's competitive nature and inspires her to put forth her best effort.

"I definitely have a competitive edge all of the time," says MacIntosh. "The legal field has always interested me because of the competitive nature of the job as well as getting to help people."

She also competes as a rower. MacIntosh became involved in rowing while in high school in St. John's, Newfoundland and won a full scholarship to the University of Texas in Austin for rowing. While in Texas, she excelled in academics as well as rowing and received the university's Scholar-Athlete Award for the senior female student athlete with the highest overall grade point average.

From Texas, she moved on to London, Ontario where she has been able to meet her needs in both academics and athletics, attending Western's law school and training with Canada's national rowing team at Fanshawe Lake. Since joining the national team, she competed in the Commonwealth Championship Games in Scotland and the World University Games in Lithuania, both in 2006, and earned two silver medals at the Commonwealth Games.

"I feel like I get the best of both worlds," says MacIntosh. "I knew I ultimately wanted to come to London to pursue a rowing career but I also was fortunate enough to get into the

law school at Western. I had heard from other people what a good program it was and how welcoming the students and faculty are. With law being an inherently competitive program, the atmosphere means a lot."

After attending her first year of Western Law in 2006/2007, MacIntosh took this past year off to train in rowing full time and hopes to qualify for the World Championship Games in Linz, Austria at the end of July. Although she'll return to law school this fall, she'll continue her rowing training and hopes to later qualify for the 2012 Olympics. She is currently seeking sponsorship for her rowing pursuits through a program called Adopt-a-Rower from Rowing Canada.

"After 2012, my legal career will take the forefront but, until then, I'm focused on rowing," says MacIntosh.

In fact MacIntosh says the discipline and time-management skills needed to accommodate rowing practices and competitions should serve her well in her next two years of law school and in her future career.

She is also influenced by a belief that nothing can stand in the way of your dreams, inspired by watching Silken Laumann, a Canadian champion rower, make a strong comeback and earn Olympic medals after suffering a serious leg injury in a boating accident just prior to the 1992 summer Olympics.

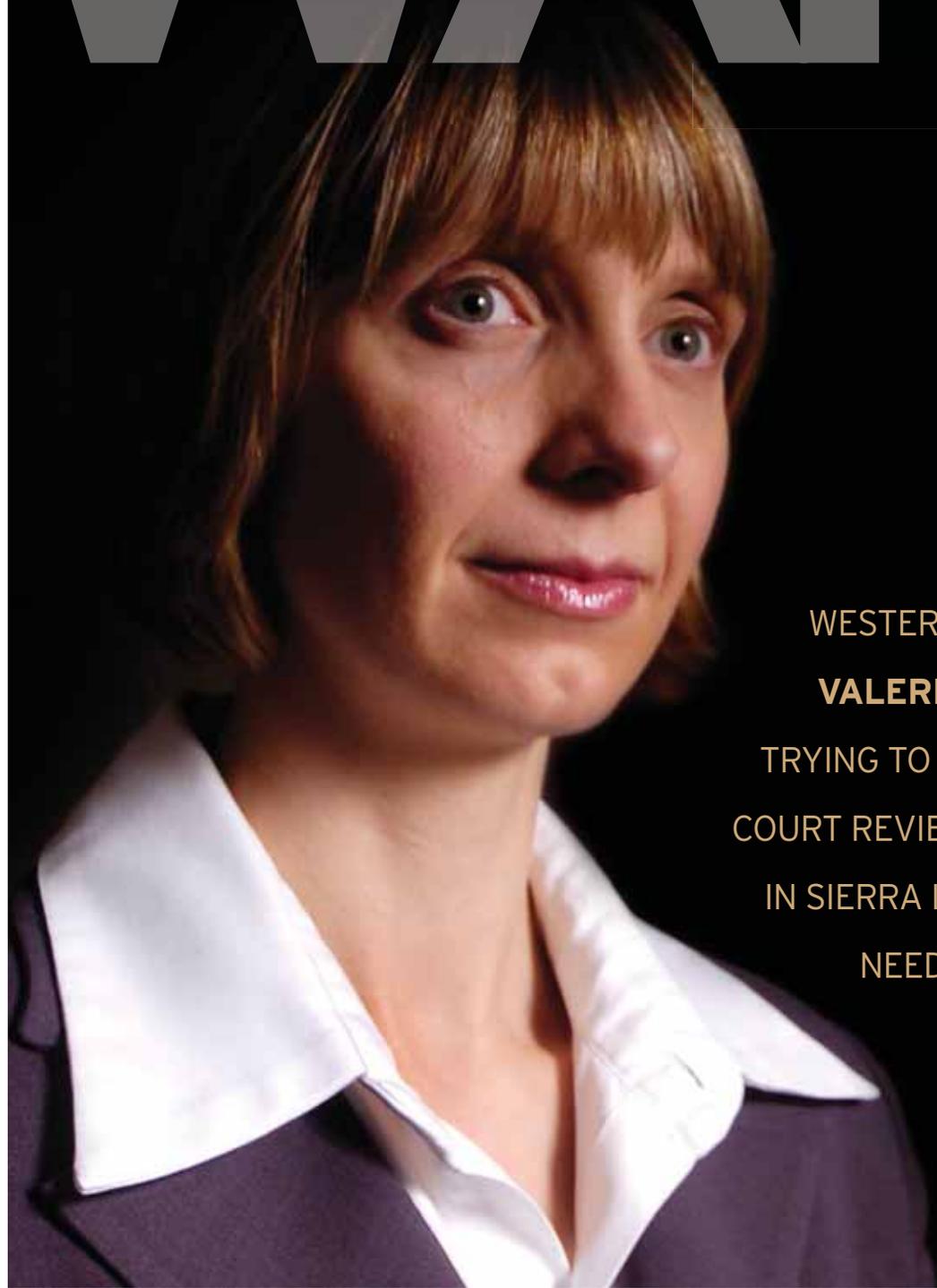
"It showed me that if you choose to overcome obstacles, you will. The only obstacles that really stop you are the ones you put in your own way," says MacIntosh.

Those interested in sponsoring MacIntosh can contact her at courtneymacintosh@gmail.com 

**A WESTERN
LAW STUDENT
CHASES THE
DREAM OF
OLYMPIC
COMPETITION**



WAR



WESTERN LAW PROFESSOR
VALERIE OOSTERVELD IS
TRYING TO ENSURE A SPECIAL
COURT REVIEWING BRUTALITIES
IN SIERRA LEONE SERVES THE
NEEDS OF THE CITIZENS
OF THAT COUNTRY.

"IT'S NOT LIKE THE THREAT TO THEIR LIVES GOES AWAY. WHAT ARE THE MECHANISMS AND MODALITIES FOR KEEPING THEM SAFE."

PROFESSOR VALERIE OOSTERVELD

Peace

BY KAREN OTTO

VALERIE OOSTERVELD SAYS HER RESEARCH TOPICS SOUND LIKE "DRY ISSUES" BUT BY EXAMINING HATE, BRUTALITY, WAR, AND PEACE, NOTHING COULD BE FURTHER FROM THE TRUTH.

The assistant professor is examining legal obligations that continue after the United Nations-backed Special Court for Sierra Leone closes its doors in 2010.

The United Nations-backed Special Court was set up in 2002 to deal with war crimes and crimes against humanity committed in Sierra Leone after November 1996 during the Sierra Leone Civil war. And just as the Special Court was groundbreaking, so too are the topics she's researching.

"The only other time the international community has dealt with the closure of a war crimes tribunal was with the Tokyo and Nuremberg tribunals after World War Two," she says.

The international criminal law, international human rights and public international law professor is looking specifically at three legal obligations the United Nations and Sierra Leone will face after the court closes: continuing protection of those who testified, tracking of those convicted by the court and serving lengthy sentences and conservation of the court's archives.

"I know they sound like dry issues but they're very deep issues that link to reconciliation and peace," Oosterveld says.

The Special Court for Sierra Leone is very much like the International Criminal Tribunals for both the former Yugoslavia and Rwanda, she explains.

Set up in 2002, 13 people have been indicted in Sierra Leone and 10 people prosecuted (one later died). Those who testified to the atrocities of the war did so at great personal risk and are currently being protected by the Special Court but Oosterveld is concerned with what happens to them after the court closes.

"It's not like the threat to their lives goes away," she says. "(I'm looking at) what are the mechanisms and modalities for keeping them safe."

She's also examining how best to create a body to address all of the continuing obligations not only from the Special Court but the two International Criminal Tribunals for the former Yugoslavia and Rwanda which will also close in a few years.

There are many things to consider, she says. Should the body be a joint mechanism? Should it consist of judges who tried the cases? Maybe judges who didn't hear the cases? Regardless, it all comes down to two simple questions, she says: "Who do you give authority to and how do you give it to them?"

Another question Oosterveld is examining is where and how to keep the Special Court's archives after it closes. Currently, they're being stored in Freetown where all but one of the trials are taking place but whether or not that's the best place for them to stay remains to be seen, she says.

"It's a difficult question," Oosterveld notes. Being a poor country, Sierra Leone doesn't have humidity-controlled facilities to keep the archives from deteriorating over time and the country is still recovering from the decade-long war. But, she adds, if they're transported to, for example, the Hague then they're not immediately available to the citizens and that's a problem for Oosterveld.

"Why did we set this Special Court up?" she asks, "To help the people of Sierra Leone."

And helping them is a high priority for her. Prior to joining Western Law in 2005, Oosterveld was a lawyer at the Department of Foreign Affairs and helped set up the Special Court.

That's the reason for the concentration of her academic work, she says. It's extremely personal to her to help the country's inhabitants recover from the extreme brutality of war.

"I really want this Special Court to serve Sierra Leone in its transition from war to peace." [wl](#)

“It all started with a mouse.”

WESTERN LAW PROFESSOR MARK PERRY ECHOES THE FAMOUS QUOTE BY WALT DISNEY WHEN SPEAKING OF THE INCIDENT THAT HAS SHAPED HIS LEGAL CAREER.

OF MOUSE AND

BY KAREN OTTO

“(I’ve been) interested in the topic since I followed the Harvard Mouse case in 1999 researching the patent aspect,” says Perry, Western Law’s Associate Dean for Research and Graduate Studies.

And the topic Perry’s talking about is biotechnology law - his academic passion and the topic of his soon-to-be-published book tentatively titled *Biotechnology Law, Regulations and Influences*.

“Ten years ago I started looking in detail at the patenting aspects of the transgenic Harvard Mouse, which was created to aid research into cancer, and its path through the courts around the world. With work and collaboration on the paper *Making Sense of Mouse Tales: Canada Life Form Patents Topsy-Turvy* ((E.I.P.R. 2001), it became clear to me that there was a lot more to the picture than just the OncoMouse,” says Perry. “I soon became fascinated with biology, its application, and its relationship with the legal system.”

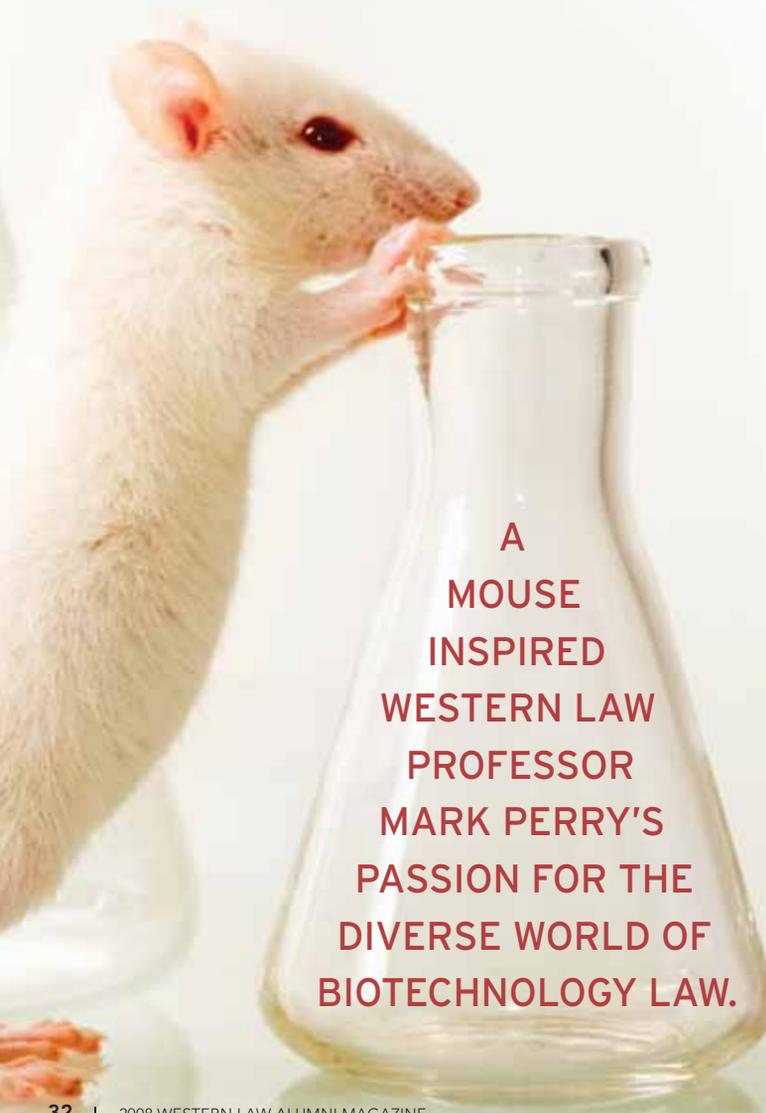
Very simply, Perry says, biotechnology is applied biology or, using any biological science to do something. Examples of biotechnology are everywhere, he says, from traditional crop breeding to invitro fertilization to genetically modified foods.

And examples of controversies surrounding biotechnology are also everywhere. “Different people have different concerns. Some people are very concerned with human body parts, cell lines and embryos. Others are concerned with genetically modified food,” he says. “You look at any area of biotechnology and someone has a strong interest.”

Especially Perry. He doesn’t specialize in just one area as he’s researching them all.

“I try to look at all different aspects of biotechnology law,” he says. That ranges from examining the regulatory side which deals with such things as restricting dealings with human body parts to the intellectual property side, or, who can do what with the biotech innovations.

His forthcoming book is a comparative work discussing what the legal frameworks are in the United Kingdom and Europe, the United States, Australia, New Zealand and Canada and he hopes it will get people thinking.



A
MOUSE
INSPIRED
WESTERN LAW
PROFESSOR
MARK PERRY’S
PASSION FOR THE
DIVERSE WORLD OF
BIOTECHNOLOGY LAW.

"I hope (readers) see that life is complex and we need to know more how it works, and how our regulation of this will determine how much we find out about it," he says.

There are differences between the various countries, he states. "It would be fair to say the United Kingdom is moving ahead more in stem cell research than we are in Canada simply because their framework supports that," he explains while adding the United States is in the process of patenting gene sequences. In New Zealand, he says, there's no genetically modified food (GNF) where as here people eat GNF all the time while in Australia there's no transgenic soybeans or corn but there are transgenic flowers.

MAN

"The science is extremely difficult but fascinating to see work," says Perry. "Biological mechanisms are so complex we need to do a lot of work in this area to see what's going on."

But some don't want to do that and Perry firmly believes the reason people are both so passionately opposed and passionately in favour of biotechnology is because it's interwoven with life and morals. That's what makes biotechnology law so interesting, he says, because what the majority find uncomfortable isn't necessarily the direction the law should take.

"The problem with the legal side," Perry explains, "is that it can't be so far off the majority's views of what we should or shouldn't be doing but at the same time you don't want to stifle the scientists' progress either."

Perry uses invitro fertilization as an example. Years ago, he notes, IVF was "abhorrent" to many people but now it's no more looked askance at than naturally making a baby.

The intellectual property and biotechnology law professor contends people need to carefully think about biotechnology and the laws surrounding it because of the wide variety of potentialities it offers. And if his classes and book help with that education he thinks that can only be beneficial.

"I hope more people think about it more deeply than the headlines in the newspapers," he says. "If people study the issues they'll learn more and really understand what's going on." [wl](#)





TALES OF

**“IT WAS CHINA’S
CHINATOWN, IF ONE CAN
IMAGINE SUCH A PLACE,
AND MADE FOR AN
AMAZING CULTURAL
EXPERIENCE.”**

HUGH MCKEE '08

WESTERN LAW’S VIBRANT EXCHANGE PROGRAMS PARTNERS WITH 20 LAW SCHOOLS AROUND THE WORLD. WE ASKED TWO STUDENTS TO WRITE ABOUT THEIR EXCHANGE EXPERIENCE. TOM COLEBATCH CAME TO WESTERN LAW ON EXCHANGE FROM ANU (THE AUSTRALIAN NATIONAL UNIVERSITY) AND HUGH MCKEE, A WESTERN LAW STUDENT SPENT A TERM ON EXCHANGE IN HONG KONG. HERE ARE THEIR REFLECTIONS.

HUGH MCKEE

I went on exchange to the University of Hong Kong last fall and walked away with memories that will last a lifetime. Upon arrival, fellow law student Robert Kallio and I were promptly told that housing could not be arranged through the university as we had originally thought. After a lot of pavement pounding and a healthy dose of thick Chinese-style bureaucracy, we arranged for a nice flat in Sheng Wan, a geriatric district on Hong Kong Island known for antiques, hagglers, and various dried goods. It was China’s Chinatown, if one can imagine such a place, and made for an amazing cultural experience.

The exchange proved to be very intellectually rigorous. I was introduced to the somewhat muddled principles of Chinese civil and commercial law, studied the plight of the Falun Gong extensively as part of independent study, and with the sub-prime crisis as a backdrop, I was exposed to a unique perspective on international financial market regulation.

As a law student, it was particularly fascinating to witness the use of law as a tool to control religion. With parades passing beside my building and demonstrations throughout the city, I could not resist the temptation to research the Falun Gong’s claims of organ harvesting and other egregious human rights abuses. My research, including the writings of the self-taught Chinese human rights lawyer Gao Zhisheng and a report by Canadians David Kilgour and David Matas, led me to many unanswered questions and black holes. One of my most vivid memories of the exchange was sitting in my human rights professor’s office trying to understand what social harm possibly could have compelled such Draconian actions from the government in Beijing. Neither of us had the answer.

On a lighter note, there was also plenty of time for travel, and I was able to visit more than a dozen different countries. The highlight of my travels was meeting a friend from Western Law (who was on exchange in Singapore) in Ulaan Baatar, Mongolia. We chartered an eight-day expedition which included a (successful) wolf hunt with some local hunters, a spiritual ceremony to commemorate the hunt, enough yak and mutton for a lifetime, and getting bucked off a yak, after an impromptu morning yak ride. Suffice to say “continually shocked and amazed” was the slogan of the trip – what a beautiful country and wild experience.

Next fall I will start as an Associate at Mayer Brown LLP in the New York office. Let’s hope this next adventure is as eye-opening and enriching an experience as was my exchange in Hong Kong.



TWO CITIES



TOM COLEBATCH

The bus pulls into the terminal and a crowd of refreshed but somewhat dreary students bustle through the aisle and out into the bitterly cold, snow-swept landscape outside. I can already make out the obligatory Tim Hortons across the road (a delicacy I had already become intimately acquainted with during my travels through “the corridor” from Quebec City to Toronto), AbouTown taxis litter the parking lot, and a quick glance at a map reveals scores of street names that remind me of a Monopoly board. It’s January 6, 2008. Welcome to my new home for the next four months – London, Ontario.

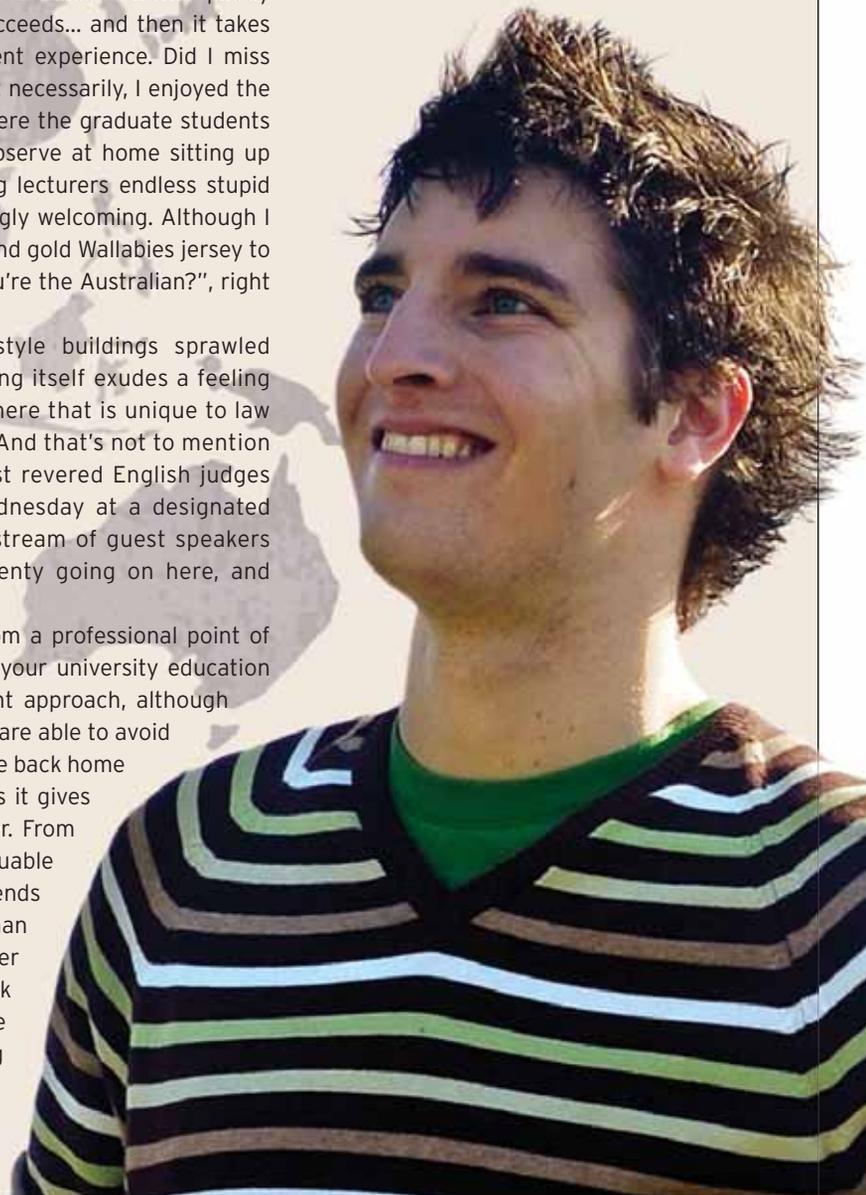
The University of Western Ontario (or “Western” as it is known in these parts) is a place that grows on you rather hitting you smack in the face. It works quietly yet quickly to win your affection and respect, but it succeeds... and then it takes you over. Studying law in Canada is certainly a different experience. Did I miss large lectures that provided a shelter of anonymity? Not necessarily, I enjoyed the collegiality and interaction small classes encouraged. Were the graduate students I would be learning with really as bad as the ones I observe at home sitting up the front of class, always doing the reading and asking lecturers endless stupid questions? No, they are mature, insightful and surprisingly welcoming. Although I may have brought it upon myself by wearing my green and gold Wallabies jersey to my first class prompting my professor to inquire “So you’re the Australian?”, right from the outset I was made to feel welcome.

Western has a beautiful campus. Old English style buildings sprawled leisurely across grassy grounds. The law school building itself exudes a feeling of familiarity and intimacy. It helps foster the atmosphere that is unique to law school where everyone seems to know everyone else. And that’s not to mention the fortnightly Denning’s (celebrating one of the most revered English judges of all time by sharing a few pints every second Wednesday at a designated pub), Obiter Dicta, Third Year Party, and a constant stream of guest speakers accompanied by enticingly free lunches. There is plenty going on here, and that’s before you even hit the classroom.

What did I get out of my exchange to Western? From a professional point of view it’s obviously a great thing to do. You can enrich your university education by studying in another country and learning a different approach, although Western’s fairly extensive list of courses means that you are able to avoid studying anything too Canada-centric that won’t be of use back home if need be. It’s also a great thing to have on your CV as it gives you a unique edge and says a lot about your character. From a personal perspective, going on exchange is an invaluable experience. Sure you get to travel the world making friends from all corners of the globe, but more importantly than that you get the opportunity to actually live in another country, something which you don’t get on a six week backpacking expedition in Europe or a two week cruise in the Caribbean. Going on exchange is an amazing experience that broadens your perspective and I would highly recommend it to anyone and everyone. [wl](#)

**“MY PROFESSOR
INQUIRED ‘SO YOU’RE
THE AUSTRALIAN?’,
RIGHT FROM THE
OUTSET I WAS MADE
TO FEEL WELCOME.”**

TOM COLEBATCH





Making a Great

BY SUSANNA EAYRS

WHEN JOHN PELLER '80 TALKS ABOUT A GREAT CASE, HE'S NOT TALKING ABOUT A COURTROOM VICTORY; HE'S TALKING ABOUT 12 BOTTLES OF FINE WINE. AS PRESIDENT AND CEO OF ANDREW PELLER LIMITED, PELLER RUNS CANADA'S LEADING VINTNER AND PRODUCES AWARD-WINNING PREMIUM WINES UNDER THE BRAND LABELS PELLER ESTATES, TRIUS, AND HILLEBRAND ESTATES.

THE STORY OF PELLER WINES IS THE STORY OF THE CANADIAN WINE INDUSTRY. From modest beginnings, the company grew in popularity, adapted to a new environment and beat the odds to win gold medals on the international stage.

The Peller family wine business began with Andrew Peller, John's grandfather, a Hungarian immigrant who founded Andre Wines Ltd. in B.C.'s Okanagan Valley in 1961.

The company quickly became Canada's leading winery, producing popular and profitable wines.

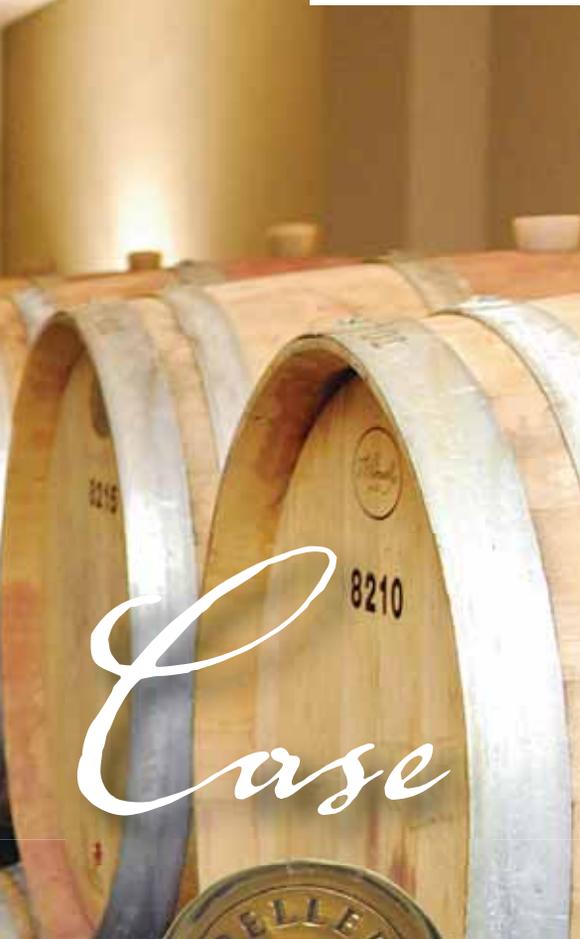
"I intuitively knew I would get into business at some point," says Peller. "But I also knew it was important for me to first strengthen my abilities and broaden my experience."

The first step in that journey came when he entered law school at The University of Western Ontario. Peller credits his legal education with providing him with the skills that would serve him well in his business.

"It gave me the ability to think about questions before answering them, to analyze, to think critically and to keep an open mind," he says.

He's also grateful to Western Law for giving him a great group of friends. He golfs with classmates Jay Carfagnini and Frank Callaghan. And former classmates Dale Ponder and Laurie Barrett are part of the corporate law team at Oslers that works with Peller Estates.

JOHN PELLER, CEO AND
PRESIDENT OF ANDREW
PELLER LIMITED, HAS ONE
OF THE MOST IMPORTANT
WINE JOBS IN CANADA.



After graduating from law school in 1980, Peller articulated and practised corporate and commercial law with the firm Evans, Husband in Hamilton, Ontario. Peller also spent a year in France, studying French at L'Institute de Touraine and working with DeLuze, the wine subsidiary of Rémy Martin. He then honed his sales and marketing skills at RJR Nabisco in New Jersey.

In 1989, Peller began working at the family business, joining his father and grandfather.

"It was the right time. I wanted to help grow the business and felt my passion and skill in marketing and sales could help," explains Peller.

It was a critical period of time for the Canadian wine industry, one that proved to be a turning point for the company. The NAFTA trade agreement had produced a flood of import products into the Canadian market and some critical business decisions had to be made.

"We had to either focus on quality and make aggressive strides quickly or risk falling behind. We decided to put our efforts into VQA viticulture," states Peller.

VQA stands for Vintners Quality Alliance and is the official appellation system used to verify origin and quality of Canadian wine.

The company focused on Chardonnay and Pinot Noir grapes, which, to the surprise of many other vintners, thrived in the Niagara climate. Peller ended up producing some of the finest wines in the world.

In 1991, Andrés established Peller Estates as the preeminent premium wine label in Canada and, shortly after, a Peller Chardonnay "Sur Lie" won best in show at an international competition in Italy. Peller says that recognition, along with top awards around the world for other Niagara wineries, brought new life to the Ontario wine industry.

"There was a collective surge in our confidence and an explosion of investment and growth in the industry. The quality just kept getting better and better," he says.

In recent years, the company has continued to build its stable of higher end wines by acquiring premium brands such as Sandhill and Red Rooster in the Okanagan and Thirty Bench on the Beamsville bench in Niagara.

The company is now focused on increasing its reach in the United States. Peller believes the company will be successful by marketing a world-class product, so it is concentrating on niche wines like its quality Icewines, Rieslings and Pinot Noirs.

Peller is keenly interested in supporting a strong economic and competitive business environment for Canada and this year has taken on the role of Chair of the Canadian Chamber of Commerce.

"One of our top issues is climate change and the leadership role businesses have to take. It's the issue of our generation, and we need to make some significant strides in this area," says Peller.

In reflecting on his career, Peller speaks philosophically.

"There is a beautiful pace to the wine industry that transcends modern life. My job involves farming, marketing a luxury consumer product and being meaningfully engaged with wine, food and family," he says. "The industry has allowed me to combine all the things that I love most in life and I consider it a real blessing to have this opportunity." [wl](#)



**"THERE WAS A COLLECTIVE
SURGE IN OUR CONFIDENCE
AND AN EXPLOSION OF
INVESTMENT AND GROWTH IN
THE INDUSTRY. THE QUALITY
JUST KEPT GETTING BETTER
AND BETTER."**

JOHN PELLER

GRAPE

Expectations



BY SUSANNA EAYRS

For Jane Depraitere '84, living a good life is a job requirement. President of Alberta-based BONVIDA WINES, Depraitere is responsible for finding and importing quality wines from all over the world. And as it turns out, the skills she uses in BonVida are similar to those she learned studying tax law at Western.

"I'M MORE SENSITIVE TO IDENTIFYING POSSIBLE AREAS THAT COULD BE EITHER PROBLEMS OR OPPORTUNITIES," SHE SAYS. "I think the ability to spot issues makes me be a better business-person. Because tax law affects and is affected by many other aspects of law, economics and business, it is great preparation for entrepreneurship where broad and innovative thinking is required." She remembered how at Law School, "...we were taught to be professional and ethical in all our dealings - in my experience these are absolute essentials in running a successful business for the long term".

Depraitere isn't the only member of her 1984 class using these skills. After a recent gathering of classmates, she reflected, "I was surprised at how entrepreneurial the class was... lawyers are fundamentally entrepreneurs. You must find and retain clients, manage your business and make your business profitable. You must be client-oriented and offer your clients something they need for which they want to pay."

But Depraitere didn't start out as an entrepreneur. After graduation, she achieved her accounting designation before a successful career in the world of finance and investment management.

Depraitere says business was always a passion of hers, so in 2005

she achieved her Executive MBA, with distinction, from the University of Calgary. After spending time in South America researching wineries for a major MBA project and learning Spanish, an opportunity arose for Depraitere to take over a friend's wine importing business.

"I knew that my husband and I wanted to build a business centered on lifestyle." And so, in 2006, BonVida, which means "good life," was born.

Depraitere says she chose the name because the good life is exactly what drew her to the wine business in the first place.

"It is about lifestyle, experiences and adventures, about living life to the fullest," she notes. "And to me that means wine and everything that goes with wine like great meals of new and interesting cuisines, travel, adventures and experiences with family, friends and colleagues."

BonVida distributes wine to Alberta licensed establishments. And while Depraitere is expanding BonVida's portfolio of wines, she also hopes to make and market her own brand of wine.

"If BonVida's wines can contribute to excellent experiences, then that is fantastic," she says. "I would like everyone to enjoy a good life!" [wl](#)



JANE DEPRAITERE '84 VISITS
A VINEYARD IN ARGENTINA

A Career Well Served

BY SUSANNA EAYRS

Larry Innanen, '73, says his General Counsel job at Labatt was the best legal job in Canada. His first legal assignment there was to draft a contract between Labatt, Canadian Pacific and the Toronto Sun to sponsor the ascent of Mt. Gongga in Sichuan, China by a group of Canadian mountain climbers.

HE ALSO HAD TO DRAW UP THE FILM RIGHTS CONTRACT WITH BILL MARSHALL TO FILM THE ENTIRE EXPEDITION.

His first thought was, "Joe Samuels didn't cover this in first year Contracts! Where was the standard form sponsorship agreement for taking a hike and filming it in the Himalayas? Have the hikers each released the sponsors of any expedition liability?"

As executive vice-president and General Counsel of Labatt and Interbrew Americas, Innanen says his 23-year career in beer was like winning the lottery. And it made him realize that what he had received in his three years at Western Law was the ability and confidence to think and draft outside the box. Over the course of his successful and varied career, Innanen worked on special contracts, court battles, public relations challenges, acquisitions, dispositions and joint ventures.

"The secret to all success in law and in life is getting to know and understand the people you are dealing with," he says. "In law school this may be viewed as the obiter, but in reality it ultimately led to the ratio in every relationship. Beer is a wonderful social lubricant to enhance this process." It's a lesson that served him well in the 'living room' at Labatt headquarters - a bar where employees would meet to resolve outstanding issues at the end of the day.

"Years later I found myself in Havana sharing cans of Blue with Fidel Castro during a five-hour dinner in his living room at the Palace of the Revolution," recalls Innanen. "That evening set the stage for our highly successful Cuban international joint venture, Cerveceria Bucanero S.A."

Prohibition and temperance movements dramatically reshaped the legal requirements and structure of the beer industry in North America, providing in-house counsel with numerous snakes and ladders to navigate successfully. NAFTA and GATT (now WTO) requirements recently challenged local Canadian brewers to become globally competitive or risk extinction. The business aspirations of Labatt caused its legal team to travel extensively in search of licensed partnerships, joint ventures and the global licensing of its Canadian brands.

Labatt became an international player that was subsequently acquired by Interbrew of Belgium after fending off a hostile takeover bid launched by ONEX in 1995. "The long-range plans developed by Labatt as 'Canada's local brewer' were embraced and further expanded to become Interbrew's 'World's local brewer' campaign," says Innanen. "They played out successfully to the point where InBev, formerly Interbrew, became the largest brewer by volume in the world. And now InBev have just launched a takeover bid to buy Anheuser Busch, America's largest brewer."

Even after retiring from Labatt, Innanen's passion for the law and for the beer industry has not diminished. "For 23 years I had the best seat in the house and the best General Counsel job in Canada. In 1998, I was riding behind the clydesdales after signing an historic long-term licence Agreement for brewing Budweiser in Canada. Now, I can sit with the customers in the stands and enjoy watching the industry evolve with a beer of my choice in hand," he concluded. "Cheers!" [wl](#)

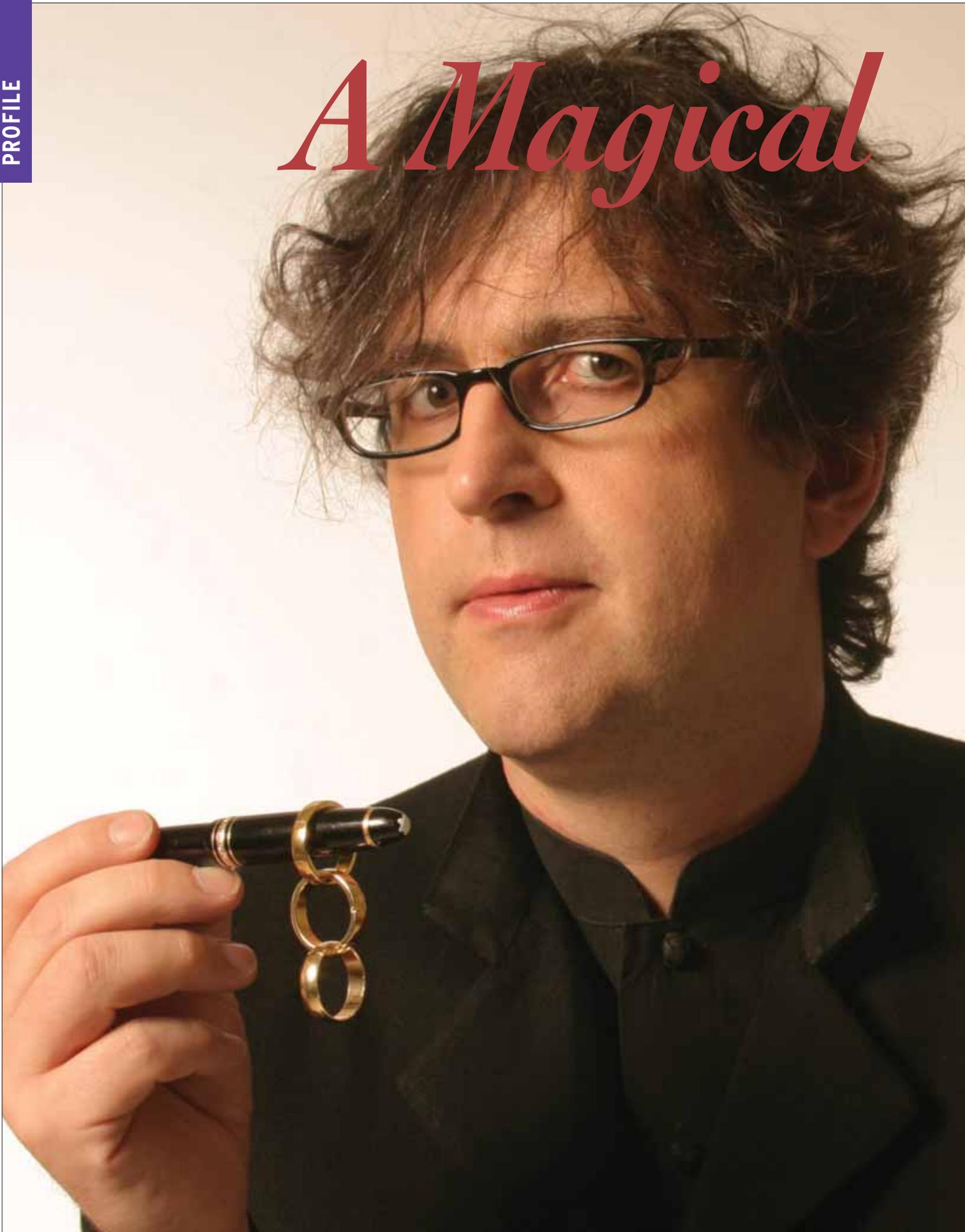


"THE SECRET TO ALL SUCCESS IN LAW AND IN LIFE IS GETTING TO KNOW AND UNDERSTAND THE PEOPLE YOU ARE DEALING WITH."

LARRY INNANEN



A Magical



Transformation

BY KATHERINE LOW

After a successful career as a Tax Lawyer, David Ben '87 followed his dream to make magic

WHEN DAVID BEN WENT TO PICK HIS SON UP FROM DAY CAMP A NUMBER OF YEARS AGO, A COUNSELLOR HAD SOME CONCERNS. "YOUR SON SAYS SOME VERY STRANGE THINGS," SHE SAID. "HE SAID YOU SWALLOW NEEDLES FOR A LIVING." To this, Ben laughed and then replied, "Well, he's telling the truth."

Ben, 47, has been practising magic since he was a young teenager, and his favourite trick involves swallowing needles and thread separately and then regurgitating them threaded.

"Very few people in the world actually do it," he said. But for Ben, doing things his own way has been a pattern most of his life.

After his undergrad at the University of Toronto, Ben originally pursued law to learn the legal side of producing theatre and film. But although his ongoing magic performances left his attendance at Western "less than stellar," he found a love for tax law.

"The income tax act was just like a palette of different colours...and you're just blending all these colours to achieve the objective that you want." Ben compares this process to designing magic tricks. "So, much to my surprise I really loved it."

After graduating from Western Law in 1987, Ben achieved a master's degree in international tax and finance at the London School of Economics before working at Goodman's LLP in Toronto. But a year after being called to the Bar, leaving the tax law world to pursue magic full time was no illusion for Ben.

"Goodman's is a superb firm and I loved the people there and the work was really great, but I didn't want to practise law for 20 years and say, 'what if I had followed my dream?'"

So Ben did follow his dream - and he hasn't looked back. An international performer, Ben has also written books and plays in which he has performed, appeared on numerous television programs and been involved with films. He's also a sought-after keynote speaker and Western Law's 2008 graduating class was lucky enough to have him as their speaker this past June.

Ben talked about the three things he learned at Western - the importance of challenging assumptions, the need to make decisions, and the confidence to say, if you don't like it, "sue me."

"Western gave me a rigorous intellectual training - one that has had a huge impact on my life," he said.

Ben also stressed the importance of giving back, something he knows firsthand. Six years ago he helped establish his charity Magicana (www.magicana.com), which is dedicated to studying and promoting magic as an introduction to the arts. The program includes Magic Hands, which helps disadvantaged children learn the process of performing magic to exercise creativity and build confidence. It also includes Senior Sorcery, where magic shows are performed at senior homes so residents can invite their families and watch a show together.

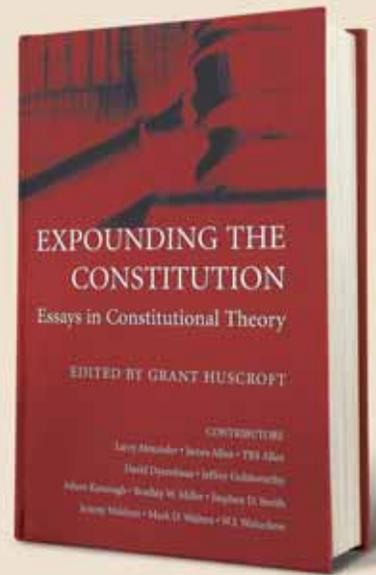
And Ben, who is married with two children, says that as much as he loved tax law, he's never doubted his decision to pursue magic full time.

"I vowed that I would return to (Goodman's) but as a client, which turned out to be a mistake," he chuckled. "Because any time you visit lawyers you're usually spending money." [wl](#)

"Western Law gave me a rigorous intellectual training – one that has had a huge impact on my life."

DAVID BEN

Public Law and Legal Philosophy at Western



“TOO OFTEN CANADIAN SCHOLARSHIP IS SIMPLY REACTIVE TO THE DECISIONS OF THE COURTS. At Western Law we’re not interested in just explaining the cases. We want to encourage deep thought about public law and bring philosophic clarity to the basic concepts.”

PROFESSOR GRANT HUSCROFT



PROFESSOR GRANT HUSCROFT

Western Law is committed to bringing leading scholars to Western to join us in exploring the most pressing questions in constitutional law through the analytical resources of moral, political, and legal philosophy. *Expounding the Constitution: Essays in Constitutional Theory*, published in April 2008 by Cambridge University Press and edited by Professor Grant Huscroft, is a prime example of the sort of collaborative scholarship Western Law is producing.

“We brought some of the world’s leading moral philosophers and constitutional theorists to Western Law in 2006,” says Huscroft. “We debated the place of moral reasoning in constitutional law, the legitimacy of judicial review, and unwritten constitutional rights, and the book is the product of that effort.”

Western Law will host another colloquium in October that will explore the concept of “originalism” in constitutional interpretation. “Originalism; the idea that the constitution should be interpreted in accordance with the original meaning of the text, has never been seriously discussed in Canada,” states Huscroft,

“and yet it has provoked a massive body of provocative scholarship in the United States over the past 20 years. These debates are essentially unknown in Canada.” The colloquium will bring leading scholars including Larry Alexander, James Allan, Randy Barnett, Mitchell Berman, Brian Bix, Stanley Fish, Jeffrey Goldsworthy, Mattias Kumm, Michael Perry, Steven Smith, Larry Solum, Grégoire Webber, and Keith Whittington to Western Law to debate the idea of originalism and its relevance in the constitutional order.

Another colloquium, one that will address the concept of proportionality in constitutional interpretation, is in the planning stages. Additionally, funding has been secured for distinguished visitorships along with intensive courses in public law and philosophy and a seminar series course.

“The University has made a commitment to public law and philosophy at Western Law”, Huscroft says, “and with talented and energetic colleagues like Professors Miller, Botterell and Martin we will be making a mark.” [wl](#)



PROFESSOR MARGARET MARTIN

From Theory to Practice

I CONSIDER PHILOSOPHY AN IMPORTANT PART OF THE STUDY OF LAW AS IT BRINGS AWARENESS TO THE ASSUMPTIONS THAT INFORM LEGAL ARGUMENT WHILE PLACING THE LAW IN A LARGER CONTEXT. Traditionally, philosophers have approached the study of law by asking how the use of coercive force by the state is morally justified. While this framework has currently fallen out of favour, the question regarding the justification coercion places the importance of the legal profession in sharp relief. Public law determines the boundaries between actions that are permissible and those that are prohibited by the state.

The job of demarcating the sphere of prohibited action is a serious responsibility shouldered by lawyers, judges and legislators. Knowledge of the kinds of arguments and counter-arguments that are brought to bear on the issues that go before the court is part of discharging this responsibility.

For instance, we may ask what it means to say that I have legal rights. Do my legal rights exist solely because certain people (legislators and judges) said so? Can this account of legal rights adequately explain the prohibition on murder, for instance? Or is it more accurate to say that the legal prohibition against murder is founded upon a moral right? If so, then what precisely are moral rights and what is their relationship with legal rights? Or, in line with a more skeptical stance, can the law against murder be explained by the idea that all humans are fundamentally self-interested and it is in the best interest of those in power to prevent those without power from killing each other?

Regardless of one's answers to these questions, what becomes clear is that the notion of a legal right is not a simple one and defining the term inevitably involves reliance on philosophical assumptions—assumptions that can only be defended by engaging in philosophical argumentation. The law is rich with such contested concepts. “Reasonableness”, “harm”,

“freedom” and “equality” are undeniably central legal concepts in addition to being inescapably philosophical.

As soon as one begins defending a certain understanding of rights, freedom or equality, for instance, it becomes clear that not all views are equally defensible. Consider, once again, the concept of a legal right. If a legal right is simply what an official says it is, then it follows such rights can have any content. But can we have a law requiring murder? Can we have a law requiring us to be eight feet tall? Can we have a law that prohibits judges from relying on decisions from previous judges, statutes, or legal principles?

These questions point to the potential limits of the law, in addition to calling into question the vision of law as a content-independent set of rules written by

“GETTING IT RIGHT IS IMPORTANT NOT JUST FOR THE FULFILLMENT OF PHILOSOPHICAL CURIOSITY, BUT FOR THE VERY PRESSING AND PRACTICAL TASK OF DETERMINING THE FATE OF EACH DEFENDANT”

PROFESSOR MARGARET MARTIN

officials. Understanding the nature of law, which is the focus of my research, allows us to discriminate between the various assumptions made by practitioners. Getting it right is important not just for the fulfillment of philosophical curiosity, but for the very pressing and practical task of determining the fate of each defendant. [wl](#)



PROFESSOR BRADLEY MILLER

Philosophy Inquiry and Constitutional Balancing

WHAT ARE WE TO DO WHEN ONE PERSON'S (OR GROUP'S) CONSTITUTIONAL RIGHTS CONFLICT WITH RIGHTS OF OTHERS? Consider the situation of the polygamous community in Bountiful, BC. On the face of it, this form of polygamy constitutes a conflict between an exercise of freedom of religion and the public good (including protection of the equality rights of women). How should we resolve such conflicts?

The courts in western democracies tend to resort to proportionality analysis and balancing tests, of which our Oakes test is one example. In my current work, I argue that notwithstanding judicial protests to the contrary, judges who are balancing interests, principles, and values are straightforwardly engaged in an exercise of moral and political philosophy. There is nothing particularly legal or judicial about this sort of reasoning. Legal technique takes the bows, while philosophical argument does all the work.

How does constitutional balancing entail philosophical reasoning?

First of all, political philosophy allows us to address the first order question

about the legitimacy of judges exercising review power. Is this something that judges ought to be doing? Simply

“THERE IS NOTHING PARTICULARLY LEGAL OR JUDICIAL ABOUT CONSTITUTIONAL BALANCING. LEGAL TECHNIQUE TAKES THE BOWS, WHILE PHILOSOPHICAL ARGUMENT DOES ALL THE WORK”

PROFESSOR BRADLEY MILLER

pointing to s. 52 of the Constitution Act, 1982 is no answer. It is a question of political morality, and a moral answer is necessary. But while it is not a legal question, the answer is enormously

important to legal practice. If it turns out that judges have scant moral authority to make these sorts of evaluations, it is some evidence that they should approach decisions of Parliament deferentially.

Philosophy also has much to say about second order questions: how should we structure a balancing enquiry? What interests should be included? Or are some matters incommensurable, such that it is senseless to try to compare them?

Finally, and most obviously, resort to philosophical inquiry is necessary to

answer the third order questions: what does it mean to treat people as equals? What is the nature of marriage? What is the harm caused to the polity by polygamy?

These are the sorts of issues that I pursue in my research into the interpretation of s. 1 of the Charter. As part of this project, I have spent the spring of 2008 in Florence, Italy, as a Visiting Fellow at the European University Institute, researching theories of constitutional balancing that inform the decisions of European courts. [wl](#)



PROFESSOR ANDREW BOTTERELL

Understanding Law in the Broadest Possible Sense

WILFRED SELLARS, WHO TAUGHT PHILOSOPHY AT THE UNIVERSITY OF PITTSBURGH SAID: “THE AIM OF PHILOSOPHY, ABSTRACTLY FORMULATED, IS TO UNDERSTAND HOW THINGS IN THE BROADEST POSSIBLE SENSE OF THE TERM HANG TOGETHER IN THE BROADEST POSSIBLE SENSE OF THE TERM. Under ‘things in the broadest possible sense’ I include such radically different items as not only ‘cabbages and kings’, but numbers and duties, possibilities and finger snaps, aesthetic experience and

death. To achieve success in philosophy would be, to use a contemporary turn of phrase, to ‘know one’s way around’ with respect to all these things, not in that unreflective way in which the centipede of the story knew its way around before it faced the question, ‘how do I walk?’, but in that reflective way which means that no intellectual holds are barred.”

As a philosopher of law, I try to use this attitude of curiosity and rigor to ‘know my way around’ the law. Given my intellectual background, however, this means that I tend to be drawn to legal issues that have a certain philosophical depth to them. While many legal issues satisfy that description, these days I am particularly interested in different ways in which rights can be interfered with. I am interested in this question both for doctrinal reasons - what is the content of Bohlen’s ‘incomplete privilege to inflict intentional invasions of property and personality’? - as well as for theoretical reasons - what marks the boundary between justifications and excuses, between permissible and impermissible rights interferences? And how, if at all, do the answers to these questions bear on issues in constitutional law (what does it mean for an interference with a Charter right to be ‘demonstrably justified’), or the law of unjust enrichment (why, if the innocent recipient of a mistaken

payment has done nothing wrong, should she/he be under an obligation to return the money to the payor, an obligation

“AS A PHILOSOPHER OF LAW, I TRY TO USE THIS ATTITUDE OF CURIOSITY AND RIGOR TO ‘KNOW MY WAY AROUND’ THE LAW. GIVEN MY INTELLECTUAL BACKGROUND, HOWEVER, THIS MEANS THAT I TEND TO BE DRAWN TO LEGAL ISSUES THAT HAVE A CERTAIN PHILOSOPHICAL DEPTH TO THEM”

PROFESSOR ANDREW BOTTERELL

that seems to presuppose that she/he has somehow interfered with the payor’s legal rights)?

To paraphrase Kant, it seems to me that in the study of the law theory without doctrine is empty, doctrine without theory blind. In other words, to be a good lawyer - to really know one’s way around the law - it is not enough to know some legal theory, or to know some legal doctrine. Rather, one must be able to interpret cases in light of theory, and to test theory against cases. This attention to the abstract as well as to the particular is characteristic of good legal scholarship as well as good legal advocacy, and is part of the reason why I think the study of philosophy can enrich our understanding and practice of the law. [wl](#)

A TEACHING Life

Western Law's Longest Serving Professor Retires

BY SUSANNA EAYRS

WHEN SYD USPRICH FIRST ARRIVED AT WESTERN LAW AS A YOUNG PROFESSOR IN THE FALL OF 1970 HE REMEMBERS FEELING BOTH EXCITED AND APPREHENSIVE. "Starting any new job is a daunting prospect, but this was more so. I was told to show up at a class at a certain time and the rest was up to me. We were given a lot of freedom and I was trying to figure which way was up. Fortunately, both senior faculty and my contemporaries were very generous with their time and support."

Usprich was thrilled to begin teaching criminal law right from the start. It was the subject that fascinated him the most and one he excelled at as a law student under Professor Martin Friedland at the University of Toronto and as a grad student under legendary Cambridge professor Glanville Williams.

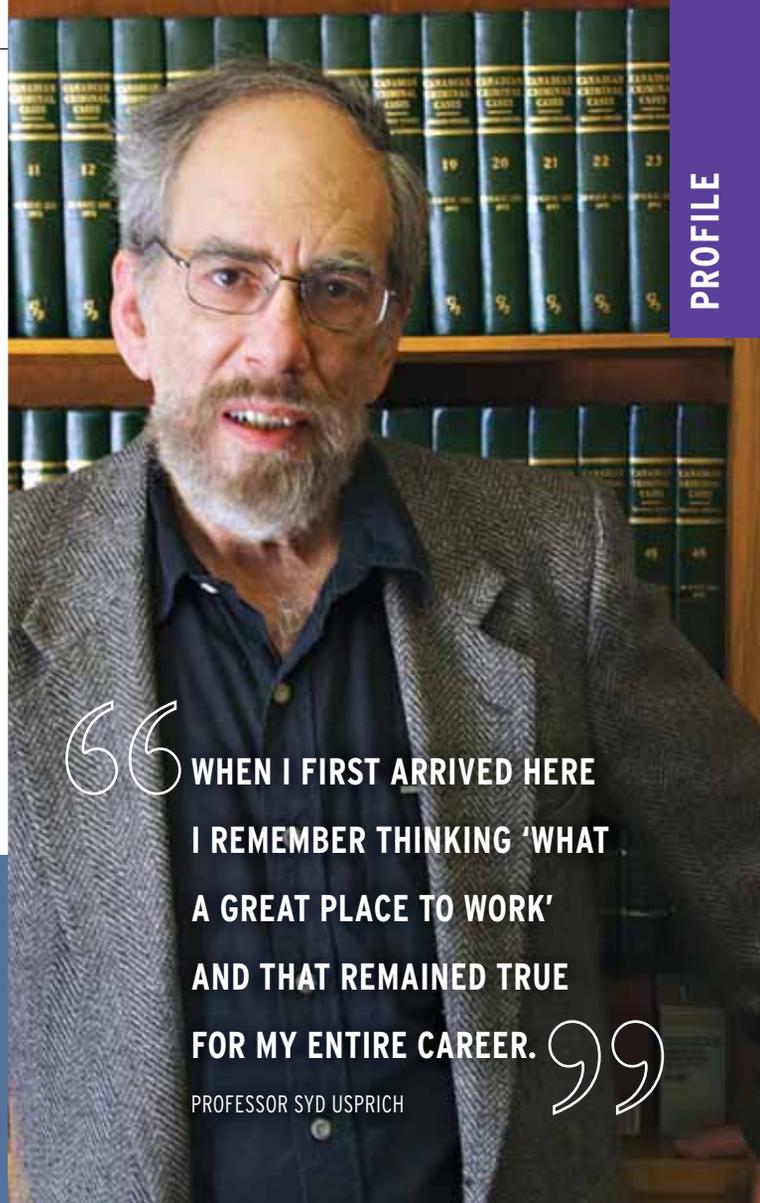
Apart from a brief stint teaching commercial law, Usprich was able to focus solely on criminal and evidence law during his 38-year teaching career at Western.

"Criminal law is a fascinating area. There's so much rich material to work with. The cases and issues involve life, death and morality, it's not just about money. It's never static, new and important cases are always emerging that change decades of thinking."

Usprich says the biggest change he has seen over the past four decades of teaching law has been the influence of The Charter. "It's had a huge impact. As criminal lawyers we are all constitutional lawyers now."

He's also witnessed the school's technological revolution and played a significant role in its development. A self-taught computer nerd, Usprich wrote the original programming for computerized law grades. He takes pride that he leaves behind other creations that remain in use: the course-bidding system and the Canadian law deans mailing list.

There are many things Usprich will miss about his job, and at the top of the list will be the day-to-day interaction with his colleagues and students.



“WHEN I FIRST ARRIVED HERE I REMEMBER THINKING ‘WHAT A GREAT PLACE TO WORK’ AND THAT REMAINED TRUE FOR MY ENTIRE CAREER.”

PROFESSOR SYD USPRICH

Usprich has taught thousands of students over the years and he finds it gratifying to know that so many of them have gone on to have successful and productive careers. He still gets the occasional email from former students asking for his thoughts on a criminal or evidence problem. "It's nice to know they remember me," Usprich says with a wistful smile.

Usprich notes he is proud that his work has made its way to the Supreme Court of Canada. "I'm still thrilled when I read judgments and I am quoted. It makes me feel that I have made a difference."

Over the years Usprich has been asked by the media to comment on various issues of the day. It's a role he feels is an important one.

"As professors we should be contributing to the public discourse. It's another form of teaching; it's what we do," he asserts. "The media and the public benefit from our academic expertise. It's something that I certainly would encourage us to do more of."

A packrat, Usprich says it's going to take him quite a bit of time to organize the accumulated "chaos" of 38 years. But sifting through his papers and files bring back fond memories.

"When I first arrived here I remember thinking 'what a great place to work' and that remained true for my entire career." **wl**

■ The University of Western Ontario has Embarked on a Major New Fundraising Campaign that Will Raise \$500M Over the 2007-2014 Period

Already, Western is off to an impressive start with over \$61 million donated in support of student awards, research programs, building projects and leading faculty for the 2007-2008 year.

I am pleased to present the 2007-2008 fundraising report for the Faculty of Law. Thanks to the leadership and commitment of our alumni supporters, corporate partners, and friends of the Western Law School, we have surpassed our fundraising goal for the 2007-2008 year and raised \$1,814,368 for the Faculty of Law. This is a wonderful accomplishment and represents a significant philanthropic investment in the programs, students and faculty research and teaching within Western Law.

On behalf of The University of Western Ontario, Ian Holloway, Dean of Law, faculty staff and students at the Law School, I want to thank our donors for your strong leadership and support, which has made a huge impact on the daily life in Western Law.

Your support keeps the Law School strong, provides rigorous educational opportunities for our students, and ensures that the Western Law School remains among the finest in Canada.



Matoula Zesimopoulos,
Alumni Relations & Development, Faculty of Law

■ Cassels Brock supports Faculty Fellowship in Contracts Law

CASSELS BROCK & BLACKWELL LLP has made a \$100,000 contribution to The University of Western Ontario's Faculty of Law to support a Faculty Fellowship in Contracts Law. This gift will support faculty research and will strengthen Western's reputation as a comprehensive law school that is a major contributor to Canadian legal education. In recognition of this generous gift, the Faculty of Law is pleased to name Professor Jason Neyers, an internationally recognized leader in this area, as the The Cassels Brock Faculty Fellow in Contracts Law.

Neyers will teach a first-year course in contract law (with a

class size between 75-100 students) and facilitate the generation of research on key topics pertaining to contract law.

"I am deeply grateful for the wonderful gift made by Cassels Brock," says Neyers. "Their generosity will allow us to hire students and complete research into the protection that the common law gives to contracting parties, which prevents outsiders from interfering with their contracts."

Cassels Brock is a leading Canadian full-service law firm based in Toronto. With nearly 200 lawyers, they provide legal services to clients in Canada, the U.S. and around the world.



(L-R) Western Law Alumni
at Cassels Brock:
Sari L. Springer '98,
John H. Craig '71,
Nicole Washington '07,
Jason Bullen '97
and Ken Snider '81

Alumni Relations and Development

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We would like to recognize the following donors who have given or pledged \$1,000 or more to Western's Faculty of Law between May 1, 2007 and April 30, 2008. We also wish to thank those donors who have chosen to remain anonymous.

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(L-R) Western Law students: Martina Nikolic, Azmat Ramal-Shah, Kenneth Ng and Dara Lambie with Gail Lilley '78 (seated) a partner at Blakes

Blakes: Investing in Students Through Student Awards

BLAKE, CASSELS & GRAYDON LLP (Blakes) has made a gift of \$175,000 to support student awards at Western Law.

Blakes generous gift will be used to establish an endowment at The University of Western Ontario that will support the existing Blake, Cassels & Graydon LLP Scholarship. The gift, held at Foundation Western, will support second year Western Law students who demonstrate academic excellence in the first year of their law studies.

Blakes will host a reception in September at Western Law to formally announce this gift to students.

"Our general philosophy is we like to invest in students," says Gail Lilley, a partner at Blakes who graduated from Western's Faculty of Law 30 years ago. "Students face high tuition and we want to invest in the best and the brightest. Western Law is an important school to us, the students bring a broad range of skills."

Lilley has been a Partner at Blakes since 1986. Her practice involves a wide range of corporate commercial transactions with a principal focus on mergers and acquisitions of businesses for both

multinational and Canadian clients. She has particular expertise in the Canadian aspects of global business transactions, including the cross-border structuring and financing of those acquisitions.

During her third year of law school, Lilley participated in an exchange program in Cleveland, Ohio with the Canada/U.S. Law Institute. She credits this program for giving her an early interest in cross-border issues.

Blakes is one of Canada's leading business law firms and has a long and rich history with Western Law. Over the years, many Faculty of Law alumni have chosen to work at Blakes, including a number of gold medallists. Currently, Blakes has 34 Partners and Associates who graduated from Western's Faculty of Law and this past May, four summer students began with the firm.

Founded in 1856, Blakes has more than 550 lawyers in nine offices in Canada, the United States, Europe and China. Blakes was recently named "Canadian Law Firm of the Year" by Chambers and Partners Legal Publishers, one of the world's leading publishers of legal directories and trade periodicals.

Alumni Relations and Development



Osler: Supporting Western Law Through its 'Programs of Excellence'

(L-R): Ashley Richards '05 and David Forrest '06, associates in the firm's Toronto office and Ian McSweeney '79, partner at Osler

The firm OSLER HOSKIN & HARCOURT together with our Western Law Alumni at the Firm recently have made a gift of \$225,000 to support student entrance scholarships at the Faculty of Law. This gift, held at Foundation Western, will top up the current endowment Osler Hoskin & Harcourt has created at Western Law - the Osler Rand Scholarship. This new gift along with the Firm's endowment will now create one of the top scholarships offered to a first-year student at Western Law.

"It is important for lawyers to give back to their communities and support their profession," says Ian McSweeney, a Western Law grad and partner in the Toronto office of Osler. "Donations to law schools provide much needed funding to ensure that academic excellence can be promoted and maintained, especially in times of government funding constraints."

Through its 'Programs of Excellence', Osler has contributed approximately \$3 million over the past ten years to law schools across the country to further

legal knowledge and help Canadian law schools retain top students. Osler has committed a further \$3.5 million over the next ten years.

Osler has a long-standing relationship with Western Law. There are currently more than 45 lawyers and student alumni from Western Law working at Osler.

"We consider Western Law as an essential part of our ongoing initiatives to recruit the brightest and best new lawyers," McSweeney says.

"The new donation will result in all of our awards, including the renamed Osler Rand Entrance Scholarship, being fully-endowed for the ongoing benefit of Western Law and its students."

The Osler gift will build on the strong foundation already established through the sponsorship of the Osler seminar room, academic prizes and existing Osler Rand Scholar Award at Western Law.

Ivan Rand retired from the Supreme Court of Canada in 1959 and became the first Dean of Western's law school. "Justice

Rand dedicated his life to the law as a practitioner, a judge and a scholar and left a lasting legacy that has inspired generations of law students," says McSweeney. "Osler is honoured to establish an award in Justice Rand's name."

With 450+ top lawyers working from offices in Toronto, Montréal, Calgary, Ottawa and New York, Osler is widely regarded as one of Canada's leading law firms. Osler provides integrated legal services with specialists in virtually every area of business law, advising many of Canada's corporate leaders as well as U.S. and international clients with interests in Canada.



Honouring the memory of a legal pioneer



Law Marks Life of Founding Dean

Tom Cline '63, Robert Blackwell '64, Marshall Pollock, Charlie Ross '64, Margaret Banks Roger Yachetti '64, John McGarry '63, Wes Rayner, Marg McNulty, Robert Cline '62, Don Taliano '64, Al Oosterhoff



(L-R): Paul Rand and Michael Rand

The Ivan C. Rand memorial window was formally unveiled on September 27 at a ceremony in Western Law's Moot Court Room. The Hon. Ivan Cleveland Rand (1884-1969) was founding dean of the Faculty of Law and a towering figure in Canadian legal history. He was a Justice of the Supreme Court of Canada, a Companion of the Order of Canada, and a labour arbitrator. The unique stained glass window contains a selection of symbols that, taken together, encapsulate Rand's life and career.

In his remarks Western Law Dean Ian Holloway said, "In 1959, at an age when most people are thinking of enjoying retirement, Rand moved to London and assumed the responsibility for establishing a new law school at Western. Rand took to his new career with relish, and helped set the law school on the path to acquiring the national prominence it enjoys today.

"Even though Rand retired from the Supreme Court almost 50 years ago, his imprint remains on many areas of Canadian law. It is our great fortune at Western Law to be able to claim him as our founding Dean. The chance to honour him - and celebrate our connection with him - in this way makes this a very special occasion for us."

Western Law would like to thank all the donors who so generously contributed to the The Ivan C. Rand memorial window.

Among those attending the special ceremony were The Hon. Rob Nicholson

(Minister of Justice and Attorney General of Canada), Ms. Elizabeth Weir '74, (former leader of NDP in New Brunswick) Michael and Paul Rand (son and Grandson of Ivan Rand) Moncton Mayor Lorne Mitton, New Brunswick MP Brian Murphy. A dinner followed the ceremony at which remarks were made by Roger Yachetti, a former student of Rand; Marshall Pollock, Rand's Former Law Clerk, and Brian Murphy, MP for Moncton. [wl](#)



(L-R): Lorne Mitton (Mayor of Moncton), Dean Ian Holloway and Brian Murphy (MP)

Andrew Botterell

Professor Botterell published three papers this past academic year: "In Defence of Infringement", *Law and Philosophy* 27:3 (2008), 269-292; "Why We Ought to be (Reasonable) Subjectivists about Justification", *Criminal Justice Ethics* 26:1 (2007), 36-58; and "Property, Corrective Justice, and the Nature of the Cause of Action in Unjust Enrichment", *Canadian Journal of Law & Jurisprudence* 20:2 (2007), 275-296.

He also presented a paper in February to the Department of Philosophy at Ryerson University on the topic of the incomplete privilege to inflict intentional invasions of interest of property and personality. Botterell was called to the Ontario Bar in October.

Craig Brown

In the past year Professor Brown was on leave after a year as Acting Dean. During that time he published two books: *Insurance Law in Canada*, 6th student ed. (Carswell) and *Why Lawyers Love Golf* (Scribblers). He also completed an article on insurance and climate change.

Chi Carmody

Professor Carmody co-organized a one-day symposium at Western Law in September entitled "Is Our House in Order? Canada's Implementation of International Law." The conference celebrated the 35th anniversary of the Canadian Council on International Law and brought together 15 academics from across Canada to discuss the state of Canada's implementation of international law in a range of subject areas.

Carmody also presented several papers: on Canadian experience with the United Nations Convention on Contracts for the International Sale of Goods at the University of British Columbia in October; on the idea of obligations in international human rights law at the American Society of International Law in Washington, D.C. in November; and on the WTO Regional Trade Agreement Transparency Mechanism at St. Louis University School of Law in April.

In January, he taught a newly revised course on International Organizations during Western Law's 2008 January Term, part of which involved taking students to Washington, D.C. for a week to receive briefings from various international organizations, diplomatic missions and non-governmental organizations.

He continues as Canadian Director of the Canada-United States Law Institute (CUSLI) which, among other duties, involved hosting the Inaugural CUSLI Distinguished Lecturer at Western Law in October, Allan Gotlieb, C.C., former Canadian Ambassador to the United States (1981-89).

Erika Chamberlain

Professor Chamberlain continues her research in torts, focusing particularly on the liability of public authorities. She published "The Need for a 'Standing' Rule in Misfeasance in a Public Office" in the *Oxford University Commonwealth Law Journal*, and "Negligent Investigation: A New Remedy for the Wrongly

Accused" in the *Alberta Law Review*. She made presentations at the National Judicial Institute and the National Conference on Law, Culture and the Humanities. In July, she will be travelling to Singapore to present a paper entitled, "Negligent Investigation: Tort Law as Police Ombudsman," at the Fourth Biennial Conference on the Law of Obligations.

Chamberlain also remains active in the field of impaired driving law. With Professor Robert Solomon, she published articles regarding youth traffic crashes in *Injury Prevention* and the *Canadian Journal of Public Health*. Chamberlain and Solomon also prepared presentations for the International Conference on Alcohol, Drugs and Traffic Safety, and a submission to the House of Commons Standing Committee on Justice and Human Rights.

Mysty Clapton

Over the past year Professor Clapton has continued her SSHRC-funded research on family law reform in the 1970s. She will present some of her findings on the role of the media in law reform this fall at the Society of Legal Scholars Annual Meeting in London, England. Clapton also completed an article "Gain-Based Remedies for Knowing Assistance," which is forthcoming in the *Alberta Law Review*.

Michael Coyle

In November, Professor Coyle presented a paper entitled "The Impact of Power on Crown-First Nation Negotiations," at the sixth annual Insight Conference on Aboriginal Law in Toronto. In March, he presented "The Challenge of Treaty Implementation: Lessons from Ipperwash and Beyond" to the joint Department of Justice-Assembly of First Nations Conference on Treaties in Saskatoon. Coyle published a chapter entitled "Power Dynamics in Negotiation" in *The Theory and Practice of Representative Negotiation* (Toronto: Emond-Montgomery, 2007), C. Hanycz, T. Farrow and F. Zemans, eds. His article "Marginalized by Sui Generis? Duress, Undue Influence and Crown-Aboriginal Treaties" appears this summer in *Manitoba Law Journal* 32:2 (2007), while "Respect for Treaty Rights in Ontario: The Law of the Land?" will appear in *Ottawa Law Review* 39:2 (2008). Prof. Coyle was granted tenure and promoted to Associate Professor, effective July 2008.

Tim Edgar

Professor Edgar finished his term as Associate Dean (Administration) on June 30. In addition to discharge of his administrative duties, he published "Building a Better GAAR" in the spring 2008 issue of the *Virginia Tax Review* 27:4 at 833-905. In February, he presented a paper, "Outbound Foreign Direct Investment and the Sourcing of Interest Expense", at a symposium held at Queen's University in honour of Alex Easson, a long-serving and distinguished tax academic on the Queen's law faculty who died of cancer last year. The symposium papers will be published by the University of Toronto Press. Edgar also spoke on the subject of interest expense allocation rules

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at a symposium held in Toronto in June. Sponsored jointly by the Canadian branch of the International Fiscal Association, the Canadian Tax Foundation and the Faculty of Law of the University of Toronto, the symposium focused on the subject of international tax reform; it was held in anticipation of the report of the Advisory Panel on Canada's International Tax System, which was established by the federal government on November 30, 2007. Edgar subsequently completed a report, commissioned and published by the Advisory Panel, on the subject of the deductibility of interest expense in the context of inbound foreign direct investment.

In April, Edgar was awarded a three-year SSHRC grant to support three different empirical studies of the effect of legal uncertainty on tax-driven financial innovation, and he has begun work on the project. He also delivered two short intensive courses on the tax treatment of financial instruments and financial innovation: one in November for the LLM (International Taxation) program at the Vienna School of Business and Economics, and the other in August for the LLM (Taxation) program at the University of Sydney law school.

Randal Graham

Professor Graham was on sabbatical leave this year, working on his fourth book, which will address roles of scarcity and self-interest in the design of legal doctrine and social institutions. During his sabbatical he also published a paper entitled "Politics and Prices" in the *Indian Journal of Constitutional Law*, served as an adjunct professor (teaching Statutory Interpretation) at the University of Toronto, and presented works-in-progress at a number of symposia on topics ranging from legislative language to genetics. Graham's most recent presentation was a keynote address at the Hugh M. Ketcheson Lecture series hosted by the Saskatchewan Crown Counsel Association in Regina, Saskatchewan. His paper was titled "Activism vs. Restraint: the Judiciary's Approach to Legislative Intention."

Ian Holloway

Ian Holloway has just completed his eighth year as Dean of Western Law. In December he was elected Chair of the North American Cooperation Section of the Association of American Law Schools. In June, 2008, he became Chair of the Ontario Law Deans Council. In May, he was one of the speakers on a panel sponsored by the Law Society of Upper Canada in honour of South Asian Heritage Month. He spoke on "The Diversity Pipeline." On June 26, he delivered the Chief Justice Thane Campbell Lecture at the University of Prince Edward Island. Throughout the year, he has been chairing a committee to establish a new law school at Sultan Qaboos University in Oman.

Ben Hovius

At the end of June, Professor Hovius completed his thirtieth year as a member of the Faculty of Law - and for the first time in all those years, he did not teach a first-year course. His teaching

responsibilities were instead focused on the Family Law area. In September, Hovius' article on "Spousal Support in Canada" appeared in *International Family Law*, a European journal. His article entitled "Property Rights for Common Law Partners" appeared in the Jay McLeod Memorial Book, *Contemporary Issues in Family Law: Engaging with the Legacy of James G. McLeod*, published by Carswell in late 2007. This book illustrated and celebrated Jay's influence on the development of Family Law in Canada. In addition, Hovius delivered papers on family property issues at two conferences organized for the legal profession in June.

Grant Huscroft

Professor Huscroft published an edited collection of essays entitled *Expounding the Constitution: Essays in Constitutional Theory* (New York: Cambridge University Press), and contributed chapters to two books. He contributed "The Duty of Fairness from Nicholson to Baker and Beyond" to Flood and Sossin, eds., *Administrative Law in Context* (Emond-Montgomery, 2008) and "Rationalizing Judicial Power: The Mischief of Dialogue Theory" to Kelly and Manfredi, eds., *The Charter at 25* (forthcoming).

Huscroft appeared on television and radio in a variety of contexts this year, debating everything from freedom of expression and human rights laws to changes to the electoral system and the constitutionality of polygamy.

He has completed his term as Associate Dean (Academic) and is looking forward to returning to his research in the fall. In October, he and Professor Bradley Miller will be hosting a colloquium on Originalism in Constitutional Interpretation, involving the world's leading constitutional theorists.

Rande Kostal

Professor Kostal worked to complete the archival research of *Laying Down the Law: The Legal Reconstruction of Germany and Japan*, a forthcoming book for Harvard University Press. In the process he made a number of visits to the National Archive of the United States in Washington, D.C., and single visits to the Douglas MacArthur Memorial Library in Norfolk, Virginia, the Truman Presidential Library in Independence, Missouri, and more recently the Institut fur Zeitgeschichte in Munich, Germany.

In August, Oxford University Press will publish the revised paperback edition of Kostal's *A Jurisprudence of Power: Victorian Empire and the Rule of Law*.

Michael Lynk

During this past academic year, Professor Lynk published articles on disability at work in Canada (in R. Echlin & C. Paliare (eds.), *Law Society of Upper Canada Special Lectures 2007: Employment Law* (Toronto: Irwin Law, 2008)) and on the 40th anniversary of the adoption of United Nations Security Council Resolution 242 ((2007), 37:1 *Journal of Palestine Studies*). His current research work has been focused on Canadian labour law in the international sphere, on mental illness and addiction

at work and their treatment in arbitration and human rights law, on recent developments in mandatory retirement law, and on the influence of economic changes on the statutory stagnation of Canadian labour law.

In November, Lynk delivered one of the invited speeches at the annual Pitblado Lectures on Law, hosted by the Law Society of Manitoba. He spoke on the transformation of disability rights in the Canadian workplace over the past two decades. Other legal presentations include a panel paper on international law and the Middle East at the annual Middle East Studies Association conference in Montreal in November, a speech on international labour law to the Canadian Employers' Conference in December, a lecture on mandatory retirement and human rights law to the National Academy of Arbitrators' annual conference in Ottawa in May, and a paper on the new United National Convention on Disability to the Canadian Disability Studies' Association in Vancouver in June.

In October, Lynk co-hosted Western Law's annual labour law lecture and conference at the Faculty. The theme of the lecture and conference was devoted to the Charter and Human Rights at Work. The Right Honourable Beverley McLachlin delivered the 5th annual Koskie Minsky University Lecture on Labour Law, and the Heenan Blaikie Labour Law Conference was held the following day. Lynk delivered a paper on the intersection of Canadian and international labour law at the conference.

Margaret Martin

Professor Martin presented a paper titled "Raz's Morality of Freedom: the Tension Between Pre-emption and Normal Justification" at the Junior Scholars' Conference held at McGill on January 18th. She has since turned that paper into an article for publication. In April she chaired a panel at the Canada-United States Law Institute's Annual Conference, "The World's Longest Undefended Border: Gateway or Checkpoint? The Post-9/11 Safe and Secure Canada-U.S. Border in the Era of Global Supply Chains", held at Case Western Reserve University School of Law in Cleveland, Ohio. In September, Martin chaired a panel at the international law symposium, "Is Our House in Order: Canada's Implementation of International Law", held at Western Law.

Richard McLaren

In 2007-08 Professor McLaren published three books under the Carswell imprint: *The 2008 Annotated Ontario Personal Property Security Act*, *The 2008 Annotated Alberta Personal Property Security Act*, and *British Columbia Personal Property Security Act Handbook 2008*. He also published releases for his *Secured Transactions in Personal Property in Canada* (Carswell), *Canadian Commercial Reorganization: Preventing Bankruptcy* (Canada Law Book), and *Innovative Dispute Resolution: The Alternative* (co-written with John P. Sanderson, Q.C.) (Carswell). His article, "WADA Drug Testing Standards", appeared in *Marquette Sports Law Review* v.18, 2007.

McLaren presented a paper entitled "WADA Drug Testing Standards" at the National Sports Law Institute Conference at Marquette University Law School, Milwaukee, WI, in September. In January, he was Guest Lecturer at the School of Law at King's College, University of London, England. He spoke to students in the Sports Law Diploma Programme on the topic "The WADA Code Now and in '09 from an Arbitrator and a CAS Perspective." He was invited to speak at Pepperdine University Faculty of Law in February, where he gave a lecture on "The Land of Doping: What went on in the Landis case and in professional baseball."

In March, McLaren was the invited lecturer at Western's Faculty of Kinesiology, where he spoke on "The Landis Decision, the Mitchell Report, and Conducting Arbitrations at the Olympics." He gave a luncheon address on "Sports Arbitration: an Insider's Look" on June 12 at the Toronto office of Blakes, with a video link to all the Canadian offices of the law firm.

Bradley Miller

Professor Bradley Miller spent part of 2007-08 as a Visiting Fellow at the European University Institute in Florence, Italy, where he continued his research into the interpretation of rights limitations clauses, specifically in the context of European bills of rights. His article, "Justification and Rights Limitation", which addresses rights limitations in the context of the Canadian Charter of Rights and Freedoms, was published in 2008 by Cambridge University Press in Grant Huscroft (ed), *Expounding the Constitution: Essays in Constitutional Theory*. His review essay on W.J. Waluchow's *A Common Law Theory of Judicial Review* was published in *The American Journal of Jurisprudence* 52 (2007) at 297-312. In July, he attended the conference "The Legacy of HLA Hart: Legal, Political, and Moral Philosophy" at Cambridge University, and the colloquium "Inclusive Legal Positivism and Beyond: the Perspective of Jules Coleman" at the University of Bologna in May 2008. Miller has also drafted a paper on concepts of harm and morality in Canadian jurisprudence that is currently under review.

Jason Neyers

Professor Neyers published "Explaining the Principled Exception to Privity of Contract" in the *McGill Law Journal* (2007) 52 and "Rights-Based Justifications for the Tort of Unlawful Interference with Economic Relations" in *Legal Studies* (2008) 28. He also presented papers on unlawful interference with economic relations in Durham, England and on unjust enrichment in Virginia. In January, he hosted an international symposium entitled "Exploring Contract Law" which brought together academics, lawyers and judges to analyze and discuss undertheorized and underexplored areas of contract law. Participants included scholars from Yale, Oxford, LSE, Texas, Exeter, Toronto, McGill, Singapore, Hong Kong, and Auckland (amongst others) and judges from the Supreme Court of Canada and the Courts of Appeal of British Columbia and Ontario. He is currently co-editing the conference papers for

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a book of the same title which will be published by Hart Ltd. of the United Kingdom in January 2009.

Neyers also created and administers the Obligations Discussion Group (ODG), which is an international mailing list devoted to all aspects of the law of obligations. The ODG has over 200 members from seven different countries. An archive of the group's discussions can be found at <http://www.ucc.ie/law/odg/home.htm>. To be added to the list please send a message to jneyers@uwo.ca

Christopher Nicholls

One of the great highlights of the past year for Professor Nicholls came in September, when he co-organized and served as moderator for Western Law's remarkable "Spirit of '76" panel, featuring leading M & A and tax practitioners, all proud graduates of the Western Law class of 1976. The program was originally the idea of William Braithwaite (Stikeman Elliott), with a key role played from the start by Gary Girvan (McCarthy Tétrault). All of the participants including William and Gary, Ronald Durand (Stikeman Elliott), Grant Haynen (Bennett Jones) and Joan Weppler (Dofasco) were outstanding. The panel was a tremendous hit with the "standing room only" crowd of students who attended.

In October, Nicholls presented a paper on piercing the corporate veil at the Consumer and Commercial Law Workshop at the University of Toronto. A much revised version of that paper, entitled "Piercing the Corporate Veil and the 'Pure Form' of the Corporation as Financial Innovation" was later published in the *Canadian Business Law Journal* v.46 (2008). He also was privileged to be engaged by the Securities Fraud Enforcement Working Group, established by the federal/provincial/territorial cabinet ministers responsible for justice, to assist in the writing of its report.

In January, Nicholls was invited to make a presentation on mergers and acquisitions law as part of Osgoode Hall Law School's LLM program in securities law. Two weeks later, he spoke at the National Centre for Business Law at UBC on the subject, "Principal Protected Notes: A Case Study in Financial Innovation." At the end of January he acted as "rapporteur" for a roundtable on securities law enforcement convened by the Capital Markets Institute at the University of Toronto's Rotman School of Business. In March, he was invited to Dalhousie Law School to deliver a lecture on take-over bid law.

In the spring, the federal Minister of Finance's long-awaited Federal Task Force on the Effectiveness of Securities Regulation (chaired by the Hon. Tom Hockin) held its first meeting in Ottawa, and Nicholls was invited to make a presentation to that Task Force on proportionate regulation.

Nicholls was a co-applicant on two of the four successful major SSHRC grants received by law school faculty members this year: a grant of \$117,000 to complete an empirical study (with Professor Mohamed Khimji of Dalhousie Law School) on veil piercing cases in Canadian corporate law; and a grant of \$59,000 for a research study (with Professor Stephen Sapp of the Richard Ivey School of Business) on corporate governance.

Nicholls also attended conferences in Toronto and New York City, and was quoted in articles appearing in *Maclean's* magazine, the *Toronto Star* and the *Globe and Mail*. In June, his article "Canada's M&A Rule Book May be Written", discussing aspects of the pending Supreme Court of Canada appeal of the BCE arrangement, appeared in the *Globe and Mail's* Report on Business. Finally, he has completed his fifth book, on the *Regulation of Financial Institutions*, which is now in production and will be published by LexisNexis in late 2008 or early 2009.

Valerie Oosterveld

Over the past year, Professor Oosterveld continued her work in the field of international criminal law. She published, with Andrea Marlowe ('07), *Prosecutor v. Brima, Kamara and Kanu; Prosecutor v. Fofana and Kondewa: Special Court for Sierra Leone* (2007) 101(4) *American Journal of International Law* 848-857. As well, "Prosecution of Gender-based Genocide" in Samuel Totten (ed.), *The Plight and Fate of Women in Genocidal Situations*, Volume 7 of *Genocide: A Critical Bibliographic Review* (Transaction Publishers, 2008) and "Women's Rights and International Criminal Law" in David Forsythe (ed.), *Encyclopedia of Human Rights* (Oxford University Press, 2009) are currently in press. Her article titled "The Special Court for Sierra Leone's Consideration of Gender-Based Violence: Contributing to Transitional Justice?" was accepted for publication in 10(1) *Human Rights Review* (2009).

During the academic year, she presented several papers: "The Politics of War Crimes Tribunals: The Case of the Special Court for Sierra Leone" (Washington D.C.); "The International Criminal Court, Criminal Accountability and the Lord's Resistance Army" (London); "Gender and the Special Court for Sierra Leone" (Berkeley); "Questioning International Law" as part of Western Law's Faculty Seminar Series; "Making Gender Matter in International Criminal Justice" (Vancouver); "Canada's Continued Support for International Criminal Justice: Is it Justified?" (Ottawa); and "Treaty Compliance Mechanisms in International Criminal Law: Canada's Contribution" (Ottawa). She also served as an invited discussant on the International Criminal Court at a roundtable on international law theory (St. Louis). She chaired the "Women and Peacebuilding" panel at a conference she co-organized, *When the Fighting Stops: Roles and Responsibilities in Post-Conflict Reconstruction* (Newark).

Oosterveld co-hosted, with Professor Carmody, an international law symposium at Western Law titled *Is Our House in Order? Canada's Implementation of International Law*. She produced a discussion paper for the Special Court for Sierra Leone on legal obligations that continue after that Court's physical closure in 2010. She served on the Canadian delegation to, and chaired the final dialogue for, the Hemispheric Seminar Towards the First Review Conference of the Rome Statute of the International Criminal Court (Mexico City). In March, she was awarded the University Students' Council Teaching Honour Roll Certificate for her teaching during the 2006-07 academic year.

Adam Parachin

Professor Parachin continues to research and write on the legal regime governing the succession of wealth in support of philanthropic works. Appearing in journals this year were articles he has written on the preferred treatment of charities in relation to the rule against perpetuities, the rationales offered by courts to justify the boundaries of the legal definition of charity and new income tax rules dealing with the tax treatment of inter-charity transfers of property. His forthcoming articles and works-in-progress include papers on why the rule against accumulations should be repealed, goal oriented judgments in the law of charity and the income tax treatment of charitable gifts. In addition, Parachin presented research results this year before the Congress of Humanities and Social Sciences, the Southeastern Association of Law Schools, the American Bar Association and the Ontario Bar Association. Parachin was also admitted to the USC Teaching Honour Roll.

Mark Perry

Professor Perry has been awarded a SSHRC Standard Grant of \$100,400 over the next three years to pursue his research into Legal Theory and Models for FLOSS (Free/Libre and Open Source Software) in Government and Business.

In September, he co-organized with Professor Margaret Ann Wilkinson a national intellectual property-related conference entitled "The Canadian Intellectual Property Academy: Outreach and Audience" at Western Law.

In 2007, he published a chapter (with H. Kaminski) entitled "Employing Intelligent Agents to Automate SLA Creation" in *Emerging Web Services Technology* edited by C. Pautasso and C. Bussler. He also published "Autonomic Creation of Service Level Agreements" (with H. Kaminski) in *Proceedings of IADIS e-Society Conference 2008*.

He presented a paper (with H. Kaminski) entitled "Open Source Software Licensing Patterns" at the OOPSLA conference in Montreal, October 21-25. He was also an invited speaker at the international symposium "Playing the Gallery: The Art of Games" where he spoke on "Modelling Licences in Virtual Environments: a Creative Commons Approach". The symposium, held October 3-5 at The University of Western Ontario, explored the creative spirit of gaming and whether parallel worlds represent a unique opportunity for expression and social and cultural change.

Perry (with P. Krishna) exhibited a poster on the "Use of Material Transfer Agreements in Biotechnology in Canada" at the Canadian Society of Plant Physiologists (CSPP) Eastern Regional Meeting at The University of Western Ontario on November 30.

In February, he delivered a talk at the Rajiv Gandhi School of Intellectual Property Law, Indian Institute of Technology in Kharagpur, entitled "Copyright Reform and the World Intellectual Property Organisation Copyright Treaty". He also spoke on "Does India need a DMCA?" to students at the Banaras Hindu University Law School in Varanasi. In March, Perry was invited

to speak at the Birla Institute of Technology and Science where he focused on the economic aspect of adoption of the WIPO Copyright Treaty for India and Canada.

Perry delivered the paper (co-authored with Q. Zhao) "An Ontology for Autonomic License Management" at the Fourth International Conference on Autonomic and Autonomous Systems on March 19 in Gosier, Guadeloupe. This paper was published in the Conference Proceedings (ICAS'08).

Stephen G.A. Pitel

Professor Pitel was awarded the Bank of Nova Scotia, University of Western Ontario Alumni Association and University Students' Council Award of Excellence in Undergraduate Teaching. He was also a semi-finalist for the TVO Best Lecturer competition and was named the Jay McLeod Professor of the Year in the Faculty of Law. He very much appreciates his students' support of his efforts in teaching, mentoring and curriculum reform.

Prof. Pitel published "Enforcement of Foreign Non-Monetary Judgments in Canada (and Beyond)" in *The Journal of Private International Law* (2007) 3:2; "The Standard of Proof for Jurisdiction Clauses" (with Jonathan de Vries) in the *Canadian Business Law Journal*; "Counselling and Negotiation" in *LexisNexis Canada's* new national book on legal ethics; "Charting New Courses: Leadership in Curriculum Reform" in the *Journal of Commonwealth Law and Legal Education*, and comments on *Schreiber v. Mulronev*, *Juman v. Doucette* (with Professor Dale Ives) and *Marche D'Alimentation Denis Theriault Itée v. Giant Tiger Stores Ltd.*

In June, Pitel presented a paper on restitutionary claims under the new European Community regulation on the law applicable to non-contractual obligations at a conference at Trinity College Dublin. He is the Canadian editor for www.conflictoflaws.net and also maintains a national e-mail news and discussion list for conflict of laws professors. While on sabbatical for 2008-09 he is co-authoring a text on private international law.

Melanie Randall

Professor Randall's scholarly work continues to focus largely on legal remedies for gendered violence, in both the private and public law contexts. Her forthcoming publications include: the article "Honest But Mistaken Judicial Beliefs About Sexual Assault in Spousal Relationships, Consent and the Law: When No Doesn't Mean No"; a book chapter entitled: "Private law, the State and the Duty to Protect: Tort Actions for Police Failures in Gendered Violence Cases"; and a published review essay addressing the book "Rethinking Domestic Violence" (in the *UBCLR*, 2008).

During the 2007-08 academic year, Randall delivered several invited presentations: "Educating Courts About the Complexities of Domestic Violence: Challenges for Crowns" at the Ontario Crown Domestic Violence Co-Leads Provincial Conference, Ministry of the Attorney General, in Toronto on November 28, 2007, and also at the British Columbia Crown

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Counsel Conference, Whistler, B.C., in April. In October, she presented "Private Law and State Accountability for Gendered Violence: Tort Actions for Failure to Protect," for "Feminist Fridays" at the Institute for Feminist Legal Studies, Osgoode Hall Law School.

She also participated in an invited consultation with academics for the Hon. Roy McMurtry's Victim Compensation Review, an assessment of the criminal injuries compensation scheme in Ontario

Daniel Sandler

Last fall Professor Sandler presented two papers on the taxation of international entertainers and athletes at a conference in Geneva, Switzerland ("Canada" (a country report) and "Problems Taxing Non-Resident Artistes and Sportsmen") and a paper on the source allocation rules under Article 17 of the OECD Model Tax Treaty at a conference in Vienna, Austria. The papers will be published in conference proceedings in 2008.

In January, Sandler taught a two-day course on the Taxation of International Artistes and Sportsmen in the LL.M. program at the Vienna University of Economics and Business Administration. He also participated in a panel at the FullSail Summit in Saint John in March, hosted by the New Brunswick Securities Commission, where he spoke on funding entrepreneurs. In May, he was one of the faculty presenting at a two-day PhD seminar on comparative taxation law issues at the University of Uppsala, Sweden.

Sara Seck

On November 8 and 9, Professor Seck participated in an invitation-only experts' meeting in Copenhagen on the role of states in effectively regulating and adjudicating the activities of corporations with respect to human rights. The meeting was organized by the International Commission of Jurists, and by Professor John Ruggie of Harvard University in his capacity as the Special Representative to the UN Secretary-General on Business and Human Rights. The meeting brought together legal academics from around the world with representatives from governments, non-governmental organisations, industry, and law firms. She spoke at the first session on the meaning and scope of the state duty to protect human rights in relation to business. In December, Seck successfully defended her PhD dissertation at Osgoode Hall Law School. In March, she spoke at conferences at the Faculty of Law, University of Victoria, and at Yale Law School, both on the topic of Corporate Social Responsibility and the Extractive Industries. Her paper, entitled "Home State Responsibility and Local Communities: The Case of Global Mining" is forthcoming in the Spring 2008 edition of the Yale Human Rights and Development Law Journal.

Christopher Sherrin

Further to his retainer as a researcher for the Inquiry Into Pediatric Forensic Pathology in Ontario, Professor Sherrin prepared and submitted a paper discussing the challenges

faced by an accused in a criminal trial in testing and contesting forensic pathology evidence adduced by the Crown. The paper, entitled "Defending a Pediatric Death Case: Problems and Solutions", is available on the Inquiry web site: http://www.goudgeinquiry.ca/policy_research/index.html. In September, Sherrin was a speaker at "The National Conference on the Charter and Criminal Justice in Canada" held to mark the 25th anniversary of the Charter. He discussed whether the Charter has made a positive or negative contribution to protection against wrongful conviction. His paper from that conference, entitled "The Charter and Protection Against Wrongful Conviction: Good, Bad or Irrelevant?", is now published in both the Supreme Court Law Review and in the book *The Charter and Criminal Justice - 25 Years Later*.

Robert Solomon

Professor Solomon continues his research, publications and presentations in the fields of torts, traffic safety and healthcare. In conjunction with Professors M. McInnes (University of Alberta), E. Chamberlain and S. Pitel, he published the 7th edition of *Cases and Materials on the Law of Torts* in the summer of 2007. The book, now in its 25th year, addresses every major area of Canadian tort law. Solomon and Chamberlain's papers "From Research to Reform: The Rating the Provinces and Territories Project in Canada" and "Youth and Impaired Driving in Canada: A Progress Report" were published in B. Logan ed. Proceedings of the 18th International Conference on Alcohol, Drugs and Traffic Safety - T'2007 (online: www.icadts2007.org/). With Chamberlain, Solomon published "Zero BAC Limits for Drivers Under 21: Lessons from Canada" (2008), 14 Injury Prevention 123. A second paper on minimizing impairment-related youth traffic deaths is scheduled for publication in the Canadian Journal of Public Health this fall.

Solomon's research is supported by grants from Auto 21: Networks of Centres of Excellence Program (NESRC, CIHR, SSHRC, and Industry Canada), the Centre for Addiction and Mental Health, and Mothers Against Drunk Driving Canada. In addition to the preceding papers, the funding supported the publication, with A. Carlson and M. Nikolic, of Rating the Provinces and Territories: The 2007 Progress Report which was released in September.

Solomon presented a brief entitled "The Comprehensive and Innovative Reform of the Criminal Code's Impaired Driving Provisions" to the House of Commons Standing Committee on Justice and Human Rights on February 12, 2008. His proposal to establish a working group on youth traffic crashes was adopted by the International Council on Alcohol, Drugs and Traffic Safety in the fall of 2007. Solomon was also a participant at a two-day colloquium on young impaired drivers hosted by the Transportation Research Board of the American National Academy of Sciences.

For the third year in a row, Solomon was a recipient of a University Students' Council Teaching Honor Roll Certificate. In August, The International Council on Alcohol, Drugs and Traffic

Safety (ICADTS) presented him with the 2007 Widmark Award and Gold Medal at its 18th International Conference in Seattle. The award and medal were presented at the Gala Dinner before 900 delegates from around the world. Established in 1965 to honour Professor Erik Widmark of the University of Lund, the award is the highest honour that ICADTS can confer on individuals. It recognizes those “who have made an outstanding, sustained and meritorious contribution to the field that has led to international standing and respect.” Recipients “must have an impressive record of accomplishments in the field.” Solomon is the 27th recipient in the 43-year history of this prestigious international traffic safety award.

Thomas Telfer

Professor Telfer presented the paper, “The Evolution of Bankruptcy Exemption Law in Canada 1867-1919: The Triumph of the Provincial Model” at the Annual Review of Insolvency Law Conference at the University of British Columbia. The paper was subsequently published in the 2007 volume of the Annual Review of Insolvency Law. He also published “Statutory Licences and the Search for Property: The End of the Imbroglia?” in the Canadian Business Law Journal.

Telfer was also the co-author, with Anthony Duggan of the University of Toronto, of two articles on insolvency reform that appeared in a book essays entitled: Canadian Bankruptcy and Insolvency Law: Bill C-55, Statute c. 47 and Beyond. The first paper examined the law of fraudulent preferences and the second examined gift and transfers at undervalue. One of the essays was also re-published in the Texas International Law Journal.

Telfer continued his involvement with the Uniform Law Conference of Canada. He was an invited speaker at the Annual Meeting of the ULCC at Charlottetown where he gave a paper on the Federal Interest Act. Telfer has since been invited to join a Working Group of the ULCC on the reform of the Interest Act. He also attended meetings in Washington D.C. and Tucson as a delegate of the ULCC on the Project to Create a Harmonized Legal Framework for Unincorporated Associations in North America.

In the fall of 2007, Telfer was invited by the Insolvency Institute of Canada to attend their annual conference in Napa Valley for the presentation of the Annual IIC Student Writing Awards. Two of his students, Marie Bruchet and Michael Mangan, finished first and second respectively in the writing competition.

Bruce Welling

Professor Welling and Jim Corkery of Bond University have co-authored a new treatise, Principles of Corporate Law in Australia, published in mid-March. In June, he delivered a talk to the partners and associates of Wildeboer Dellelce at their Toronto offices on the potential impact for corporate legal advisors of the Québec Court of Appeal decision in the BCE case.

Margaret Ann Wilkinson

Having completed work over a number of years on the Social Sciences and Humanities Research Council (SSHRC) Initiatives in the New Economy (INE) Grant that she held, entitled “Inalienable Rights or Property Interests: Reconciling Conflict in the New Economy,” Professor Wilkinson has received a further SSHRC INE Public Outreach Grant, “Accessing Information and Exercising Information Rights.” This outreach grant will further the work she and Professor Mark Perry have done over the past half dozen years to foster the Canadian Intellectual Property Academy Project. The project has brought together Canada’s intellectual property professorial research community for several days of workshops at Western Law every two years. This year’s conference took place in September and included scholars from coast to coast.

The outreach grant also supported her tour of seven universities in the United Kingdom in conjunction with her appointment during the 2008 January term as Visiting Professor at Newcastle School of Law. In addition to giving a series of three guest seminars at Newcastle and advising graduate students, she met with information and intellectual property law colleagues at Cambridge and Oxford.

Wilkinson presented guest lectures at the Intellectual Property Research Centre at Queen Mary College (University of London), Edinburgh School of Law, Glasgow School of Law and Strathclyde School of Law. One paper was based upon work already published in part as “The Public Interest in Moral Rights Protection,” (2006) 1 Michigan State Law Review 193-234, and continued in “The Author as Agent of Information Policy: the Relationship between Economic and Moral Rights in Copyright” (with doctoral student Natasha Gerolami), forthcoming in Government Information Quarterly. Another was based upon work which will shortly appear as a chapter entitled “Battleground between New and Old Orders: Control Conflicts Between Copyright and Personal Data Protection” in the Canadian contribution, edited by Ysolde Gendreau, to the Queen Mary Studies in Intellectual Property series: “An Emerging Intellectual Property Paradigm: Perspectives from Canada” (London: Edward Elgar, in press). The third paper, “Privacy, Photos and the Press,” is currently under review for publication. The fourth paper related to research funded under both the INE grant and another SSHRC grant (with Professor Mark Perry) concerning the relationship between the ethics review process in Canadian universities and personal data protection requirements.

Wilkinson is also Adjunct Faculty at the Richard Ivey School of Business where she teaches a course on intellectual property and other law related to health sector business. She provided an expert report to proceedings now before the Copyright Board of Canada on the implications of the fair dealing provisions in Canada.

MEDIA HEADLINES: Western Law professors are frequently called on by the media to provide context and insight into the issues of the day. Here are some recent highlights.

PROFESSOR CHRIS NICHOLLS, AN EXPERT IN CORPORATE AND SECURITIES LAW, WROTE AN OP-ED PIECE ON THE BCE TAKEOVER CASE. IT WAS PUBLISHED IN THE GLOBE AND MAIL ON JUNE 9, 2008

"On June 17, the Supreme Court of Canada is scheduled to hear what could be the most important Canadian corporate law case in 35 years. M&A lawyers are anxious to hear the Supreme Court's views. Our highest court may finally say "yea" or "nay" to what has been a guiding principle in Canadian corporate acquisitions for over two decades.

Canadian counsel regularly advise clients that if a company is "in play," management has a duty "to maximize shareholder value." CEOs and CFOs echo this advice during conference calls hastily convened by companies targeted by hostile takeover bids

The Supreme Court now has a historic opportunity to write the rule book for the next M&A wave, set the record straight on Canadian security holders' rights, and perhaps tie up some loose ends from its perplexing *Peoples v. Wise* decision to boot. For Canadian M&A law, the stakes, and the expectations, have never been higher."

PROFESSOR ROBERT SOLOMON, CANADA'S LEADING EXPERT IN IMPAIRED DRIVING LAW AND POLICY, WAS FEATURED IN AN INVESTIGATIVE REPORT ON DRINKING AND DRIVING ON THE CTV PROGRAM W-FIVE. THE REPORT "FUELLED BY ALCOHOL" AIRED IN DECEMBER, 2007.

"I think that our society has tended to discount the seriousness of impaired driving. And we do that everyday and in every way. We keep on making excuses for alcohol and that takes a devastating toll in our society. There are so many obstacles to effective enforcement that a significant segment of police are reluctant to lay charges. Cases get dropped, the individuals raise questionable defences - it's a very frustrating business."

IN HIS OP-ED ENTITLED "WHAT'S SO DIFFICULT ABOUT PROSECUTING POLYGAMY?" CONSTITUTIONAL LAW PROFESSOR **GRANT HUSCROFT** CALLED UPON B.C. ATTORNEY GENERAL, WALLY OPPAL, TO PROSECUTE THE LEADERS OF THE POLYGAMIST SECT IN BOUNTIFUL, B.C.. THE OP-ED WAS PUBLISHED IN THE GLOBE AND MAIL ON APRIL 21, 2008.

"B.C. Attorney-General Wally Oppal is having a difficult time in dealing with the Bountiful colony. The good folk of Bountiful are, by all accounts, practising polygamy in open contravention of Canadian criminal law, but the chief law officer of the Crown does not know what to do. What's going on here?

The problem, in short, is Charter paralysis. The Attorney General has been advised that it would be wrong to prosecute the anti-polygamy law, lest in doing so the religious freedom of the Bountiful residents be infringed. And so, he has not prosecuted.

The result can only be described as a refusal to enforce the criminal law. It is a refusal based on purported compliance with the Charter, but it is no less a refusal on that account, and it is profoundly at odds with the rule of law - the very cornerstone of our Constitution."

SAMUEL TROSOW, AN ASSOCIATE PROFESSOR IN THE FACULTY OF LAW AND FACULTY OF INFORMATION AND MEDIA STUDIES AT WESTERN, WROTE AN OPINION PIECE FOR SUN MEDIA IN MAY CRITICAL OF ONTARIO'S NEW PESTICIDE BILL.

"A new bill banning pesticides, while well intentioned, is fundamentally flawed and may threaten local bylaws in cities across Ontario. These new legislative powers that Ontario cities worked so hard to obtain should not be clawed back on a piecemeal basis.

It is crucial that any exemptions to the ban be precisely and narrowly

defined, that overall policy decisions be made by the elected legislature, and that the autonomy promised to municipalities be respected. Bill 64 as drafted fails to meet these criteria."

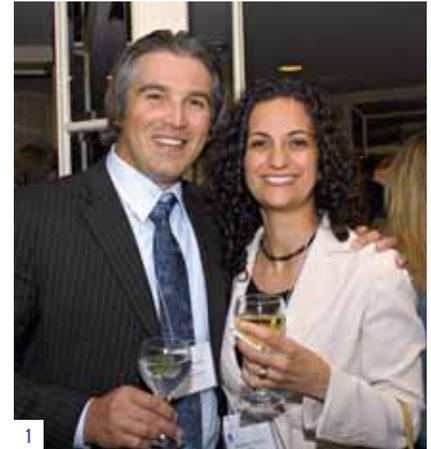
PROFESSOR BRADLEY MILLER WROTE ON THE INTERSECTION OF LAW AND PHILOSOPHY FOR A COMMENTARY IN THE LAWYERS WEEKLY IN MARCH.

"Our public discussion as lawyers and as members of a political community could be immeasurably enriched by recourse to analysis carried on in moral, political and legal philosophy. Constitutional law is porous to moral and political philosophy on several sides. More obviously than in most other areas of law, questions of moral and political philosophy lie just beneath the surface of many debates of constitutional law: restrictions on abortion, assisted suicide and obscenity come quickly to mind."



Western Law Alumni Dinner 2007

ON THURSDAY OCT, 25, 160 ALUMNI GATHERED TO CELEBRATE AT WESTERN LAW'S ANNUAL ALUMNI DINNER AT THE KING EDWARD HOTEL IN TORONTO. The Hon. J. Edgar Sexton '62 (Western Law's first graduating class), of the Federal Court of Appeal was honoured as this year's distinguished alumnus. Richard Pound, Chairman of the World Anti-Doping Agency was the evening's guest speaker. Western Law would like to thank Rick Morelli '95 (President) and Mitch Frazer '99 (Past President) and the entire UWOLAA Executive for their assistance and support of this event.



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1. Western Law Alumni President Richard Morelli '95 and Stephanie Vaccari '95
2. Back Row (L-R): Carl Calandra '06, Katy Pitch '06, Rajah Lehal '07, Sarah Hemmingsen '06, Patrick Rogers '07; Front Row (L-R): Liz Pillon '92, Lorna Cuthbert '90, Margaret Grottenthaler '84
3. Back Row (L-R): Adam Banack '08, Nick Pasquino '08 and From BLG Christina Litt '03, Melany Franklin '89, Derek Powers '07 Front Row (L-R): Kelly Zalec '03, Rick Morelli '95
4. Back Row (L-R): Maurice Fleming '82, Anil Bhole, Brent McCurdy '06, Elizabeth Hyde '92, Eric Sherkin '06; Front Row (L-R): Craig Mills '96, Roxanne Chow '07, Krystle Ng-A-Mann, Jeffrey Carhart '82
5. Rosemary Sexton and J. Edgar Sexton '62
6. (L-R): Guest speaker Richard Pound, Professor Richard McLaren, Jay Carfagnini '80
7. Leila Rafi '06, Gail Lilley '78, Stephen Donovan '78



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4



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Western Law Alumni



8. Back Row (L-R): Berkley Sells '96, Nadia Jandali '06, Christine Tabbert '98; Front Row (L-R): Cheryl Dusten '06, Jesse Langdon '07, Stacey Stoneham '06, Jared Gordon '07
9. (L-R): John Zinn, Greg Kinlin '74, Jay Carfagnini '80
10. (L-R): Ron Atkey '65, Dean Ian Holloway
11. Back Row (L-R): Lisa Kwasek '07, Andrea McKinnon '07, Becky Griffiths, Erin McDermid '06; Front Row (L-R): Morgan Martin, Mavis Butkus, Gary Rodrigues '71
12. (L-R): Srijan Agrawal '06, Professor Adam Parachin, Nadia Jandali '06, Jesse Langdon '07, Stacey Stoneham '06

Message from the President

As President of The University of Western Ontario Law Alumni Association (UWOLAA) I encourage all law alumni to participate in our events and activities. Your involvement is a great way to support your alma mater and reconnect with colleagues and former classmates.

The highlight of the past year was our Western law alumni dinner held in October at the King Edward Hotel in Toronto. That evening we awarded The Hon. J. Edgar Sexton, LL.B '62, with the Alumni of Distinction Award and welcomed guest speaker Mr. Dick Pound, former President of the World Anti-Doping Agency. I'd like to express my sincere appreciation to all of the firms and alumni that supported

the event. You can see photos from the evening below.

Our next alumni dinner will be in London on Friday, October 3, 2008 during Homecoming Weekend. I hope you will consider joining us. Nominations for this year's Alumni Award of Distinction are now being accepted. The award is presented to an outstanding Western law graduate who has made an exceptional contribution to our community and/or the law school. To make your submission please contact Carolyn Ross, Alumni Outreach Officer, at carolyn.ross@uwo.ca

For a complete list of upcoming UWOLAA activities please have a look at our ad located on the front inside cover

of this magazine. I'd like to emphasize that we are your alumni association and the planned events and activities are for you. As always, I encourage your participation!

Richard Morelli (LL.B '95)
Borden Ladner
Gervais LLP
Waterloo Region
(519) 741-9100 x241
rmorelli@blgcanada.com



06 Bill Mitches was married on February 2, 2008. He continues to practice law in London where his wife Tamarra is self-employed.

05 Shawn Macdonald and **Lisa Fraser '99** are the proud parents of twin girls, Natalie Eva Fraser Macdonald and Julia Eleanor Fraser Macdonald, who were born on March 29, 2008.

04 Peter Fenton and his wife welcomed their first child, Andrew Kennedy. Peter is now an Associate in the corporate/commercial group in the Saskatoon office of MacPherson Leslie & Tyerman LLP.

Kerry Figliomeni (nee Thompson) and her husband Frank announce the birth of their first child, Mason, born in August 2007.

03 Elizabeth Dipchand has joined Lenczner Slaght Royce Smith Griffin LLP.

David Rainsberry has joined Bennett Jones as an associate.

John Simpson has joined the firm of Bereskin & Parr in the Toronto-based litigation team and will represent clients before the Federal Court and Federal Court of Appeal in a wide range of IP matters.

02 Kim Gribble and her husband Chris Miles announce the birth of their daughter Avery Claire on May 10, 2008.

Prem Rawal is posted to Halifax this summer where he'll take up his new job as regional military prosecutor.

99 Mitch Frazer and his wife Leslie announce the birth of their son Joshua Hilton on March 27, 2008. Mitch was admitted into partnership of Tory's LLP in February 2008.

98 Jason Park was welcomed into partnership with Fraser Milner Casgrain LLP.

97 Mary Lou Brady joined the partnership at Siskind LLP in January 2008 practicing exclusively in the area of management-side labour and employment law. Mary Lou is also busy being a wife, step-mom to 14-year-old Sebastian, and mother to four-year-old Bradyn and two-year-old Sam. Mary Lou can be reached at maryloubrady@siskinds.com and welcomes contact from her fellow class of '97 alumni.

Donna Walwyn is now Head of the Pensions and Employee Practice Group at the law firm of Baker & McKenzie, Toronto.

96 Kelly Clark Tranquilli was admitted into partnership at Leners LLP in London.

Steven Lutz was admitted into partnership at Bennett Jones LLP in Toronto.

95 Richard Morelli, business lawyer and partner with Borden Ladner Gervais, is currently managing the growing Waterloo Region office of BLG. In the past year, the firm has almost tripled in size as a result of local business law firm Shortt Hanbidge Richardson & Welch joining BLG on January 1, and several intellectual property professionals and staff joining in early 2008. On May 13, 2008, the firm invited friends, clients and colleagues to "A Celebration of Milestones", to celebrate and tour the new firm office, located in the Waterloo City Centre in uptown Waterloo.

93 Michael Mann was appointed managing partner of Lancaster, Brooks & Welch, LLP. Mike was the recipient of a "40 Under 40 Business Achievement Award" sponsored by the Niagara Business Link Newspaper. This award is given out annually to individuals under 40 years of age who consistently make their mark in business and who contribute regularly to their respective communities.

92 Craig Calkins runs a China legal publishing company which provides a China online legal reference service similar to those available in Canada. Much of the service is bilingual - in English and Chinese.

Deron Waldock joined Blake, Cassels & Graydon LLP as a partner in the Toronto office's pension and employee benefits group.

91 Myron Dzulynsky and **Gregory Southam ('96)** were recently included among the winners of the "40 Lawyers Under 40" award. Myron is a partner and leader of Gowling Lafleur Henderson's private equity national practices group, and Gregory is a partner at Davies Ward Phillips & Vineberg LLP practicing in the area of commercial real estate, banking and corporate/commercial law.

89 Michael Eizenga of Siskind, Cromarty, Ivey & Dowler LLP was named President of The Advocate's Society for the 2007-2008 term.

87 Douglas Powrie was admitted into partnership at Borden Ladner Gervais LLP and heads their regional tax practice at their Vancouver office.

80 Ian Dantzer, a trial and civil litigation lawyer at Lerner since 1982, was elected Managing Partner in January 2008.

79 Christopher Bredt, a partner with Borden Ladner Gervais LLP in Toronto, was elected as a Bencher of the Law Society of Upper Canada, replacing Carole Curtis who was appointed a judge of the Ontario Court of Justice.

74 Glenn Hainey has become a Bencher of the Law Society of Upper Canada.

73 Mary Jane Hatton has been appointed senior judge in the family court branch of the Ontario Superior Court Justice. She was counsel at Toronto's Children's Aid Society for five years before entering private practice, where she specialized in family law.

70 Bill Donaldson participated in conducting a workshop at the Canadian Institute's 8th Annual Conference in Managing Legal Risks and Responsibilities in Mental Health Care: "The Fundamentals of Mental Health Law" in April. On May 3, Bill also addressed the Schizophrenia Society of Ontario's Family Conference, Justice and Mental Health section on the subject of "Understanding the Ontario Review Board". Bill is now in his sixth year on the Board as Alternate Chair and Legal Member.

John McNeil, Q.C., had the 5th edition of his text *Motor Carrier Cargo Claims*, a leading Canadian legal text on cargo liability, insurance and freight claims, published by Thomson Carswell in April 2008. The book has now been in service for more than 20 years, ever since the first edition was published in 1986. He encourages his classmates to purchase multiple copies in order that his royalties might defray the costs of the weddings of his two daughters in successive years, Courtney's (A.C.S. UWO '03) in 2007 and Ceara's (Hon. B.Sc. UWO '01, M.Sc., UWO '03, M.D. Queen's '07) this year.

In Memoriam

Jack Roberts passed away on April 13, 2008. He was a Professor of Law at The University of Western Ontario for 23 years. He joined the law school in 1973 and taught a number of courses, including Contracts, Commercial Law, International Business Transactions, IP (notably, Jack was a registered Patent Agent), Competition Law and Legal Writing. He was a steady scholar whose most notable publication was a comparative treatment of competition law, first published by Butterworths in 1980. One of his most lasting contributions to the school was the establishment of the Canada-US Law Institute, of which he served as the founding Canadian Director.

He will be remembered as a dynamic, colourful classroom teacher. His door was always open, and his small group of students (one of whom was Professor Michael Coyle) remember him as having an important impact on their later lives. He is survived by his wife, Leigh, his three children, Jeannine, Marie-Lise and Nicole, and his seven grandchildren. He was 65.

Joanne Poljanowski ('85) died on March 18, 2008. Joanne was a partner with the firm of Borden Ladner Gervais LLP. An endowed bursary at The University of Western Ontario Law School has been established by her friends and colleagues. To contribute please contact Donna Swanson, Foundation Western at 519-661-2111, ext. 88810 or dswanso2@uwo.ca

Michael Frank Peterson ('88) died on May 6, 2008 in his 50th year in London, Ontario. Too soon. Mike had a passion for life and all things in it. His love of flowers, plants and trees was embodied in his beautiful backyard garden. Mike was always willing to share his views and engage in a lively discussion. It did not matter whether the subject of conversation covered the growing of orchards or the American Civil War. Mike's enthusiasm was evident. Ken Peacocke ('88) writes, "Mike was a brilliant municipal lawyer, a rare breed. He had an amazing ability to understand the nuances of municipal law, and to grasp complicated issues at lightning speed. There was many a time when I would run issues by him and would receive the benefit of his wisdom." Mike will be missed by his family, friends, classmates, and wife Jane Cavanagh ('88). Much too soon.



LARRY WEINBERG '87

Franchise Law 101

WHEN I LEFT WESTERN LAW IN 1987 THERE WAS NO COURSE IN ANY SUBJECT CALLED "FRANCHISE LAW". Today, in 2008, there is still no course in franchise law. Come to think of it, I cannot recall the concept or the word "franchise" coming up even once in my three years of law school, and that is probably still the case today.

Yet, there does exist in this country a smattering or handful of lawyers who practise what they refer to as "franchise law". So, to address the reader who may be asking the inevitable question "What the heck is franchise law?", I offer this explanation. And, if you are asking this question, not to worry, it was the same question my partners at Cassels Brock in Toronto asked before I joined the firm in 1997.

Rightly put, practising franchise law usually means offering advice on an activity that is now regulated in many jurisdictions, namely the sale of a franchise, while also providing all necessary legal services to stakeholders who participate in franchising as a method of doing business, such as franchisors, franchisees, landlords, investors, bankers, brokers and consultants. This type of advice cuts across many legal specialties, including commercial law (contract preparation and negotiation) mergers and acquisitions, trademark law, leasing, dispute resolution and litigation.

For many years the offering of a franchise has been a well-regulated activity in the United States. California adopted its first franchise law in 1971, and now there is regulation at the federal level in the U.S., and in

some individual states. The premise of these laws is to treat the sale of a franchise akin to the sale of a security. So, franchisors need in some cases to register to sell franchises, and always need to precede the offering with the preparation and dissemination of a franchise disclosure document, which is a prospectus-like document offering information on the franchise being offered, and the people involved.

In Canada, only Alberta followed suit right away, adopting its own franchise law also in 1971, and then reshaping their law in 1995. It was not until 2000 that Ontario finally saw the wisdom in adopting a franchise law. But since that time both Prince Edward Island and more recently New Brunswick have followed with their own laws, patterned on the Ontario statute. The approach taken by these provinces differs to some degree from the U.S., in that, in Canada there is no regulatory authority that reviews the franchise disclosure document. However, there is an obligation to provide such a document to a prospective franchisee in advance of the sale, and it must comply with a minimum statutory standard of disclosure. Failure to meet the standard can result in civil liability. In addition, these Canadian franchise laws mandate a statutory standard of good faith in the conduct of the ongoing relationship between franchisor and franchisee.

More Canadian provinces are likely to follow the course now set by these four, all of which has created a need for knowledgeable counsel in Canada who are able to understand the business model and provide value added advice to new and experienced franchisors on the structure of their operations, the standards of disclosure, methods of expansion, and the benchmarks in their industry.

Many do not appreciate the very wide definition given in these statutes on what constitutes a franchise in law. Guaranteed that the definition is wider and more encompassing than anything the reader would ascribe in plain English as to the meaning of the word. While it certainly covers the standard fast food outlets on most major streets in any city or town, it also covers many other licensing arrangements that involve making some payment and use of a "system" of knowhow. These "accidental franchises" are everywhere in the business community, and the unfortunate reality is that many do not come to the attention of anyone until a dispute arises and the putative franchisee asserts a claim based on non-compliance with the law. This is even the case amongst the Bar, where there is a high level of ignorance on the existence of franchise laws, the expanded legal definition of a franchise, and the ramifications of non-compliance.

The handful of franchise lawyers in Canada are generally quite busy in providing specialized advice to their domestic and perhaps international clients, and representing a large number of well known or never heard of brands offering franchises.

Perhaps there ought to be a course on this subject.

Larry Weinberg is a partner at Cassels Brock & Blackwell LLP in Toronto. He will be teaching the first ever franchise law course in Canada, scheduled for the Winter Term of 2010 at Western Law. [wl](#)

Why all Lawyers Should be Concerned About Bill C-61

IN 2008, THE FEDERAL GOVERNMENT INTRODUCED BILL C-61, *AN ACT TO AMEND THE COPYRIGHT ACT*. The long awaited bill was expected last December, but was delayed because of massive public opposition to a Canadian version of the U.S. Digital Millennium Copyright Act (DMCA). For the first part of this year, rumors were flying about when the bill would be tabled, what it would say, and whether the Harper government was going to make any changes to what they had planned to table.

Over the past month, along with many other colleagues interested in copyright policies, I've been immersed in the analysis of this bill. It's a complex work of over 50 page, and it contains a level of detail uncharacteristic for copyright legislation. The Bill imposes severe new restrictions to access to information. It also cuts short many of the rights that the public already enjoys under the existing Copyright Act.

There is a tendency in the legal profession to leave matters we consider as specialties to the specialists. But in the area of copyright law, the Act has such a significant effect on the day-to-day work of everyone involved in the law, we all need to be concerned with it. Law practitioners, students, professors, judges and librarians; law office administrators, legal secretaries and clerks; in short everyone involved in the profession has cause for concern.

The practice of law is an information intensive activity, so changes in the rules governing the access, use, storage, dissemination, and reuse of information resources are of central concern. Law practice is particularly dependent on access to and use of works in which copyrights subsist. But law practice is essentially transformative, we don't just use works; we use them as a means of

creating new legal resources, be they documents for clients, papers for use in litigation, reasons for judgments of the court, or academic law review articles. The practice of law would be hugely impeded in an environment where access to materials was not a central concern and where the needs of transformative users were not carefully balanced with the needs of content owners.

This tension in the legal profession was the subject of a seminal case *CCH v Law Society of Upper Canada* [2004] 1 S.C.R. 339, 2004 SCC 13, where Supreme Court held that fair-dealing is not just a technical defense to copyright infringement, but is a basic users' right which must be carefully balanced with owners rights. CCH is of interest to the legal profession not only because it promises to improve out of a law library's document delivery service to its lawyer patrons. Unfortunately, the bedrock new values of copyright policy are not respected in Bill C-61. While the bill contains several provisions that could benefit users, any such benefits are stripped away in a maze of complex counter-measures, and the ability of content owners to over-ride statutory users rights through contracts or by employing technological protection measures is recognized in several instances.

The sheer complexity of the bill itself will make it difficult for most lawyers, much less average Canadians to understand what their new rights and obligations are in the emerging digital environment. Laws need to be simple and easily understandable by those who are expected to comply with them so it is frustrating that the government has chosen to take such a complex approach to drafting the bill. In many cases, the act purports to give users new rights but then claws them back with minute counter-



PROFESSOR SAM TROSOW

exceptions. And the basic premise from the Supreme Court that users rights are an integral part of the balance underlying the Copyright Act has been totally lost on the drafters.

No doubt the worst aspect of the law are the new technological protection measures (TPMs), which are modeled on the controversial anti-circumvention rules of the U.S. DMCA. Since the prohibitions on circumventing TPMs would apply regardless of whether there is an infringing purpose, many otherwise lawful uses of works would now be outlawed. And while many sections of the Bill promise new rights (i.e., sections 29.21, 29.22, 29.23, 30.01, 30.02 and 30.04) these provisions are emaciated by detailed counter-measures and exceptions. In many instances, the addition of unnecessary detail obfuscates the important point that a reasonable interpretation of fair-dealing would already cover the situation.

As changes to copyright laws are likely to have serious effects on how we all go about doing our work, it's important that we become more aware of what our rights are, and how they are being threatened by some of the provisions in this bill. It's not something that can be left to intellectual property specialists; everyone who is involved in the legal system needs to be concerned about Bill C-61.

Sam Trosow is an Associate Professor at Western (holding a joint appointment in the Faculty of Law and in the Faculty of Information and Media Studies). He is the co-author of Canadian Copyright: A Citizen's Guide (with Laura Murray) published by Between the Lines Press, 2007. [wl](#)



(L-R): Stanford Law School Professor Ron Gilson and Professor Chris Nicholls

Seminar Series Brings World Renowned Scholars to Western Law

Western Law welcomed some of the world's leading business law scholars to the school to discuss their research with students and faculty this past academic year.

The Pre-eminent Business Law Scholars Seminar Series provided a unique opportunity for members of the Western community to hear and engage with some of the world's most influential corporate law scholars.

"The Scholars Series encourages diversity of academic perspectives and an international approach to the study of business law," says series organizer Professor Christopher Nicholls, Director of the Business Law program. "It embodies our commitment to remain at the forefront of business law education in Canada, and to continue to provide an important leadership role in the business law area for other law schools to follow."

The first speaker in the series was Professor Roberta Romano, Director of the Yale Law School Center for the Study of Corporate Law. Romano is a leading U.S. corporate finance and securities scholar and is perhaps best known as one of the foremost proponents of the benefits of "competitive federalism" in corporate law (i.e., the Delaware phenomenon). She visited Western in September to speak on "The Promise and Peril of Corporate Governance Indices."

Professor Merritt Fox, co-director of the Center for Law and Economic Studies at Columbia Law School, spoke to Western Law students in early November on "Civil Liability and Mandatory Disclosure". Fox, who also chairs the Columbia University Advisory Committee on Socially Responsible Investing, is an expert on securities regulation and comparative corporate governance.

Brian Cheffins, Professor of Corporate Law at the University of Cambridge and author of the leading theoretical corporate law book in the United Kingdom entitled *Company Law: Theory, Structure, and Operation*, spoke at Western law in late November on the topic: "Private Enforcement of Corporate Law: An Empirical Comparison of the U.S. and U.K."

In February, Georgetown Law Professor, William Bratton, spoke on "Shareholder Primacy's Corporatist Origins: Adolf Berle and *The Modern Corporation*". Bratton is an expert on

corporate finance, comparative corporate governance and law and economics and is the author of a leading U.S. law school casebook on corporate finance.

Professor Ron Gilson, an authority on corporate law, corporate governance and securities law visited the faculty in early April to deliver his talk on "Sovereign Wealth Funds and Corporate Governance: A Minimalist Response to the New Mercantilism". Gilson, a professor of law at the Stanford Law School, is the author of numerous influential articles and books, including (with B. Black) *The Law and Finance of Corporate Acquisitions*.

Professor Reinier Kraakman of the Harvard Law School was the final speaker of the 2007-08 series. He presented a paper entitled "The Essential Role of Organizational Law" in April. Kraakman is a leading expert on corporate and securities law and was involved in drafting company law in Russia and Enterprise Law in Vietnam. He has authored and co-authored a host of major articles and books, including the well-known recent book, *The Anatomy of Corporate Law*.

"The series was a tremendous success," says Nicholls. "Our students took full advantage of the chance to exchange ideas with our distinguished visitors, and our visitors, in turn, were uniformly impressed with the Western Law students they met here. They told me that they particularly enjoyed our students' enthusiasm and intellectual excitement, and the thoughtfulness and quality of their questions and comments. Clearly, Western Law students rank among the very finest in the world."

With the generous support of Torys LLP, we are able to offer this series for the next six years, allowing us to name it The Torys LLP Business and Law Speaker Series. The Firm and our Alumni at Torys have made a total contribution of \$215,000 with an additional \$60,000 from their previous endowment at Western to support the continuation of this program in Business Law. Special thanks to our alum Mitch Fraser '99 and Danial Lam '02 and Deborah Dalfen for their assistance with this gift. [wl](#)

Support Excellence

When you contribute to Western Law, you help support students and faculty who are at the heart of Western Law's tradition of excellence. Your gift is the best way to have a meaningful impact on the law school.

The International Law Internship Program

An Enriched Educational Experience

The cost of providing a world-class legal education continues to rise. Our aim in creating the international law internship program is to offer Western Law students a genuine opportunity – an opportunity that will be available to all regardless of financial means – to equip themselves with the knowledge and skills necessary to succeed in a global economy. Private support is needed to ensure that our students benefit from international experiences.

Private support for the International Law Internship Program will give Western Law students the freedom to pursue a rewarding experience without incurring an additional financial burden.

Between 2006-08, 20 Western Law students completed internships at the following organizations:

Caribbean Court of Justice in Port-of-Spain, Trinidad

Inter-American Commission on Human Rights in Washington, DC

International Criminal Tribunal for the Former Yugoslavia in The Hague, Netherlands

International Labour Organization in Geneva, Switzerland

Shibolet & Co. in Tel Aviv, Israel

Special Court for Sierra Leone in Freetown, Sierra Leone and The Hague, Netherlands

UNAIDS in Bucharest, Romania

United Nations Commission on International Trade Law in Vienna, Austria

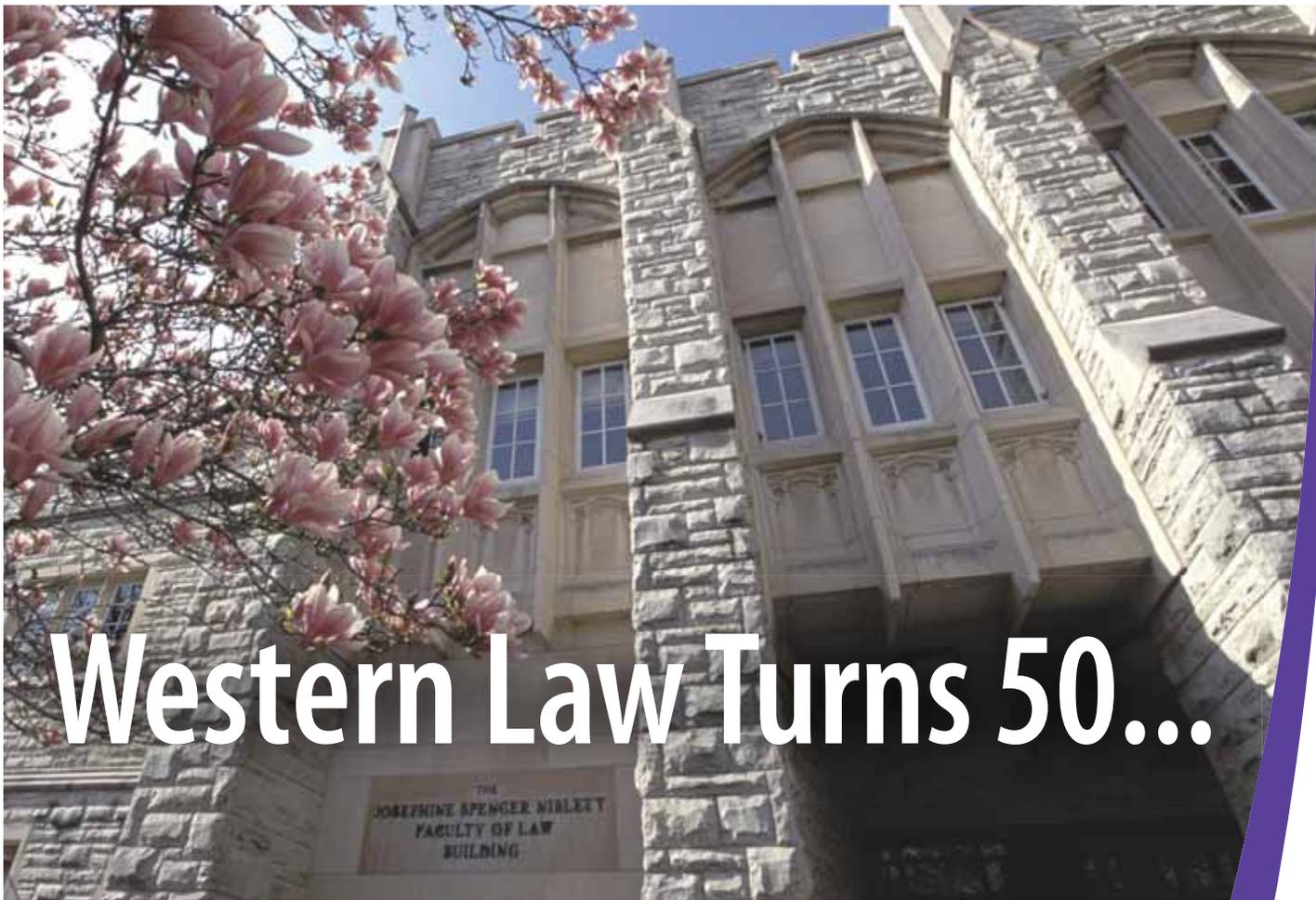
United Nations High Commissioner for Refugees in Geneva, Switzerland

World Health Organization in Geneva, Switzerland

Strengthening the Canadian Legal Profession

Support for the International Law Internship Program will enable Western Law students to enhance their international perspective regarding legal issues, broaden their horizons and sharpen their analytical skills. In return, the legal community in Canada will have the benefit of law graduates with an enhanced international perspective, who will be able to more critically assess the world around them and respond creatively and effectively to emerging legal issues.

To make a gift to Western Law's International Law Internship Program visit westernconnect.ca/law_internships



Western Law Turns 50...

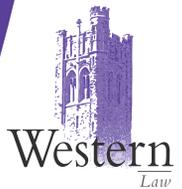
**In 2009-2010 help us celebrate
our golden anniversary!**

Stay tuned for our schedule of events!

For information please contact: **Matoula Zesimopoulos**
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