

nexus

SPRING 2002

A photograph of four individuals in professional attire standing on the stone steps of a building with large arched windows. In the center, a woman with blonde hair wears a dark brown suit. To her left, a man in a patterned blazer sits on the steps. Behind her, a woman in a black suit stands with her hand on her hip. To the right, a man in a dark suit stands with his hands in his pockets. The scene is lit with warm, golden light, suggesting late afternoon or early morning.

Making a Difference

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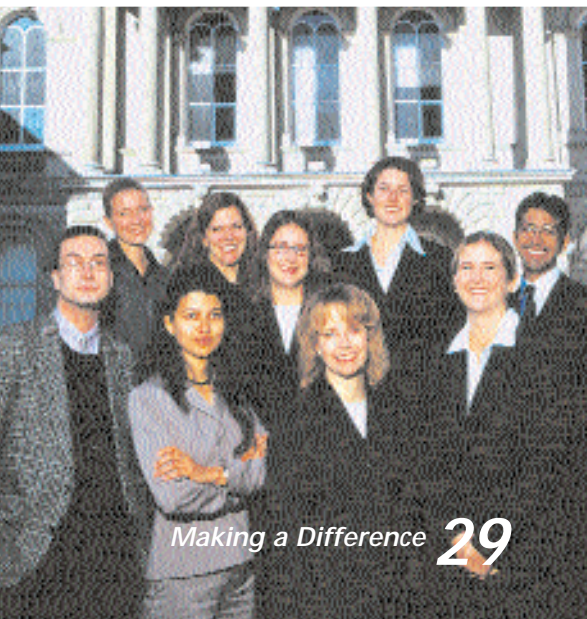
Anti Terrorism Conference

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University of Toronto
FACULTY OF LAW



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An understanding of social responsibility is an essential part of the law school experience. Today virtually every student in the Faculty participates in some form of pro bono work during their time at the law school. *page 30*



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We invite your letters, submissions, news, comments and address changes.

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Message from the Dean

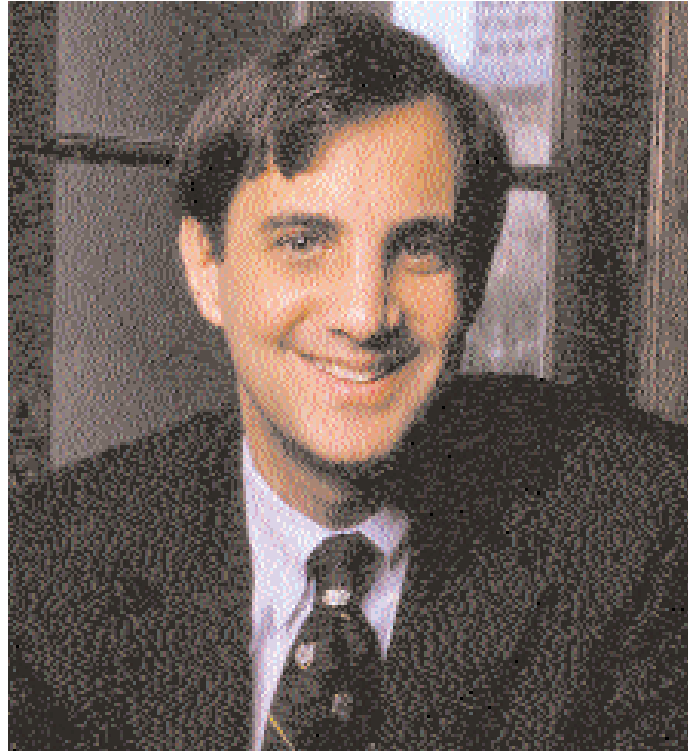
Over the past several years that I have had the privilege of serving as dean, the Faculty's status as a public institution has been the subject of discussion and debate. Although I regularly refer to the Faculty as a great Canadian public institution, I am often asked what defines the public character of the Law School, particularly in a setting where governmental support for our program has not kept pace with student, faculty and societal expectations.

For many, the public character of an institution is determined by the quantum of public funding that is received. Of course, receipt of public funds does support a public mission, but public funding itself does not define a public character. Rather, it is my belief that an institution's public character derives from a purpose or a mission that is animated by public values. Institutions that embody the public spirit are guided by the values of justice, integrity, decency, and compassion. These values are given concrete expression in the many activities that are conducted within the institution. In the case of an educational institution, the commitment to the public spirit goes further; it requires an environment in which its members are immersed in the creation, analysis, and refinement of ideas that can contribute directly to the public weal.

In our law school, the public character of our community is manifest in several different dimensions. It is found in our commitment to recruiting the most meritorious students and in ensuring that they have the resources necessary to attend and fully participate in our program. It is found in the Faculty's commitment to studying law and legal institutions from a broad societal perspective, and to harnessing insights culled from a number of different normative perspectives – distributive justice, corrective justice, efficiency, feminism and communitarianism – in understanding the full possibilities for law as an instrument for progressive social change. And, it is found in the steady enrichment of clinic, pro bono, and international human rights initiatives that are made available to our students, and which provide them with the scope to see first hand the challenges and opportunities of public decision-making.

Yet, like so many of the activities that take place within the law school, our capacity to vindicate our public mission turns on the remarkable success we have enjoyed in recruiting a professoriate that is committed to the public idea of the law school in Canada and, increasingly, in the world beyond.

This commitment to the public weal was vividly demonstrated in the publication this past fall of "The Security of Freedom", a collection of essays on the Federal Government's Anti-Terrorism Legislation. The book, which was published by the University of Toronto Press four days after the conclusion of a major conference that was held to analyze and debate the then draft legislation, contains chapters written by eighteen colleagues at the Faculty, as well as important contributions from scholars at other Canadian and international law schools.



For many, the book represented a significant accomplishment simply for the dedication and determination that colleagues demonstrated in completing such a comprehensive and rigorous analysis of the legislation in a highly compressed time frame.

For others, the book was noteworthy for the range and depth of scholarly expertise that exists at the Faculty and which was reflected in the project – administrative law, criminal law, constitutional law, tax law, commercial law, privacy, international law, and multiculturalism and immigration.

But for me, the most enduring legacy of the conference and the book was the strong sense of engagement with the public interest as colleagues and their student research assistants grappled with that most fundamental of questions: the balance to be struck between freedom and security in an open, mature democracy in responding to threatened acts of mass violence and terrorism.

In the future, as in the past, the Law School will continue to harness the intellectual strengths of its faculty and student body to contribute to, and to shape, public debate over the most urgent and difficult social, political, economic, and legal issues confronting the country and the world beyond. This is, after all, one of the ways in which members of our community best demonstrate our public responsibility and character.

A handwritten signature in black ink, appearing to read "Ron Daniels". The signature is fluid and cursive, written on a white background.

Ronald J. Daniels '86

From the Editor



Jane Kidner, Assistant Dean,
External Relations

This Faculty, or as we fondly refer to ourselves, the U of T Law School, is defined by its people - past, present, and those yet to join us, who will help to navigate us into the future.

Over the past several months we have spent considerable time conducting interviews and focus groups with many of you (alumni, students,

faculty and staff) to examine and evaluate how we are perceived by our constituents. I am pleased to report that, to a great extent, the findings were unanimous with respect to your opinions about the school's core strengths, accomplishments and heritage. You reminded us that this is a school that has been built upon traditions of excellence, with a bold and visionary approach and a determination to offer a dynamic program in which talented young scholars can excel.

One of the striking and consistent themes across all groups was the belief in the quality and depth of our people. Given what you told us, we felt that Nexus should highlight and feature stories about the people who have helped to shape and define this great institution. In the following pages you will find stories about our early years, features that spotlight the

illustrious careers of our alumni, and profiles that demonstrate the intellectual pluralism and determination of our faculty members. Throughout, you will also find stories that highlight the remarkable contributions that various alumni, faculty and students are making in public service initiatives around the country and the world.

This issue of Nexus has a lot of ink – to cover a lot of ground. Future issues of Nexus will be shorter, with content that is easily accessible online. We will endeavour to dedicate subsequent issues of Nexus to engaging profiles and stories about our law school community, along with articles about timely and formative events like the Anti-Terrorism Conference (article on page 4). We hope that the new format of Nexus will be a magazine you read from cover to cover.

I invite you to write to me with your ideas, opinions and with your comments on our new design and future format.

Regards and good reading,

Jane Kidner '92 j.kidner@utoronto.ca
Editor

Letters to the Law School

RE: *Security of Freedom: Essays on Canada's Anti-Terrorism Bill*

John B. Laskin ('76)

"What a great contribution to the public debate on such fundamental issues. Both the quality – and the timing – of the conference and the book reflect the law school at its absolute best. Congratulations on a terrific accomplishment."

RE: Roundtable on Public Sector Student Recruitment, Dec. 13, 2001

Dan L. Goldberg,
Ministry of the Attorney General

"The Faculty of Law at the University of Toronto is a leader in recognizing and promoting the many positive aspects of articling in the public sector. Your progressive approach to student recruitment will be of great assistance in enlightening University of Toronto students about the breadth and quality of legal practice within the Ministry of Attorney General."

RE: Nexus, Special 50th Anniversary Edition, Fall 2000

George H. Archer ('52)

"I wish to congratulate the editors for the excellent work they did in the production of the 50-year celebration of Nexus (*Celebrating Fifty Years, Fall 2000*). It brought back many memories..."

"One can never forget such stalwarts as Caesar Wright. He taught us torts, and *Prosser on Torts* was his Bible, and if one wanted to pass his course it became their Bible as well. John Willis, with his gentle manner and English accent made Administrative Law interesting. Bora Laskin taught us many things but what I remember the most was that law was fluid and that precedents were not carved in stone.

"For the last 40 years or so, I have lived and worked in Montreal and have never had the opportunity to go back. Obviously, a great deal has changed and I would not recognize the current facilities. However, I have never lost my interest in the law school and I like to think that we, among the first graduates, were the pioneers that led the way to its ultimate recognition and to the venerable institution that it has become today. Each issue of Nexus brings back memories of some of the best years of my life."


The Security of Freedom:

A Conference on Canada's

Anti-Terrorism Bill

By Dylan Reid





On October 15, 2001, Federal Justice Minister Anne McLellan introduced sweeping anti-terrorism legislation in response to the terrorist attacks of September 11, 2001. Bill C-36 proposed significant changes to 10 different statutes, affecting areas of Canadian life from immigration to charitable giving, and from privacy to trial fairness.

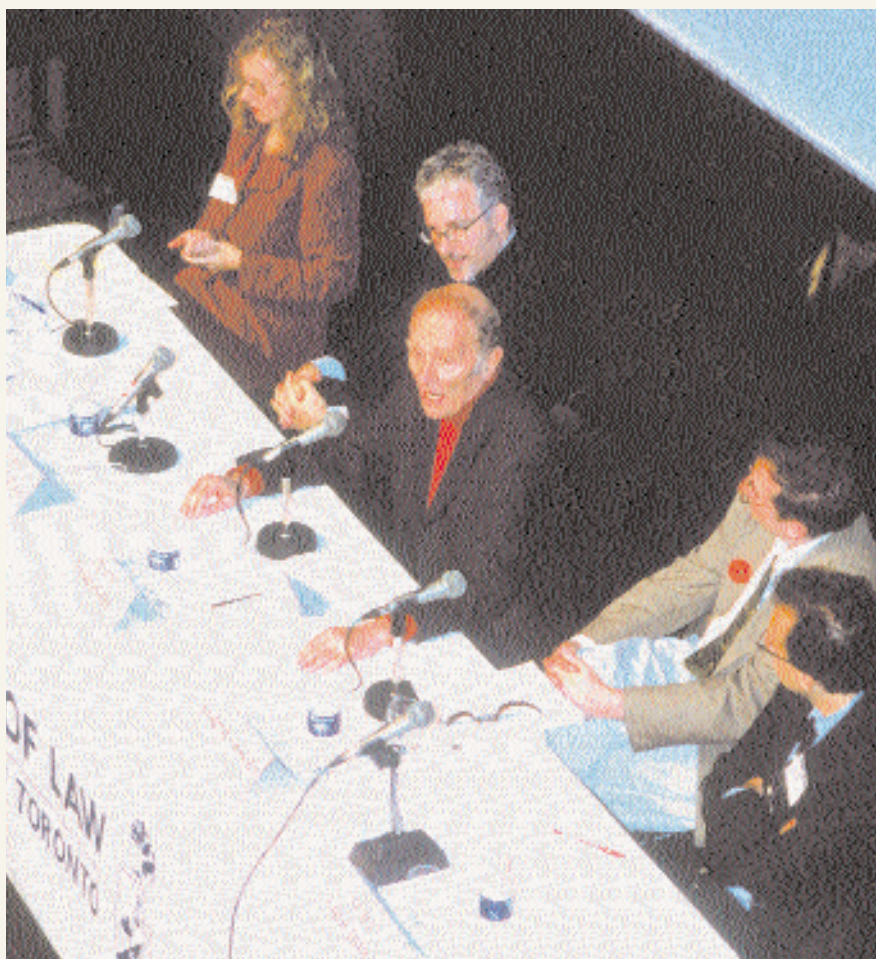
Given the scope of the proposed legislation and its potential impact on fundamental principles of Canadian law, Bill C-36 could not be adequately assessed and evaluated by any one or even several people; it would require the input of a wide variety of experts drawn from numerous relevant fields. The Faculty of Law understood well the critical role it could play in helping to analyze the legislation and the many challenging issues it raised, ranging from national security to restrictions on rights and freedoms. “We felt it was important to help shape the debate, rather than to be after-the-fact critics of the legislation,” said Dean Daniels.

The solution was a conference organized in just three weeks by the Faculty of Law. Held at the University of Toronto on November 9-10, *The Security of Freedom: A Conference on Canada’s Anti-Terrorism Bill* brought together 26 speakers from the University of Toronto and other Canadian universities, and included not only legal scholars, but also experts from the fields of history, eco-

nomics, criminology, political science and international studies, and, notably, the drafters of the legislation, Rick Mosley and Stan Cohen.

With over 350 attendees, the conference addressed two main questions. First, what is the impact of expanded governmental powers on individual rights and liberties; and second, would the proposed legislation in fact achieve its avowed goals of reducing the risk of terrorism borne by citizens in Canada and other nations?

The opening panel laying out the conference’s themes included Professors Kent Roach, David Schneiderman and David Dyzenhaus. Introducing the issue of “*Charter-proofing*,” Professor Roach examined whether the ability of Bill C-36 to withstand a challenge under Canada’s *Charter of Rights and Freedoms*, would be sufficient to ensure that it is, nevertheless, consistent with Canada’s core democratic values (see excerpt on page 8). Professor Dyzenhaus followed with an analysis of the dangers inherent in the transfer of emergency powers to the



L - R: Prof. Cossman, Prof. Schneiderman, Alan Borovoy, Prof. Lorne Sossin, & Prof. Sujit Choudhry

state in conventional legislation. The fear, he argued, is that states will become addicted to the expanded powers, and that citizens will become steadily inured to their exercise, despite the impact on individual rights and liberties.

In the next session, Professors Lorraine Weinrib, Janice Gross Stein of the Centre for International Studies, and Oren Gross of the Benjamin N. Cardozo School of Law worked to define the nature of the terrorist threat (see short adaptation of Prof. Weinrib's article on page 10). They were followed by a panel including Professors Martin Friedland, Wesley Wark of the Department of History, and Mariana Valverde of the Centre for Criminology, analyzing the impact of the anti-terrorism legislation on the issue of information gathering.

The international dimensions of the response to terrorism were explored by Professors Jutta Brunnée and Patrick Macklem. Professor Brunnée argued that the international response to terrorism may have a significant impact on customary international law, but that this shift is not being sufficiently thought about or debated. Professor Macklem followed with a presentation that supported the idea of creating an international offence of terrorism (see excerpt on page 15). While acknowledging the necessity of revising the flawed definition provided in Bill C-36, he argued that the Bill's assertion of universal jurisdiction over crimes of terrorism is an important starting point.



Professor Roach also spoke in a panel addressing the effects of Bill C-36 on criminal law, along with Professor Martha Shaffer, and Don Stuart and Gary Trotter of Queen's University. His analysis of the new criminal offenses defined by the legislation suggested that many of these provisions were vague and overboard. Professors Shaffer, Stuart and Trotter expressed similar concerns in their presentations.

Addressing the effects of Bill C-36 on information rights, Professors Hamish Stewart and Lisa Austin asked such questions as "Is Privacy a Casualty of the War on Terrorism?" Acknowledging that a new balance is being struck between citizen privacy and the state's interest in promoting enhanced security, Professor Austin asked what kind of balance is permissible or desirable, and raised the concern that rights of privacy are swamped by national security concerns.

The session on financial aspects of the response to terrorism included Professors Kevin Davis and David Duff. In his discussion of proposed changes to money laundering legislation in Canada, Professor Davis argued that because of the difficulty of defining what constitutes terrorist financing, any bill that is broad enough to include all economic ties with terrorists will also affect many legal commercial activities. These effects are likely to be felt disproportionately by members of specific ethnocultural groups.

From the moment the conference was conceived in the days following the introduction of Bill C-36, the Faculty's primary motivation was to contribute to public debate on a pressing public policy issue in a timely and effective manner.

The effect of antiterrorism measures on particular ethnic groups was further analyzed by Professor Sujit Choudhry, who spoke about the enforcement and application of the anti-terrorism legislation in a panel with Professors Brenda Cossman, David Schneiderman and Lorne Sossin. Focusing on the adverse effect the practice of racial profiling has on minority groups, Professor Choudhry argued that everyone should be equally subject to anti-terrorism measures (see excerpt on page 12). While such an approach would have greater costs, he suggested they are worth paying in order to safeguard the principle of equality.

These concerns were also addressed by Professors Ed Morgan, Ayelet Shachar, and Audrey Macklin in their panel on terrorism and immigration. Professor Macklin expressed concern that Canadian security forces will tend to use more loosely-controlled immigration measures such as deportation against perceived security threats in order to avoid the safeguards set out in Bill C-36 (see excerpt on page 13). Like Professors Davis and Choudhry, she concluded with a warning against the potentially stigmatizing effects of the response to terrorism on specific groups within Canadian society.

A unique perspective was provided by the Honourable Irwin Cotler, both a Professor of Law specializing in human rights at McGill University, and a Member of Parliament for the Liberal government which introduced Bill C-36. Cotler argued that the bill was a response to an extraordinary situation, and that analysts of the bill must be willing to think "outside the box" of conventional approaches. In his view, the bill's purpose was ensuring "human security," a goal that could protect both national security and civil liberties. Having defended the principle of the bill, however, Cotler identified numerous areas of detail which required improvement and amendment if it was to fulfill its purpose.

The conference ended with a presentation by Rick Mosley and Stan Cohen, the legislation's drafters from the Department of Justice. Speaking about the many issues which had helped to shape the draft legislation, Mosley emphasized that the legislation was still in process and open to amendment – an assurance that was later validated by the amendments that were implemented before the bill's passage into law.

From the moment the conference was conceived in the days following the introduction of Bill C-36, the Faculty's primary motivation was to contribute to the public debate on a pressing public policy issue in a timely and effective manner. The rapid

organization of the conference itself was only the beginning of that process; the next step was to ensure that the results of the conference were transmitted as quickly as possible, while the legislation was still open to amendment, to those people who could influence its content and implementation.

To this end, the Faculty recruited the assistance of the University of Toronto Press, which committed to publishing the proceedings of the conference within a week. Not only did the Press fulfill its commitment with the fastest book ever published on its presses, but George Meadows, the Press' President and Publisher, personally drove copies of the book to Ottawa, where they were distributed to the Minister of Justice and all members of the House of Commons and Senate.

These extraordinary efforts paid off. When the legislation eventually passed into law, it included important amendments to key clauses of the bill, many of which were in direct response to issues raised at the conference.

"It was exhilarating to think you've been even a small part of the democratic process," said Professor Kent Roach. "These are important issues, not just for lawyers but for all Canadians." As *The Globe and Mail* remarked in its review of the published proceedings, "*The Security of Freedom* is an important critical contribution to [the] reframing of Bill C-36. The book itself is a remarkable accomplishment for the three editors, Ronald Daniels, Patrick Macklem and Kent Roach, as well as the University of Toronto Press....Let us hope that future democratic deliberations about anti-terrorism legislation will aspire to this standard."

The proceedings of the conference were published as The Security of Freedom: Essays on Canada's Anti-Terrorism Bill, eds. Ronald J. Daniels, Patrick Macklem and Kent Roach (Toronto: University of Toronto Press, 2001). This book is available from the University of Toronto Press (<http://www.utpress.utoronto.ca/>).

The proceedings of the conference were broadcast live on the web, and have been archived for public viewing. For more information on the conference, for further resources related to Bill C-36, or to view a broadcast of any or all of the conference sessions, go to the conference website at <http://www.law.utoronto.ca/c-36/index.htm>.

The following pages feature excerpts from papers presented by
Professors Roach, Weinrib, Choudhry, Macklin and Macklem

Prof. Kent Roach

*“The Dangers of
 a Charter-Proof
 and Crime-Based
 Response to Terrorism”*



We have been told countless times that everything changed on September 11, 2001. The idea that everything changed should, however, make us deeply uneasy. A great strength of our free and democratic society is its traditions of freedom, democracy and the rule of law. Those such as the September 11 terrorists who have nothing but contempt and hatred for these traditions would be only too happy to hear that everything has changed as a result of their evil deeds. They do not deserve that pleasure.

The best thing that has happened since September 11 is not the introduction of Bill C-36, the comprehensive *Anti-terrorism Act*, which in my view contains some provisions that are dangerous and others that are unnecessary. Rather, it is the increasingly robust democratic process that has surrounded the introduction of the bill. It is this process, rather than the contents of the bill, that best honours our traditions. The bill was quite properly introduced for debate and discussion before enactment. Unlike

the invocation of the *War Measures Act* in the early morning hours of October 16, 1970¹, we are not responding to an assertion of an emergency after it has been declared and acted upon. In this sense, the form of Bill C-36, although perhaps not its spirit, follows the rule of law. More importantly, newspapers, legislative committees, civil society groups, and academics have broken the silence of a collective shock, grief and revulsion at the events of September 11 that was producing a war-like solidarity.² Debate about Bill C-36 has helped us get back into the loud and pluralistic practice of democracy as we assess and often criticize the bill. The exercise of reason and dissent in evaluating this bill is in the long run far more important than any of its provisions.

Many of the essays in this collection [*The Security of Freedom: Essays on Canada's Anti-Terrorism Bill*] will be devoted to understanding the possible ambit of the many provisions of Bill C-36 and whether they comply with the Canadian Charter of Rights and Freedoms. This is important work and work well-suited for academics who possess independence and some, albeit not sufficient, time to evaluate the bill before it is enacted into law. Nevertheless, I want to suggest that there are some dangers in this very necessary process that we are about to undertake.

1. The War Measures Act and the Public Orders Regulations, 1970 SOR 70-444, making the FLQ an unlawful association, was declared at 4.00 am on October 16, 1970. By the time Parliament met later that day, 150 of the almost 500 people who would be arrested during the October Crisis were already in jail.

Section 4 of the regulations created an indictable offence punishable by up to 5 years imprisonment to be or profess to be a member of an unlawful association which was defined in s.3 as the FLQ or any group or association that advocates the use of force or the commission of crime as a means or aid of accomplishing governmental change in Canada. It was also illegal to contribute anything or solicit contributions for an unlawful association; interfere with the apprehension of a member or knowingly permit an unlawful association to use premises. Section 9 of the regulations provided for arrest on the basis of suspicion without warrant, bail or charge for up to 30 days. Section 10 provided for warrantless searches again on the basis of suspicion. The Canadian Bill of Rights did not apply to the invocation of the War Measures Act.

In December, 1970 these regulations were replaced by the Public Order (Temporary Measures Act) S.C. 1970-71-72 c.2. The legislation included many of the same offences and arrest and search powers on suspicion as the previous regulations. It was enacted notwithstanding many rights in the Canadian Bill of Rights. *Ibid* s.12. It was also enacted with a sunset provision so that the legislation expired on April 30, 1971 *ibid* s.15 when it was not renewed. On the October crisis see generally John Saywell Quebec 70 (Toronto: University of Toronto Press, 1971) at 86-93; Walter Tarnopolsky *The Canadian Bill of Rights* 2nd ed. *supra* at 331-348; Thomas Berger *Fragile Freedoms* (Toronto: Clarke Irwin, 1981) ch.7.

2. The American legislative response to terrorism, The Patriot Act H.R. 3162 was passed by a 98-1 vote in the Senate and a 356-66 vote in the House of Representatives. "Antiterrorism bill becomes U.S. law" *Globe and Mail* October 27, 2001. The 1970 invocation of the War Measures Act was supported in Parliament by a vote of 190 to 16 while the subsequent Public Order (Temporary Measures Act) was passed 152 to 1 in Parliament. See Saywell Quebec 70 *supra* at 106, 126.

We failed to apprehend the September 11 terrorists not because the criminal law was inadequate, but because law enforcement and co-ordination, including intelligence gathering, was inadequate.

The first danger is that citizens and elected representatives may be too quick to accept as wise or necessary what the government's lawyers conclude is permissible to do. This is what Edmund Burke meant when he warned the House of Commons in London that their guide in responding to American grievances about taxation without representation should not be "what a lawyer tells me I *may* do; but what humanity, reason and justice tell me I *ought* to do."³ In today's language, Burke's point is that just because a bill can be presented as "Charter-proof" does not mean that it should be enacted. Charter-proofing is now an entrenched part of the legislative process in Canada, but it presents dangers especially if governments become more concerned about avoiding invalidation of legislation under the Charter than living up to its broader purposes and spirit. Charter-proofing can be a matter of shrewdly predicting what the courts will be prepared to do. Concerns exist, however, that courts, especially on sensitive matters such as security, will be reluctant to strike legislation down.⁴ In short, a conclusion that Bill C-36, or for that matter any other piece of legislation, should survive Charter review does not mean that it is a good law.

The second danger is the great reliance that Bill C-36 places on a crime-based approach to terrorism. What happened on September 11 was a horrific crime and those who commit, attempt, conspire, counsel or assist such crimes must be prosecuted to the full extent of the law. Nevertheless, the terrible acts of September 11 were crimes long before that fateful morning. We failed to apprehend the September 11 terrorists not because the criminal law was inadequate, but because law enforcement and co-ordination, including intelligence gathering, was inadequate.⁵ Bill C-36 responds to this failure by creating many new offences, increasing the investigative powers of the police and increasing punishments for terrorist offences. As Hart and Sacks observed, society is instinctively drawn to the naive belief that: "If you want to stop something from happening, make it a crime." We routinely ratchet up an already broad and severe criminal law in response to horrific crimes. If anything, this process of relying on the criminal law has become more attractive as the state retreats in other areas of governance and as our ability to predict, record and broadcast the risk of crime outstrips our ability to prevent it. There is little reason to think that this reliance on the criminal law makes us more safe and secure even though it can threaten fundamental values. ■

When Bill C-36 was introduced in Parliament, representatives of Her Majesty's Loyal Opposition, the Canadian Alliance, argued that it should be toughened to require extradition of suspected terrorists without assurances that the death penalty would not be applied and raised concerns that the due process protections in the investigative hearings might prevent timely disclosure of pending terrorism. Hansard October 16, 2001 per Vic Toews. Other opposition parties raised some concerns that some aspects of Bill C-36 may be overbroad.

3. The American constitutional law scholar James Bradley Thayer made a similar point close to a hundred years ago when he warned of the danger of turning "subjects over to courts" and falling into "a habit of assuming that whatever" legislatures "could constitutionally do they may do...". He feared that this would "dwarf the political capacity of the people" and "deadened its sense of moral responsibility," as quoted in Alexander Bickel, *The Least Dangerous Branch: The Supreme Court at the Bar of Politics* 2nd ed (New Haven: Yale University Press, 1986) at 21-22.

4. For example, the Quebec Court of Appeal rejected Professor Noel Lyon's arguments that by declaring the FLO to be an unlawful association, "the Public Orders Regulations, 1970 substituted executive judgment for judicial decision in areas so basic to judicial duty as to threaten the integrity of our constitution". Noel Lyon "Constitutional Validity of Sections 3 and 4 of the Public Order Regulations, 1970" (1971) 18 McGill L.J. 136 at 138. Brossard J.A. indicated that Parliament could enact a retroactive criminal law, stating that as "between commentators on the law and the judges charged with applying it, there is often a lack of pragmatism and realism distinguishing theoreticians and practitioners." *Gagnon v. Vallieres* (1971) 14 C.R.N.S. at 350.

5. Again, it should be remembered that the sweeping powers of the War Measures Act did not prevent the murder of Pierre Laporte and that subsequent convictions were entered not on the new offences created in October, 1970 but on charges of murder, kidnapping and being an accessory after the fact to kidnapping.



Left: Professor Lorraine Weinrib

Prof. Lorraine Weinrib

“Terrorism's Challenge to the Constitutional Order”



Introduction

In introducing the *Anti-Terrorism Act*, Bill 36, Justice Minister McLellan assured the Canadian public that the Bill conformed to the strictures of the *Canadian Charter of Rights and Freedoms*, 1982. The government made it a high priority to shape the debate on the *Charter* issues with a strong affirmative statement of *Charter* compliance. The government's defense of Bill-36 predicts that the Supreme Court would be deferential because the “balance between individual rights and collective security has shifted.”

Acceptance of the broad purposes of a set of legislative proposals by the public or even by a majority of parliamentarians in a period of exceptional shock and fear does not meet the legal tests stipulated for limitations on *Charter* rights and freedoms. In fact, the Canadian public expressly rejected such a test for permissible limits on rights in the context of a more focused debate on constitutional principles and state powers.

While Canadian governments may invoke the notwithstanding clause to suppress *Charter* rights in time of emergency, that

was not its purpose. If it had been, the architects of the clause would have emulated the derogation clauses in the postwar rights-protecting systems, which serve this end. These clauses impose a regimen upon states when exceptional circumstances necessitate extraordinary measures that may encroach on fundamental rights and freedoms. There must be a formal declaration of emergency by the government, including a detailed account of the derogations implemented. The threat must be exceptional, the measures adopted proportional to the threat, and international obligations must continue in force. Most importantly, these clauses stipulate that certain rights are not subject to derogation, even in times of declared emergency.

One can therefore infer from the *Charter*'s structure of rights protection that the exercise of state power under exceptional circumstances would be subject to judicial review under the *Charter* according to the regular arrangements. To displace these arrangements – whether in emergency circumstances or not – Parliament or a legislature would have to take the formal steps necessary to invoke the notwithstanding clause.

Acceptance of the broad purposes of a set of legislative proposals by the public or even by a majority of parliamentarians in a period of exceptional shock and fear does not meet the legal tests stipulated for limitations on Charter rights and freedoms.

The Bill contains no invocation of the notwithstanding clause. The Minister of Justice has indicated that there is no plan to invoke this clause in the future to overrule a judicial ruling invalidating any part of Bill 36. In any event, the Supreme Court of Canada has ruled that the notwithstanding clause may not be used retrospectively.

What standard of review should the judiciary apply when, in exceptional but not emergency circumstances, the government does not invoke the override to shelter its law from Charter challenge? Should the judiciary apply the rigorous standard appropriate to serious encroachments on fundamental rights or should it defer to the state in light of its political accountability, access to information and developed expertise? The institutional roles that emerged from an intense and prolonged debate on the Charter's remedial purposes suggest the need for stringent review. Reference to the evolution of the statutory structure that authorizes the exercise of emergency powers in Canada may provide further direction.

The Statutory Framework for Emergency Powers

There is a statutory framework for the exercise of emergency powers by the federal government that emulates the arrangements under the derogation instruments in the international rights-protecting instruments in requiring formal invocation, oversight and termination when the emergency conditions abate. Moreover, since it lacks any invocation of the notwithstanding clause, this regime remains fully subject to the *Charter*. It is also subordinated to the statutory *Canadian Bill of Rights*, 1960. These statutory arrangements shed light on the adequacy of the safeguards afforded under Bill C-36 and may also assist in the delineation of the appropriate standard of review under the *Charter* for Bill C-36.

The 1988 *Emergencies Act* replaced earlier discredited arrangements under the *War Measures Act* of 1914, which had authorized government action now considered illegitimate. In the public debate leading to the adoption of the *Charter*, this history became the standard example demonstrating the need for

constitutional protection of basic rights and freedoms and provided the benchmark for evaluating the effectiveness of various proposals for the *Charter's* structure of rights protection, especially the limitation clause. The concentration of power in the executive, lack of independent checks and balances in the legislative arena or the courts, and continuation of emergency powers long after the cessation of the emergency conditions were no longer acceptable. The adoption of the *Charter* secured protection of rights at the constitutional level through judicial review, without any concession for emergency conditions. The need for constraint on the powers available in time of emergency and oversight of their exercise by elected representatives prompted the specific terms of the *Emergencies Act*.

The preamble of the Act emphasizes the exceptional and temporary character of emergency powers in the hands of the executive. Bicameral, multi-party examination of government policy, including systematic review of its application in individual cases with access to confidential information and a reporting mechanism can prevent and remedy abuses long before they would come to the attention of the judiciary. The insights and evaluation offered by seasoned politicians are invaluable. It is important that the possibility of success in the courts, under a deferential standard of *Charter* review, not preclude the protection of rights available from imaginative use of the representative arm of the state. It is, after all, the benchmark of our legal tradition, inherited from the United Kingdom, that legislatures refrain from exercising their full powers in recognition of the rights and freedoms of their constituents.

Conclusion

The *Charter* and the *Emergencies Act* offer different modes of protection for our most fundamental interests. We need not choose between them just as we need not consider anti-terrorism law as inimical to respect for the most basic principles of liberal democracy. We can enjoy the advantages of each mode of protection. We can enjoy the creative tension of both. ■



What is extraordinary about the debate over profiling is the absence, for the most part, of any analysis of whether it would be constitutional.

Prof. Sujit Choudhry

*“Protecting Equality
in the Face of Terror:
Ethnic and Racial
Profiling and s. 15
of the Charter”*



What is extraordinary about the debate over profiling is the absence, for the most part, of any analysis of whether it would be constitutional. This is all the more extraordinary, since the constitutional concerns raised by the omnibus bill have already generated considerable interest in the legal community, and will propel various provisions of the statute to court in the weeks, months, and years to follow. In my view, the rather minimal public attention devoted to the constitutional challenges raised by profiling is a direct function of the form that such a policy would likely take. If immigration and law enforcement agencies begin to engage in the profiling of persons of Arab background or appearance, they will do so through means – ranging from internally distributed departmental memoranda, to informal word-of-mouth directives issued by superior officers – which are less visible and hence less susceptible to public scrutiny and democratic debate than publicly promulgated legal texts such as statutes and regulations. Civil libertarians must therefore ensure that in focusing so closely on the text of the omnibus bill, they do not overlook the threat posed by other components of the war against terrorism to the very values that that war seeks to defend. This is particularly true in a multiracial and multiethnic democracy such as Canada, which is constitutionally committed to equality and non-discrimination.

The obvious alternative to race- or ethnic-conscious policies for airport security and immigration is the use of other criteria that are not prohibited grounds of discrimination, nor thinly veiled proxies for them. Indeed, I want to argue in favour of one provocative alternative to profiling, which is to subject *everyone* to intrusive investigation both by airport security personnel and immigration officers. This policy would be extremely effective, and would comport entirely with the equality guarantee. But amazingly, not a single proponent of profiling has even considered it, even if only to reject it.

If we were to take this proposal seriously, as we should, what would be the principal arguments against it? One argument is that it would be extremely costly, and that in a world of scarce resources, governments cannot be expected to adopt the absolutely least intrusive means for securing their public policies. However, we should be extremely skeptical of this claim. The same voices that are calling for racial and ethnic profiling also claim that in the war on terrorism, money is no object, and that significant resources should now be devoted to Canada's military, intelligence services, and law enforcement agencies. And the expectation is that significant resources will be made available. If this is true, the plea of poverty rings hollow. The true question is not whether moneys are available, but the relative priority to be attached to different kinds of expenditures prompted by September 11. At the very least, in tallying up the costs of the war on terror, the costs of complying with s. 15 [of the *Charter of Rights and Freedoms*] must be taken into account. Indeed, I would go even further, and argue that in the allocation of scarce resources, compliance with the *Charter* should presumptively take priority.



L-R: Professors David Dyzenhaus, Kent Roach, Dean Ron Daniels, and David Schneiderman

The other argument against a policy of blanket scrutiny is that it would exact enormous costs in terms of liberty and privacy. No doubt, the infringements on liberty and privacy of a blanket policy would be severe, and would be a significant cost to be weighed. However, the policy would also have an enormous benefit, because it would eliminate one of the principal costs of profiling: the stigma borne by those who are singled out for heightened investigation. What this means is that a blanket policy would *redistribute* the costs of the fight against terrorism, and ensure that they are borne by everyone, not just those who through no choice of their own share the race and ethnicity of those responsible for September 11. Indeed, distributing the costs in this way might lead to a better social valuation of the war on terror, because those who advocate racial and ethnic profiling are not the ones who will bear the costs of that policy. It is deeply ironic that the same voices who call for racial and ethnic profiling are precisely those who now call for solidarity across ethnic and racial lines, and proclaim that we should all be willing to surrender some freedom in favour of security. But if solidarity is truly their guiding principle, and their willingness to surrender freedom is genuine, then their policy proposals should match their rhetoric. Profiling does not. ■



Prof. Audrey Macklin

"Borderline Security"

I have watched with bemusement as public debate has erected the concept of a 'security perimeter' as a means of ensuring greater protection from external threat. My first response was to wonder exactly what was meant by 'security perimeter.' When I could not discern a consistent definition for the term, my next response was to wonder what work was being done by an expression so manifestly imprecise. I have since come to view the 'security perimeter' as a discursive security blanket, one that furnishes comfort by conjuring up a visual image around which people can deposit their anxieties. From a functional perspective, the vagueness of the term is one of its virtues, for it has the capacity to mutate into whatever is required to perform its task of reassurance.

A minimalist conception of a security perimeter denotes little more than improved co-ordination in the gathering and sharing of intelligence within and between Canadian and U.S. state agencies, such as the FBI, CIA, CSIS, Citizenship and Immigration, Immigration and Naturalization Service, and municipal, state and provincial police.¹ Improved methods of gathering data, and technology that enables access to multiple databases of security related information play a central role in this conception of a security perimeter. Another version of the security perimeter consists of harmonization of examination and enforcement practices, including detention, border inspection, and removal.²

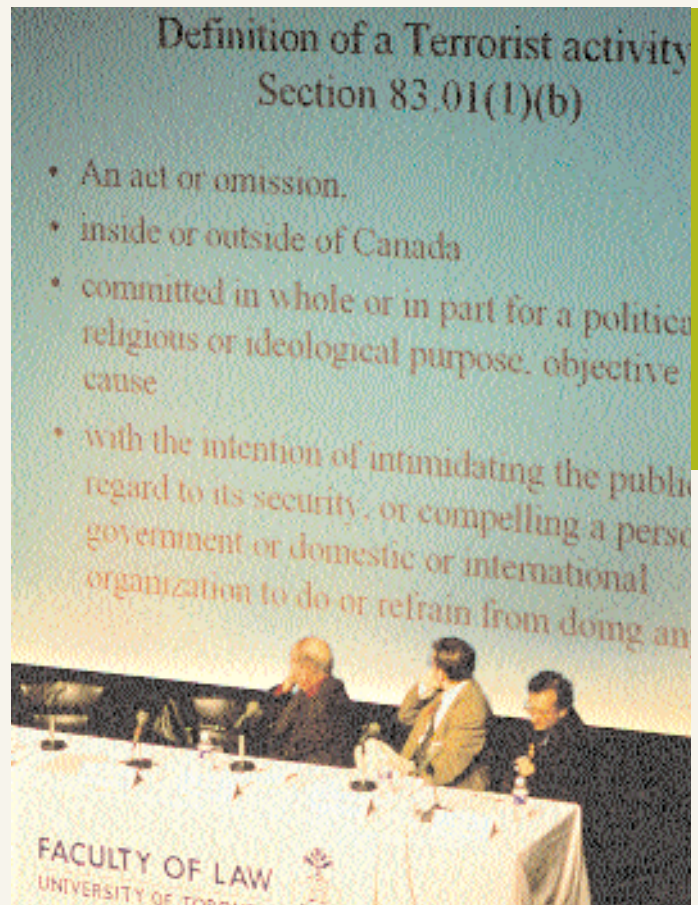
¹ 'When I talk about the perimeter, I'm talking about doing a better job as people come in from overseas,' he said. 'As people come in from overseas, we want to have these common security efforts, and the compatibility on security efforts would be helpful. But I don't think anyone is saying you have to have exactly the same immigration policies.' US Ambassador Paul Celluci in C. Clarke, 'Canada urged to do more about security' *The Globe and Mail* (1 November 2001) at A10.

² A. Thompson, 'Canada, US edge toward joint screening,' *Toronto Star*, 31 October 2000.

A stronger variant of a security perimeter more or less adopts the European Union as a precedent:³ Standards of entry for third country nationals are harmonized between all member states, and once an individual passes through the external border, internal borders within the Union are erased for purposes of travel. A common EU list of visa exempt countries is a prerequisite to the implementation of a single external border. Pursuant to the provisions of the *Dublin Convention*,⁴ an asylum claim must be lodged in the first EU country to which a claimant arrives, and the result is binding upon all member states. Preliminary discussions have also been conducted on the adoption of a common interpretation of the international refugee definition.⁵

The most ambitious version of a security perimeter purports to supplant the full range of national selection, admission and enforcement policies with a binational scheme, jointly administered by Canada and the U.S.⁶ A momentary glance at Canada's new *Immigration and Refugee Protection Act* and its mammoth and byzantine U.S. counterpart should satisfy any reasonable observer that such a prospect is hardly feasible. I leave for future discussion the myriad theoretical objections one might mount to a comprehensive immigration policy. However, it should be noted that consolidating criteria for immigration is not an issue in the EU because all member states understand themselves not to be countries of immigration. Therefore, none have developed schemes for the systematic, permanent admission of immigrants, apart from family reunification or asylum. There is nothing for EU Members to co-ordinate as individual states.

The idea of co-ordinating refugee admission (inspired by the European Union's Dublin Convention) was the subject of a Canada-U.S. Memorandum in the 1990s.⁷ The core of the pro-



L - R: Alan Borovoy, Prof. Lorne Sossin, & Prof. Sujit Choudhry

posal required refugee claimants to lodge their claim in the first country of arrival. An unsuccessful claimant would be prohibited from filing a second claim in the other country. Negotiations around the Memorandum of Understanding lost momentum and the agreement was never finalized. Among other things, the fact that most refugee claimants arrive in Canada by transiting through the U.S. meant that the Agreement would redound primarily to Canada's benefit and leave the U.S. processing the vast majority of North American claims. Despite this asymmetry, the idea of a common refugee admission scheme has been revived lately under the rubric of the security perimeter.⁸

³ 'Some ministers, including John Manley, the Minister of Foreign Affairs, and Jean Chrétien, the Prime Minister, are leery of the word ["perimeter"]. They fear it implies an extraordinarily ambitious co-ordination of the two countries' security forces along the lines of the 13-nation 'Schengen Area' in Europe.' R. Fife and P. Wells, "'Perimeter' has Liberals drawing battle lines - Semantics split Cabinet' *National Post* (1 November 2001)

⁴ *Dublin Convention determining the State responsible for examining applications for asylum lodged in one of the Member States of the European Communities*, signed 15 June 1990, entered into force 1 September 1997, reprinted in G.S. Goodwin-Gill, *The Refugee in International Law*, 2d ed. (Oxford: Clarendon, 1996) at 454-63.

⁵ Presidency Conclusions, Tampere European Council (15 and 16 October 1999), reproduced in (1999) 11 *Int'l J of Refugee Law* 738.

⁶ 'U.S. President George W. Bush took a step toward the creation of a North American security perimeter yesterday, ordering his officials to begin harmonizing customs and immigration poli-

cies with those of Canada and Mexico ... Mr. Bush ordered administration officials to work to ensure "maximum possible compatibility of immigration, customs and visa policies," according to a White House statement.' C. Clark, 'Bush aims to tighten continent's borders - U.S. bid to harmonize immigration and customs puts heat on Chrétien' *The Globe and Mail* (30 October 2001) at A1. 'Paul DeVilliers, chairman of the Liberal national caucus, is also on side, saying most Liberal MPs don't care whether "North American perimeter" is used when talking about common immigration and border security policies.' I think the concept that we have to have co-ordinated security measures so we have similar programs is generally acceptable within the caucus,' he said.' R. Fife and P. Wells, "'Perimeter' has Liberals drawing battle lines - Semantics split Cabinet' *National Post* (1 November 2001)

⁷ Preliminary Draft Agreement Between the Government of Canada and the Government of the United States of America for Cooperation in Examination of the Refugee Status Claims from Nationals of Third Countries, 24 October 1995 [unpublished]. See generally J. Hathaway and A. Neve, 'Fundamental Justice and the Deflection of Refugees from Canada,' (1996) 34 *Osgoode Hall LJ* 213.

I have sent my Death's Head units to the East with the order to kill without mercy men, women and children of the Polish race or language.

Adolf Hitler, briefing his generals in 1939 on the eve of the Polish invasion.¹

To the extent that a security perimeter would involve a common, standardized set of procedures governing admission of third-country nationals (non-citizens of North America), it follows logically that the border between Canada and the U.S. should be permitted to atrophy for purposes of cross border movement. For those who identify at the border as Canadian or U.S. citizens, the change would hardly be noticeable – until September 11, border officials exerted only nominal control over cross-border movement of most citizens anyway.⁹ It could, however, make a significant difference for third party nationals, since the external border examination would presumably obviate the need for a check at the Canada-U.S. border.

The operative premise is that the security of the individual state (be it Canada or the U.S.) would be better served through a supra-national mechanism that conjoins the territory of the two states into one administrative unit. The assumption hitherto has been that national security is best assured by fortifying the borders that define each country as a sovereign entity. The effect of adopting a security perimeter is to decouple national security from territoriality. A certain paradox lurks here, for the concept of a U.S.–Canada security perimeter surely subverts the function of national borders as the means of securing the territory contained within them. ■

8 C. Clark, 'Bush aims to tighten continent's borders – U.S. bid to harmonize immigration and customs puts heat on Chretien' *The Globe and Mail* (30 October 2001) at A1. C. Clark, 'Canada in talks with U.S. on pact dealing with refugees, visitor visas,' *Globe and Mail*, 26 October 2001, A6 http://www.globeandmail.com/servlet/GIS.Servlets.HTMLTemplate?tf=tgam/search/tgam/SearchFullStory.html&cf=tgam/search/tgam/SearchFullStory.cfg&configFileLoc=tgam/config&encoded_keywords=immigration&option=&start_row=9¤t_row=9&start_row_offset1=&num_rows=1&search_results_start=1. I do not support a harmonization of refugee admission between Canada and the U.S., given that the procedural protections and substantive interpretation of the refugee definition differ between the two countries. Moreover, a recent article about the implementation of the Dublin Convention concludes that 'The basic problem with the Dublin Convention of 1990 is that it does not really work. Since its coming into force in September 1997 only a few states have been able to use it successfully to return asylum seekers to the first country of arrival within the European Union.' Nicholas Blake, 'The Dublin Convention and Rights of Asylum Seekers in the European Union,' in E. Guild and C. Harlow, eds., *Implementing Amsterdam: Immigration and Asylum Rights in EC Law*, (Oxford: Hart Publishing, 2001), 95.

9 Indeed, I understand anecdotally that Canadian police attribute the rise in urban shooting deaths in Canada to the ease with which U.S. citizens can import guns (legal in the U.S.) into Canada, where they are illegal.



Prof. Patrick Macklem

*"Canada's Obligations
at International
Criminal Law"*

I have sent my Death's Head units to the East with the order to kill without mercy men, women and children of the Polish race or language.

Adolf Hitler, briefing his generals in 1939 on the eve of the Polish invasion.¹

... A number of commentators have argued that the Criminal Code's existing prohibitions, such as those relating to offences against the person as well as those contained in s. 7, are sufficient to address terrorist activity, and that the Bill's definition of 'terrorist activity' gives rise to more questions than it answers. The Bill's general definition of 'terrorist activity' appears to inappropriately sweep in legitimate but unlawful forms of political protest – a concern that Parliament should address by clarifying the definition prior to enactment. But a general definition of 'terrorist activity' – redrafted to ensure that it does not apply to legitimate but unlawful forms of political protest – is a valuable legislative contribution to domestic and international assertions of universal jurisdiction.

With respect to domestic assertions of universal jurisdiction, the significance of the Bill lies in the fact that it represents an effort to identify what distinguishes terrorist activity – activity that amounts to an international as well as domestic crime – from criminal behaviour that merits domestic condemnation but which does not possess international criminal significance. ... [I]nternational crimes typically possess but do not require a transnational element. Their significance lies instead in the

¹ Quoted in Norman Davies, *Europe: A History* (London: Pimlico, 1997), at 909.

Winston Churchill famously remarked that genocide is a 'crime without a name.' This, of course, is no longer the case.



Prof. Patrick Macklem

fact that they involve actions that 'shock the conscience of mankind or ... threaten the peace and security of the world.'² Given that international law regards certain crimes as international in nature, a crucial domestic task is to identify their unique attributes with sufficient specificity in order to legitimately claim universal jurisdiction in domestic settings. ...

When the Bill becomes law, the judiciary will face a similar challenge in the context of a prosecution of an individual charged with committing terrorist acts. What distinguishes terrorist activity from other forms of criminal behaviour? As the debates surrounding the Bill reveal, answering this question is no easy matter. But it is a task that needs to be undertaken. The gross human rights violations committed on September 11 demonstrate that at least some terrorist activity merits international legal condemnation in addition to domestic prosecution and punishment of its constituent elements. As with the case of crimes against humanity, domestic law must be able to articulate with sufficient precision what distinguishes terrorist acts from other criminal acts to justify the assertion of universal jurisdiction that such international condemnation confers. Precision is a function of experience, and neither legislatures nor courts have had much experience defining the term. In this light, the Bill – however flawed in this and other respects – is an important contribution in ongoing efforts to comprehend the international legal significance of terrorist activity. Some of the language contained in the Bill may well – and should – be revised before it becomes law. But statutory text – however precise – will not eliminate interpretive ambiguities, and the judiciary too will be called on to assume the task of defining terrorism by refining the nature and scope of the legislation.

The legal challenge of defining terrorism is doubly difficult at the international level. Coupled with domestic fears that a definition will sweep in legitimate but unlawful forms of political protest, is the oft-heard remark that, internationally, 'one person's terrorist is another's freedom fighter.' The United Nations has been debating its meaning for several decades and has achieved some progress in delineating its constituent elements as well as an appropriate institutional response.³ ...

[But] international efforts to stem terrorism thus far tend to disaggregate the phenomenon into a number of relatively discrete forms of terrorist activity regulated by an international

instrument specific to each form, such as the *Convention for the Suppression of Unlawful Seizure of Aircraft*. Whether, at the international level, terrorism can be defined in all of its manifestations with sufficient specificity to enable an integrated international response is still an open question. But as domestic legislatures and courts here and elsewhere increasingly turn their attention to these questions, their iterative efforts may eventually assist in promoting sufficient consensus at the international level to warrant a more integrated international approach coupled with international enforcement mechanisms. ...

Winston Churchill famously remarked that genocide is a 'crime without a name.'⁴ This, of course, is no longer the case. Numerous international instruments and domestic laws offer detailed definitions of genocide and legal provisions designed to prosecute and punish its commission. They signify that Hitler, in 1939, instructed his Death's Head units to commit genocide. Terrorism, however, remains a crime without a name. International and domestic law criminalizes certain discrete elements of terrorist activity but neither international nor domestic law has yet to fully comprehend terrorism as an activity unto itself – let alone as a crime against humanity – that merits international condemnation and universal prosecution and punishment. For too long, international law has not had the fortitude to address the distinction between the justified use of force and terrorist activity. Canada has been blessed by the fact that it has not felt the need to assume this task in the past. After September 11, it's time to give terrorism a name. For all of its flaws, the *Anti-terrorism Bill* merits praise for asserting universal jurisdiction to declare terrorism to be an international crime. Its revision and enactment hopefully mark the beginning of a process whereby Canadian and international political and legal institutions grapple with fundamental questions surrounding the nature of terrorism and its relationship to civil disobedience, human security, and national liberation. ■

2 M. Cherif Bassiouni, *International Criminal Law: A Draft International Criminal Code* (Alphen aan den Rijn: Sijthoff & Noordhoff, 1980).

3 See *U.N. Declaration on Measures to Eliminate International Terrorism*.

4 Quoted in Leo Kuper, *Genocide: Its Political Use in the Twentieth Century* (New Haven: Yale University Press, 1981), at 12.



L - R: Prof. Brian Langille, Kibrom Teklehaimanot (LL.M. '01) and Prof. Rebecca Cook



L - R: Qian Wang (LL.M. '02) and Prof. Bernard Dickens

Special Reports: People

The past year witnessed some extraordinary accomplishments by members of the law school community.

The calibre of the law school's faculty continued to be acknowledged through awards and fellowships for excellence in research, invitations to contribute to international debate, and public recognition of individual achievements. The arrival of new colleagues, professors Lisa Austin and Lorne Sossin, further enhanced an outstanding faculty.

Students with a remarkable variety of backgrounds and experiences, from international development to archaeology, from the corridors of power in Ottawa and Victoria to mass graves in

Kosovo and dam projects in India, have brought new perspectives to the school. The Faculty of Law was also proud to witness the elevation of Bill Graham ('64), a former student and professor, to the federal cabinet as Minister of Foreign Affairs, and of Robert Armstrong ('65) to the Court of Appeal for Ontario, and Mark Freiman ('83) to Deputy Attorney General.

Together, the contributions of professors, students and alumni continue to ensure the Faculty's pre-eminence among Canadian law schools.

Award-Winning Faculty

The Faculty enjoys an international reputation for its deeply rooted commitment to rigorous inter-disciplinary scholarship, teaching, and research excellence. Each year, faculty members are recognized for providing a broad range of intellectual perspectives on legal and policy issues ranging from the reform of the healthcare system to the place of Canada's Charter of Rights among constitutional democracies.



Michael Trebilcock

LL.B. (New Zealand), LL.M. (Adelaide)

This past year Professor Michael Trebilcock was elected President of the American Law and Economics Association, the premier scholarly law and economics association in the world. He is the first non-American ever to hold this distinction.

Over the last four decades, Professor Trebilcock has had a prolific academic career, authoring more than 20 books, 27 book chapters, 73 articles, and 20 academic reports spanning 11 different areas of law. He joined the Faculty as a professor of law in 1972 after teaching at the University of Adelaide, South Australia and at McGill Law School. He is currently Director of the Law and Economics Program at the Faculty.

Among his numerous scholarly achievements, Professor Trebilcock was awarded the prestigious Molson Prize in Social Sciences and Humanities in 1998, appointed as Fellow in law and economics at the University of Chicago in 1976 and Fellow of the Royal Society of Canada in 1987. In 1986, he earned the Owen Prize from the Foundation for Legal Research for his book, *The Common Law of Restraint of Trade*, chosen as the best legal text in Canada. In 1990, Professor Trebilcock received the joint award of the Canadian Law Teachers Association and Law Reform Commission of Canada for outstanding contributions to legal research and law reform, and that same year was appointed University Professor, the university's highest honour.

Most recently, Professor Trebilcock was named one of the 50 most influential Canadians by Maclean's magazine (Maclean's, February 18, 2002). Described as the University's "intellectual star," the national weekly publication pointed to Professor Trebilcock's accomplishments and incisive input into issues such as hydro deregulation, law society reform, government-policy work and immigration legislation. He was also lauded as a pioneer in law and economics, writing texts that are on the forefront of legal debate in the courts.



David Dyzenhaus

B.A., LL.B. (Witwatersrand), D.Phil. (Oxon), FRSC

The Legal Research Foundation — a highly recognized association of judges, lawyers and academics — and the University of Auckland (New Zealand) law school have selected Professor Dyzenhaus as the distinguished Legal Research Foundation Visiting Fellow for 2002.

Chosen for the depth and breadth of his knowledge in the field of legal research, Professor Dyzenhaus is spending six months in Auckland delivering the Fellowship's public lecture and teaching a seminar course on the Rule of Law and two intensive LL.M. courses on the Internationalization of Administrative Law.

Holding a joint appointment with the Faculty of Law and the Department of Philosophy at the University of Toronto, Professor Dyzenhaus has written extensively in the area of legal philosophy and administrative law, and is using his time in Auckland as an opportunity to work on a new book about administrative law and the rule of law.

Prior to joining the Faculty in 1990, Professor Dyzenhaus served as Assistant Professor and Canada Research Fellow at the Faculty of Law, Queen's University from 1989-1991. He has taught in South Africa, England and Canada in law, philosophy and sociology. He is the author of *Hard Cases in Wicked Legal Systems; Legality and Legitimacy; Judging the Judges, Judging Ourselves*; has published two edited collections of essays, *Law as Politics* and *Recrafting the Rule of Law*; and is co-editor of *Law and Morality: Readings in Legal Philosophy*.



Ed Morgan

B.A. (Northwestern), LL.B. (Toronto), LL.M. (Harvard)

After seven years representing both national and provincial jurisdictions of the Canadian Jewish Congress, a national advocacy group for the Jewish community, Ed Morgan was recently appointed Chair of Ontario region for a three-year term. Professor Morgan is responsible for policy formation, political advocacy, and administration of the organization's largest region, which represents an estimated 200,000 people in the Jewish community.

Professor Morgan's relationship with the Canadian Jewish Congress began in 1990 when he represented the group in the Keegstra case. In 1994, he became legal counsel for Ontario region and from 1998 to 2001, he was appointed the national honorary legal counsel. Over the years he has represented the Canadian Jewish Congress pro bono in numerous cases before the Supreme Court of Canada and numerous tribunals, including several war crimes proceedings, hate propaganda prosecutions, and Ontario's Jewish day schools funding case.

Professor Morgan teaches international law, private international law, and international criminal law. He has published a book, *International Law and the Canadian Courts* (Carswell, 1990), and numerous law journal articles.



Stephen Waddams

B.A. (Toronto), M.A., Ph.D. (Cambridge),
LL.B. (Toronto), LL.M., S.J.D. (Michigan), FRSC

This past year, Professor Waddams once again received the Killam Research Fellowship, an honour that recognizes scholars of exceptional ability engaged in research projects of broad significance in the fields of social, natural and health sciences, humanities, engineering and interdisciplinary studies. The honour marks the importance of Professor Waddams' current project "Law: The Dimensions of Private Law." Waddams was one of just 17 Killam Research Fellows chosen from an intensely competitive application process which attracted 110 applicants nationwide.

The Killam Fellowship is the latest in a long list of accomplishments for Professor Waddams since he first joined the Faculty of Law at U of T in 1968. He has been Visiting Senior Research Fellow, Jesus College, Oxford; Visiting Senior Lecturer, University of Otago, Dunedin, New Zealand; and Visiting Fellow, All Souls College, Oxford. He is a Fellow of Trinity College at the University of Toronto and was elected a Fellow of the Royal Society of Canada in 1988, and in 1989 he was awarded the Canadian Association of Law Teachers/Law Reform Commission of Canada Award for Outstanding Contribution to Legal Research and Law Reform. Waddams was awarded the first Albert Abel Professorship in 1994, received the David W. Mundell medal for contributions to Law and Letters in 1996, and is currently holder of the Goodman/Schipper Chair at the Faculty. He is the author of *Products Liability; The Law of Contracts; The Law of Damages; Introduction to the Study of Law; Law, Politics and the Church of England;* and *Sexual Slander in Nineteenth-Century England*.



David Schneiderman

B.A (McGill), LL.B. (Windsor), LL.M. (Queen's)

This past year, Professor David Schneiderman received the prestigious Canada-U.S. Fulbright Visiting Scholar Award for the strength of his research, *The Impact of Globalization on Constitutionalism: The North American Free Trade Agreement and Beyond*.

Selected from among scores of candidates, Professor Schneiderman spent the 2001 winter term as a visitor at Columbia University's School of Law and the New School University's Wolfson Centre for National Affairs. While in residence, he worked on a manuscript, *Investment Rules and the Constitutional Order of Economic Globalization*, about the relationship between the international law of foreign investment and constitutional law. Exploring linkages between the global-web of investment rules and constitutionalism, between the constitution-like regime for the protection of foreign investment, and the constitutional projects of national states, the manuscript aims to map the role of law, and constitutional law in particular, in the structuration of economic globalization. Several draft chapters were presented to audiences in New York, including chapters on *The Possibilities for Citizenship in an Age of Economic Globalization*, and *Investment Rules in Action* which examines recent NAFTA arbitral jurisprudence.

The manuscript is the latest in a long list of works Professor Schneiderman has authored or edited, including numerous articles on Canadian federalism, the Charter of Rights, and Canadian constitutional history. He has edited several books, including *The Quebec Decision* (1999); *Charting the Consequences: The Impact of the Charter of Rights on Canadian Law and Politics* (1997) with Kate Sutherland; *Police Powers in Canada: The Police Power in History, Law, and Politics* (1993) with R.C. MacLeod; *Social Justice and the Constitution: Perspectives on a Social Union for Canada* (1992) with Joel Bakan; and *Freedom of Expression and the Charter* (1991). He is founding editor of the quarterly *Constitutional Forum* and founding editor-in-chief of the journal *Review of Constitutional Studies*.

New Faculty Stars



Professor Lisa Austin

As one of the newest members of Faculty, Lisa didn't exactly get the office with the best view. She looks out over the heating ducts of Flavelle and can only glimpse the very top of the CN tower behind them. But, even without a view, I don't think that there is anyone who brings a broader perspective to the law faculty than Lisa. This is someone who, as a student and researcher at the U of T Faculty of Law, drew rave reviews for her work from a very diverse group of teachers and scholars, including Michael Trebilcock, Ernie Weinrib, Patrick Macklem, and David Dyzenhaus. It was no surprise to them, or to any of us, that Lisa walked away with the Carswell and Michael Moldaver prizes for standing first in her third year, and the Angus MacMurphy Gold medal for graduating with the highest cumulative average over three years of law. Further, after graduating in 1998, Lisa clerked at the Supreme Court of Canada with the Honourable Mr. Justice Frank Iacobucci.

Lisa's research and scholarship is now focused primarily on information law and property and she is a member of our new Centre for Innovation Law and Policy. She is also finding time to complete her Ph.D. in philosophy (on the relationship between law, technology and liberalism) while she teaches property in the first year programme. Her publications include a recent article on the question "Is Privacy a Casualty of the War on Terrorism?" in *The Security of Freedom: Essays on Canada's Anti-Terrorism Bill* (2001) and she is only recently back from presenting another paper on "Privacy and the Question of Technology" at Oxford University in March 2002. Not content with limiting her attention to the "dreaming spires" of academe, however, Lisa has also authored a recent policy paper for the Ontario government on the ethics of gene patents. Obviously, this is not someone who is content to be distracted by that marvelous view from her office window! However, I do remember Lisa as a student who always felt the cold (hard to believe that anyone could feel cold in some of those Flavelle classrooms); perhaps she has her eye on those heating ducts simply to make sure they are really working!!

Bruce Chapman

In its quest to offer students an intellectual experience that is second to none in the country, and the best student-teacher ratio among North American law schools, the Faculty has this past year recruited additional tenure-stream colleagues who bring fresh insight and expertise to an already impressive group of talented academics teaching at the law school.



Professor Lorne Sossin

The Faculty is extremely fortunate to have Lorne joining us full time. He previously held a full-time appointment at Osgoode Hall Law School and has also had appointments with our Faculty as an Adjunct Professor in 1997-98 and 2000-01. Lorne is an extremely effective and popular teacher and an excellent scholar. He falls into a tradition of great public law scholars at the Faculty started by the likes of John Willis and continued by Hudson Janisch and David Dyzenhaus to mention only a few. Lorne's teaching interests span administrative and constitutional law, legal process/civil procedure, judicial process, social policy, democratic administration, and Jewish law. Earning an LL.B. from Osgoode Hall Law School, a Ph.D. from the University of Toronto, and an LL.M. and J.S.D. from Columbia University, Lorne was admitted to the Ontario Bar in 1996 and has valuable experience in practice. He subsequently served as Assistant Professor at Osgoode Hall and the political science departments at York University and the University of Toronto. He has published a highly regarded book on justiciability and is working on several book-length projects in the fields of public law, civil procedure and the effects of privatization on the administrative state. Lorne's addition to the law school will ensure that the Faculty's traditional strength in public law will continue for many years.

Kent Roach

Distinguished Alumni

Graduates have distinguished themselves in every field of endeavour, continuing the tradition of excellence that is the U of T Faculty of Law. The success of our alumni has been critical to building the Faculty into what it has become today – a vibrant, thriving community of great minds and caring people.



The Hon. William C. Graham

The Honourable **William C. Graham** (64) Q.C., former U of T Faculty of Law Professor and MP for Toronto Centre-Rosedale since 1993, was appointed Canada's Foreign Affairs Minister in January 2002.

One of 11 children, Bill Graham attended Upper Canada College in Toronto before entering the University of Toronto, earning his B.A. from Trinity College in 1961 and his LL.B at the Faculty three years later. Encouraged to attend Harvard University by then dean, Cecil Wright, Bill chose instead to attend l'Université de Paris, where he graduated with a Doctorate in Legal Sciences.

Upon his return to Canada, he practised law at Fasken & Calvin from 1967 to 1980, specializing in civil litigation and international business transactions. In 1980, Bill came to the Faculty of Law where he taught International Trade Law, Public International Law, and the Law of the European Community until 1994. From 1986 to 1988 he was also the Director of the Faculty's Centre of International Studies.

Bill's eminent political career began with his election victory in 1993 and his re-election in 1997 and 2000. In 1995, he was appointed Chair of the Standing Committee of the House of Commons on Foreign Affairs and International Trade, a post which earned him respect on all political sides for his non-partisan approach and knowledge of foreign affairs.

Fluently bilingual and a major promoter of the French language in Ontario, Bill served as past President of Alliance Française and has received the Chevalier du Légion d'Honneur de la France; the Chevalier de l'Ordre de la Pléade; the Ordre du Mérit de l'Association des Juristes de l'Ontario; the Med. D'Argent de la ville de Paris; and the Med. D'Or de l'Alliance Française.

In 1999, the *William C. Graham Chair in International Law and Development* was established at the Faculty in recognition of Bill's commitment to public life, economic progress, and co-operation among peoples and nations. His appointment to Foreign Affairs Minister marks his most recent honour in what has already been a remarkably diverse and distinguished career.

As Dean Ron Daniels has noted, "this is the job that Bill Graham has been preparing a lifetime to do. There is no Canadian who is better suited to vindicating Canada's international interests than Bill. We are enormously proud to be able to call him one of our own."

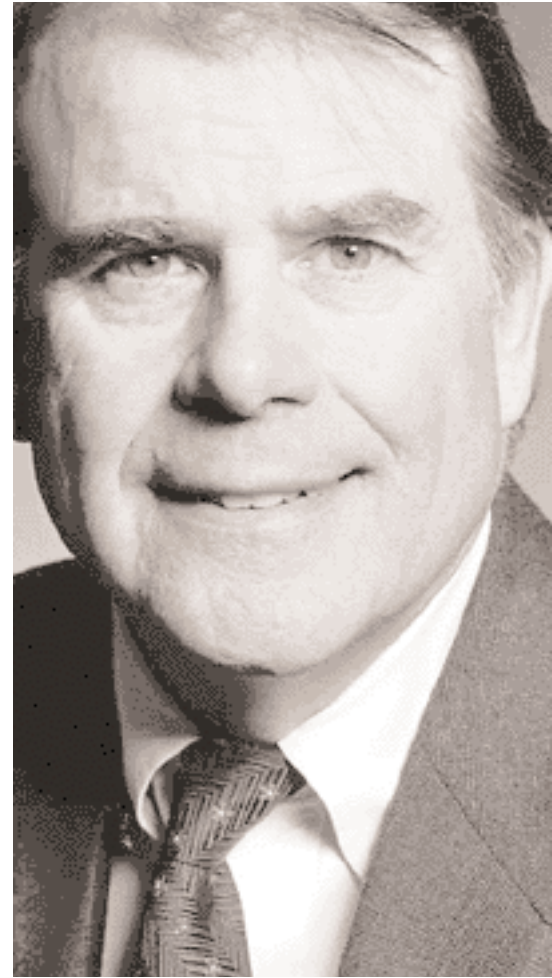
The Hon. Robert Armstrong

Robert Armstrong (65) Q.C., former Treasurer of the Law Society of Upper Canada and senior partner at Torys, was this year appointed to the Court of Appeal for Ontario, bringing to 12 the number of our alumni currently sitting on the Court of Appeal.

Bob Armstrong was called to the Ontario Bar in 1967 after earning his LL.B. at U of T, and subsequently established himself as a distinguished practitioner and senior litigator at Torys. With trial and appellate experience in large corporate/commercial cases, class actions, defamation, product liability, professional negligence and administrative and constitutional law cases, Bob has appeared as counsel at every level of court in Ontario, and has appeared in the Federal Court of Canada and the Supreme Court of Canada. He has also appeared before Royal Commissions, and was Commission Counsel to both the Dubin Inquiry into Drugs and Banned Practices in Sport, and the Mississauga Train Derailment Inquiry. More recently, he represented the former provincial Minister of Environment in the Walkerton Inquiry into Ontario's drinking water system.

Prior to being elected Treasurer of the Law Society in 1999, Bob spent four years as a Bencher of the Law Society. He has been Co-Chair of the working group on Multi-Disciplinary Partnerships, Chair of the Task Force on Competence, and Chair of the Ontario Legal Aid Plan. A speaker and panelist at programs of the Canadian Bar Association, the Law Society of Upper Canada, the Advocates' Society and the Cambridge Lectures of the Canadian Institute of Advanced Legal Studies, Bob is also a past Director of The Advocates' Society of Ontario, and a Director of the Canadian Institute of Advanced Legal Studies.

A loyal and long-time supporter of the law school, Bob is a past President of the Faculty's Law Alumni Association Council and is currently an honorary member. As Dean Ron Daniels has frequently noted, "Bob embodies, in word and in deed, the highest and most vaunted values of our noble profession. His appointment to the Court of Appeal is nothing less than inspired."



Mark Freiman

Following distinguished careers both as an educator and a lawyer in the private and public sector, **Mark Freiman** (83) was appointed Deputy Attorney General and Deputy Minister Responsible for Native Affairs in 2001. Prior to his appointment, Freiman – a well-known Canadian civil litigator – was Assistant Deputy Attorney General, Legal Services on leave of absence from the firm of McCarthy Tétrault.

At McCarthy Tétrault, Freiman was partner from 1990 to 1999, and head of the Public and Administrative Law Practice Group. In his practice, Freiman developed his expertise in the area of libel and defamation, public law, constitutional law and administrative law. He has appeared before all levels of court and has argued many high profile cases, including numerous defamation matters on behalf of the CBC and other media clients. He also represented the Canadian Human Rights Commission in the recent Zundel case.

Possessing an LL.B. from the University of Toronto, Faculty of Law and a Ph.D. in Modern Thought and Literature from Stanford University, Freiman has also taught extensively, including trial advocacy at both U of T and Osgoode Hall law schools. He has also taught courses in English, Canadian Studies, Communications and Popular Culture at universities in Canada, Great Britain and the United States.

A recipient of numerous academic awards, co-author of "The Litigator's Guide to Expert Witnesses" and author of many articles in various fields of law, literature and pop culture, Freiman was called to the bar in 1985 and has served as Law Clerk to the former Chief Justice of Canada, Brian Dickson, and as Senior Policy Advisor to former Attorney General of Ontario, Ian G. Scott, Q.C.

First-Year Students

The strength and diversity of the teaching faculty is complemented by a student body that represents a wide range of backgrounds, interests and accomplishments. An increasing number of our students have enjoyed various careers in public service prior to coming to the law school, bringing with them experiences that truly enrich the academic environment.



Hannah Entwisle



Hannah Entwisle

Hannah Entwisle graduated with a Peace and Global Studies degree from a small U.S. liberal arts institution in 1999, but her career prior to entering law school took her far from the corn and soybean fields that surrounded her home in northern Indiana. Hannah spent a year in southern India examining the impact of global financial institutions. She later worked with environmental educators, government officials and health and foreign aid workers in Nicaragua dealing with the aftermath of deadly Hurricane Mitch. In Washington, D.C., Hannah helped a lobby group encourage the U.S. government to pay dues to the United Nations, and to increase foreign assistance and debt relief for impoverished countries. In the Fall of 2000, she began working in Nazareth, Israel with a Palestinian community development organization that encourages communities to participate in a civil society. Throughout all her work and studies Hannah developed a growing interest in the potential of international law to respond to conflict and poverty around the world.

Kathy Gruspier

Prior to coming to law school, **Kathy Gruspier** received a B.A. in Near Eastern Archaeology, M.A. in Palaeopathology and Funerary Archaeology, and Ph.D. in Physical Anthropology. In 1992, Kathy became the first consulting forensic anthropologist to the Chief Coroner in Ontario and continues to practice forensic anthropology, assisting police officers at homicide scenes, analyzing unidentified remains, and presenting expert evidence at trials. She also works on archaeological excavations, most recently in Southern Jordan at a site of naturally mummified remains and the largest collection of textiles from the 1st and 2nd century. In 1999, Kathy was a member of the second Canadian Forensic Team to Kosovo, part of Canada's UN contribution that investigated, exhumed and analyzed corpses. For her work, Kathy will receive the Canadian Peacekeeping Service medal and the NATO medal for Kosovo. Author and presenter at international conferences, Kathy was also a lecturer in physical anthropology at the University for 10 years and adjunct professor of Forensic Science at the University of Toronto at Mississauga.



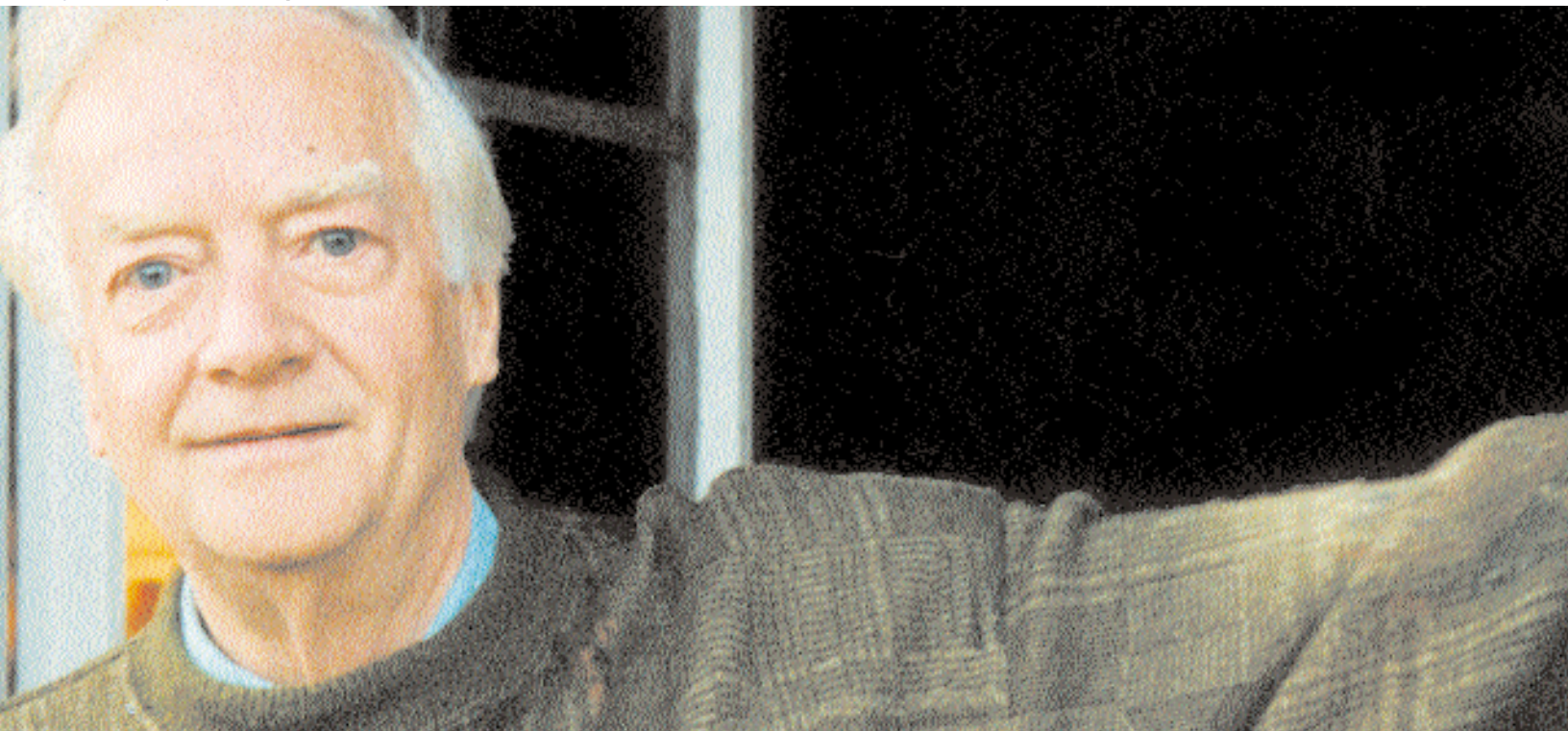
Mora Johnson

After completing an undergraduate degree in 1991, **Mora Johnson** spent nearly a year in India studying the impact of a dam project on the displacement of 100,000 citizens. Upon her return to Canada, Mora worked as assistant to newly-elected MP, alumnus, and former Faculty professor Bill Graham, where she was promoted to Executive Assistant in 1996. In 1998, Mora began working in the Department of Foreign Affairs and International Trade, later becoming Legislative Assistant to then Foreign Affairs Minister Lloyd Axworthy. Within a month, NATO was involved in the war in Yugoslavia and the Foreign Affairs department was in overdrive. Following the NATO action, Mora worked with diplomats and negotiators to implement a number of Canada-U.S. agreements, including legislation creating the International Criminal Court. Mora later took a position in the United States branch working on bilateral environment issues. Her last assignment before coming to law school was with International Trade Minister Pierre Pettigrew.



Shaun Laubman

For four years before coming to the Faculty, **Shaun Laubman** worked for British Columbia's Ministry of Multiculturalism and Immigration, gaining exposure to a broad range of issues from aboriginal treaties and anti-racism initiatives to financial assistance programs. A consistent thread throughout Shaun's work was his commitment to the eradication of discrimination directed at members of marginalized communities. Shaun helped develop policies and programs promoting cross-cultural understanding, working with communities to address incidents of racism, and delivering culturally responsive services. One such opportunity was a series of province wide consultations in conjunction with non-profit organizations in preparation for the 2001 United Nations World Conference Against Racism held in South Africa. Together with various organizations, Shaun assisted in the development of a provincial document highlighting Canada's position at the World Conference, and providing framework for the province's future priorities.



In Memoriam

This past year the Faculty and the law community celebrated the lives of Professors Alan Mewett and J. Bruce Dunlop, two dedicated, spirited and brilliant colleagues who passed away in 2001. They will be sadly missed and fondly remembered by the many people whose lives they touched.

A Tribute to Professor Alan Mewett (1930 - 2001)

On May 2, 2001, the Faculty of Law mourned the loss of one of its finest teachers and scholars, Professor Alan Mewett, Q.C. LL.B. (Birmingham), B.L.C. (Oxford), LL.M., S.J.D. (Michigan).

Professor Mewett was an internationally respected legal scholar, a gifted teacher and a good friend to a great many colleagues at the law school. Having earned his law degree in 1952 in England, and furthered his legal studies at Oxford and Michigan, Professor Mewett taught at Saskatchewan, Queen's, and Osgoode Hall Law School, where he was also acting dean, before joining the University of Toronto Faculty of Law in 1968. Since that time he has captured the attention and imagination of more than three decades of U of T law students with his characteristically animated yet understated teaching style. A favourite among students as one of the Faculty's most incisive lecturers, Alan was twice chosen by the graduating class to give the farewell speech at their graduation. In 1999, students of the Faculty established an award in his honour to be given each year to a faculty member for excellence in teaching. "Alan was a brilliant teacher and scholar, but he was also a warm and caring person," said close personal friend, Professor Martha Shaffer, at the memorial service held at Hart House on May 9th in celebration of his life.

Professor Alan Mewett was perhaps best known in the legal community for his scholarship and teaching in the area of criminal law, criminal procedure and evidence, having authored five books and countless articles. Respected and admired by academics and practitioners throughout Canada and internationally, Alan also served as the editor of the *Criminal Law Quarterly* for more than 30 years, and was Director of the Ontario Law Reform Commission's Evidence Project from 1970-1975. Although he retired in 1997, Professor Mewett continued to teach courses in Evidence and was intending to do so again in the Fall of 2001.

On his retirement, Alan was honoured with the prestigious William Paul McClure Kennedy Award by the Kennedy Foundation in recognition of his dedication and outstanding merit as a teacher of law at a Canadian Law School, and for his unique ability to integrate his scholarship and policy experience into the classroom. At his retirement dinner a former student said "he could always be counted on to make the mundane interesting and the difficult understandable."

Alan's death was a tragic loss for the Faculty. He will be greatly missed by all of his friends, colleagues and students.



Bruce brought insight, passion – and often humour – to every endeavour he undertook



A Tribute to Professor J. Bruce Dunlop (1929 - 2001)

Appointed to U of T's law school by Dean Caesar Wright in 1960, Bruce Dunlop, B.A. (Queen's), LL.B. (Toronto), LL.M. (Harvard), L.S.M., was among the most admired and beloved teachers at the Faculty. His dedication to teaching, his sense of intellectual engagement with law and legal analysis, and his unstinting commitment to the Faculty and the profession earned him the respect and admiration of generations of students and colleagues.

Prior to joining U of T, Professor Dunlop served on the Faculty of Law at both Queen's University and the University of Ottawa. Throughout his career, his devotion to the law was evident in the broad range of courses that he taught – torts, competition law, professional responsibility, civil procedure, evidence, family law, labour relations and estate planning. To every one of these areas of the law, Bruce brought insight, passion, and often humour.

Bruce's love of the law was equalled by his love of teaching and his great compassion for his students. He immersed himself in the life of the law school, not just in terms of his scholarship and teaching, but in the countless hours he devoted to coaching the hockey team and his work with various faculty committees. In 1985, he was the first member of the Faculty to be recognized by the Student's Law Society for his teaching contribution and in

1998 he received the William Paul McClure Kennedy Award. He also served as associate dean of the law school from 1975 to 1978.

Perhaps the most important intellectual contribution he made to the Law School was in relation to the profession. His dedication to the legal profession was reflected in the service he provided for more than two decades as the Editor-in-Chief of the *Dominion Law Reports*. It is also evident in the many tribunals and hearings he chaired over the years. His commitment was recognized by the Law Society of Upper Canada's decision in 1989 to award Bruce the Law Society Medal (for outstanding service in accordance with the highest ideals of the legal profession) and in the decision in 1994 of the University of Toronto Law Alumni Association to award him with the Distinguished Alumnus Award.

Friends and colleagues crowded into Trinity Chapel on Tuesday, Oct. 16, 2001 to celebrate the life and contributions of Bruce Dunlop, who is survived by his loving wife Frances, his two daughters Alexandra and Leslie, son-in-law Rodney Gram and granddaughter Zoë. He is also lovingly remembered by his brother Robert and sister-in-law Nancy.

Alumni Arbor Award Recipients

The Arbor Award was established in 1989 to recognize the outstanding service of University of Toronto alumni volunteers, many of whom have worked in the interests of the University for a number of years. The Faculty of Law is very proud to announce that four of its alumni received this award in 2001.



Michael Code ('76)

The Faculty has been extremely fortunate over the years to count Michael Code among its superb adjunct faculty. An esteemed member of the Toronto Criminal Law Bar, Michael has dedicated countless hours to teaching “Criminal Procedure” and has inspired many students to pursue careers in Criminal Law. Students speak fondly about his dry wit, his encyclopedic knowledge of the law, his commitment to the rights of the accused, and principles of procedural fairness. Consistently ranked as one of the most popular courses at the Faculty, his course has been described by students as invaluable training and a memorable learning experience.



Justice Bonnie Croll ('77)

Bonnie served for many years as Assistant Dean and Director of Admissions at the Faculty of Law. Under her guidance and leadership, she transformed student services at the Faculty. Bonnie’s achievements included the development of a comprehensive and innovative financial aid scheme, the creation of the Career Development Office, and the establishment of a national Pro Bono Program and Public Interest Advocacy Summer Fellowship Program. Since her departure in 2000, she has maintained a close relationship with the Faculty and continues to serve on the Faculty’s Law Alumni Association Council.



Julie Hannaford ('83)

For many years, Julie has coordinated the enormously popular “Trial Advocacy” course at the Faculty. As a result of her efforts, many students have graduated from the law school secure in the knowledge that they are well prepared to appear in court. Each year, Julie has coached top students from the Trial Advocacy course in preparation for the Provincial Arnup Cup competition and the National Sopinka Cup competition, two of the most prestigious advocacy competitions at the Faculty. Former students praise Julie’s dedication, her passion for her subject, and her great commitment to students. As one said of Julie, “She has been an extraordinary coach and mentor to me and to numerous others.”



Jeremy Oliver ('86)

For many years, Jeremy was a dedicated and tireless supporter of the law school in several different capacities. He was a key advisor in the early years of the Faculty’s Career Development Office and provided leadership and guidance with respect to student job opportunities. He also volunteered much of his time and energy to teaching the “Art of the Deal” course at the Faculty, a perennial favourite among students. As a loyal supporter of the Faculty’s campaign goals, he was instrumental in his firm’s gift to establish the McCarthy Tétrault classroom at the law school. The entire Faculty of Law and extended alumni community was deeply saddened by his untimely death in May, 2001.

From Toronto to Tanzania and the

Making A Difference

By Cheryl Sullivan

United
Kingdom
to the
United
Nations



Judith McCormack
Executive Director, Downtown Legal Services

From Toronto to Tanzania and the United Kingdom to the United Nations, the law school's alumni, faculty and students are having an impact on the lives of many in the pursuit of justice. They are working with low-income Canadians in Toronto, and with refugee claimants in Rwanda and South America. They are launching charter challenges in the Supreme Court of Canada that shape the rights of all Canadians. In our communities and around the world, the U of T law school community is making a difference.

An understanding of social responsibility is an essential part of the law school experience. Today virtually every student in the Faculty participates in some form of pro bono work during their time at the law school. Through its numerous clinics, the founding of the highly successful Pro Bono Students Canada program, and a vibrant International Human Rights Program, the law school is creating a strong culture of community service and leadership for its students.

Downtown Legal Services

Many students hone their legal skills and work with the community through Downtown Legal Services (DLS), the Faculty's principal clinic that provides innovative legal services to low-income clients in downtown Toronto. Each year approximately 150 law students offer local community members advice and representation in the areas of criminal law, housing law, employment law, human rights, university affairs, income maintenance, and consumer rights. The clinic also offers free legal services in partnership with community organizations through four satellite clinics at Council Fire, Out of the Cold, Street Outreach Services and Meal Trans. These centres provide a spectrum of services to their clients including employment counselling, personal counselling, medical attention and shelter. They serve the Aboriginal, homeless, youth sex trade workers and transgendered communities.

Of course DLS also provides law students with an invaluable clinical legal education experience, exposing them to the realities of legal practice and allowing them to explore legal principles and social policy issues first hand.

In 2001, DLS introduced a full-time executive director devoted to the operation of the clinic. Executive Director Judith McCormack works closely with the six-member student executive on the operation of the clinic. McCormack came to the clinic from private practice as a partner in the firm of Sack Goldblatt Mitchell. From 1986 to 1995 she served as vice-chair, and then chair of the Ontario Labour Relations Board.

"I've had a longstanding interest in the idea that social justice and intelligent public policy should inform laws and legal process," says McCormack. "I also believe in the importance of clinical legal education. I think that law has to be learned in a multi-level way, through a variety of different methodologies and on a variety of different levels. Clinical legal education is really a critical part of a rich and comprehensive law school experience."

Since her arrival in March of last year, a full-time intensive program has been established, and weekly seminars have been added to both the part- and full-time programs. "The seminars are designed to use the clinical work as a jumping off point for more reflective inquiry," says McCormack. Two new lawyers have been hired bringing the clinic's lawyers to a total of four, and DLS is also enhancing its activities in the areas of community outreach, public legal education, law reform, test case litigation and other advocacy activities. Its public legal education



L-R: Catherine Oh and Robert Blair

program provides information and workshops for people such as victims of domestic abuse, homeless clients, street youth and other client communities, and recent appellate litigation includes cases in the areas of both housing law and HIV/AIDS.

According to McCormack, the involvement of students, and in particular, the executive, has been key to the success of these changes. "Working with the executive has been one of the pleasures of the position," she says. "By building on the clinic's past accomplishments and expanding its horizons, we now have a chance to strengthen the unique contribution the clinic can make to the community, to clinical legal education and to public interest scholarship."

For students the opportunity to learn and to contribute through the clinics is invaluable.

"It's just an excellent complement to what we learn in the classroom," says second-year student Sara Corman. "DLS is great for giving you exposure to a broad range of areas of the law, approaches to legal problems, and to different types of clients. We have a huge range of people coming through here and the way that we help them is quite specific to who they are and where they are coming from."

By January of 2003, DLS will be housed in a new office at 655 Spadina Ave. in Toronto, thanks to a generous donation from the law firm Fasken Martineau DuMoulin LLP. The three-storey building will house the Fasken Martineau DuMoulin Centre for Legal Services and will offer 7,000 square feet of clinic space. It will also house Enterprise Legal Services (ELS), another clinic affiliated with the Faculty which provides legal assistance to lower income entrepreneurs and small businesses. Last year 70 students were involved with ELS, and since its inception in 1994 the clinic has provided services to more than 150 clients.

Also affiliated with the law school is the Centre for Spanish-Speaking People and Advocates for Injured Workers, a legal clinic funded by Legal Aid Ontario that offers free legal advice and representation.

A commitment to the core democratic values of liberty, justice and equality is at the heart of the U of T law school and is reflected throughout the law school community.



Prof. Rebecca Cook

“There is simply nothing more exhilarating in one's career than to be able to serve the interests of an individual or group that otherwise would have remained unrepresented.”

International Human Rights Program

Thirteen years ago Professor Rebecca Cook established the Faculty's International Human Rights Program (IHRP). Since then more than 145 students have worked with a broad range of organizations in over 30 countries in areas such as children's rights, aboriginal rights, health rights, housing rights and refugee rights. The program offers students summer internships with a number of United Nations, governmental and non-governmental organizations around the world involved in the protection of human rights. It also supports a number of working groups that provide support and advice for international groups seeking to address specific human rights issues. These groups include the Rwanda Working Group and the Women's Human Rights Resources Web site project.

“My motivation (to establish the program) was to create opportunities for students to protect and promote human rights in Canada and beyond,” says Cook. “I had such an opportunity during my education and, in many ways, it shaped my career.”

“The impact of IHRP is really best measured by what students accomplish during their internships and subsequently. After returning to the law school, many students have written and published papers on subjects that related to their internships, and in so doing have contributed to our understanding of possible remedies to human rights violations. A number of students

Pro Bono Students Canada

In the fall of 1996, Dean Ron Daniels and then-Assistant Dean (now Madam Justice) Bonnie Croll established Pro Bono Students Canada (PBSC). They sought to create an organization to champion pro bono service and to ensure that legal education included a grounding in the tradition of pro bono practice. Today the program still develops a pro bono ethic in the next generation of lawyers, while providing much-needed services to underrepresented communities across Canada.

In its first year, approximately 50 students at U of T's Faculty of Law worked with a handful of organizations. Today, still housed at the U of T law school, PBSC now operates in eight provinces across Canada and in 16 law schools - from UBC to Dalhousie. Almost 1,000 Canadian law students participate each year and the program has links to approximately 500 community organizations. This year close to 200 U of T students participated in the program.

With generous support from the Law Foundation of Ontario and the Kahanoff Foundation, PBSC provides law students with a vast array of opportunities to serve communities in need, gain valuable legal experience, and meet lawyers and others involved in public interest work. The Placement

have gone on to develop careers in advancing human rights, such as in international humanitarian law, women's rights, children's rights, refugee law and labor law. Some of the organizations with which the students interned have benefited from the legal work that students undertook for them that would otherwise not have been imagined and accomplished. In addition, some of the alumni have gone on to work for or become members of the boards of the organizations with which they interned.”

Last summer, placements through the IHRP included the Protection Unit of the United Nation's High Commissioner for Refugees, Dar es Salaam, Tanzania; the International Migration Policy Programme, Geneva, Switzerland; ECPAT International Headquarters, Bangkok, Thailand; and the International Centre for the Legal Protection of Human Rights (INTERIGHTS), London, England.

“Pro bono legal work, whether domestic, regional or international, is not only a responsibility we have to repay our privilege as professionals, but it is a wonderful way to enhance social justice,” Cook adds. “There is simply nothing more exhilarating in one's career than to be able to serve the interests of an individual or group that otherwise would have remained unrepresented.”

Program trains and matches volunteer students with a diverse range of community organizations, lawyers doing pro bono work, and public agencies. Students conduct public legal education; research pending legislation, legal issues and policy questions; draft policies for organizations and manuals for their clients; and help organizations provide legal information and assistance to their clients. PBSC also operates the Family Law Project at the family court at 311 Jarvis St. in Toronto, where students have assisted approximately 2,500 unrepresented litigants in navigating the court system. The project, which was piloted in Toronto, will expand across the province and country during the coming year. Last year, PBSC also initiated the Family Law Project Summer Program at the court in partnership with Legal Aid Ontario, so that unrepresented parties would have access to student assistance during the summer months. In September 2000, PBSC National Director Pam Shime worked with U of T students to establish Mandate for Public Interest Law (MAPIL), a student group dedicated to pro bono and public interest law. Through its many activities, including helping to organize a poverty law conference at the school this year, MAPIL has served to enhance the pro bono and public interest community at the law school.

Today virtually every student in the Faculty participates in some form of pro bono work during their time at the law school.



Pam Shime, National Director,
Pro Bono Students Canada

The PBSC Public Interest Law Summer Fellowship Program provides funding to students to continue their school-year “pro bono” work full-time during the summer. This is possible thanks to the Donner Civic Leadership Fund, established at the Faculty by the Donner Canadian Foundation. Summer Fellows have provided invaluable assistance to organizations including the African-Canadian Legal Clinic, Sierra Legal Defence Fund, the Centre for Equality Rights in Accommodation, the Canadian Civil Liberties Association, and the Office of the Children’s Lawyer. In 2001, an anonymous donor provided funding to establish the June Callwood Programme in Aboriginal Law at the Faculty. A portion of these monies is being used by PBSC to develop an Aboriginal Law Summer Fellowship Program, which will begin in the summer of 2002.

PBSC also sends interns abroad through its Thailand Access to Justice Summer Internship Program. Through the program students helped to establish the first legal clinic for street youth in Southeast Asia. A new partnership allows students to spend their summers with the oldest pro bono legal clinic in the United States—Hawaii Volunteer Legal Services. The program also cooperates with the Women’s Human Rights Resource Program to match law students with women’s rights organizations around the world. Students provide assistance via the Internet.

“We have a significant number of students who continue with the same organization throughout the three years of law school,” says Shime, who has been PBSC National Director since the summer of 2000. “The connections they develop, the learning they do, and the services they provide make a significant difference in the community, at the law school, and in the careers of the students involved.”

“My experience in Thailand has taught me how personally transforming public interest work can be...There is nothing more educational, in my view, than a community of activists who bring diverse perspectives to the table and pursue social justice work with a sense of mission.”

Jonathan Cohen, Access To Justice Thailand Program, Summer Intern

“I really enjoyed being at the court all day. I learned a lot about family law and developed great interview and drafting skills. Most importantly, I have met many courageous individuals who navigate their way through the family court process on their own. The fact that I can make a small difference in their lives is invaluable.”

Lisa Quesnel, Family Law Project

“My experience at the Women’s Shelter and Counselling Services of Huron, as well as with the DART project (known as Domestic Abuse Review Team, a coordinated response to domestic violence from community service providers) far surpassed my expectations. Above all, my experience solidified for me the need to practice law with compassion and sensitivity. With this in mind, I am strongly committed to returning to my home community and helping to develop the services desperately needed by rural women and children who have been victims of abuse.”

Holly Smith, Donner Civic Leadership Fellow

Faculty Commitment to Public Policy

The commitment to social justice that is so much a part of the law school's culture begins with its professoriate, as many faculty members are also passionately engaged in wide-ranging areas of public interest and policy development. For example, Associate Dean Mayo Moran is active in the legal struggle to redress the Chinese head tax, acting as litigation advisor in the *Mack v. Canada*, Canadian Chinese head tax case which is currently on appeal to the Ontario Court of Appeal. Patrick Macklem has been involved in both international and national cases on land claims and indigenous rights, and Audrey Macklin advises senior government officials on immigration and refugee issues. Dean Ron Daniels is chairing the Panel on the Future of Government for the Ontario Government, and is a founding member of both International Lawyers and Economists Against Poverty and the Ontario Pro Bono Initiative.

Professors associated with the Health Law and Policy group are having an impact both at home and around the world. Sujit Choudhry was a consultant to the Royal Commission on the Future of Health Care (Romanow Commission). Rebecca Cook has presented numerous papers and lectures on issues of human rights and women's reproductive health law and policy for many organizations and conferences including the World Congress on Medical Law, the International Congress on Public Health, the World Health Organization and UNICEF. Bernard Dickens has presented on many issues of health law and policy for the World Congress on Medical Law among others, and has over the past few years presented to and worked with advisory groups at Al-Azhar University in Egypt. Since 1996 he has served as vice-president of the World Association of Medical Health Law. Trudo Lemmens is a member of the National Ethics Review Committee for the Canadian HIV Trials Network and a member of the Ontario Provincial Advisory Committee on New Genetic Predictive Technologies, to name a few.

Given the growing interest in international and comparative law issues, many faculty members are playing an active role in advisory work for governments and non-governmental agencies in transition and developing societies. For instance, several of the Faculty's legal theorists have provided policy advice to governments addressing claims for restorative justice as a result of state-sanctioned acts of violence and coercion commissioned by predecessor governments. The Faculty's constitutional scholars have played a central role in advising a number of different countries on the role of an entrenched Charter of Rights in fostering liberal democracy. Several scholars have also established high level ties to a number of United Nations' agencies, and serve as an ongoing source of counsel and advice.



Prof. Mayo Moran



Prof. Kent Roach

About four years ago Kent Roach was asked by the legal aid clinic Aboriginal Services of Toronto to provide some pro bono assistance on their behalf in a case involving jury selection and prejudice in its intervention at the Supreme Court of Canada. Roach, who has now appeared before the Supreme Court 12 times, still lends his expertise to Aboriginal Services of Toronto, and has gone on to work on behalf of numerous others including the Canadian Civil Liberties Association, the Ontario Criminal Lawyers Association, the Ontario Métis Association, and the Association in Aid of the Wrongfully Convicted. He has presented numerous interventions at the Supreme Court on a variety of issues, most recently acting once again on behalf of Aboriginal Legal Services of Toronto in the *Sauve vs. Canada* case on the issue of the voting rights of prisoners.

"What's been nice for me is there is a real synergy between the advocacy work that I do in court and my own scholarship," says Roach. "This work has also convinced me of the importance of intervenors in the Supreme Court. In most of the cases that I am involved with there are a number of government and sometimes advocacy groups on the other side. It is very important to hear from all of the affected parties, and the organizations I

represent don't have the resources to hire lawyers. That is one reason why pro bono work is so important."

Many of the cases Roach works on are high profile. He worked as an intervenor in the Supreme Court on behalf of the Canadian Civil Liberties Association in the Robert Latimer case, on the issue of sentencing and the provision of the criminal code for special regard to the circumstances of Aboriginal offenders when sentencing them. He also represented the Association in Aid of the Wrongfully Convicted in the inquiry into the conviction of Guy Paul Morin on the issues of calling evidence and the systemic causes of wrongful conviction.

"It gives me the best of both worlds - I pursue my academic agenda and I also get to act in some of these cases. I get to write and make legal arguments on the significant issues of the day," says Roach.

Roach is currently working with Aboriginal Legal Services in making representations before the justice committee regarding the new Youth Criminal Justice Act. He is also working with some judges in Toronto's Old City Hall on the proposed idea of establishing a special court for Aboriginal offenders.

Upon returning to the Faculty of Law in 1998 after a number of years in private practice, Ed Morgan began the Test Case Centre at the law school. Through the program about 12 second- and third-year students per year work with Morgan on constitutional or human rights cases that are on the cutting edge of the law. Morgan and his students take an average of six cases per year, and most often limit their involvement to the role of intervenor.

“This program is a great complement to the clinical experience students can get at DLS and the other clinics,” says Morgan, adding that U of T’s program is unique in Canada. Under the program students are treated much like articling students, doing research and helping to prepare written submissions. They also receive course credit for their work.

Morgan describes these test cases that push the frontiers of the law as high stakes and high profile. The cases include oral and written submissions to the Supreme Court of Canada on issues of sovereign immunity, and a case last year on behalf of the Canadian Jewish Congress involving a Federal Court of Appeal Challenge to a Canadian Forces rule, that goes back to a claim started during the Gulf War. The case involved a person being denied a promotion because of a Canadian Forces rule that said no Jews or women could serve in Muslim countries in the Persian Gulf out of sensitivity to foreign cultures. The rule was upheld by the Federal Court Trial Division before being overturned by the Federal Court of Appeal.

Professor David Beatty has also worked with Morgan and the Test Case Centre students on a constitutional challenge on behalf of the Green Party, as has Professor Hudson Janisch on an appearance at the United Nations decolonization committee on behalf of the island of St. Helena.



Prof. Ed Morgan



Prof. David Beatty

Alumni Making A Difference

Throughout its history the U of T Faculty of Law has been producing graduates who believe passionately in the role and responsibility of the legal profession in democracy, social justice and public interest. The law school’s graduates have long been well represented in all levels of the judiciary, throughout government and at NGOs both within Canada and internationally. U of T law school grads can be found at countless legal aid clinics and in public interest advocacy groups. The diversity of opportunities fostered at the Faculty is reflected in the diversity of career choices of its alumni.



Paul Martin ('64)

Bill Graham ('64)

Bob Rae ('77)

David Peterson ('67)

Tony Clement ('86)

Mark Freiman ('83)

The Faculty also counts among its graduates many distinguished politicians including Member of Parliament and former federal Finance Minister Paul Martin, federal Foreign Affairs Minister Bill Graham, former Ontario premiers Bob Rae and David Peterson, MPP Tony Clement and Deputy Attorney General Mark Freiman. The law school’s graduates also serve the public interest in many other ways both within Canada and around the world. LL.M. graduate Coriaan de Villiers ('00) was Acting Director at the Women’s Legal Centre in Cape Town, South Africa in 2001. The centre conducts public interest gender litigation and law reform, and de Villiers was involved in litigation and law reform work in the areas of employment law, access to reproductive health care, unfair discrimination and access to social and economic rights. Diane Goodman (LL.B. '83, LL.M. '91) works with the United Nations High Commission on Refugees. Closer to home, Michelle Williams ('94) helped established the African Canadian Legal Clinic, Mordechai Wasserman ('91) is a refugee and immigration



Jean Teillet

David Baker

Jean Teillet ('94), an Aboriginal rights lawyer with the firm Pape and Salter in Vancouver, is involved in litigation, negotiation, teaching, public speaking, publishing and community service, and spends a great deal of time working in the north with various Aboriginal communities. Of Aboriginal descent, Teillet works with both individual Aboriginal people and with First Nations and Métis organizations at the local, provincial and federal levels. In May 2002, Jean Teillet received the Colonel The Honourable Lincoln M. Alexander Award at the Annual Law Society Medal Awards ceremony, for her longstanding commitment to the public and pursuit of community service.

David Baker ('75) has devoted much of his legal career to doing advocacy work on behalf of people living with disabilities. Baker was first introduced to advocacy work in 1978 when he worked in Washington, D.C. with an association affiliated with Ralph Nader. Upon returning to Canada, Baker served as legal counsel for what was then called the Association for the Mentally Retarded, and the Canadian Mental Health Association. Baker also served as founding Executive Director of ARCH, a legal resource centre for persons with disabilities, from 1980 to 2000. As Executive Director, Baker was involved in the organization's operations, including government relations, public education, community relations, litigation and strategic planning. He has represented clients in a wide variety of cases on issues such as wheelchair access to courtrooms, employment equity, discrimination access to justice and affirmative action. Baker currently specializes in constitutional, human rights and employment law issues with the litigation firm bakerlaw.

lawyer with the Centre for Spanish-Speaking People, Joanne Rosen ('86) works with the Ontario Human Rights Commission, while Jacob Abella ('98) and Julia Dryer ('98) are both working in Ottawa with the Human Rights Law Section of the Federal Department of Justice.

Continuing the Tradition of Social Justice

The many ways in which the law school's faculty, students and graduates contribute to social justice are as diverse as the community itself. Through Downtown Legal Services, Pro Bono Students Canada, the International Human Rights Program and other initiatives, students have the opportunity to enrich their own law school experiences while providing essential public interest service. Through both their scholarship and their leadership, the work of faculty members such as Patrick Macklem, Colleen Flood, Sujit Choudhry, Kent Roach, Ed Morgan, Mayo Moran, Rebecca Cook and many others is having a major impact on social policy development as well as social justice. Similarly, many alumni choose to serve the public interest in a variety of ways including advocacy work, politics, the judiciary and government and non-governmental agencies.

In our rapidly changing world public interest work is a crucial part of our legal system and indeed of the democratic process. The commitment to social justice that is fostered and nurtured at the law school ensures that public service work, in all its forms, remains an essential part of legal education in Canada, and that the law school's faculty, students, and graduates continue to make a difference in their communities and beyond. ■



Faculty Publications

At all levels of the Faculty – from the most junior to senior colleagues – there is a strong and shared commitment to a scholarly enterprise, and to conducting this enterprise against the highest international standards. The following new publications offer a sample of the vast and ambitious array of subjects that our faculty have written about over the past year.



The University of Toronto: A History

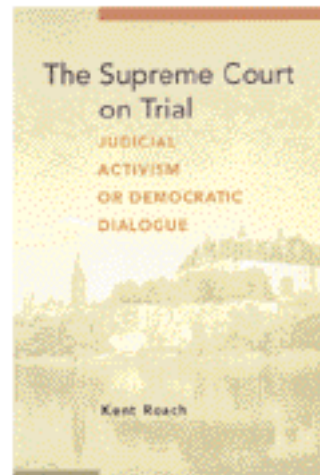
Martin L. Friedland

ISBN: 0-8020-4429-8
Suggested Retail: \$60.00 CDN

From its origin as King's College in 1827 to the present, Professor Martin Friedland weaves together personalities, events, and intellectual ideas to create a scholarly, yet highly readable history of the University of Toronto. The text describes the university's major figures such as Northrop Frye and Marshall McLuhan, and dramatic events such as the admission of women in the 1880s, the University College fire of 1890, the university's contributions during the First and Second World Wars, and the student protests of the 1960s. Friedland describes the university's history as intimately connected with events outside the scholastic community. Transitions in Canadian society such as that from the early dependence on Great Britain and fear of the United States, to the present dominance of American culture and ideas can be seen mirrored in the university. One can also trace the effects of the two World Wars, the Cold War, and the Vietnam War. As Canadian society and culture developed and changed through the latter half of the twentieth century, so too did the university: this university's history is the history of Canada and all Canadians.

"Lucid, engrossing, and often surprising. Martin Friedland's history depicts a small colonial university's ascent to its present life as the core of Canadian education and a world centre for scholarship. Miraculously, he draws all the complexities of idealism, ambition, and politics into a cohesive narrative."

Robert Fulford, columnist
National Post



The Supreme Court on Trial: Judicial Activism or Democratic Dialogue

(Short-listed for the 2001-2002 Donner Prize for best book on Canadian public policy)

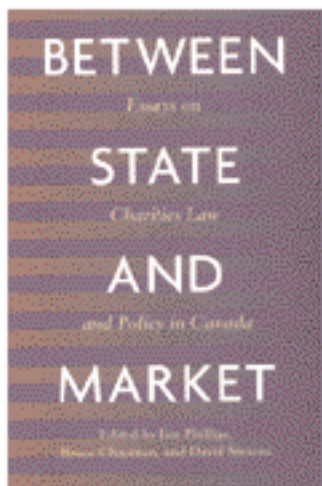
Kent Roach

ISBN: 1-55221-054-5
Suggested Retail: \$29.95 CDN

The Supreme Court of Canada has been accused of allowing criminals to go free; of permitting tobacco companies to advertise; of being too sympathetic to Aboriginal people; and of usurping democracy on abortion and gay rights. Some critics claim that the nine unelected judges on Canada's highest Court have used the Canadian Charter of Rights and Freedoms to impose their own views on public policy over those of elected governments. This book joins the crucial debate about the Charter, the Court, and Canadian democracy.

What is judicial activism? Is the Charter making us like America where the politics of the judges can determine the outcome of a national election? Can judges simply read their own political preferences into the Charter? Does the Court have the last word over democratically elected legislatures? Are our judges captives of special interests? What can Canadians and their governments do if they think the Court has got it wrong?

These are some of the questions that Professor Kent Roach considers in this important and timely book. In a clear, engaging, and thought-provoking manner, Roach strips away the rhetoric that has characterized much of the debate over judicial activism. As counsel who has appeared before the Court in several of its most important Charter cases, he provides unique insights into the work of the Court. As a leading professor of constitutional and criminal law, he offers an informed assessment of the Court's decisions and their impact on our legal and political system. In short, *The Supreme Court on Trial* makes an important contribution to understanding the role of the Court and the Charter in our democracy.



Between State and Market

Edited by Bruce Chapman, Jim Phillips, and David Stevens

ISBN: Paperback 0-7735-2112-7 Hardcover 0-7735-2096-1
Suggested Retail: Paperback \$34.95 CDN
Hardcover \$75.00 CDN

In this important contribution to the literature on charities law, the authors offer policy prescriptions for the future of an increasingly vital sector of Canadian society. The first section contains a sociological review of altruism in different societies, a discussion of altruism in various philosophical and religious traditions, an economic analysis of “rational voluntarism,” and an assessment of the relationship between the charitable sector and the welfare state. The second section contains five papers on the legal definition of charity, both in general and particular. The third section deals with the tax status of charities and includes papers that evaluate the current tax credit system and the administration of charities by the Canada Customs and Revenue Agency. The final section contains essays on charities and commercial enterprise, on the regulation of fund-raising, and on needed reforms in non-profit corporation law.

Contributors include Neil Brooks (Osgoode Hall Law School), Cara Cameron (McGill), Bruce Chapman (Toronto), Kevin Davis (Toronto), Abraham Drassinower (Toronto), David Duff (Toronto), Richard Janda (McGill), Will Kymlicka (Queen's), Andrée Lajoie (Montreal), Mayo Moran (Toronto), Charles-Maxime Panaccio (office of Mr Justice Charles Gonthier), Jim Phillips (Toronto), Jane Allyn Piliavin (Wisconsin-Madison), David Sharpe (Attorney-General's Office, New York State), Lorne Sossin (Toronto), David Stevens, and Jen-Chieh Ting (Academia Sinica).



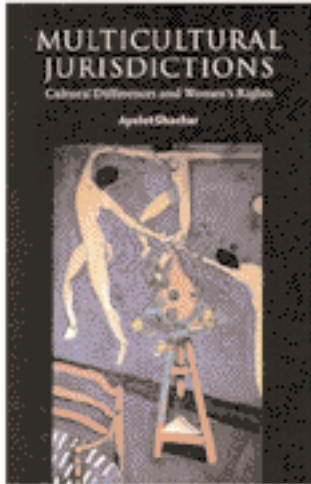
Indigenous Difference and the Constitution of

Canada (Awarded the 2002 Donald Smiley Prize by the Canadian Political Science Association for the best book relating to the study of government and politics in Canada)

Patrick Macklem

ISBN: Paperback 0-8020-8049-9 Hardcover 0-8020-4195-7
Suggested Retail: Paperback \$27.95 CDN
Hardcover \$70.00 CDN

There is a unique constitutional relationship between Aboriginal people and the Canadian state. Why does this special relationship exist? What does it entail in terms of Canadian constitutional order? There are, Macklem argues, four complex social facts that lie at the heart of the relationship. First, Aboriginal people belong to distinctive cultures that were and continue to be threatened by non-Aboriginal beliefs, philosophies, and ways of life. Second, prior to European contact, Aboriginal people lived in and occupied North America. Third, prior to European contact, Aboriginal people exercised sovereign authority over persons and territory in North America. Fourth, Aboriginal people participated in and continue to participate in a treaty process with the Crown. Together, these four social conditions are exclusive to the Aboriginal people of North America and constitute what Macklem refers to as indigenous difference. This book details constitutional rights of Aboriginal people that protect culture, territory, sovereignty, and the treaty process, and explores the circumstances in which these rights can be interfered with by the Canadian state. It also examines the relation between these rights and the Canadian Charter of Rights and Freedoms, and proposes extensive reform of existing treaty processes in order to protect and promote their exercise.

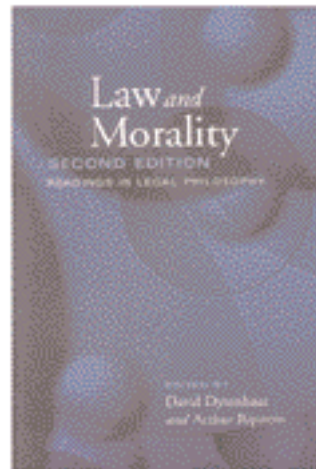


Multicultural Jurisdictions: Cultural Differences and Women's Rights

Ayelet Shachar

ISBN: Paperback 0-521-77674-0 Hardcover 0-521-77209-5
Suggested Retail: Paperback \$31.99 CDN
Hardcover \$85.99 CDN

Is it possible for the state simultaneously to respect deep cultural differences and to protect the hard-won citizenship rights of vulnerable group members, in particular women? This book argues that this is not only theoretically needed, but also institutionally feasible. Professor Shachar's fresh approach proceeds from an acknowledgement of the potentially negative effects of well-intentioned multicultural accommodation, which often forces the most vulnerable constituents of cultural groups into an impossible choice: either an allegiance to their culture, or an exercise of their rights. Rejecting prevalent normative and legal solutions to this "paradox of multicultural vulnerability," *Multicultural Jurisdictions* develops a powerful argument for enhancing the jurisdictional autonomy of religious and cultural minorities while at the same time providing viable legal-institutional solutions to the problem of sanctioned intra-group rights violations. This new "joint governance" approach is guided by an ambitiously innovative principle: one that strives for the reduction of injustice between minority groups and the wider society, together with the enhancement of justice within them. Shachar applies this new approach to contested social arenas, such as family law, immigration policy and criminal justice. She shows how individuals who view themselves as simultaneously belonging to more than one membership community and subject to more than one legal authority can be empowered by their multiple affiliations. Unique in its interdisciplinary and comparative approach, this book makes a timely intervention in current multiculturalist and feminist debates by offering an in-depth exploration of practical legal-institutional solutions to vital normative dilemmas that beset diverse societies around the globe.



Law and Morality

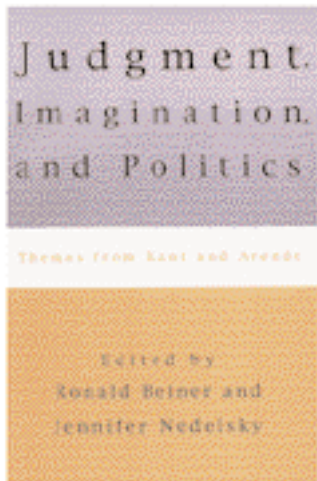
Edited by David Dyzenhaus and Arthur Ripstein

ISBN: Paperback 0-8020-8447-8 Hardcover 0-8020-3576-0
Suggested Retail: Paperback \$45.00 CDN
Hardcover \$100.00 CDN

This anthology has filled a long-standing need for a contemporary Canadian textbook in the philosophy of law. It includes articles, readings, and cases in legal philosophy that give students the conceptual tools necessary to consider the general problems of jurisprudence. Beginning with general questions about morality and law, and drawing on both traditional literature on legal positivism and contemporary debates about the role of law as a tool in pursuit of equality, this book explores the tensions between law as a protector of individual liberty and as a tool of democratic self-rule. The second part deals with these philosophical questions as they apply to contemporary issues. Included is an extensive sampling of the feminist writings that have been influential in both legal theory and Canadian law. Transcripts of judicial decisions are presented throughout to give students an appropriate sense of the complexity of legal reasoning. This book strikes a balance between practical problems and the more analytic, philosophical frameworks. Its treatment of the philosophy of law as a branch of political philosophy enables students to understand law in its function as a social institution.

Multicultural Jurisdictions

Selected by the editors of *Political Studies*, a leading world source for reviews of books, as one of the five best newly published books which "make a significant contribution to the study of political theory and political philosophy, or are likely to be of wide interest in the field."



Judgment, Imagination and Politics: Themes from Kant and Arendt

Edited by Ronald Beiner and Jennifer Nedelsky

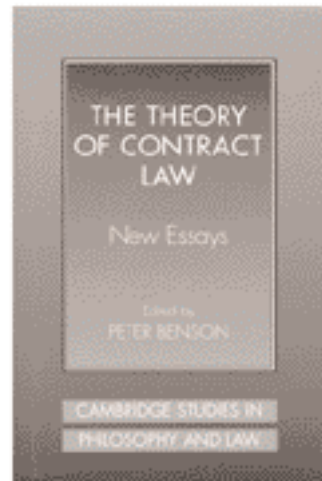
ISBN: Paperback 0-8476-9971-4
Hardcover 0-8476-9970-6
Suggested Retail: Paperback \$43.00 CDN
Hardcover \$110.00 CDN

This book brings together for the first time leading essays on the nature of judgment. Drawing from themes in Kant's *Critique of Judgment* and Hannah Arendt's discussion of judgment from *Lectures on Kant's Political Philosophy*, these essays deal with: the role of imagination in judgment; judgment as a distinct human faculty; the nature of judgment in law and politics; and the many puzzles that arise from the "enlarged mentality," the capacity to consider the perspectives of others that aren't in Kant treated as essential to judgment.

"A valuable scholarly resource:

this volume collects, for the first time, the most important essays on judgment written in the last half century. With a clear, thorough, and very helpful introduction by Ronald Beiner and Jennifer Nedelsky."

Samuel Fleischacker,
University of Illinois, *Chicago*

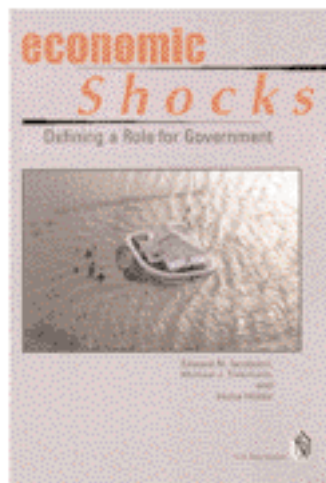


The Theory of Contract Law — New Essays

Edited by Peter Benson

ISBN: 0-521-64038-5
Suggested Retail: \$90.00 CDN

Although the law of contract is largely settled, there is at present no widely-accepted comprehensive theory of its main principles and doctrines or of its normative basis. Contract law theory raises issues concerning the relation between law and morality, the role and the importance of rights, the connection between justice and economics, and the distinction between private and public law. This collection of six full-length and original essays, written by some of the most eminent scholars in the field, explores the general theory of contract law from a variety of theoretical perspectives, and addresses a wide range of issues, both methodological and substantive. While the essays build upon past theoretical contributions, they also attempt to take contract theory further and suggest new and promising ways to develop theory of contract law. *The Theory of Contract Law* represents an ambitious attempt to advance the general theory of contract law. It will be of interest to professionals and students of law and philosophy.



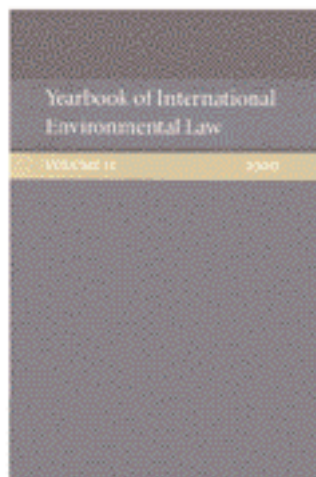
Economic Shocks: Defining a Role for Government

Edward M. Iacobucci, Michael J. Trebilcock, Huma Haider

ISBN: 0-88806-535-3

Suggested Retail: \$21.95 CDN

The objective of this book is to ascertain the appropriate role for government in responding to economic shocks. Analysis reveals three sources of economic shock: nature, the market, and government. Natural disasters such as floods, earthquakes, and droughts, can lead to extreme economic hardship for an entire region while domestic and international markets can contribute to economic shocks in a variety of ways, such as shifts in supply resulting from a change in technology. The final category of shock can arise when a change in government policy or government mismanagement harms a sector of the economy. This text embarks on four main avenues of inquiry. First, it develops a taxonomy of shocks according to their source. Second, it outlines a variety of normative rationales that may, depending on the circumstances, justify some form of government intervention in response to a shock. Third, it describes the policy tools that are available to governments considering intervention. Finally, it presents five case studies of shocks and governmental responses. The conclusion draws on the theoretical and empirical discussion to offer some lessons for policymakers.



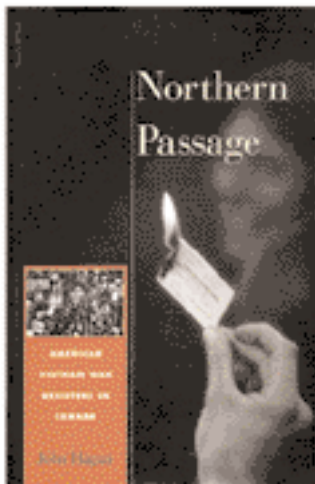
Yearbook of International Environmental Law, Volume 11

Editors-in-Chief Jutta Brunnée and Ellen Hey

ISBN: 0-19-924708-0

Suggested Retail: \$304.95 CDN

This leading scholarly publication in the field of international environmental law contains articles by leading authorities, a “symposium” of shorter essays on a key case or development, a “Year-in-Review” section providing over 100 reports on key developments contributed by expert scholars or practitioners, a book review section, and a bibliography. The Yearbook has an international editorial team and, until July 2001, was led by Professor Jutta Brunnée (University of Toronto) and Ellen Hey (Erasmus University Rotterdam) as Editors-in-Chief. The team of Associate Editors comprised Laurence Boisson de Chazournes (University of Geneva), Jeffrey Dunoff (Temple University School of Law), Naomi Roht-Arriaza (Hastings College of Law, University of California), and Farhana Yamin (Foundation for International Environmental Law and Development). Jonas Ebbesson (Stockholm University) is the Book Review Editor and Kenneth Rudolf (Yale Law School) is the Bibliography Editor.



Northern Passage — American Vietnam War Resisters in Canada

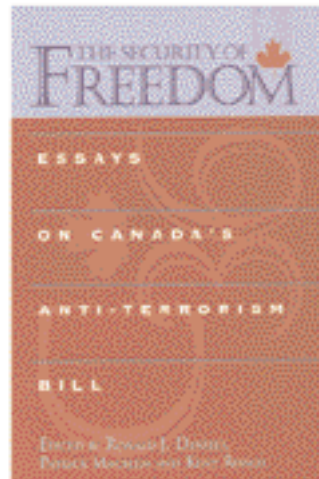
John Hagan

ISBN: 0-674-00471-X
Suggested Retail: \$44.00 CDN

More than 50,000 draft-age American men and women migrated to Canada during the Vietnam War, the largest political exodus from the United States since the American Revolution. How are we to understand this migration three decades later? To write this book, Professor Hagan, himself a member of the exodus, searched declassified government files, consulted previously unopened resistance organization archives and contemporary oral histories, and interviewed American war resisters settled in Toronto to learn how they made the momentous decision. Canadian immigration officials at first blocked the entry of some resisters but under pressure from Canadian church and civil liberties groups, they fully opened the border, providing the legal opportunity to oppose the Vietnam draft and military mobilization while beginning new lives in Canada. It was a turning point for Canada as well, an assertion of sovereignty in its post-World War II relationship with the United States. For these Americans, the move was an intense and transformative experience. Some struggled for a comprehensive amnesty in the United States, others dedicated their lives to engagement with social and political issues in Canada. More than half of the resisters who fled 30 years ago remain today. Most lead successful lives, have lost their sense of Americanness, and overwhelmingly identify themselves as Canadians.

“When the Canadian government began preparing a new terrorism bill in response to the attacks of September 11, the law faculty at the University of Toronto sprang into action... quick action meant the up-to-date expertise of specialists in criminal law, immigration, security and commercial law was available for legislators and policy makers to refer to in the important debate on security and anti-terrorism policy.”

University Affair



Security of Freedom: Essays on Canada's Anti-Terrorism Bill

Edited by Ronald J. Daniels,
Patrick Macklem and Kent Roach

ISBN: 0-8020-8519-9
Suggested Retail: \$24.95 CDN

The ramifications of terrorist attacks on North American soil in 2001 sparked intense debate about governmental policies aimed at protecting Canadian citizens. At the time, the Canadian government's proposed anti-terrorism legislation, Bill C-36, contemplated dramatic changes to this country's laws, in areas as diverse as criminal procedure, international relations, immigration, individual privacy, law enforcement, and charitable giving. In this collection, Canada's leading scholars in the areas of law and public policy — many from the University of Toronto Faculty of Law — address the potential impact of these changes on the rights and freedoms that Canadians enjoy. The book is based on papers presented at a conference organized by the Faculty just two months after terrorist attacks in the United States rocked the world. The essays in this book provide a permanent record of the vital legal debate surrounding Bill C-36.

“I cannot think of any enterprise at this time that could be more in the public interest than the dissemination of this book. What we have needed is intelligent and well-informed analysis and criticism of Bill C-36 in order that the parliamentary and wider public debate will be as relevant and well-informed as possible. I have no doubt that the book will be referred to many times over in the near and distant future... The Canadian public is much indebted to the Faculty of Law and the University of Toronto Press.”

The Hon. Mr. Justice John W. Morden ('59)
Court of Appeal for Ontario



International Health Care Reform: A Legal, Economic, and Political Analysis

Colleen M. Flood

ISBN: 0-415-20844-0
Suggested Retail: \$159.00 CDN

This work examines the two models of health care reform – managed competition and internal markets – that are increasingly becoming the dominant paradigm in European and North American policy. Considering the experience of reform in Canada, the U.S., the U.K., the Netherlands and New Zealand, Flood analyzes which reform model is likely to efficiently ensure access for all citizens to a comprehensive range of services, and draws out the implications for policy.

Chapters cover such topics as arguments in economics and justice for government intervention in health service markets; reform of health care systems in different countries; accountability of health care purchasers; the problems of monopoly supply; and improving health care quality while encouraging competition.



Barristers and Solicitors in Practice

General Editors, Justice Kenneth Lysyk and Lorne Sossin

ISBN: 433403616
Suggested Retail: \$210.00 CDN

This text is intended to be a comprehensive reference source for the rules, statutes and case law that govern all aspects of the practice of law in the common law jurisdictions of Canada. Its aim is to enable a practitioner anywhere in the country to get quick and detailed answers to any questions about the structure and organization of the legal profession, the responsibilities and obligations of lawyers in carrying on the practice of law, and the dangers they may face in the course of doing so. The initial chapters deal with the organization of the profession, becoming a lawyer and setting up shop, and the other half of the book deals with the pitfalls of practice. Each chapter is prepared by an expert in the relevant field and Canadian lawyers can turn to it for advice on billing and remuneration, structuring the retainer, withdrawing from a file, receiving and accepting client instructions, establishing a partnership structure, advertising and competition among lawyers, confidentiality and conflict of interest, and professional conduct of judges and lawyers.

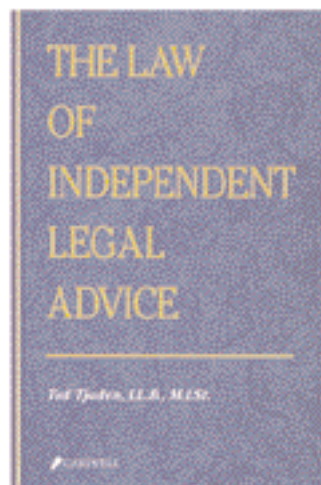


Legal Research and Writing: Law in a Nutshell

Ted Tjaden

ISBN: 1-55221-050-2
Suggested Retail: \$39.95 CDN

This book explains the practical skills needed for print and online legal research and for legal writing. It provides a current and comprehensive look at the topic, consolidating information on legal research and writing into one handy, easy-to-use resource. Written for both the seasoned practitioner seeking to add the latest techniques to his or her research arsenal, and for the beginning law student who faces a bewildering array of information, this book includes chapters on legal research malpractice and the acquisition of research resources. It concludes with a hypothetical case study in which the author demonstrates how legal research and writing skills are applied in a typical research problem.



The Law of Independent Legal Advice

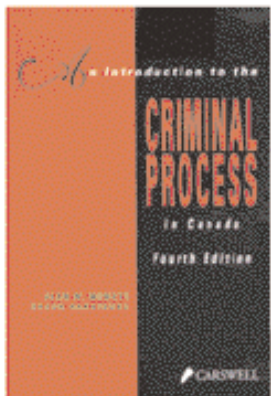
Ted Tjaden

ISBN: 0-459-26120-7
Suggested Retail: \$73.00 CDN

This book presents a comprehensive overview of the law governing lawyers when they provide (or fail to provide) independent legal advice to clients. Providing one-stop shopping for lawyers, judges and law students, it contains a review of all relevant Canadian case law and commentary on independent legal advice in a number of areas, including bank guarantees, family law, employment law, corporate law and insurance law. Also included is discussion of the professional and ethical responsibilities lawyers face and the risk of negligence claims for failing to provide independent legal advice or providing it incompetently. In addition to providing a thorough review of all relevant case law, the book also puts the law of independent legal advice in context by analyzing the factors that courts consider to determine when independent legal advice is warranted for a particular transaction.

Text Books

Faculty members continue to contribute to pedagogy and legal education through annual updating and revisions to acclaimed texts and casebooks.



An Introduction to the Criminal Process in Canada 4th Edition

Alan W. Mewett and Shaun Nakatsuru

ISBN: 0-459-27665-4
Suggested Retail: \$48.00 CDN

Co-authored by the late Alan Mewett, Q.C. — a beloved professor at the Faculty and highly respected authority on criminal procedure and the law of evidence — this book provides an overview of the criminal process that is intelligible to the reader without a legal background, from student to social worker, and police recruit to justice of the peace. This nutshell treatment of criminal procedure in Canada covers all stages of the criminal process from arrest or detention to conviction and sentencing, in a clear, understandable manner. The 4th edition incorporates the Canadian Security Intelligence Service Act, which replaced many of the provisions of the Official Secrets Act and introduced new provisions. Other legislative change since the last edition includes coverage of the Controlled Drugs and Substances Act.



Cases and Materials on Contracts 2nd Edition

S.M. Waddams, M.J. Trebilcock,
M.A. Waldron

ISBN: 1-55239-082-9
Suggested Retail: Student \$90.00 CDN
Practitioner \$120.00 CDN

The latest edition of this seminal text on Canadian contract law offers students and teachers a collection of materials including cases from Canadian, Commonwealth and American jurisdictions, and relevant statutory provisions, notes, problems, and extracts from academic writing. The first chapter takes into account the lively interest in the theory of contract law throughout the last 15 years, while the second chapter is on remedies, and the third on enforceability. The authors have drawn from many sources in compiling this book, and acknowledge debts to colleagues, students and predecessors in the field of contracts casebooks, in particular to the late J.B. Milner, who taught at the University of Toronto for many years until his death in 1968.



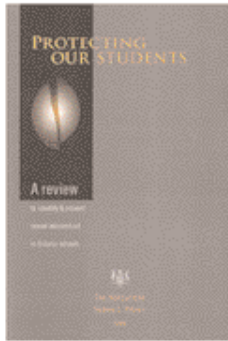
Commercial and Consumer Sales Transactions: Cases, Text and Materials 4th Edition

Jacob S. Ziegel, Anthony Duggan

ISBN: 1-55239-054-3
Suggested Retail: Student \$84.00 CDN
Practitioner \$120.00 CDN

The subject of sales transactions has now achieved casebook status, with Professors Ziegel and Duggan collaborating to update the fourth edition of this vital text. Six years have elapsed since the publication of the third edition, and the editors have made some important changes. Most notably, Duggan, a distinguished Australian commercial and consumer law scholar, has contributed relevant Australian cases and other materials in areas where there were no adequate Canadian counterparts. Several of the chapters have been subdivided to keep them tolerable in size and precise in scope. Readers will still discover that topics in earlier editions — such as comprehensive analysis of commercial and consumer sales law from a Canadian perspective, commercial paper transactions, payment services, and banking law, and the provincial personal property security acts — remain comprehensive in the new incarnation of the book. Achieving casebook status is a clear reflection of the importance attached to this aspect of the subject of commercial and consumer sales.

Alumni Publications

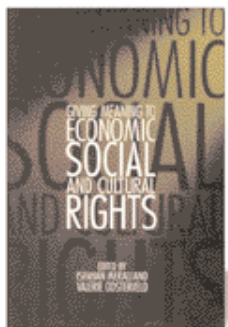


Protecting Our Students, A Review to Identify and Prevent Sexual Misconduct in Ontario Schools

The Honourable Sydney L. Robins ('47)

ISBN: 0-7778-9346-0 Suggested Retail: \$30.00 CDN

The Honourable Sydney L. Robins was appointed by the provincial government in 1999 to review incidents at a Sault Ste. Marie Catholic school where a male teacher sexually assaulted female students from the late 1970s to the early 1990s. The mandate: to make recommendations about protocol, policy and procedures in order to effectively identify and prevent sexual assault, harassment or violence. The report contains 101 recommendations for change, specifically addressing teacher-student sexual misconduct in the elementary and secondary schools. The book provides an overview of the entire report, including details from the Sault Ste. Marie case, the extent and nature of the problem of sexual misconduct by teachers, laws pertaining to sexual misconduct by teachers, and an examination of existing policies.

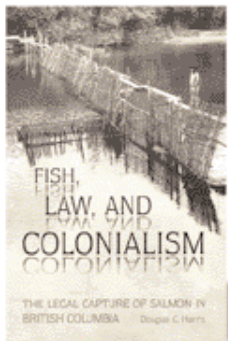


Giving Meaning to Economic, Social and Cultural Rights

Edited by Isfahan Merali ('95) and Valerie Oosterveld ('93)

ISBN: 0-8122-3601-7 Suggested Retail: \$71.00 CDN

In this collection of essays, Isfahan Merali, Valerie Oosterveld and a team of human rights scholars and activists call for the reintegration of economic, social, and cultural rights into the human rights agenda. The essays are divided into three sections. First, the contributors examine traditional notions of human rights that made their categorization possible and suggest a more holistic rights framework that would dissolve such boundaries. In the second section they discuss how an integrated approach actually produces a more meaningful analysis of individual economic, social, and cultural rights. Finally, the contributors consider how these rights can be monitored and enforced, identifying ways international human rights agencies, NGO's, and states can promote them in the 21st century.

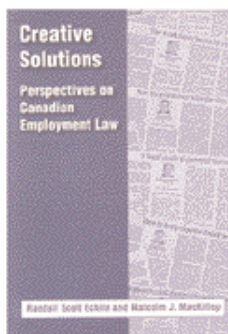


Fish, Law, and Colonialism, The Legal Capture of Salmon in British Columbia

Douglas C. Harris ('93)

ISBN: 0-8020-8453-2 Suggested Retail: Paperback \$27.95 CDN Hardcover \$65.00 CDN

Pacific salmon fisheries, owned and managed by Aboriginal peoples, were transformed in the late 19th and early 20th centuries by commercial and sport fisheries backed by Canadian state and law. Through detailed case studies, the author describes the evolving legal apparatus that dispossessed Aboriginal peoples of their fisheries. Harris draws on government records, statute books, case reports, newspapers, missionary papers, and secondary anthropological literature to explore the roots of the continuing conflict over the salmon industry in British Columbia.



Creative Solutions, Perspectives on Canadian Employment Law

Randall Scott Echlin ('75) and Malcolm J. MacKillop

ISBN: 0-88804-309-0 Suggested Retail: \$50.00 CDN

Over the last two decades of practicing employment law, there has been a steady increase in the complexity of the problems facing employers when managing their workforce. Managing an employment relationship is more concerning now that employers are aware of harassment-type behaviour, the costs of fraudulent accident or sick leave claims, and the potential for accidents caused by alcohol or drug abuse. The book provides interesting and complex workplace issues facing employers today, and a snapshot of various solutions and approaches to these problems. Divided into four parts, the book presents many unique challenges that confront both the employee and employer during various stages of the employment relationship.



Adjunct Faculty 2001-2002

The following adjunct faculty for the past academic year brought to the law school a wealth of knowledge from private practice, public service, business and the bench. Their experience and expertise enriched the learning environment enormously.

Mr. Michael Bay
Ms. Wendy Bellack-Viner
Ms. Maureen Berry
Ms. Ronda Bessner
Professor Adalstein Brown
Ms. Clare Burns
Mr. Donald Cameron
Dr. Niteesh Choudhry
Mr. Michael Code
The Hon. Justice David Cole
Mr. Jack Coop
Mr. David Corbett
Mr. Jonathan Dawe
Ms. Mary Eberts
Professor Timothy Edgar
Professor Rami Elitzur
Philip Epstein Q.C.
Ms. Leilani Farha
Mr. Jeremy Fraiberg
Ms. M. Margaret Froh

Mr. Barry Glaspell
Ms. Julie Hannaford
Mr. Graham Henderson
Mr. Jeffrey Hewitt
Mr. D'Arcy Hiltz
Ms. Laura Hopkins
Professor Howard Irving
Ms. Melissa Kennedy
Gordon Kirke Q.C.
Ms. Patricia Koval
Mr. David Lepofsky
Mr. Alan Levy
Mr. Scott MacKendrick
Mr. Stanley Makuch
Mr. Bradley McLellan
Mr. Craig McTaggart
Mr. M. Paul Michell
The Hon. Mr. Justice John Morden
Mr. Shaun Nakatsuru
Mr. John Norris

Mr. Rodney Northey
Ms. Shelley Obal
Mr. Richard Owens
Mr. Eric Roher
Mr. Jeffrey Rose
Ms. Joanne Rosen
Professor Peter Rosenthal
Ms. Janice Sandomirsky
Mr. Philip Siller
Ms. Debra Steger
Professor Janice Stein
Professor David P. Stevens
Mr. Allan Stitt
Mr. John Terry
Ms. Laura Trachuk
Ms. Tanja Wacyk
Ms. Ruth Wahl
Mr. Scott Wilkie
Mr. Kerry Wilkins
Ms. Katrina Wyman



Distinguished Visiting Lecturers

In recent years, the Faculty has undertaken fundamental and far-reaching changes to its program, including the introduction of an innovative Distinguished Visitors Program that each year brings more than 25 leading national and international scholars to the Faculty. These renowned academics contribute to the Faculty's climate of intellectual pluralism and diversity, and help to ensure a rigorous and stimulating legal education.

This past year, esteemed guests included Professor Harold Hongju Koh, Yale law school's Gerard C. and Bernice Latrobe Smith, Professor of International Law. Professor Koh, who delivered the 2002 Cecil A. Wright Memorial Lecture, is former U.S. Assistant Secretary of State for Democracy, Human Rights and Labour and has been heralded as one of America's 45 leading public sector lawyers under the age of 45. Professor Lech Garlicki, a former Justice of the Constitutional Court of Poland and currently professor at the University of Warsaw, was another distinguished visitor. Professor Garlicki, who has authored numerous books and articles in the fields of constitu-

tional law, comparative constitutional law, judicial review and human rights, is Vice-President of the Polish Association of Constitutional Law and was formerly Director of the American Studies Centre of Warsaw University. Professor Pamela Samuelson, Director of the Berkeley Center for Law & Technology, also contributed to this vital program at the Faculty. Named one of the 100 most influential lawyers in the U.S. by the National Law Journal, Professor Samuelson has written and spoken extensively about the challenges that new information technologies pose for traditional legal regimes.

The Faculty is indebted to all of its distinguished visiting professors who sparked lively, stimulating debate and discussion among students and colleagues.

The Hon. Madam Justice Rosalie S. Abella
Court of Appeal for Ontario

Prof. James Alleman, University of Colorado

Prof. James Anaya, University of Arizona
College of Law (*see photo 15*)

Prof. Upendra Baxi, University of Warwick (*see photo 3*)

Jack Beatson Q.C., University of Cambridge (*see photo 10*)

Prof. Ana Maria Bejarano, Instituto de Estudios Politicos y Relaciones Internacionales, Columbia

Prof. Richard Briffault, Columbia Law School

Prof. Grainne deBúrca, European University Institute, Florence

Prof. Andrew Christie, University of Melbourne Law School

Prof. Enrico Colombatto, University of Turin, Italy (*see photo 2*)

Prof. Adrienne Davis, University of North Carolina
at Chapel Hill

Prof. Janelle Diller, International Labour Office,
Geneva, Switzerland (*see photo 6*)

Prof. William Eskridge, Yale Law School (*see photo 13*)

Prof. George Fletcher, Columbia Law School

Justice Lech Garlicki, University of Warsaw Poland

Prof. Sherry Glied, Columbia University (*see photo 12*)

Prof. Wendy Gordon, Boston University Law School (*see photo 9*)

The Hon. Mr. William C. Graham Q.C., Minister of
Foreign Affairs, Canada

Prof. Gunther Handl, Tulane University Law School

Prof. Alon Harel, Hebrew University

The Hon. Mr. Justice Frank Iacobucci
Supreme Court of Canada

Prof. Jack Knetsch, Simon Fraser University

Prof. Harold Koh, Yale Law School

Prof. Andrée Lajoie, University of Montréal Law School

Prof. Lawrence Lessig, Stanford Law School (*see photo 5*)

Prof. Saul Levmore, University of Chicago
Law School (*see photo 7*)

Prof. Jonathan Macey, Cornell Law School

Prof. Paul Mahoney, University of Virginia Law School

Prof. Anthony Ogus, University of Manchester Law School

Prof. Guido Pincione, Torcuato Di Tella
University, Argentina (*see photo 11*)

Prof. Margaret Radin, Stanford Law School

Prof. Pam Samuelson, University of
California at Berkeley (*see photo 4*)

Prof. Frederick Schauer, Harvard University

Prof. Gabriela Shalev, Hebrew University of Jerusalem

Prof. Horacio Spector, Torcuato Di Tella University

Prof. Mike Taggart, University of Auckland

Prof. Stephen Toope, McGill University

Prof. George Triantis, University of Chicago Law School

Prof. J.H.H. Weiler, Harvard Law School (*see photo 1*)

Prof. Paul Weiler, Harvard Law School

Prof. Robert Wintemute, King's College
London School of Law

Prof. Glen Whyte, Rotman School of Management, U of T

Mr. John Whyte Q.C., Deputy Minister of Justice and Deputy
Attorney General for Government of Saskatchewan

Prof. Jiunn-Rong Yeh, National Taiwan University (*see photo 8*)

Prof. Stanley Yeo, Southern Cross University, Australia (*see photo 14*)

Prof. José Zalaquett, University of Chile
Law School (*see photo 16*)

Faculty Notes



Peter Benson



Jutta Brunnée



Bruce Chapman



Sujit Choudhry



Peter Benson

Presentations

“Equality of Opportunity and the Limits of Private Law” (Symposium on “Human Rights in Private Law”) University of Tel-Aviv Faculty of Law, May 2000; “Comment on J.W.Harris ‘Property and the Common Law’” (Oxford –University of Toronto Jurisprudence Exchange) University of Toronto, September 2000; “The Idea of Property in Private Law” (University of Toronto-Oxford Jurisprudence Conference) Oxford University, Feb. 2001; “Formal Equality of Opportunity and Private Law”, Legal Theory Workshop, University of Virginia School of Law, April 2001.

Publications

The Theory of Contract Law: New Essays (Cambridge University Press, 2001) (P. Benson, Editor and Contributor, pp. 1-18 and 118-205); “The Expectation and Reliance Interests in Contract Theory: A Reply to Fuller and Perdue” Article 6 in Symposium on Fuller and Perdue *The Reliance Interest in Contract Damages*” published in *Issues in Legal Scholarship: The Journals of Legal Scholarship* (R. Cooter and J. Gordley, ed., bepress.com., 2001.); “Philosophy of Property Law” in *The Oxford Handbook of Jurisprudence and Philosophy of Law* 752-814 (Coleman and Shapiro, eds. Oxford University Press, 2002); “Equality of Opportunity and Private Law” in *Human Rights in Private Law* 201-243 (D. Friedmann and D. Barak-Erez, eds. Hart Publishers, 2002).

Appointments

Professor of Law, University of Toronto Faculty of Law, 2000.



Jutta Brunnée

Publications

Yearbook of International Environmental Law, Volume 10 (Oxford University Press, 2001) (Editor-in-Chief, with Professor Ellen Hey); “Interactional International Law”, 3 *International Law FORUM de droit international* 186-192 (2001) (with S.J. Toope); “Terrorism and Legal Change: An International Law Lesson”, in R.J. Daniels et al., eds., *The Security of Freedom: Essays on Canada’s Anti-Terrorism Bill* (2001) 341-352; “International Law and Constructivism: Elements of an Interactional Theory of International Law” (2000) 39 *Columbia Journal of Transnational Law* 19-74 (with S.J. Toope); “A Fine Balance: Facilitation and Enforcement in the Design of a Compliance Regime for the Kyoto Protocol”, (2000) *Tulane Environmental Law Journal* 223-270; “Umweltvölkerrecht, by Ulrich Beyerlin”, (2001) 61/1 *Zeitschrift für ausländisches öffentliches Recht und Völkerrecht (Heidelberg Journal of International Law)* 320-322 (Book Review).

Presentations

“The International Context: Responses to Terrorism, the United Nations Security Council and International Law”, Presentation to “The Security of Freedom: A Conference on Canada’s Anti-Terrorism Bill”, Faculty of Law, University of Toronto; November 2001; “Rio + 10: Developments in the Structure and Process of International Environmental Law”, Presentation to the Annual Conference of the International Law Association (American Branch), New York City; October 2001; “The Structure and Process of International Law – Revisited (A Conversation w/ Douglas Johnston)”, Moderator and Discussant

on panel on international legal theory (w/ Professor C.M. Scott), Annual Conference, Canadian Council on International Law, Ottawa; October 2001; "The Evolving Process of Environmental Treaty-Making: Between Sovereignty, Efficiency and Legitimacy", Presentation to the West Coast Environmental Law Conference on "Canada and International Environmental Law", Vancouver; February 2001; "Constructing Compliance: The Development of a Compliance Regime for the Kyoto Protocol from the Perspective of an Interactional Theory of International Law", Presentation to the Environmental Law Workshop, Georgetown University Law Center, Washington, D.C.; October 2000.

Conferences

Co-Chair, Organizing Committee for the 2001 Annual Conference of the Canadian Council on International Law ("Globalism: People, Profits and Progress"); Co-Organizer (with S.J. Toope), Interdisciplinary Workshop on International Law and International Relations Theory, held in Montreal, October 2001, as part of SSHRC Standard Research Grant Project on "The Evolution of International Legal Regimes: New Approaches to Law, Society and Politics."

Research Grants

Year 3 - SSHRC Standard Research Grant (jointly with Stephen J. Toope) on "The Evolution of International Legal Regimes: New Approaches to Law, Society and Politics;" Department of Foreign Affairs and International Trade, Contribution to support editorial work on volume 11 of the *Yearbook of International Environmental Law*.



Bruce Chapman

Awards, Appointments, and Fellowships

Social Sciences and Humanities Research Council Standard Research Grant (for research into "Public Reason and Collective Action: Lessons from the Law"), 2000-03; Visiting Professor and Lecturer, School of Law, Universidad Torcuato di Tella, Buenos Aires, Argentina, November 2000; Hoover Fellowship in Economics and Social Ethics, Chaire Hoover d'Ethique Economique et Sociale, Catholic University of Louvain, Louvain-la-Neuve, Belgium, June 2001; Connaught Social Science Research Fellowship, University of Toronto, July-December 2001.

Presentations

"Categorical Choice and Collective Rationality", Annual Meeting of the European Public Choice Society, Siena, Italy, April 2000; "Law Games: Defeasible Rules and Revisable Rationality", Faculty Seminar, School of Law, Universidad Torcuato Di Tella, Buenos Aires, Argentina, November 2000; "Rational Aggregation", Oxford-Toronto Jurisprudence Symposium, Department of Law, Oxford University, February 2001; and at the Social and Political Philosophy Seminar, Chaire Hoover d'Ethique Economique et Sociale, Catholic University of Louvain, Louvain-la-Neuve, Belgium, June 2001; "Convergence in Corporate Governance and the Law: Necessary and Sufficient Conditions", Workshop on "The Regulation of Markets and Public Corporations", School of Law, University of Tilburg, Netherlands, June 2001; "Public Reason, Social Choice, and Co-operation", Eighth Conference on Theoretical Aspects of Rationality and Knowledge (TARK VIII), Siena, Italy, July 2001.

Books

Co-edited with Jim Phillips and David Stevens, *Between State and Market: Essays on Charities Law and Policy in Canada* (Montreal: McGill-Queens University Press 2001).

Articles

"Rationally Transparent Social Interactions", in M. Streit, Uwe Mummert, and Daniel Kiwit (eds.), *Cognition, Rationality, and Institutions* (Berlin: Springer 2000) 189-204; "Chance, Reason, and the Rule of Law" 50 *University of Toronto Law Journal* (2000) 469-92; "Pluralism in Tort and Accident Law: Towards a Reasonable Accommodation" in G. Postema ed. *Philosophy and the Law of Torts* (New York: Cambridge University Press, 2001) 276-321; "Rational Voluntarism and the Charitable Sector", in J. Phillips, B. Chapman and D. Stevens eds., *Between State and Market: Essays on Charities Law and Policy in Canada* (Montreal: McGill-Queens University Press 2001) 127-165; "Public Reason, Social Choice, and Co-operation", in Johan van Benthem ed. *Rationality and Knowledge* (Proceedings of the Eighth Annual TARK Conference 2001) (San Francisco: Morgan Kaufman Publishers, 2001) 319-332; "Rational Aggregation" forthcoming in 1 *Politics, Philosophy, and Economics* (2002).



Sujit Choudhry

Publications

"Political Science and the Canadian Judicial Activism Debate", *International Journal of Constitutional Law* (forthcoming 2003); "Recasting Social Canada: A Reconsideration of Jurisdiction over Social Policy", *University of Toronto Law Journal* (forthcoming 2002); "National Minorities and Ethnic Immigrants: Liberalism's Political Sociology", *Journal of Political Philosophy* (forthcoming 2002); "The Agreement on Internal Trade, Economic Mobility, and the Charter", *Constitutional Forum* (forthcoming 2002) (a revised and expanded version of a paper of the same title in *Strengthening Canada: Challenges for Internal Trade and Mobility* [Winnipeg: Internal Trade Secretariat, 2002]); "CPR for the DNR: The Role of the Limited Aggressive Therapy Order" (with Niteesh Choudhry and Peter A. Singer), *Annals of Internal Medicine* (forthcoming 2002) (winner of the K.J.R. Wightman Award for Research in Biomedical Ethics from the Royal College of Physicians of Canada); "Equality in the Face of Terror: Ethnic and Racial Profiling and the Charter", in R. Daniels, P. Macklem & K. Roach, eds., *The Security of Freedom Essays on Canada's Anti-Terrorism Bill* (Toronto: University of Toronto Press, 2001) 163-78; "Collective Bargaining by Physicians: Labor Law, Antitrust, and Organized Medicine" (with Troyen Brennan), 345 *New England Journal of Medicine* 1141-4 (2001); "Citizenship and Federations: Some Preliminary Reflections", in Kalypso Nicolaidis and Robert Howse, eds., *The Federal Vision: Legitimacy and Levels of Governance in the US and the EU* (Oxford: Oxford University Press, 2001) 377-402; "Unwritten Constitutionalism in Canada: Where Do Things Stand?" (2001) 35 *Canadian Business Law Journal* 113-122; "Distribution vs. Recognition: The Case of Anti-Discrimination Laws" (2000) 9 *George Mason Law Review* 145-178; "Constitutional Theory and the Quebec Secession Reference" (2000) 13 *Canadian Journal of Law and Jurisprudence* 143-169 (with Robert Howse) (reprinted in David Dyzenhaus and

Arthur Ripstein, eds., *Law and Morality: Readings in Legal Philosophy* (Toronto: University of Toronto Press, 2001) at 634-71; "Bill 11, The Canada Health Act and the Social Union: The Need for Institutions", (2000) 38 *Osgoode Hall Law Journal* 39-99 (reprinted in Barbara von Tiegertstrom and Timothy Caulfield, eds., *Health Care Reform and the Law in Canada: Meeting the Challenge* (Edmonton: University of Alberta Press, 2002) at 37-84.

Presentations

"The Legality of Private Health Care", Department of Health Policy, Management and Evaluation, University of Toronto, February 2001; "The Law Case: A Comparison with Human Rights Code Jurisprudence", Legal Services Branch, Ontario Human Rights Commission, Toronto, ON, December 2001; "Equality in the Face of Terror: Ethnic Profiling and the Charter", The Security of Freedom: A Conference on Canada's Proposed Anti-Terrorism Bill, Toronto, ON, November 2001; "The Lochner Era and Comparative Constitutionalism", Law and Society Association 2001 Annual Meeting, Budapest, Hungary, July 2001; "The Agreement on Internal Trade, Economic Mobility, and the Charter", Strengthening Canada: Challenges for Internal Trade and Mobility, Colony Hotel, Toronto, ON, June 2001; "Health Care Regulation and

Federalism", Social Benefits Law, Osgoode Hall Law School, York University, April 2001; Discussant, Panel on "Living Together: Structures", Living Together: Sharing the Canadian Experience (i.e. lessons from Canadian federalism for Cyprus), Canadian Centre for Foreign Policy Development and University of Calgary, Banff, Alberta, March 2001; "The Kearney Decision", Homelessness Bridge Week, Faculty of Law, University of Toronto, November 2000; "Toward a Theory of Comparative Constitutional Interpretation", New Approaches to Constitutional Law, Faculty of Law, University of Toronto, October 2000; "Unwritten Constitutionalism in Canada: Where do Things Stand? (Comment on Elizabeth Edinger)", Consumer and Commercial Law Workshop, Faculty of Law, University of Toronto, October 2000; "Bill 11, The Canada Health Act and the Social Union: The Need for Institutions", Health Law Day, Faculty of Law, University of Toronto, October 2000; "Bill 11, The Canada Health Act and the Social Union: The Need for Institutions", Health Law and Policy Seminar Series, Faculty of Law, University of Toronto, October 2000.

Miscellaneous

Consultant to Royal Commission on the Future of Health Care (Romanow Commission).



Rebecca Cook



Brenda Cossman



Ronald Daniels



Kevin Davis



Rebecca Cook

Publications

Cook, R.J., "Developments in Abortion Laws: Comparative and International Perspectives" in *Medical Ethics at the Dawn of the 21st Century*, Raphael Cohen-Almagor ed., New York: New York Academy of Sciences, 2000, pp.74-87; Cook, R.J., "Effectiveness of the Beijing Conference in Fostering Compliance with International Law Regarding Women" in *United Nations-Sponsored World Conferences: Focus on Impact and Follow-Up*, Schechter M.G. (ed.), Tokyo, New York, Paris: United Nations University Press, 2001, pp.65-84; Cook, R.J., *Advancing Safe Motherhood through Human Rights in Giving Meaning to Economic, Social and Cultural Rights*, I. Merali and V. Oosterveld (eds.), University of Pennsylvania Press, 2001, pp.109-123; Cook, R.J., Dickens, B.M., Wilson, A.,

Scarrow, S. *Advancing Safe Motherhood through Human Rights*, World Health Organization, 2001, 169 pp; Cook, R.J. and Pretorius, R., "Duties to Implement Reproductive Rights: The Case of Adolescents", *Women's Rights and Bioethics*, L. Dennerstein (ed.), Paris: UNESCO Publishing, 2001, Forthcoming in French translation; Dickens, B.M. and Cook, R.J., "Law and Ethics in Conflict over Confidentiality?" 70: 385-391 *International Journal of Gynecology and Obstetrics*, (2000); Dickens, B.M. and Cook, R.J., "The Scope and Limits of Conscientious Objection", 71: 71-77 *International Journal of Gynecology and Obstetrics*, (2000); Dickens, B.M. and Cook, R.J., "The Management of Severely Malformed Newborn Infants: The Case of Conjoined Twins", 73: 69-75 *International Journal of Gynecology and Obstetrics*, (2001).

Papers Presented

"Where Next with Human Rights and Women's Reproductive and Sexual Health?" Seminar on Gender and Health Policy,

Mexican Ministry of Health, UNIFEM, UNFPA, UNICEF, PAHO, Mexico City, March 7-9, 2001; "Developments in Judicial Approaches to Sexual and Reproductive Health", 13th World Congress on Medical Law, Helsinki, Finland, August 8, 2000.

Invited Lectures

"Fostering Compliance with Reproductive Rights", International Congress on Public Health, Institute for Public Health, Cuernavaca, Mexico, March 8, 2001; "Social Justice, Human Rights and Public Health Policy", 128th American Public Health Association Annual Meeting, Boston, Massachusetts, November 15, 2000; "Women's Health and Human Rights", The Willis G. Cunningham Memorial Lecture, Faculty of Law, Queen's University, Kingston, Ontario, September 29, 2000; "Social Justice and Ethical Dimensions of Access to Abortion Care" and "Obligations of Government to Facilitate Women's Access to Needed Services", Safe Abortion: A W.H.O. Technical Consultation to Develop Technical and Policy Guidance for Health Systems, Geneva, September 18-20, 2000; "Recognizing Adolescents' Evolving Capacities to Exercise Choice in Reproductive Health Care", XVI World Congress of Gynecology and Obstetrics, Washington, D.C., September 4, 2000; "Safer Abortion Services: How the Law Can Make a Difference", XVI World Congress of Gynecology and Obstetrics, Washington, D.C., September 5, 2000; "Abortion: Human Rights and the Cairo Process", Meeting on Priorities and Needs in the Area of Unsafe Abortion, W.H.O., Geneva, August 28-29, 2000.

Contributions to Conferences-Panel Presentations

Thai Gala, Dinner Speaker, Challenging our Understanding: Human Rights Symposium, Faculty of Law, University of Toronto, March 16, 2001; "Access to Treatment as a Human Right", Emerging Issues Related to HIV/AIDS: Canadian and International Perspectives, Faculty of Law, University of Toronto, Canada, March 12, 2001; "Safe Motherhood: Is it a Human Right?" Health Law and Policy Seminar Series, Faculty of Law, University of Toronto, December 7, 2000; "Pedagogy", Workshop on Human Rights Teaching and Scholarship: New Issues, New Approaches, Association of American Law Schools, Alexandria, Virginia, October 26-28, 2000; "International Health and Human Rights", Faculty of Medicine, Queen's University, Kingston, Ontario, September 30, 2000; "International Women's Rights", PAHO/WHO Collaborating Centre in Women's Health Research, Toronto, Canada, August 18, 2000; "Can Human Rights Advance Safe Motherhood?" Health and Human Rights Seminar Series, W.H.O., Geneva, August 4, 2000; "International Developments in Reproductive Health Rights", International Women's Health Symposium, Society of Obstetricians and Gynaecologists of Canada, Montreal, Canada, June 18, 2000; Participant, Safe Motherhood as a Human Right: Meeting of Experts, Center for Reproductive Law and Policy, New York, June 12, 2000.

Appointments

Faculty of Law

Co-Director (with B.M. Dickens) International Programme on Reproductive and Sexual Health Law; Member, Advisory Board, Women's Human Rights Resources website, Bora Laskin Law Library; Graduate Committee.

University

International Business Development Initiative Steering Committee, Member, (1999-); Joint Centre for Bioethics (1996-).

Other

Visiting Professor, Short Course on Reproductive Health, Rights, Ethics and the Law for Law Faculty, Students and Practitioners, Reproductive Health, Rights and Ethics Center for Studies and Training, University of the Philippines, Manila, April 5-6, 2001; Visiting Professor, Short Course on Reproductive Health, Rights, Ethics and the Law for Doctors, Medical Faculty and Students, Reproductive Health, Rights and Ethics Center for Studies and Training, University of the Philippines, Manila, April 2-3, 2001; Faculty member, U.S. Agency for International Development, Public Health and Human Rights Course, Washington, D.C., January 10-11, 2001.



Brenda Cossman

Articles

"Gender Performance, Sexual Subjects and International Law" Canadian Journal of Law and Jurisprudence (forthcoming 2002). "What is Marriage-Like Like? The Irrelevance of Conjugalty" with Bruce Ryder (2002) 18 Canadian Journal of Family Law 269-327. "Political Association and the Anti-Terrorism Bill" with David Schneiderman, in Daniels, Macklem and Roach eds., *The Security of Freedom: Essays on Canada's Anti-Terrorism Bill* (Toronto: University of Toronto Press, 2001).

Forthcoming Books

Privatization, Law and the Challenge to Feminism, Co-edited (with Judy Fudge) to be published in the fall by University of Toronto Press.

Conference and Other Presentations

"What is Marriage-Like Like? Assessing the Focus on Ascribing Status to Conjugal Cohabitation" with Bruce Ryder, International Society of Family Law Conference, Queen's University, Kingston, June 2001. "Spouse in the House Rule and the Legal Regulation of Spousal Dependency" panel, Public Interest Law Symposium, Toronto, February 2002. "Political Association and the Anti-Terrorism Bill" with David Schneiderman, The Security of Freedom Conference, Faculty of Law, University of Toronto, November 2001. "Secularism and the Protection of Religious Minorities in India", Symposium Addressing the Legal Rights of Minority Communities" New York University Law School, April 2002. Presenter, "Is Censorship Ever Justified? After September 11th" National Editors Association, Toronto, February 2002. Presenter, "Pussy Palace Wins", Community Forum Organized by Xtra!, Toronto, March 2002.



Ronald Daniels

Olin Visitor – Cornell Law School (May 1 – 12, 2000). Visiting Professor – Israel, Hebrew University (May 5 – 19, 2001). Delivered Paper: "What is the Future of Government?" Keynote Speaker at AALS/ABA on Law School Development for Deans and Administrators (May 29 – June 1, 2001), Delivered Speech: "The Challenges facing Legal Education in a Globalized World". Visiting Lecturer – Argentina, De Tella University, (June 1 – 9, 2001), Delivered Paper: "Government by voucher: the next privatization frontier" (with Prof. M. Trebilcock). Visiting Scholar – International Centre for Economic Research (ICER) Torino,

Italy (July 1 – 18, 2001). Participant – IRPP Conference “The Art of the State with Frontiers”, Ottawa (Oct. 12/13), Delivered Paper: “Rethinking the Race to the Bottom in International Corporate Regulation”. Keynote Speaker – “Pro Bono Forum 2001 – For the public good”, Vancouver (Oct. 19, 2001), Delivered Speech: “The Possibilities for the Lawyer as an Enlightened Public Citizen”. Conference Co-organizer: The Security of Freedom: A Conference on Canada's Anti-Terrorism Bill (Nov. 9 – 10, 2001). Co-editor: “The Security of Freedom - Essays on Canada's Anti-Terrorism Bill” (with P. Macklem, K. Roach & published by U of T Press). Named Chair – Panel of the Future of Government, for the Ontario Government. Founding Member, International Lawyers and Economists Against Poverty. Founding Member, Ontario Pro Bono Initiative.



Kevin Davis

Appointments

Associate Professor, Faculty of Law, University of Toronto.

Publications

“Cutting off the Flow of Funds to Terrorists: Whose Funds? Which Funds? Who Decides?” in *The Security of Freedom*:

Essays on Canada's Anti-Terrorism Bill, R. J. Daniels, P. Macklem, and K. Roach eds. (Toronto: University of Toronto Press, 2001) at 299-319; “The Rules of Capitalism” (review of Hernando de Soto, *The Mystery of Capital: Why Capitalism Triumphs in the West and Fails Everywhere Else*) (2001) 22 *Third World Quarterly* 675-682.

Presentations

“Cutting off the Flow of Funds to Terrorists: Whose Funds? Which Funds? Who Decides?” The Security of Freedom: A Conference on Canada's Anti-Terrorism Bill, Toronto, November 9, 2001; “Explaining Levels of Commitment to Legality in Developing Countries” 2001 International Conference on Law and Society, Central European University, Budapest, July 4, 2001; Faculty of Law, University of Toronto, Law and Economics Workshop, April 4, 2001 (with M. Trebilcock); Participant, panel discussion on “Racial Equity: Progress on Bay Street?” sponsored by the Urban Alliance on Race Relations and the Law Society of Upper Canada, January 11, 2001.

Other Activities

Co-Reporter, Insolvency Institute of Canada Task Force on Business Insolvency Law Reform.



Bernard Dickens



David Duff



David Dyzenhaus



Colleen Flood



Bernard Dickens

Dr. William M. Scholl Professor of Health Law and Policy

Publications

(with R.J. Cook, A. Wilson, S. Scarrow) *Advancing Safe Motherhood through Human Rights*, World Health Organization, 2001, 169 pp; (with R.J. Cook) “Law and Ethics in Conflict over Confidentiality?” 70: 385-391 *International Journal of Gynecology and Obstetrics*, (2000); “Legal implications of ICD (Implantable Cardioverter Defibrillator) therapy”, 16 *Canadian Journal of Cardiology* 2000, 1319-1324; “The Continuing Conflict between Sanctity of Life and Quality of Life: From Abortion to Medically Assisted Death” in *Medical*

Ethics at the Dawn of the 21st Century, Raphael Cohen-Almagor ed., New York: New York Academy of Sciences, 2000, pp.88-104; “Legal Issues” in *Dementia*, J. O'Brien, D. Ames and A. Burns (eds.) London: Arnold; New York: Oxford University Press, 2nd Ed. 2000, pp. 274-278; (with R.J. Cook) “The Scope and Limits of Conscientious Objection”, 71: 71-77 *International Journal of Gynecology and Obstetrics*, 2000; “Governance Relations in Biomedical Research”, in Law Commission of Canada, *The Governance of Health Research Involving Human Subjects*, Ottawa: Law Commission of Canada (2000), 93-107; “Key Legal Issues”, in Part I: Some General Considerations, *Ethics and the Kidney*, Norman Levinsky ed., Oxford: Oxford University Press, 2001, pp.63-81; (with N.M. Lazar, S. Shemie, and G.C. Webster) “Bioethics for Clinicians: 24. Brain Death”,

165(6) *Canadian Medical Association Journal* (2001), pp. 833-6; "The Challenge of Equivalent Protection", *Ethical and Policy Issues in International Research: Clinical Trials in Developing Countries*, Volume II: Commissioned Papers and Staff Analyses, Bethesda, Maryland: National Bioethics Advisory Commission (2001), pp. A1-A17; (with R.J. Cook) "The Management of Severely Malformed Newborn Infants: The Case of Conjoined Twins", 73: 69-75 *International Journal of Gynecology and Obstetrics* (2001); (with T. Lemmens) "Canadian Law on Euthanasia: Contrasts and Comparisons", 8 *European Journal of Health Law* (2001), pp. 135-155; "Reproductive Health Services and the Law and Ethics of Conscientious Objection", 20 *Medicine and Law* (2001), pp. 283-293; (with J.V. Lavery et al.) "Origins of the Desire for Euthanasia and Assisted Suicide in People with HIV-1 or AIDS: A Qualitative Study", 358 *The Lancet* (2001), pp. 362-367; (with G.I. Serour) "Assisted Reproduction Developments in the Islamic World", 74: 187-193 *International Journal of Gynecology and Obstetrics*, (2001).

Addressed

"Reproductive Health Services and the Law and the Ethics of Conscientious Objection", 13th World Congress on Medical Law, Helsinki, Finland, August 9, 2000; "Legal Challenges in Assisted Reproduction", XVI World Congress of Gynecology and Obstetrics, Washington, D.C., September 4, 2000; "Allocating Scarce Resources in the Health Care Setting: Legal and Societal Perspectives", Consensus Conference on Prescribing Intravenous Immune Globulin, Toronto, Canada, October 3-4, 2000; "Consent and Informing About Uncertainty", Health Law Day, Faculty of Law, University of Toronto, Canada, October 27, 2000; "Can Science or Ethics Compromise Each Other in Human Subject Research?" Royal Society of Canada Symposium "Science and Ethics", Ottawa, Canada, November 18, 2000; "Research in Assisted Reproductive Technology", Ethical Implications of Use of Assisted Reproduction Technology for Treatment of Human Infertilities, International Islamic Center for Population Studies and Research, Al-Azhar University, Cairo, Egypt, November 23, 2000; Chair, Afternoon session, Ethical Implications of Use of Assisted Reproduction Technology for Treatment of Human Infertilities, International Islamic Center for Population Studies and Research, Al-Azhar University, Cairo, Egypt, November 24, 2000; Member, Report and Recommendation Drafting Committee, Ethical Implications of Use of Assisted Reproduction Technology for Treatment of Human Infertilities, International Islamic Center for Population Studies and Research, Al-Azhar University, Cairo, Egypt, November 20-24, 2000; "Ethical Issues in the Use of Human Subjects in Research", 7th Annual Ottawa Life Sciences National Conference and Exhibition, Ottawa, Canada, December 6, 2000; (with R.J. Cook), "Safe Motherhood: Is it a Human Right?" Health Law and Policy Seminar, University of Toronto, December 7, 2000; Latimer Panel, Faculty of Law, University of Toronto, Canada, March 6, 2001; Graduate Seminar on Ethics in Research, Faculty of Engineering, University of Toronto, Canada, March 8, 2001. March 17 – April 6, 2001 Hunter Area Health Service Visiting Professor in Health Law, Ethics and Policy, University of Newcastle, New South Wales, Australia.

Faculty of Law

Co-Director (with R.J. Cook) International Programme on Reproductive and Sexual Health Law; Member, Admissions Committee.

Federal Government

Founding Chairman, Research Ethics Board, Health Canada, Ottawa, (2001-).

Community Activities

Chair, Research Ethics Board, Baycrest Centre for Geriatric Care, North York.



David Duff

Publications

"Charitable Status and Terrorist Financing: Rethinking the Proposed *Charities Registration (Security Information) Act*", in Ronald J. Daniels, Patrick Macklem, and Kent Roach, *The Security of Freedom: Essays on Canada's Anti-Terrorism Bill*, (Toronto: University of Toronto Press, 2001) 321-37; "Weak Currency Borrowings and the General Anti-Avoidance Rule in Canada: From *Shell Canada* to *Canadian Pacific*" (2001), 55 *Bulletin for International Fiscal Documentation* 233-40; "Charitable Contributions and the Personal Income Tax: Evaluating the Canadian Credit", in Jim Phillips, Bruce Chapman, and David Stevens, eds., *Between State and Market: Essays on Charities Law and Policy in Canada*, (Montreal & Kingston: McGill-Queen's University Press, 2001) 407-56; "Tax Policy and the Family: A North American Perspective" in *Proceedings of the Fifteenth Annual Conference of the Foundation for Fiscal Studies*, (Dublin: Foundation for Fiscal Studies, 2000) 36-75; "Disability and the Income Tax" (2000), 45 *McGill Law Journal* 797-889.

Work in Progress

Canadian Income Tax Law: Cases, Text and Materials, (Toronto: Emond-Montgomery, forthcoming 2002); "Tax Treatment of Charitable Contributions in Canada: Theory, Practice and Reform"; "The Federal Income Tax Act and Private Law in Canada: Complementarity, Dissociation, and Canadian Bijuralism"; "Transfers, Taxes and Citizenship: Liberal Equality in *The Stakeholder Society*" (A review of Bruce Ackeman and Anne Alstott, *The Stakeholder Society*, (New Haven: Yale University Press, 1999)); "Gifts, Windfalls, and Income from an Unspecified Source: The Concept of Income in the Canadian Income Tax Act".

Presentations

"Charitable Status and Terrorist Financing: Rethinking the Proposed *Charities Registration (Security Information) Act*", The Security of Freedom: A Conference on Canada's Anti-Terrorism Legislation, University of Toronto, November 9, 2001; "Tax Treatment of Charitable Contributions in Canada" Conference on Reformation of the Charitable Contribution Deduction, National Center on Philanthropy and the Law, New York University School of Law, New York, October 25, 2001; "Tax Issues Affecting Partnerships", Tax Law for Lawyers Conference, Canadian Bar Association, Niagara-on-the-Lake, May 29, 2001.

Other Activities

Co-editor, "Current Tax Reading" section, *Canadian Tax Journal*; Member, Research Committee, Canadian Tax Foundation.



David Dyzenhaus

Publications

"Rethinking the Process/Substance Distinction: Baker v. Canada", co-author Evan Fox-Decent, University of Toronto Law Journal; "The principle of legality in administrative law: internationalisation as constitutionalisation", co-authors Murray Hunt and Michael Taggart, Oxford University Journal of Commonwealth Law; "Hobbes and the legitimacy of law", Law and Philosophy, 2nd edition of Law and Morality: Readings in Legal Philosophy, edited with Arthur Ripstein, University of Toronto; "Justifying the Truth and Reconciliation Commission", Journal of Political Philosophy, (2000) 8, December, 470-496, refereed; "Positivism's Stagnant Research Programme", Oxford Journal of Legal Studies, (2000) 20, Winter, 703-722, refereed; "The Gorgon Head of Power: Heller and Kelsen on the Rule of Law", in Caldwell and Scheuerman, eds., From Liberalism to Fascism: Legal and Political Thought in the Weimar Republic (Humanities Press, 2000), 20-46; "Hermann Heller: an Introduction" plus my translation from the German of one essay by Heller and part of one of his books in Jacobson and Schlink, eds., Weimar: A Jurisprudence of Crisis (California, 2000), 249 -279; "Form and Substance in the Rule of Law: A democratic justification for judicial review" in Forsyth, ed., Judicial Review and the Constitution, (Hart, 2000) 141-172.

Talks and Conferences

Conference on Truth and Justice, Department of Anthropology, Columbia University, October 2000, "The truth about law"; McGill Legal Theory Workshop, April 2000, "With the benefit of hindsight"; Georgetown Legal Theory Workshop, April 2000, "With the benefit of hindsight"; Conference on Justice and Amnesty, Hull University, April 2000, "The Justice of Amnesty"; Conference on Liberal Authoritarianism, Central European University, Budapest, May 2000, "Hobbes and the democratic theory of law"; American Political Science Association, Washington DC, September 2000, respondent to panel on globalisation and the rule of law; Toronto/Oxford Jurisprudence Colloquium, Toronto, September 2000, comment on paper on Hart's semantics; Toronto/Oxford Jurisprudence Colloquium, Oxford, February 2001, "The justice of the common law: judges, democracy and the limits of the rule of law."

Lectures

"The justice of the common law: judges, democracy and the limits of the rule of law", Lecture series on the rule of law, Centre for Comparative Constitutional Studies, University of Melbourne, November, 2000; "Amnesty, justice and reconciliation: justifying the truth and reconciliation commission", keynote address, 17th International Social Philosophy Conference, North American Society for Social Philosophy, Waterloo, Ont., July 2000.



Colleen Flood

Publications

Books

Forthcoming, Canadian Health Law and Policy (2nd edition)

(Toronto: Butterworths, 2002) (co-edited with Jocelyn Downie & T. Caulfield).

Chapters in Books

Forthcoming, "Galvanizing Publicly Funded Health Care Systems through Accountability" in P. Leatt & J. Mapa (eds) Effective Government Relations: Health Care Perspectives, (Quorum Book, Fall 2002). Forthcoming, "The Anatomy of Medicare" in J. Downie, T. Caulfield, & C. Flood (eds.) in Canadian Health Law and Policy (2nd edition) (Toronto: Butterworths, 2002), pp. 1-54. "Moving Medicare Home: The Forces Shifting Care Out of Hospitals and Into Homes" in T. Caulfield & B von Tigerstrom (eds.), Health Care Reform & the Law in Canada (Edmonton: University of Alberta Press, 2002) 131-157.

Articles

Forthcoming, "The Implications of the NAFTA for Canada's Health Care System: Have We Traded Away the Opportunity for Innovative Health Care Reform?" (with Tracey Epps) (McGill Law Jnl.). Forthcoming, "The Borders of Solidarity: How Countries Determine the Public/Private Mix in Health Care", (with Carolyn Tuohy and Mark Stabile) Forthcoming, Health Matrix, Vol. 12 No. 2, Summer 2002. "The Illegality of Private Health Care in Canada" (with T. Archibald) (2001) 164(6) Can Med Assoc Jnl 825-830.

Commentary

"The Mazankowski Report: Can We Fix Medicare With More Private Financing?" (2002) 2: 4 HealthcarePapers, pp 61-67.

Reports

Access to HIV Drugs: A Policy Analysis (with Elaine Gibson, Jocelyn Downie, Mark Stabile, Fred McGinn), Report for the Provincial Ministers of Health, May 2001. Lessons From Away: What Canada Can Learn From Other Health Care Systems, A Report For The Standing Senate Committee On Social Affairs, Science And Technology, (with Mark Stabile and Carolyn Hughes Tuohy) 30 April 2001. Strengthening the Foundations: Securing the Modernity of the Canada Health Act (with Sujit Choudhry) Commissioned as part of the research program for the Commission on the Future of Health Care in Canada (the Romanow Commission), February 2002.

Presentations

Presented on "NAFTA, Have We Traded Away our Capacity for Innovative Health Reform?" at the Centre for Health Services and Policy Research, 14th Annual Health Policy Conference, Friday, November 9, 2001, Vancouver. Presented at the International Health Economics Association 2001 meeting in York, England, "Reinventing Health Care: A Legal, Economic and Political Analysis of Reform in Canada and New Zealand". Participation and presentations on Home Care at the Karolinska Institute, Sweden, June 2001. Invited to speak on "What the Canada Health Act (CHA) Really Says", The Canadian Health Services Research Foundation, 2nd Annual Invited Exchange, 31 May and 1 June 2001, Glenora Inn, Erin Mills, (Ontario). Participated in panel discussions at the Open Forum Plasma Self-sufficiency in Canada - is it a matter of safety? National Blood Safety Council, March 29-30, 2001, Vancouver. Health Law and Policy Seminar, Faculty of Law, University of Toronto, March 15th 2001, "How Does Private Finance Affect Public Health Care Systems? Marshalling the Evidence from OECD Nations".

Other

Co-ordinated the Health Law and Policy Seminar Series at the Faculty of Law. Speakers in 2001/2002 were Michael Kirby ("Health Care Reform: Issues and Option"); Tracy Epps ("The Impact of NAFTA and GATS on Medicare", Rod McLeod ("Reflections on the Walkerton Inquiry"); Don Willison ("International Experiences with Pharmaceutical Policy" and "Protection of Privacy of Research Participants"); Dale McMurchy ("Canadians' Contradictory Opinions on the Social Contract"); Carolyn Hughes Tuohy ("The Political Economy of Health Care Reform: A Cross National Analysis"); Gordon Duval ("Ethics of Forensic Psychiatry"); Raisa Deber; ("Global Forces and Care in the Community: What Has Happened to Rehabilitation?"); Mary Thomson ("Evolution of Mass Torts and Class Actions in the Canadian Health Care Setting"); Trudo Lemmens ("Judicial Review of Research and Research Review Activities") and Renée C. Fox, "Moral Dilemmas of Medical Humanitarianism and Human Rights Witnessing: A Case Study of Médecins Sans Frontières". For more information on the seminar series see our web-site at <http://www.law.utoronto.ca/healthlaw/index.htm>

Co-ordinated the 2nd Annual Health Law Day, "A Patients' Bill of Rights for Ontario?" Speakers included Ron Paterson (Health

and Disability Commission, New Zealand), Wendy K. Mariner (Boston University School of Law), Gilbert S. Sharpe (Cassels Brock & Blackwell) & myself. Partial secondment by the Institute for Research in Public Policy to advise on research in health law and policy. Invited by the Romanow Commission to provide a paper on the sustainability of the Canada Health Act and options for reform. Invited to participate in the Four Country Conference, Ganonoque, Canada, July 12-14 2001, "Aging and Health Policy in the US, Canada, Germany and the Netherlands". Invited to present before the Senate Social Affairs Committee on Medicare on four separate occasions over the course of 2001/2002 on health care reform

Research Grants

\$1.8 million CIHR training grant (over 6 years) to facilitate development of capacity in health law and policy scholarship through funding for graduate students in health law and policy. This is a joint initiative with two other institutions led respectively by Jocelyn Downie (Dalhousie) and Tim Caulfield (Alberta). \$65,000.00 SSHRC grant (over 3 years) to explore regulation of how to ensure fairer access to the privately financed health sector, in particular drugs, home care and genetic services (co-investigators Carolyn Tuohy and Mark Stabile)



Brian Langille



Trudo Lemmens



Jeffrey MacIntosh



Patrick Macklen



Brian Langille

Lectures, Seminars, Conference Papers, etc.

Invited commentator, Conference on "Regulatory Competition and Economic Integration: Comparative Perspectives" Yale Law School, October 1999. Panelist Conference on Structural Bias in International Law, Harvard Law School, April 2000. Rapporteur, OECD Labour-Management Program Meeting on Trade and Labour Standards, Paris, May 2000. Presented paper, "The WTO and Labour Rights" to the Geneva 2000 Forum, Geneva, June 2000. Panelist, "Trade, Labour, Immigration" INTELL5 Conference, Toronto, September 2000. Presented paper, "Who Governs?" to the Conference on "Holding Multinational Corporations Responsible under International Law", University of California, Hastings College of Law, San Francisco, February 2001. Presented paper, "In

Defence of Core Labour Rights", to the Law and Society Meeting, Budapest, July 2001. Presented paper, "Labour Law as Human Capital Policy: New Paradigm, New Platform" to the Minister of Labour's Roundtable, Ottawa, November 2001. Presented paper, "Labour Rights and International Economic Integration - Towards a Coherent Canadian Policy" to the Meeting of Federal, Provincial and Territorial Ministries Responsible for Labour, Halifax, January 2002. Presented paper, "What is the ILO, and Why?" Michigan Law School, March 2002.

Publications-Reports

Freedom of Association and the Effective Recognition of the Right to Collective Bargaining: A Reflection Upon our Fundamental Commitments (for the ILO, December 1999). *TRADE AND LABOUR STANDARDS - Report on the OECD Labour-Management Program Meeting on Trade and Labour Standards* (May 2000) OECD Public Affairs Division.

Articles

“The ILO and the New Economy – Recent Developments” (1999), 15 *International Journal of Comparative Labour Law and Industrial Relations*, 229-257. “Global Competition and Canadian Labour Law Reform: Rhetoric and Reality” in Estreicher (ed.) *Global Competition and the American Employment Landscape* (Kluwer, 2000), 621-643. “Beyond Employees and Independent Contractors: A View from Canada” (2001), 21 *Comparative Labour Law and Policy Journal* 7-45 (with Davidov). “Managing Global Issues: Labor Rights”, in Simmons and de Jonge Oudraat (eds.) *Managing Global Issues* (Carnegie Endowment for International Peace, Washington, 2001) 469-507.



Trudo Lemmens

Publications - Articles

“Canadian Law on Euthanasia: Contrasts and Comparisons” (2001) 8 *European Journal of Health Law* 135-155 (with B. Dickens); “The Challenges of Regulating the Use of Genetic Information” (2001)2(3) *ISUMA, Canadian Journal of Policy Research* 26-37 (with L. Austin); “Justice for the Professional Guinea Pig” (2001) 1(2) *American Journal of Bioethics* 51-53 (with Carl Elliott); “Non-Institutional Research Review Boards in North America: A Critical Appraisal and Comparison with IRBs” (2001) 23(2) *IRB: Ethics & Human Research* 1-12 (with A. Thompson); “Ethics Review for Sale? Conflict of Interest and Commercial Research Ethics Review” (2000) 78(4) *Milbank Quarterly* 547-584 (with B. Freedman); “A Comparative Analysis of Research Ethics Review Mechanisms and the ICH Good Clinical Practice Guideline” (2000) 7 *European Journal of Health Law* 229-264 (with M. Hirtle & D. Sprumont).

Reports

Genetic Services in Canada: Mapping the Future. Report of the Provincial Advisory Committee on New Predictive Genetic Technologies (Queen's Printer for Ontario, 2001), 116 p. (Member of the Committee); *Of Volume, Depth and Speed: The Challenges of Genetic Information*. Discussion paper prepared for the Canadian Biotechnology Advisory Commission (2001) (with Lisa Austin) 40 p.; *Complementary/Alternative Health Care and HIV/AIDS: Legal, Ethical and Policy Issues in Regulation*, Report for the Canadian HIV/AIDS Legal Network (Montreal: Canadian HIV/AIDS Legal Network, 2001) 164 p. (with R. Crouch, R. Elliott & L. Charland).

Awards, Grants and Scholarships

Ethnicity, Citizenship, Family: Identity after the Human Genome Project, National Institutes of Health (Member Working Group; PI: Carl Elliott, University of Minnesota); The Regulation of Stem Cell Research and Gene Therapy, grant from the Stem Cell Genomics and Therapeutics Network, National Centre of Excellence; Canadian Program on Genomics and Global Health, Grants on International and Comparative Perspectives on the Regulation of Genetic Research and on Health Systems and Insurance Implications of Genetic Technologies.

Membership (selection)

Member, National Ethics Review Committee, Canadian HIV Trials Network; Co-Chair, Legal and Ethical Subcommittee, Ontario Provincial Advisory Committee on New Genetic Predictive Technologies.

Presentations 2001 (selection)

“Regulating Genetic Testing and Preventing Genetic Discrimination” Ontario Ministry of Health and Long-Term Care, Roundtable on Genetics and Gene Patenting, Toronto, December, 12, 2001; “REB Responsibilities: Have We Failed to Meet Them?” Faculty of Medicine, McGill University, November 20, 2001; “Stem Cell Research and Research Regulation in Canada” Presentation to a German Parliamentary Delegation, Canadian Institutes of Health Research, Institute of Genetics, Toronto October 29, 2001; “Governance of Research: A Blessing or a Curse? Stem Cell Research and Gene Therapy as Paradigm Cases” University of Toronto, Master of Biotechnology Program, Symposium on Stem Cell Research and Gene Therapy; and Toronto Biotechnology Initiative, Toronto, October 18, 2001; “Defining Genetic Information: Volume, Depth and Speed” XXVIth International Congress on Law and Mental Health, Montreal, July 4, 2001; “Privacy and Confidentiality in Genetics Research”, Conference on Ethical Challenges for Research in the New Genetics, Winnipeg, June 8, 2001; “Autonomy and the Legalization of Euthanasia” Faculty of Law, K.U. Leuven, Leuven, Belgium, April 26, 2001; “Living Wills in Canada: the Search for An Equilibrium Between Autonomy, Protection of Patients and Societal Interests” Bi-Annual National Conference, National Advisory Committee for Bioethics, Brussels, Belgium, April 25, 2001; “Decisions at the End of Life under Canadian Law,” Faculty of Law, K.U. Leuven, Belgium, April 24, 2001; “Conflict of Interest in Medical Research” Medical Humanities Program, University of Maryland, Baltimore, April 19, 2001; “Conflict of Interests and the Interface Between Research Ethics Review and Drug Approval,” University of Maryland School of Law, April 18, 2001 and Faculty of Law, Queen's University, April 6, 2001; “Volume, Depth and Speed: the Challenges of Genetic Information” Canadian Biotechnology Advisory Commission, Ottawa, March 22, 2001; “The Use of Complementary and Alternative Therapies for HIV/AIDS: Legal and Ethical Issues”, Montreal, Canadian HIV/AIDS Legal Network, February 11-12.



Jeffrey MacIntosh

Published

“Venture Capital Investment Duration in Canada and the United States” (with Douglas J. Cumming) (2001), 11 *J. of Multinational Financial Management* 445-463. “The Determinants of R&D Expenditures: A Study of the Canadian Biotechnology Industry” (with Douglas Cumming) (2000), 17 *Review of Industrial Organization* 357-370. “The Role of Interjurisdictional Competition In Shaping Canadian Corporate Law” (with Douglas J. Cumming) (2000), 20 *Inter. Rev. of Law and Econ.* 141-186. “The OSC's Exempt Market Proposal” (2000), 7(2) *Corp. Fin.* 430-434.

In Publication/Accepted for Publication

Book

Essentials of Securities Regulation (with Chris Nicholls) (Irwin Law Inc., Toronto, Summer 2002).

Articles and book chapters

"The Extent of Venture Capital Exits: Evidence from Canada and the United States" (with Douglas J. Cumming), in Joe McCahery and Luc Renneboog, eds., *Venture Capital Contracting and Real Options Valuation* (Oxford University Press, Summer, 2002). "The Rationales Underlying Reincorporation and Implications for Canadian Corporations" (with Douglas J. Cumming) (forthcoming, *International Review of Law and Economics*, summer 2002). "The Legal and Economic Determinants of Venture Capital Duration" (forthcoming, in *14 Advances in the Study of Entrepreneurship, Innovation, and Economic Growth* (with Douglas J. Cumming) (Elsevier Press/JAI Press Publishing, Winter, 2002)). "A Cross-Country Comparison of Full and Partial Venture Capital Exit Strategies" (forthcoming, *J. of Banking and Finance*, 2003). "Canadian Labour Sponsored Venture Capital Corporations: Bain or Boon?" (forthcoming, untitled book, Ari Ginsburg and Iftekhar Hasan, eds., Berkley Center of Entrepreneurial Studies, New York University, 2003).

Submitted for Publication

"Venture Capital Exits in the United States and Canada" (with Douglas J. Cumming).

Other New Working Paper

"Law, Finance and the Canadian Venture Capital Cycle" (with Douglas J. Cumming).

Research Grants

Shulich School of Business, \$25,000 for research relating to venture capital (with Douglas J. Cumming).

Other

In addition to the above, I served as Director of the Capital Markets Institute at the University of Toronto (see elsewhere in this volume for a description of our recent activities), and hence oversaw the organization of 7 CMI events over the 2001-2002 academic year. I also served on the Executive Committee of the Centre for Innovation Law and Policy at the Faculty. Presentations in the 2001-2002 academic year included those made at the Canadian Law and Economics Association, the Financial Management Association, the Conference Board of Canada, the Faculty of Law at the University of British Columbia, and a joint CMI/TSE symposium on whether Canada should have a national securities regulator. I wrote three editorial columns for the *Financial Post* (National Post). As the editor of "Corporate Finance" (a practitioner-oriented publication put out by Federated Press of Montreal) I edited 4 issues.



Patrick Macklem

Appointments

Visiting Professor, Central European University, Budapest, Hungary, Summer 2001. Chair, Committee 11 (Political Science, Law, Public Administration), Social Sciences and Humanities Research Council of Canada, 2001-2002.

Courses taught

Constitutional Law, International Human Rights Law, Advanced Aboriginal Studies, Labour Policy.

Publications

Indigenous Difference and the Constitution of Canada (Toronto: University of Toronto Press, 2001) (short-listed for the Canadian Political Science Association's 2002 Donald Smiley Prize for best book on Canadian government). Co-editor, *The Security of Freedom: Essays on Canada's Anti-terrorism Bill* (Toronto: University of Toronto Press, 2001) (with R. Daniels and K. Roach). Guest Editor, *Liberal Democracy and Tribal Peoples: Group Rights in Aotearoa/New Zealand* (2002) 52 *University of Toronto Law Journal* (Special Issue). 'Canada's Obligations at International Criminal Law,' in Daniels et al., *The Security of Freedom: Essays on Canada's Anti-terrorism Bill* (Toronto: University of Toronto Press, 2001). 'The Probable Impact and Legal Effect of the Upcoming Treaty Referendum' (2001) 3 *British Columbia Advocate* 895-903. 'Social Rights, Social Citizenship, and Transformative Constitutionalism: A comparative assessment,' (with D. Davis and G. Mundlak), in Joanne Conaghan, Michael Fischl, Karl Klare, eds., *Labour Law in an Era of Globalization* (Oxford: Oxford University Press, 2002) 511-534. 'Indigenous Rights and Multinational Corporations at International Law' (2001) 24 *Hastings International and Comparative Law Review* 475-484. 'Securing Accountability Through Commissions of Inquiry: A Role for the Law Commission of Canada' (with R. Cerna) (2002) 39 *Osgoode Hall Law Journal* 117. 'The Maori Experiment' (2002) 52 *University of Toronto Law Journal* 1. Book review, R. Moon, *The Constitutional Protection of Freedom of Expression* (2001) 71 *University of Toronto Quarterly* 1.

Presentations

'The Constitutional Framework for Indian Act Reform,' Beyond the Indian Act Conference, Pacific Business & Law Institute, Ottawa, April 2002. 'Recent Developments in Indigenous Rights,' Colloquium Series for the Indigenous Peoples Law and Policy Program, University of Arizona, March 2002 (two-day intensive course). 'Recent Developments in Aboriginal Rights: A thematic overview' Aboriginal Law Conference, Continuing Legal Education Society of British Columbia, March 2002. 'Canada's Obligations at International Criminal Law,' *The Security of Freedom: A Conference on Canada's Anti-terrorism Bill*, University of Toronto, November 2001. 'Historical Treaties,' Conference on National Aboriginal Law, Pacific Business & Law Institute, Toronto, October 2001. 'The Probable Impact and Legal Effect of a Referendum Dealing With Aboriginal Rights,' Conference on Innovative Solutions to Treaty Making,' Pacific Business & Law Institute, Vancouver, September 2001. 'Social Rights in Canada,' and 'Labour Law Beyond Borders,' International Conference on Social Rights, University of Tel Aviv, Israel, May 2001. "Indigenous Difference and the Constitution of Canada," Robert Harney Open Lecture, Ethnic and Cultural Studies Program, University of Toronto, April 2001. "Indigenous Rights and Multinational Corporations," Conference on Holding Multinational Corporations Responsible Under International Law, University of California Hastings College of Law, San Francisco, February 2001. Commentator, Conference on Liberal Democracy and Tribal Peoples: Group Rights in Aotearoa/New Zealand," NYU School of Law, October 2000. "Consultation Trends Now," Conference on Litigating Aboriginal Title and Rights, Continuing Legal Education Society of British Columbia, June 2000.



Audrey Macklin



Mayo Moran



Jennifer Nedelsky



Jim Phillips



Audrey Macklin

Professor Macklin joined the Faculty in January, 2001. In March, 2001, she was invited to a roundtable with the United Nations High Commissioner for Refugees, Ruud Lubbers at the Kennedy School of Government at Harvard University. She contributed to the intervenor factum and presented the oral argument on behalf of the Canadian Arab Federation in its intervention before the Supreme Court of Canada in the case of *Suresh v. Canada* (MEI). The case raised many timely issues, including the definition of terrorism and the ability of the Canadian government to return a refugee to a country where he faced a substantial risk of torture. The Supreme Court of Canada released its judgment early in 2002, and ruled that it would be a violation of the Charter in virtually all cases to return a refugee under those circumstances. Following the events of September 11, Prof. Macklin contributed to the Faculty of Law conference and book entitled *The Security of Freedom* with "Borderline Security", a paper focusing on the impact of Canada's anti-terrorism legislation on non-citizens. Prof. Macklin also published articles relating to trafficking in women, refugees, privatization of the immigration regime, and corporate social responsibility in relation to human rights.



Mayo Moran

Appointments

Associate Dean, Faculty of Law, University of Toronto, January 2000-present.

Research and Publications

Rethinking the Reasonable Person: Custom, Equality and the Objective Standard (forthcoming, Oxford University Press, 2002).

Course Development

With Professor John Borrows, designed bridge week intensive course for first year class on "Redressing Systemic Injustice" (Including analysis of residential schools, CCNC Head Tax litigation, Holocaust litigation etc).

Other Professional Activities

Contributor, *Redressing Historic Injustice: The Holocaust and Other Experiences* (Munk Center for International Studies,

University of Toronto, January 2002); Participant, "The Question of Sexual Injury" (Janet Halley, Harvard University, November 2001); Presented "Women's Human Rights and Democracy", Feminism and International Law Summer Course, European University, Fiesole, June 2001; Presented "Rethinking the Reasonable Person", Legal Theory Workshop, University of Michigan April 2001; Presented "Rethinking the Reasonable Person", Oxford-Toronto Jurisprudence Colloquium, February 2001; Presented "An Uncivil Action?" Law & Society, Miami, May 2000; Litigation Advisor, *Mack v. Canada* [Chinese Canadian Head Tax Case] (Ont. Superior Court of Justice, currently on appeal to Ont.C.A.).



Jennifer Nedelsky

Books

Judgment, Imagination and Politics, co-edited with Ronald Beiner, Rowman and Littlefield, 2001.

Presentations

Presentation on judgment to the National Judicial Institute Appellate Court Seminar, April 2002 and Charter seminar, July 2001. Presentation on Collective Responsibility for Residential Schools at a conference on "Responsibility, Repentance and Right Relations" at Emmanuel College.

Work in progress

Planning a new course with Roger Hutchinson, former Principal of Emmanuel College, on Law, Religion and Public Discourse to be jointly listed with the Faculty, Toronto School of Theology and Political Science.



Jim Phillips

In 2000-2001 I enjoyed great classes in both first year Property and in Legal History, confirming yet again what a pleasure it is to teach our students, the most important part of our job. Four doctoral students (1 in law, 3 in history) with whom I have worked for some years also finished their theses this year. My principal publications were an edited book (with Bruce Chapman and David Stevens of McGill), *Between State and*

Market: Essays on Charities Law and Policy in Canada (McGill-Queen's University Press, 2001) and articles in the *Canadian Historical Review*, *Acadiensis*, and the *Alberta Law Review*. I was fortunate to be given the Mewett Award for Excellence in Teaching and to be voted by the graduates of 2001 to address the class at the convocation lunch. I am on sabbatical in 2001-2002, and have completed a draft of a book on

aspects of the legal history of the Pacific Northwest, with my wife, Rosemary Gartner, Director of the Centre of Criminology at U of T. We have given seminars at the University of Washington and the University of British Columbia, and delivered the MacLean Lecture in Legal History at the University of Victoria. Visiting other Canadian law schools was a great pleasure; they thrive as public institutions.



Rob Prichard



Jonathan Putnam



Denise Réaume



Arthur Ripstein



Rob Prichard

In 2000-2001, Rob Prichard served as a Visiting Professor of Law at Harvard Law School and was appointed to the Visiting Committee of Harvard Law School. In 2000, he delivered the Killam Annual Lecture, "Federal Support for Higher Education and Research in Canada: The New Paradigm." Appointed to the Order of Ontario in Fall 2000, Rob Prichard will receive honorary degrees from the University of Toronto and the University of Waterloo in June of this year. He joined Torstar Corp., parent company of the Toronto Star, as Chief Operating Officer and President of the Torstar Media Group, and has since May 1 become Torstar's Chief Executive Officer.



Jonathan Putnam

The U of T Faculty of Law appointed Jonathan Putnam as an Assistant Professor and a member of the Executive Committee of the Centre for Innovation Law and Policy. He joined the Faculty and the Centre in January of 2001.

Jon has a doctoral degree in economics from Yale University, is an expert in intellectual property, antitrust, technological change, industrial organization and applied microeconomics. Jon has provided expert testimony in a number of intellectual property and competition matters, and before the U.S. Federal Trade Commission. He has provided econometric analyses to the FTC and the Antitrust Division related to merger reviews. His projects have included presentations on intellectual property issues to the Canadian Intellectual Property Lawyers organization and to the Competition Section of the Canadian Bar Association. Jon was also a Lecturer at Vassar College, the

Columbia University Schools of Law and Business, Yale College, and the Boston University Graduate School of Management.

Jon's research interests include the regulation of competition in high-tech industries, the econometric measurement of the value of intellectual property rights; optimal design of intellectual property incentive mechanisms, the interaction between intellectual and competition policies, the transnational implications of intellectual property and intellectual property litigation. Jon teaches in the areas of property, intellectual property, and competition law.

During the past year Jon branched out from his focus on patents to present seminars on copyright in the new economy, trade dress, business models for the internet and the use of expert panels in trademark litigation. He also continued his interest in measuring the value of patent rights with seminars at the U.S. Patent and Trademark Office and at the World Congress of the Econometric Society. Jon helped organize a conference co-sponsored by the Centre and by Industry Canada on *Intellectual Property Rights in the Knowledge-Based Economy*, held in Toronto in May 2001. In addition to authoring or co-authoring two of the conference papers, Jon will edit the resulting conference volume, to be published later this year.

Courses

Intellectual Property: Patent, Trademark and Copyright (Faculty of Law); Management of Intellectual Property (Boston University Graduate School of Management).

Committees

Information Committee, Faculty of Law. Academic Coordinating Committee, Centre for Innovation Law and Policy. Executive Committee, Centre for Innovation Law and Policy. Board of Directors, Innovations Foundation, University of Toronto.

Papers

"Determinants of Canadian Patenting Activity, 1980-2000," (with N. Gallini and A. Tepperman).

Seminars

"Employing Panels of Experts in Litigation," Advocates' Society, Toronto, April 2001; "Business Models for the Internet and New Media," Practising Law Institute, San Francisco, January 2001; "Copyright and the New Economy," Industry Canada – Heritage Canada Copyright Forum, September 2000; "Recent Innovations in Patent Portfolio Valuation," Boston Patent Law Assoc., September 2000; "Matters of Principle: Proving and Defending an Economically Consistent Intellectual Property Damages Claim," Law Seminars International, San Francisco, September 2000.



Denise Réaume

Publications

"Harm and Fault in Discrimination Law: A Tort Perspective on Recent Developments", (2001) 2 Theoretical Inquiries in Law 349; "Legal Multiculturalism from the Bottom Up", in Wayne Norman and Ronald Beiner, eds, *Canadian Political Philosophy: Contemporary Reflections*, Toronto: Oxford University Press, 2000; "Official Language Rights: Intrinsic Value and the Protection of Difference", in Will Kymlicka, ed., *Citizenship in Diverse Societies: Theory and Practice*, New York: Oxford University Press, 2000.

Public Lectures

"Indignities: The Place of Human Dignity in Modern Legal Thought" – the Catriona Gibson Lecture at Queen's University, Faculty of Law, October 29, 2001.



Arthur Ripstein

Awards

Nicholas Hoare/Renaud Bray Book Prize of the Canadian Philosophical Association, 2001.

Articles and Book Chapters

"Three Duties to Rescue" *Law and Philosophy* 19: 751-779 (2000); "Private Law and Private Narratives" *Oxford Journal of Legal Studies* 20:4 683-702 (2000), Reprinted in John Gardner and Peter Cane (eds) *Relating to Responsibility: Essays Presented to Tony Honore on his 80th Birthday* (Oxford, Hart 2001); "Corrective Justice in an Age of Mass Torts" (with B. Zipursky) in G. Postema (ed) *Philosophy and U.S. Tort Law* (Cambridge, Cambridge University Press 2001).

Books edited

Law and Morality (edited with David Dyzenhaus) (Toronto: University of Toronto Press) Second Edition, September 2001; *Practical Reason and Principle: Essays for David Gauthier* (edited with Christopher W. Morris) (Cambridge: Cambridge University Press, 2001).

Radio Specials

"For Your Own Good" (with Michael Blake and Samantha Brennan) IDEAS CBC Radio 1, February 7, 2001.

Conference Presentations

"Reply to Alexander and Perry", Author Meets Critics Session, on *Equality, Responsibility and the Law*, American Philosophical Association, Pacific Division Meeting, San Francisco, March 30, 2001; "Torts" Oxford-Toronto Legal Philosophy Conference, Oxford, February 23-24 2001, (the comments of Tony Honore, Regius Professor of Civil Law, Emeritus, Oxford University, and my response can be viewed on video at the Oxford Legal Philosophy website <http://www.law.ox.ac.uk/jurisprudence/>); "Justice and Responsibility" Conference on Egalitarianism, Responsibility, and the Law, UNC Legal Philosophy Conference, National Humanities Center, Research Triangle Park N.C., October 13-15, 2000.

Invited Lectures

"Coercion and Authority", Department of Philosophy, UCLA, November 2, 2001; "Justice and Responsibility", Department of Philosophy, Harvard University, November 2000, Ethics Colloquium, Department of Philosophy, New York University, December 2000, Department of Philosophy, University of Western Ontario, February 2001.



Kerry Rittich



Kent Roach



Carol Rogerson



David Schneiderman

**Kerry Rittich**

Research and Publications

Recharacterizing Restructuring: Gender and Distribution in the Legal Structure of Market Reform, (forthcoming, Kluwer Law International, early 2002); "Feminization and Contingency: Regulating the Stakes of Work for Women", Joanne Conaghan, Richard M. Fischl and Karl Klare, eds., *Labour Law in an Era of Globalization* (forthcoming, Oxford University Press, 2002); Book Review, *The Boundaries of International Law: A feminist analysis*, Hilary Charlesworth and Christine Chinkin (Leiden Journal of International Law, volume 4, 2001); "Economies of Desire/Desires of Economies: Remaking Women for the New World of Markets", Hague Yearbook of International Law, 2000, 75; "Who's Afraid of the *Critique of Adjudication*? Tracing the Discourse of Law in Development", Symposium Issue: Duncan Kennedy, *A Critique of Adjudication (fin de siecle)*, 22 *Cardozo L. Rev.* 929 (2000); "The Gender of International Law", American Society of International Law: Proceedings of the 93rd Annual Meeting, *On Violence, Money, Power and Culture: Reviewing the Internationalist Legacy* (Washington, D.C.: American Society of International Law, 2000).

Conference Presentations and Papers

Panelist, "Roundtable: Globalization, Development and Core Labour Rights", Law and Society Association, Central European University, Budapest, July 4-7, 2001; Discussant, Author Meets Reader, "Temporary Work: The Gendered Rise of a Precarious Employment Relationship", Law and Society Association, Central European University, July 4-7, 2001; "Women at Work: Economic and Social Rights in an Era of Markets", International Conference on Social Rights, Minerva Centre for Human Rights, Tel Aviv University, Tel Aviv, Israel, May 20-23, 2001; "The Structure of Core Labour Rights", Workshop on International Law, Comparative Law and Globalization", J.W. Goethe Universitat, Frankfurt, Germany, April 19-20, 2001; "Rethinking Work: What Does Law Have to Do with it?" Panel on Intersections of Welfare Law, Employment Law and "Family Friendly" Policies, Conference on Women and the Law: Transgressing Borders: Women's Bodies, Identities and Families, New England School of Law, Boston, Massachusetts, March 31, 2001; "Transforming Gender in International Law", Workshop on Gender, Sex, Sexuality and the Law: Normativity in the Legal Regulation of Sexuality, Dighton, Massachusetts, December 2-3, 2000; "New International Law Scholarship: A Provocative Address", Workshop on New Scholarship in International Public and Private Law, Eric Castren Institute of International Law and Human Rights and the European Law Research Center, Harvard Law School, Leiden, The Netherlands, November 24-26, 2000; Panelist and Commentator, "The Boundaryless Workplace and the New Psychological Contract of Employment", WAGENET, University of Wisconsin at Madison, November 10-11, 2000; "Turning Toward the Market: New Trends in the Making of Gender Equality in International Law and Institutions", panel on Legal Theory in International Law, Canadian Council on International Law, Ottawa, October 26-28, 2000; "Feminization and Contingency: Regulating the Stakes of Work for Women", International Network for Transformative Labour and Employment Law, Faculty of Law, University of Toronto, September 22-24, 2000.

**Kent Roach**

Professional Activities (2001)

Member of the Executive, Canadian Association of Law Teachers; Counsel for Aboriginal Legal Services of Toronto in its intervention in *Sauve v. Canada* in the Supreme Court of Canada (right of prisoners to vote); Counsel for the Chippewas of the Nawash *Chippewas of the Nawash v. Canada* in the Federal Court of Appeal (equality rights challenge to federal fishing policy); Counsel for Aboriginal Legal Services of Toronto in its intervention in *R. v. Golden* in Supreme Court of Canada (legality of strip searches); Conference Co-Chair Restorative Justice, Faculty of Law and Criminology, University of Toronto, Centre of Criminology University of Cambridge and Ottawa.

Books

The Supreme Court on Trial: Judicial Activism or Democratic Dialogue (Toronto: Irwin Law, 2001); (With Ron Daniels and Patrick Macklem) *The Security of Freedom: Essays on Canada's Anti-terrorism Bill* (Toronto: University of Toronto Press, 2001) (498pp).

Articles

"The Dangers of a Charter-Proof and Crime-Based Response to Terrorism" in Daniels, Macklem and Roach eds. *The Freedom of Security: Essays on Canada's Anti-Terrorism Bill* (Toronto: University of Toronto Press, 2001) at pp. 131-147; "The New Terrorism Offences and the Criminal Law" in Daniels, Macklem and Roach eds. *The Freedom of Security: Essays on Canada's Anti-Terrorism Bill* (Toronto: University of Toronto Press, 2001) at pp. 151-172; "American Constitutional Law Theory for Canadians (and the rest of the world)" (2002) *University of Toronto Law Journal* (forthcoming); "The Use of Preambles in Legislation" (2002) *McGill Law Journal* (forthcoming); (With Julian Roberts) "Restorative Justice in Canada: From Circles to Sentencing" in Andrew von Hirsh et al *Restorative Justice* (Oxford: Hart Publishing, forthcoming); (With Jonathan Rudin) "Broken Promises: A Response to Stenning and Roberts' 'Empty Promises'" (2002) 65 *Saskatchewan Law Review* (forthcoming); (With Tony Duggan) "Further Notes on *Final Note*" (2001) 36 *Canadian Business Law Journal* 115-138; "The Myths of Judicial Activism" (2001) 14 *Supreme Court Law Review* 297-330; "You Can't Always Get What You Want: Remedies for Violations of Aboriginal Rights" in Joe Magnet ed. *Essays on Aboriginal Law* (Saskatoon: Purich Publishing, forthcoming); "Searching for Smith: The Constitutionality of Mandatory Minimum Sentences", (2001) *Osgoode Hall Law Journal* forthcoming; "Crime and Punishment in the Latimer Case" (2001) 64 *Saskatchewan Law Review* 469-490; "Reforming Statutes of Limitations" (2001) 50 *University of New Brunswick Law Journal* 25-55; "Constitutional and Common Law Dialogues Between the Supreme Court and Canadian Legislatures" (2001) 80 *Canadian Bar Review* 481-533; "Using the Williams Question to Ensure Equal Protection for Aboriginal Crime Victims" (2001) 38 *Criminal Reports* (5th) 335-341.

Work in Progress

(With Robert J. Sharpe) *Brian Dickson: Portrait of a Judge: "The Criminal Process"*, Invited chapter in *The Oxford Companion of Legal Studies* edited by Mark Tushnet and Peter Cane; *Constitutional Remedies in Canada* 2nd ed.; (With

Robert J. Sharpe and Katharine Swinton), *The Canadian Charter of Rights and Freedoms* 2nd ed.; (With Sujit Choudhry), "Delayed Declarations and Prospective Ruling"; New edition of *Criminal Law and Procedure Cases and Materials*.

Presentations

"September 11, 2001: Its Challenge to Canadian Law, Courts and Democracy", McGill Law Journal Annual Lecture, Montreal, Quebec, March 2002; "Terrorism and the Criminal Law", Terrorism, Law and Democracy Conference, Montreal, Quebec, March 2002; "The Role of the Judiciary and the Federal Court in the Antiterrorism Context", Federal Court Symposium on the Antiterrorism Legislation, Ottawa, February, 2002; "Recent Developments in Constitutional Remedies", Continuing Legal Education Series, Vancouver, February, 2002; "The Supreme Court on Trial: Judicial Activism or Democratic Dialogue" Queens Centre for Policy Studies, Kingston, January, 2002; "Justice Symposium of the Treaty Commissioner", (participant) Saskatoon, Saskatchewan, December, 2001; "Bill C31: Section One and Remedial Issues" National Roundtable Bill C-31 Court Challenges, Toronto, December 2001; "Racial Profiling Should be Banned" Senate Special Committee on Bill C-36, Ottawa, December, 2001; "Bill C-36 and Civil Liberties" Panel organized by ad hoc committee on civil liberties, November, 2001; "The Dangers of a Charter-Proof, Crime-Based Response to Terrorism" and "The New Terrorism and the Criminal Law", Conference on the Anti-Terrorism Bill, University of Toronto, November 2001; "Remedial Consensus and Challenge" Court Challenges Annual Conference, Ottawa, November, 2001; "Prospective Ruling in Private Law", Commercial Law Workshop, Toronto, October, 2001; "Remedies and the Criminal Law", National Judicial Institute, Montebello, Quebec, August, 2001; "The Role of the Victim in Criminal Law", Newfoundland Provincial Judges Association, St. John's, Newfoundland, June, 2001; "Remedies for Violations of Aboriginal Rights" Congress of Aboriginal Peoples Congress, Ottawa, Ontario May, 2001; "The Supreme Court and Judicial Activism" Osgoode Hall Charter Conference, Toronto, April, 2001; "The Role of the Victim in Sentencing" National Judicial Institute, Toronto, March, 2001; "The Latimer Case" Student organized Panel, University of Toronto, February, 2001; "Searching for Smith: The Constitutionality of Mandatory Minimum Sentences, Osgoode Hall Conference on Mandatory Sentences, February, 2001; "The Role of Preambles in Federal Legislation", Law Commission Roundtable on Legislation, Montreal Quebec February, 2001; "The Myths of Judicial Activism", Student organized Panel, University of Toronto, January, 2001.



Carol Rogerson

Professor Rogerson has recently published two papers: "The Child Support Obligation of Step-Parents" (2001), 18 *Canadian Journal of Family Law* 9 and "Spousal Support Post-Bracklow: The Pendulum Swings Again?" (forthcoming, *Canadian Family Law Quarterly*). She participated in the Canadian Bar Association Ontario, 2001 Institute of Continuing Legal Education, in Toronto, in February 2001, where she presented her paper "Spousal Support Post-Bracklow", and the International Society of Family Law, North American Regional

Conference held in Kingston, Ontario, June 14-16, 2001, where spoke on the topic of "Redefining Family Support Obligations: Parenthood as the Basic Source of Obligation." On June 13 she was part of a panel presentation on the topic of "The Charter of Rights and Children" for the CBAO Constitutional Law Section. She also completed her last year of membership on the federal government's Advisory Committee on Child Support Guidelines.



David Schneiderman

Publications

"The Constitutional Disorder of the Safe Streets Act: A Federalism Analysis" in J. Hermer and J. Mosher, eds, *The New Vagrancy: Essays on the Safe Streets Act* (Halifax: Fernwood Press, 2002); "Investment Rules and The Rule of Law" (2001) 8 (4) *Constellations* 521-37; "Terrorism and the Risk Society" in R.J. Daniels, P. Macklem and K. Roach, eds., *The Security of Freedom: Essays on Canada's Anti-Terrorism Bill* (University of Toronto Press, 2001); "Political Association and the Anti-Terrorism Bill" (with B. Cossman) in R.J. Daniels, P. Macklem and K. Roach, eds., *The Security of Freedom: Essays on Canada's Anti-Terrorism Bill* (University of Toronto Press, 2001); "Comparative Constitutional Law in an Age of Globalization" forthcoming in V. Jackson and M. Tushnet, eds, *Comparative Constitutional Law: Defining the Field* (Greenwood Press); "Economic and Social Citizenship in the Era of the Charter" forthcoming in I. Cotler and A. Maoz, eds., *Litigating the Values of a Nation* (Dordrecht:Kluwer).

Presentations

"Investment Rules and the Rule of Law" to the "Alternative Approaches to Legal Scholarship" Graduate Seminar, Faculty of Law, University of Toronto (November 2000). "Sex Speech: Remarks on R. v. *Sharpe and Little Sisters*" to the Panel on "Sexuality and the Supreme Court," Faculty of Law, University of Toronto (February 2001). "Speech and Public Policy" on the panel "Getting Beyond Soundbites: Censorship and Public Policy" at the Wolfson Centre for National Affairs, New School University (March 2001). "NAFTA, Constitutionalism and Recent Arbitral Jurisprudence" to the Tenth Regional Meeting of the American Society of International Law and Eleventh Annual Fulbright Symposium on International Legal Problems, Golden Gate University (March 2001). "The Possibilities for Citizenship in an Era of Economic Globalization" The New School (April 2001). "NAFTA, Constitutionalism and Recent Arbitral Jurisprudence" to the Association of the Bar of the City of New York, Committee on Foreign and Comparative Law (May 2001). "Terrorism and the Risk Society" and "Political Association and the Anti-Terrorism Bill" to the conference on "The Security of Freedom," Faculty of Law, University of Toronto (November 2001).



Ayelet Shachar



Lorne Sossin



Michael Trebilcock



Stephen Waddams



Ayelet Shachar

Books

Multicultural Jurisdictions: Cultural Differences and Women's Rights (Cambridge: Cambridge University Press, 2001).

Articles

"Children of A Lesser State: Sustaining Global Inequality through Citizenship Laws" in Iris Marion Young and Stephen Macedo, eds., *NOMOS: Child, Family, and the State* (New York: NYU Press, forthcoming); "The Thin Line between Imposition and Consent: A Critique of Birthright Membership Entitlements and their Implications" in Nancy L. Rosenblum, ed., *Breaking the Cycles of Hatred: Memory, Law, and Repair* (Princeton: Princeton University Press, 2002); "Two Critiques of Multiculturalism" (2001) 23 *Cardozo Law Review* 253; "The Puzzle of Interlocking Power Hierarchies: Sharing the Pieces of Jurisdictional Authority" (2000) 35 *Harvard Civil Rights-Civil Liberties Law Review* 385; "On Citizenship and Multicultural Vulnerability" (2000) 28 *Political Theory* 64; "Should Church and State be Joined at the Altar?: Women's Rights and the Multicultural Dilemma", in Will Kymlicka and Wayne Norman, eds., *Citizenship in Diverse Societies* (Oxford: Oxford University Press, 2000); "Citizenship and Membership in the Israeli Polity", in T. Alexander Aleinikoff and Douglas Klusmeyer, eds., *From Migrants to Citizens: Membership in a Changing World* (Washington, DC: Brookings Institution Press, 2000).

Book reviews

Review of Andrea T. Baumeister, *Liberalism and the 'Politics of Difference'* (2002) 52 *Philosophical Quarterly* 131; Review of Martha C. Nussbaum, *Women and Human Development: The Capabilities Approach* (2001) 49 *Political Studies* 134.

Conferences and Invited Lectures

"Minorities Within Minorities" Panel with Avigail Eisenberg, Susan Okin, Ayelet Shachar, and Daniel Weinstock, American Political Science Association Meeting, Boston, August 2002; "Constructivism versus Essentialism in Theories of Cultural Rights and Minority Representation", Public lecture to be delivered at the Ethno-Religious Identities and Political Philosophy Conference, University of Amsterdam, Netherlands, July 2002; "Sovereignty vs. Integration: The Security Perimeter" Panel, Revisiting Canada's Immigration Policy Post-September 11

Workshop, Institute for Research on Public Policy (IRPP), Toronto, May 2002; "Law and Diversity: A New Approach to Multicultural Accommodation", Public lecture delivered at the Woodrow Wilson School, Program in Law and Public Affairs, Princeton University, February 2001; Institute for Advanced Study, Princeton, March 2001; Interdisciplinary Seminar on Democracy, Citizenship, and Identity, Ohio State University, December 2001; Women and Politics Forum, UCLA, May 2002; "Children of a Lesser State: Sustaining Global Inequality through Citizenship Laws", Legal Theory Workshop, University of Toronto, April 2002; "Changing Conceptions of Citizenship", The Security of Freedom: A Conference on Canada's Anti-Terrorism Bill, University of Toronto, November 2001; "Authors as Critics: Multiculturalism in Political Theory", Roundtable discussion with Brian Barry, Jacob Levy, Bhikhu Parekh, and Ayelet Shachar, American Political Science Association Meeting, Washington DC, August 2000.

Honours

Ayelet Shachar's recently published book, *Multicultural Jurisdictions: Cultural Differences and Women's Rights* (Cambridge University Press, 2001), has been selected by the Editors of *Political Studies*, a leading world source for reviews of books, as one of the five best newly published books which "make a significant contribution to the study of political theory and political philosophy, or are likely to be of wide interest in the field."

Recipient of Honourable Mention by the Canadian Association of Law Teachers (CALT) Scholarly Paper Award Committee for her *Harvard Civil Rights-Civil Liberties Law Review* article, entitled "The Puzzle of Interlocking Power Hierarchies: Sharing the Pieces of Jurisdictional Authority."

Nominated a Member of the Institute for Advanced Study in Princeton for the 2000-2001 academic year.



Lorne Sossin

Books

Barristers and Solicitors in Practice (Toronto: Butterworths, looseleaf service 1998-) (became co-general editor with Justice Ken Lysyk of the B.C. Supreme Court in the Fall of 2001).

Articles, Book Chapters & Review Essays

"The Intersection of Administrative Law with the Anti-Terrorism Bill" in R. Daniels et al (eds.), *The Security of Freedom* (Toronto: University of Toronto Press, 2001); "Law and Intimacy in the Bureaucrat-Citizen Relationship" in N. des Rosiers (ed.), *No Person is an Island: Personal Relationships of Dependence and Independence* (Vancouver: University of British Columbia Press, 2001); "Developments in Administrative Law: the 2000-2001 Term" (2001) 15 Supreme Court Law Review (2nd) 31-98; "Regulating Virtue: A Purposive Approach to the Administration of Charities in Canada" in *Charities: Between State and Market*, J. Phillips et al (eds.) (Kingston: McGill-Queen's Press, 2001); "Balancing Administrative Fairness and Civil Justice: *Danyluk v. Ainsworth Technologies Inc.*" (2001) 5 Regulatory Boards and Administrative Law Litigation (forthcoming); "Democratic Administration" in *Oxford Handbook of Public Administration in Canada*, ed., C. Dunn (Toronto: Oxford University Press, 2001); "The Constitution and Administrative Independence: *CUPE v. Ontario* and its Implications for Administrative Boards and Tribunals" (2000) 4 Regulatory Boards and Administrative Law Litigation 214-18; "Courting the Right: F.L. Morton & Rainer Knopff, *The Charter Revolution and the Court Party*" (2000) 38 Osgoode Hall Law Journal 531-541; "Developments in Administrative Law: the 1999-2000 Term" (2000) 13 Supreme Court Law Review (2nd) 45-76.

Commissioned Reports & Working Papers

"Human Development, Law & Democratic Administration", (2000) Working Group Paper Prepared for United Nations Office for Project Services (Rome, Italy); "Law and Intimacy in the Bureaucrat-Citizen Relationship" (Ottawa: Law Commission of Canada, Legal Dimensions Program, 2000).

Conference Presentations and Invited Talks

Remedying Administrative Discretion under the Charter Presentation to the Annual Meeting of the Canadian Charter Challenges Program, Ottawa, November 24, 2001; *The Intersection of Administrative Law with the Anti-Terrorism Bill* Paper presented at The Security of Freedom: A Conference on Canada's Anti-Terrorism Bill, University of Toronto, November 9-10, 2001; *Reconciling Independence and Accountability: Models of Court Administration*, Presentation to Seminar of Chief Justices, National Judicial Institute, Ottawa, October 23, 2001; *Reflections on Ocean Port v. British Columbia (General Manager; Liquor Control)* Presentation to joint meeting of administrative law section and constitutional section of Ontario Bar Association: *Administrative Tribunals: A Declaration of Independence?* Toronto, October 18, 2001; *Law and Intimacy in the Bureaucrat-Citizen Relationship* – Paper presented to University of Toronto, Faculty of Law, May 23, 2001; and Conference of Ontario Boards and Agencies (COBA), Annual Meeting, Toronto, November 17, 2000; *Baker and Procedural Justice*, Presentation at "Baker and Beyond" Conference, Centre for Practical Ethics, York University, Toronto, February 23, 2001; *New Developments in Judicial Review, 1999-2000*, Paper presented to Canadian Bar Association – Ontario, Toronto, January 25, 2001; *Raising a Charter Issue in a Tribunal*, Presentation to Canadian Bar Association – Ontario Administrative Law Conference, Taking the Tribunal To Court, Toronto, October 20, 2000; *Justiciability and the Role of Judicial Review in Social Law*, Presentation to the Department of Justice Conference on Social Law, Ottawa, September 29, 2000.



Michael Trebilcock

Appointments

In May 2002, Professor Trebilcock was elected President of the American Law and Economics Association ("ALEA").

He is currently Research Director of the Ontario Government's Panel on the Future Role of Government. This panel will examine the future role of government in the context of promoting economic growth, strong communities, fiscal responsibility and accountability.

Publications

Books

Michael Trebilcock, Edward Iacobucci, and Huma Haider, *Economic Shocks: Defining a Role for Government*, published by the C.D. Howe Institute, 2001.

Papers

"Mostly Smoke and Mirrors: NGOs and the WTO", paper presented to an International Conference at New York University in March 2000, commemorating the 200th anniversary of the Library of Congress. This paper was published in a volume of conference papers (2001). "Ethnically Homogeneous Commercial Elites in Developing Countries," (with Kevin Davis) (2001) 32 Law & Policy in International Law. "The Supreme Court and Strengthening the Conditions for Effective Competition in the Canadian Economy" (2001) 80 Canadian Bar Review 542. Michael Trebilcock and Steven Elliott, "The Scope and Limits of Legal Paternalism: Altruism and Coercion in Family Financial Arrangements", in Peter Benson Ed. *The Theory of Contract Law*, Cambridge University Press, 2001. Michael Trebilcock, "Regulating Legal Competence" (2001) 34 Canadian Business Law Journal 444. "Government by Voucher" (with Ron Daniels) (February 2000) 80 Boston University Law Review 205. "Electricity Restructuring: The Ontario Experience", (with Ron Daniels) (April 2000) 33, Canadian Business Law Journal 161. "The State of Efficiencies in Canadian Merger Policy" (with Ralph Winter) (Winter 2000) 19 Canadian Competition Record 106. Michael Trebilcock and Kevin Davis, "Law Reforms and Development: An Overview of the Evidence" (2000) Third World Quarterly.



Stephen Waddams

Lectures and Papers

2000 – Canadian Bar Association Saskatchewan, "Recent Contract Cases in the Supreme Court of Canada"; 2000 – National Judicial Institute, Montreal, Appellate court judges, "Damages in contract Law" and "Breach of Contract and the Concept of Wrongdoing"; 2000 – Society of Teachers of Public Law, London, England, Paper on "Johanna Wagner and the Rival Opera Houses"; 2000 – Conference in Amsterdam on Unjust Enrichment, Paper on "The relation of Unjust Enrichment to other Concepts in Private Law"; 2001 – Ontario Court of Appeal Judges, address on recent developments in contracts; 2001 – Columbia University, New York, Colloquium on Classification of Private Law, paper on "Complexities of Private Law."

Books

The Law of Damages (annual update, 2000).

Contributions to Books

"The Relation of Unjust Enrichment to Other Concepts in Private Law", in *Unjust Enrichment and the Law of Contract within the Context of European Private Law*, ed. E J H Schrage, (forthcoming); "Complexities of Private Law", in *Classification of Private Law: Bases of Liabilities and Remedies*, ed. I Gilead (forthcoming).

Articles

"Breach of Contract and the Concept of Wrongdoing" (2000) 12 *Sup Ct LR* 1-29; "English matrimonial Law on the Eve of Reform (1828-1857)", (2000) 21 *Journal of Legal History*, 59-82; "Johanna Wagner and the Rival Opera Houses" (2001) 117 *L.Q.R.* 431; "Judicial Discretion", (2001) 1 *Ox U Commonwealth LJ*, forthcoming).



Ernest Weinrib



Lorraine Weinrib



Ernest Weinrib

Correlativity, Personality and the Emerging Consensus on Corrective Justice, 2 *Theoretical Inquiries in Law* 107 (2001). The Passing of Polemis? 54 *Vanderbilt Law Review* (2001). Does Tort Law Have a Future? 34 *Valparaiso University Law Review* 561 (2000). Restitutionary Damages as Corrective Justice, 1 *Theoretical Inquiries in Law* 3 (2000).



Lorraine E. Weinrib

Visiting Professor: University of Tel Aviv, Faculty of Law – Dec. 2000 – Jan 2001. Intensive course: The Postwar Constitutional State

Publications

"Constitutional Values And Private Law In Canada", co-authored with Ernest J. Weinrib, Daphne Barak-Erez and Daniel Friedmann eds., *Constitutional Rights in Private Law*, Hart Publishing, 2002. Feature article, *Globe and Mail*, "A

Giant Legal Footprint", first of a five-part series on Trudeau's legacy, October 2000. Feature article, *Montreal Gazette*, "Trudeau's Political Legacy", October 2000. "The Supreme Court of Canada in the Age of Rights", [2001] 80 *Can. Bar Rev.* 699-749. "The Activist Constitution", reprinted in Paul Howe and Peter H. Russell, *Judicial Power and Canadian Democracy* (Montreal & Kingston: McGill-Queen's University Press, 1999) at 80-87. "The Charter Critics: Strangers in a Strange Land", in *The Judiciary as Third Branch of Government: Manifestations and Challenges to Legitimacy* (Canadian Institute for the Administration of Justice: Les Editions Themis, 1999) 245-255. "Terrorism's Challenge to the Constitutional Order" in *The Security of Freedom: Essays on Canada's Anti-Terrorism Bill*, R. J. Daniels, P. Macklem, and K. Roach eds. (Toronto: University of Toronto Press, 2001) 93-108.

Conferences, Presentations, Lectures

September 2000 – Supreme Court of Canada Conference, "Symposium 2000: The Supreme Court: Its Legacy and Its Challenges", Presentation: "The Supreme Court of Canada in the Age of Rights". October 2000 – Department of Justice, Canada, Charter Conference, Presentation at Plenary Session "Impact of the Charter: Major Developments and Future Directions". October 2000 – Department of Political Science, Symposium on Legacy of Pierre Trudeau, presentation: "Towards A Just Society: Pierre Trudeau and the Canadian Charter of Rights". January 2001 – Netanya Academic College, School of Law (Israel): Lecture: "The Canadian Roots of the New Israeli Basic Laws". June 2001 – Rabbinical Assembly for Conservative Judaism, International Convention, Presentation, "Constitutional Concerns and the Rule of Law in Israel". November 2001 – "Terrorism's Challenge to the Constitutional Order?" The Security of Freedom: A Conference on Canada's Anti-Terrorism Bill, Toronto. December 2001: Submission and Presentation to Special Senate Committee considering proposed Anti-Terrorism Legislation.



Prof. Patrick Macklem



Prof. Ed Morgan

Intervention at the Inter-American Court

By Professors Patrick Macklem and Ed Morgan

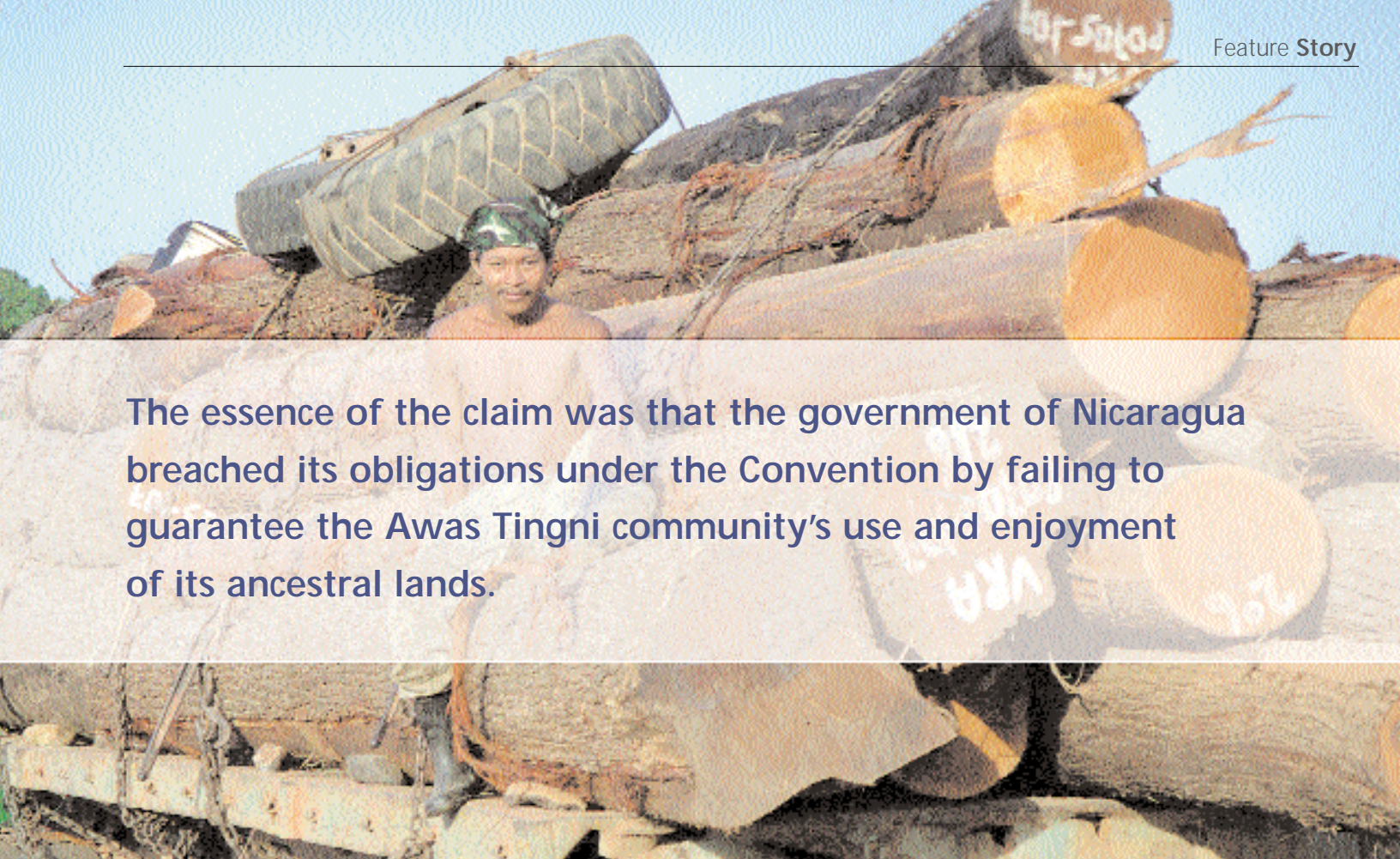
The Test Case Centre at the Faculty of Law made its first appearance in a non-Canadian forum representing the Assembly of First Nations (“AFN”) as intervenor before the Inter-American Court of Human Rights (the “Court”) in the case of *Awás Tingni v. Republic of Nicaragua*. We made an oral presentation at an attendance at the Court in June 2000 and submitted an extensive brief which was researched and written with the assistance of second and third year students, Sonya Lawrence, Andrew Wilson and Karen Abbott.

The Court, which sits in Costa Rica, considers complaints against signatory states under the American Convention on Human Rights (the “Convention”), an instrument drafted and implemented by the Organization of American States (“OAS”). To date, Canada has not signed and ratified the Convention, but as an OAS member Canada may be the subject of an investigation by the Inter-American Commission on Human Rights (the “Commission”) and Canadian NGOs may participate in an *amicus* role in proceedings before the Court. To our knowledge, this was the first time that a Canadian group has intervened at the Court.

The case was commenced in 1995 by the Awás Tingni, an indigenous Mayagna-speaking people residing in the rain forests along Nicaragua’s Caribbean coast. The essence of the claim was that the government of Nicaragua breached its obligations under the Convention by failing to guarantee the Awás Tingni community’s use and enjoyment of its ancestral lands. Those lands had been the subject of a long term concession for road construction and timber exploitation awarded by the government to a Korean corporation, Sol del Caribe, S.A. The Awás Tingni reside on the lands in accordance with their own unwritten system of land tenure and subsist primarily by family and community farming. Their social structure and culture are closely tied to their historic occupation of the lands.

After a lengthy investigation and several unsuccessful mediation attempts, the Commission issued a report in March 1998 calling for the establishment of a legal procedure for the recognition and recording of the Awás Tingni’s land rights. The Commission also ordered, as an interim measure, the suspension of the construction and timber concession until such time as the land registration procedure could be worked out. Invoking the compulsory jurisdiction against Nicaragua as a signatory state under the Convention, the Commission then presented the Awás Tingni petition to the Court in 2000. The primary issue for the Court was whether the right to property contained in Article 21 of the Convention embraces undocumented, collective land rights such as those claimed by the Awás Tingni and other peoples indigenous to the Americas. In particular, the conflict between aboriginal land rights and the resource and development interests of national governments was presented to the Court as a case of first instance.

The AFN was one of several groups to intervene in the case. Its submissions canvassed the relevant issues of international human rights law and the domestic applications of that law. In addition, the AFN described for the Court the Canadian constitutional principles governing indigenous rights and co-management arrangements with respect to resource development on aboriginal lands. It was the AFN’s position that Canada’s long



The essence of the claim was that the government of Nicaragua breached its obligations under the Convention by failing to guarantee the Awas Tingni community's use and enjoyment of its ancestral lands.

Photo by Durward "Dud" Erminger

developed common law and constitutional system of aboriginal land rights, while continuously in need of improvement, could provide a relevant point of comparison against which to measure similar developments in the rest of the Americas.

The Court issued its final ruling in September 2001, holding that Nicaragua had violated the human rights of the Awas Tingni community and ordering the government to recognize and protect the community's rights to its traditional lands and resources. The Court confirmed that the government could not grant development concessions without consulting with and obtaining the consent of affected indigenous groups. Specifically, the Court found that the government's history of dealing with Awas Tingni lands was discriminatory in that it denied the community protections which others enjoy and, in addition, that it was contrary to the right to property as expressed in the Convention. This right, according to the Court, extends beyond the protection of individual rights to include the protection of collective indigenous rights.

In its most far-reaching passages, the Court's judgment declared the existing protections of aboriginal rights under the Nicaragua Constitution to be "illusory and ineffective." In language reminiscent of that of the Supreme Court of Canada in *Delgamuukw v. British Columbia*, the Court stated that "for indigenous communities the relationship with land is not merely a question of possession and production, but it is also a material and special right which they should fully enjoy, as well as a means to preserve their cultural heritage for future generations." The decision sets an international precedent for the recognition of aboriginal land claims as a matter of human rights law. It is our sincere hope that our intervention also sets a precedent for future international legal advocacy by the Faculty of Law and its Test Case Centre. ■



Special Reports: Events

Each year, the intellectual atmosphere of the Faculty is enriched by a variety of special lectures and conferences.

In 2001, the Faculty's annual public lectures addressed the challenges and opportunities presented by new telecommunications technologies, the transformation of legal institutions in the emerging digital environment, and the principles of legitimacy underlying such recent events as NATO's intervention in Kosovo.

Two special conferences held in February 2001 addressed the impact of new technologies in Internet broadcasting and legal education, while the Faculty's conference on restorative justice brought together an outstanding constellation of international scholars. Throughout the year, a series of special lectures featured a wide range of issues, from intellectual property to the importance of the pro bono ideal.

Bringing faculty and students together with leading scholars from around the world to discuss issues of current importance, these special events ensure that the law school remains engaged in continuing developments in the law and its impact on society.

International
Telecommunications

The Evolution of
Property and Contract
in the digital
Environment

Law in a Bastard
Kingdom

Annual Public Lectures

Challenges and Opportunities in International Telecommunications

2001 Grafstein Annual Lecture in Communications

...modern communications lawyers must learn to transcend a strictly regulatory approach and focus instead on a far wider range of legal skills.

Tedson J. Meyers, senior telecommunications partner with Coudert Brothers in Washington, D.C. and president of the International Council on Computer Communications, spoke convincingly about the interdisciplinary nature of law practice today, and what he referred to as the “new fundamental in communications law” — that the communications field is “no longer our exclusive beat.” He emphasized that modern communications lawyers must learn to transcend a strictly regulatory approach and focus instead on a far wider range of legal skills.

In order to conceptualize his argument, Meyers framed his speech around the start-up of an international satellite service. Using examples from the past such as AT&T’s monopolization of the U.S. telecommunications industry, Meyers led his audience through a complex set of legal issues and drew upon his extensive expertise in regulatory counseling and transactions in the fields of space satellite systems, advanced technology in transmission systems, computer science, broadcast law and network regulation.

The Grafstein Lecture in Communications Law and Policy was established in 1998 by Senator Jerry S. Grafstein Q.C., Class of 1958, to commemorate the 40th anniversary of his graduation from the Faculty of Law and the 10th anniversary of the graduation of his son Laurence Grafstein and daughter-in-law Rebecca Grafstein (nee Weatherhead), both from the Class of 1988.



Radin explained that we are now in a period when changes in the technological environment are having a profound effect on the institutions of property and contract.

The Evolution of Property and Contract in the Digital Environment

2001 Cecil A. Wright Memorial Lecture

A packed Bennett Lecture Hall welcomed Professor Margaret J. Radin, Stanford University's William Benjamin Scott and Luna M. Scott Professor of Law, and Program Director of Law, Science and Technology.

Citing various electronic commerce, cyberspace law and intellectual property precedents, Professor Radin engaged students, alumni and faculty with her analysis of the transformation of legal institutions by the digital revolution. Her complex and contentious lecture addressed various issues of property and contract which "are looming large in the digital environment."

Radin explained that we are now in a period when changes in the technological environment are having a profound effect on the institutions of property and contract. Regimes of copyright, patent and trademark are expanding while information is being treated more like an ordinary market commodity. She reminded the audience that as contract and property evolve in the digital world, we need to keep them in check by remembering society's basic commitment to liberal democracy.

Fresh from delivering this lecture, Professor Radin began a two-week term as Distinguished Visiting Lecturer at the law school's Centre for Innovation Law and Policy, where she taught "Transformation of Property and Contracts in the Digital Era."



Professor Applbaum concluded that although NATO's intervention may have been illegal under international law, it was nonetheless moral, because Serbia had ceased to be a legitimate government with respect to the Kosovars.

Law in a Bastard Kingdom

2001 Morris A. Gross Memorial Lecture

When the sovereign of a land is of questionable lineage, the legitimacy of his rule is suspect. He may be replete with kingly attributes, yet his right to the throne is uncertain. Such is the quandary of a "bastard king."

Framed by this historic and literary context, Professor Arthur Applbaum addressed contemporary questions of legitimacy and principles of liberal justice. Proposing a substantive standard for legitimacy stemming from a connection between the ruler and the ruled and based on respect for political freedoms and individual welfare, he argued that a state may be legitimate under international law but illegitimate by this definition.

Applying his theory to more recent events in Kosovo, Professor Applbaum concluded that although NATO's intervention may have been illegal under international law, it was nonetheless moral, because Serbia had ceased to be a legitimate government with respect to the Kosovars. By contrast, although President George Bush's electoral victory was ill begotten, he can rightly lay claim to legitimacy because the United States still meets the substantive criteria for legitimacy.

Professor Applbaum concluded by arguing that among regimes that demonstrate a sufficient connection between the substantive and procedural claims of legitimacy (e.g. the United States), one need not question their origins too closely.

The Morris A. Gross Memorial Lecture was established in memory of the late Morris A. Gross by the law firm Minden, Gross, Grafstein and Greenstein and by members of his family, friends and professional associates.



Conferences



Sheridan Scott, Chief Regulatory Officer, Bell Canada

iCraveTV and Beyond: The Legal Challenges of Internet Broadcasting

Since its inception, the Internet has had significant impact on conventional copyright and broadcast regimes. In its second annual conference, the Faculty's Technology and Intellectual Property Group aimed to encourage debate about the variety of issues that must be explored when considering viable approaches to Internet regulation.

Students, faculty and experts in the field of broadcast and Internet regulation filled Bennett Lecture Hall for the February 2001 event, including Christopher Taylor, Vice-President of Law and Regulatory Affairs at the CCTA, Gary Maavara, Executive Vice-President of CanWest Interactive, Stephen Zolf ('87) of Heenan Blaikie, Matthew Fraser of the National Post, and Sheridan Scott, Bell Canada's Chief Regulatory Officer.



Prof. Hudson Janisch

Keynote speaker, Farrel Miller, founder and CEO of *JumpTV.com* spoke about the differences between *JumpTV.com*, a service that retransmits over-the-air broadcast signals on the Internet, and a similar but less successful venture, *iCraveTV.com*, which was shut down as a result of legal battles. Miller noted that part of the success of *JumpTV.com* was its willingness to pay a tariff to copyright holders for programs shown on his service. It was evident from ensuing debate that those who opposed *iCraveTV.com* were also ready to do battle with this new player.



Not a Box but a Window: Law Libraries and Legal Education in a Virtual World

More than 80 participants, including law librarians from across North America, faculty members, publishers, and students from as far away as New Zealand, South Africa and Estonia, came together in February 2001 to consider how legal education might evolve over the next few decades. Paramount in discussions was whether law will be taught in the traditional classroom setting or over the Internet, and how libraries should evolve in order to enhance legal education and meet new challenges.

A key theme running throughout the conference was the future of distance legal education. The consensus among participants was that the future will see a move toward having course materials available on the web, as well as web-based discussion groups and chat rooms for the exchange of ideas. Lectures will also be web-streamed to facilitate access to legal education for learners in remote areas, or those in full time employment. Change will be driven by competition from other institutions willing to make these services available.

Although some in attendance stated their uncertainty about the future of printed text as an educational tool, all agreed that libraries need to be reconceptualized to remain vital in the electronic age.



Restorative Justice in Theory and Practice

In May 2001, the Faculty — in conjunction with Centres of Criminology at the Universities of Toronto, Ottawa and Cambridge — sponsored this three-day conference organized by Professor Kent Roach and University of Ottawa professor, Julian Roberts. The conference served not only as a medium for discussion between leading experts in the fields of restorative and retributive justice, but was also a continuation of a conference held at the University of Cambridge a year previous. On this occasion, Canada's political channel, CPAC, televised the conference's well-attended public session to a national viewing audience. The event attracted international and nationally-recognized scholars in the field, including professors John Braithwaite of the Australian National University, Kathleen Daly of Griffith University, Barbara Hudson of the University of Lancashire, Patrick Healy of McGill University, David Paciocco of the University of Ottawa, Andrew von Hirsh of the University of Cambridge, and Richard Young of the University of Oxford. Lawyers, public officials and advocacy group representatives such as David Price of the Ontario bar, Jonathan Rudin of Aboriginal Legal Services of Toronto, Rupert Ross of Ontario's Ministry of the Attorney General and Joan Ryan of the Arctic Institute also attended.



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13th Annual John M. Olin Conference in Law and Economics

Prominent North American and European academics and representatives from a variety of Canadian businesses, organizations and agencies attended this year's conference, which offered 18 sessions covering a broad array of issues in the area of law and economics.

The conference, which also serves as the annual meeting of the Canadian Law and Economics Association, opened with the John M. Olin Public Lecture in Law and Economics, *Willingness To Pay Without Apology*, delivered by Professor Robert Frank of Cornell University's Johnson Graduate School of Management.

The sessions that followed covered contemporary issues ranging from intellectual property rights, competition law, securities regulation and competition act amendments, to law and environment, regulations governing non-profit and charitable organizations and globalization.

Professors Michael Trebilcock, Kevin Davis, Bruce Chapman and Jeffrey MacIntosh were among Faculty scholars who participated, along with attendees representing universities such as Queen's, Simon Fraser, Cambridge, Harvard, Virginia, California-Berkeley and Chicago-Kent College of Law. Officials from Industry Canada, the Competition Bureau and Statistics Canada also took part.

31st Annual Workshop on Commercial and Consumer Law brought about a lively discussion on the NAFTA Chapter 11, globalization and insolvency legislation

31st Annual Workshop on Commercial and Consumer Law

NAFTA Chapter 11, globalization and insolvency legislation were several of the topics covered in last October's conference which brought together renowned practitioners and scholars from the legal and social sciences field, including Faculty professors Michael Trebilcock, Stephen Waddams, Tony Duggan and Kent Roach.

An early workshop discussion, *Developments in the Law of Damages: The Future of Punitive Damages Awards in Canada*, sparked discussion among panelists from the Universities of Alberta, Ottawa, Western Ontario, and the Faculty's Professor Stephen Waddams. Another lively session, *What Cures for NAFTA Chapter 11 Ills*, also led to stirring discussion among Stephen Clarkson from U of T's political science department, University of Michigan Law School's Rob Howse, Julie Soloway of Davies Ward Phillips & Vineberg, and International Trade Law Consultant Todd Weiler. Later, Professor Jay L. Westbrook of the University of Texas Law School provided additional insight into the U.S. Chapter 11 experience as a compass for Canadian insolvency law reform.

An important aspect of the conference which helped cement the collegial atmosphere of the event was the special reception and dinner at the University's elegant Faculty Club. This year's featured after-dinner speaker was Professor Trebilcock, who delivered *Globalization and its Discontents*.

Convened by Professor Jacob Ziegel, the *31st Annual Workshop On Commercial and Consumer Law* was sponsored by the Canadian Business Law Journal, of which Ziegel is editor-in-chief, the Commercial and Consumer Law Section of the Canadian Association of Law Teachers, the Osgoode Hall Law School, and the Faculties of Law of the Universities of Alberta, British Columbia, Dalhousie, McGill, Queen's, Saskatchewan, and Toronto.

Other Special Events



Dion speaks out against “separatist blackmail”

In a special visit to the law school, the Honourable Stéphane Dion, Federal Minister of Intergovernmental Affairs and President of the Queen's Privy Council for Canada, delivered an impassioned and provocative speech about what he described as the “separatist blackmail” currently threatening Canadian solidarity. In his speech, *Speaking out for Canadian Solidarity, the Perverse Effects of Separatist Blackmail*, Dion criticized citizens who endorse separatist blackmail and want their own country at the expense of Canadian solidarity. Nothing, argued Dion, justifies secession. He said the solution is dialogue: to talk politely, and with empathy but frankness, in order to show these disenfranchised citizens what Canada is all about. “We all have our own ideas about how to improve our country, be it through constitutional or other means,” Dion said. “But none of those improvements is so fundamental that we have to separate if we fail to achieve it. Resolutely deciding to stay together in full confidence is the best way to help each of us achieve our aspirations.”



Refugees in Limbo: Canada's Obligation

Canada is violating international obligations with respect to undocumented refugees, says professor Guy S. Goodwin-Gill, who teaches international refugee law at Oxford University, and Judith Kumin, representative to Canada for the UN High Commissioner for Refugees.

Both visited the Faculty for a seminar, *Domestic Implementations of International Refugee Obligations*, organized by the Toronto-based Maytree Foundation. The objective: to promote legislative implementation of Articles 25, 27 and 28 of the 1951 Convention in Bill C-11, the Immigration and Refugee Protection Act.

The 1951 UN Convention requires contracting states to provide undocumented refugees with administrative assistance, identity papers and travel documents. However, Goodwin-Gill and Kumin say that Canada has been in violation since 1993, when legislative amendments required convention refugees to provide passport, travel or other satisfactory documents. Without such documents refugees were to be denied landing in Canada. Goodwin-Gill and Kumin say the new requirements have had an immediate impact, estimating that at least 7,500 undocumented refugees living in Canada who had previously been granted convention refugee protection were now unable to be landed. Without permanent status these convention refugees are left in a state of “legal limbo” where they are unable to sponsor family members, travel outside Canada, get credit cards, bank loans, or access student loans for post-secondary education.

The solution, according to Goodwin-Gill and Kumin, is simple: Canada should do what it has promised to do under the 1951 convention and supply identity papers and travel documents. Such documents would allow refugees to travel and would also be sufficient proof of identity for landing purposes.

Canada is violating international obligations with respect to undocumented refugees, says professor Guy S. Goodwin-Gill. Canada should do what it has promised to do under the 1951 convention and supply identity papers and travel documents.



L-R: Prof. Kent Roach, Dr. Randi Zlotnik Shaul (Hospital for Sick Children), Patti Bregman (Canadian Mental Health Association), and Prof. Bernard Dickens

The Robert Latimer Decision

The implications of the controversial legal case involving Robert Latimer, the Saskatchewan farmer convicted in the 1993 killing of his 12-year-old daughter who suffered from a severe form of cerebral palsy, continue to raise serious social, political and legal questions.

To address some of those issues, the Faculty and the Phi Delta Phi International Legal Institute hosted *The Robert Latimer Decision*, a panel discussion which probed the significance of the judgment for persons with disabilities, the defence of necessity, the timidity of the Supreme Court, and the values espoused by the judgment itself.

Professors Kent Roach and Bernard Dickens, together with Dr. Randi Zlotnik-Shaul of the Hospital for Sick Children and Patricia Bregman of the Canadian Mental Health Association, spoke with diverse viewpoints and discussed the social and political implications of the decision. They questioned the role of the necessity defence, whether the punishment fit the crime, the sympathy some Canadians expressed toward Latimer and what that sympathy justifies or excuses.

Sex, Speech and the Supreme Court

On March 1, 2001 the Faculty of Law and the Centre of Criminology jointly presented *Sex, Speech and the Supreme Court: A panel discussion on Little Sisters and R. v. Sharpe*. This seminar represented a significant contribution to the ongoing critical discussion about the role of courts in relation to the Charter guarantee of freedom of expression.

The Little Sister's case stemmed from a challenge that Little Sister's Book and Art Emporium, a Vancouver gay and lesbian bookstore, launched in a bid to overturn Canada's obscenity law. The *R. v. Sharpe* case is one in which Vancouver resident Robin Sharpe challenged the constitutionality of a section of Canada's child pornography law.

Faculty professors Brenda Cossman and David Schneiderman, and professors Mariana Valverde of the Centre of Criminology and Karen Busby of the University of Manitoba Law School, discussed the values of freedom and equality and the Supreme Court's application of the law regarding these cases. The panelists expressed concern about the extent of infringements the court felt were justified under section 1 of the Charter, particularly when dealing with sexual expression. There was also concern about the court's fear of being labeled "activist," a concern some panelists say led to the lack of remedy in *Little Sister's*.

Walkerton Inquiry counsel visits the Faculty

The inquiry into the tainted water scandal that claimed seven lives and made 2,000 people ill in a small Ontario town in 2000 became the focus for Toronto law students last March when the Environmental Law Club hosted a lecture and discussion, *H2O: Ontario's Water and the Walkerton Inquiry*.

The event welcomed to the law school the Commission Counsel to the Walkerton Inquiry, which is charged with the task of investigating E.coli contamination in Walkerton and more generally, the safety of Ontario's drinking water. Commission Counsel Paul Cavalluzzo and Ronald Foerster discussed unique aspects of the inquiry, from its inception soon after the E. coli outbreak to the cathartic role it has played for the people of Walkerton. Both visitors stressed the complex jurisdictional balancing act that many public inquiries, not just Walkerton's, must undertake.

Human rights worldwide

International human rights and the legal conceptions of the term "disability" were up for debate during the law school's first human rights forum in March 2001: *Challenging Our Understanding of Human Rights Symposium*.

Three panel sessions fueled discussion during the full-day affair. In the first, disability rights and occupational therapy experts challenged society's traditional perceptions of disability. The second panel, comprising officials from Amnesty International and the Canadian Centre for Victims of Torture, discussed national and international response to torture. The final panel with Faculty Professors Ed Morgan and Mayo Moran, dealt with issues of corporate responsibility in the context of international human rights, addressing legal and legislative initiatives in these areas.

Special keynote speakers included student activists Hanny Htun and Kyaw Than, who shared their personal experience and provided historical background of the pro-democracy movement in Burma.

The symposium, organized by the CLAIHR group, the Rwanda Working Group, Women and the Law, MAPIL, Thailand Working Group, Amnesty International Law School Chapter, and the Law Union U of T Chapter concluded with a Thai gala dinner. The gala featured a silent auction, and all money raised went to help fund student human rights internships in Thailand.

Alumni Receptions



Vancouver

For the second year in a row, our Vancouver alumni reunited for a social gathering at the Terminal City Club in downtown Vancouver. Appetizers, wine, and good company were enjoyed by all who were able to attend, including graduates spanning the years 1964 to 2000. The Faculty would like to give special thanks to three law firms — Borden Ladner Gervais LLP, Davis & Co., and Fasken Martineau DuMoulin LLP — who sponsored the function, as well as four dedicated alumni who helped organize this well-attended event: Lynda Parsons ('78), Angus Gunn ('93), Andrew Nathanson ('95), and Julia Lawn ('97).



Calgary

Thirty-five alumni and guests gathered for this year's reunion event at La Dolce Vita Ristorante Italiano, hosted by the Calgary branch of the Law Alumni Association. Alumni Molly Naber-Sykes ('83), Emi Bossio ('96) and Lianne Tysowski ('94) spent countless hours organizing this highly successful and well-attended event. Honoured guest, Mr. Justice Frank Iacobucci, gave a warm welcome and spoke fondly of his many years as dean of the Faculty. Special thanks to sponsors Blake Cassels & Graydon LLP, Borden Ladner Gervais LLP, Burnet, Duckworth & Palmer LLP, Fraser Milner Casgrain LLP, Macleod Dixon, John J. Marshall, Q.C., McCarthy Tétrault LLP, and Osler, Hoskin & Harcourt LLP.



photo by: grandmaison.mb.ca

Winnipeg

The elegant Manitoba Club was the setting for this year's alumni reception and dinner which attracted a diverse crowd of alumni and guests. Special guest speaker Len Asper ('89), President and Chief Executive Officer of CanWest Global Communications Corp., spoke to an audience of more than a hundred people about Canada's media landscape. The dinner following the reception allowed for a more intimate and relaxed setting for law graduates to rekindle old friendships and share news about family and careers. Special thanks to alumnus, Brian Bowman, ('98) for helping to organize this special event.



Boston

At the first of what we hope will be an annual event in Boston, alumni gathered at the Vault Bistro & Wine Bar situated on picturesque Water Street downtown. Fourteen of approximately 25 graduates working in the Boston area attended the function organized by George Davitt ('80). Former law dean, President Emeritus of the University of Toronto and President and CEO of Torstar Corp., Robert Prichard, who was teaching at Harvard over the 2000-2001 term, spoke about enhancement of the Faculty's professoriate, new program developments and of the importance of alumni maintaining close ties to the Faculty.



News Around the Law School

The extraordinary vitality of the Faculty is demonstrated by the number of new and ongoing initiatives and events that take place throughout the year.

The Dean's Leadership Luncheon Series welcomed alumni, who willingly shared their insights and experiences with members of the law school community.

Awards for academic achievement and competitive mootling recognized the excellence of the school's students, while the continuing expansion of the Career Development Office and other initiatives facilitated their ability to pursue a variety of career choices.

The ongoing development of the school's special research centres and programs continued to place the school in a leading role in areas such as innovation, international human rights, and reproductive and sexual health.



L-R: Anna Yarman, Ilana Mantell, Owen Shime and Laura Weinrib

Dean's Leadership Luncheon Series

From Fall 2000 through Winter 2001, a number of our distinguished graduates took time to meet with students and share their unique perspectives and experiences in their professional careers. Students gained valuable insight into many of the legal community's respected and accomplished role models.

The Hon. Rosalie Abella ('70) continued her longstanding contribution to the law school with this most recent visit. Despite her hectic and increasingly international schedule, Justice Abella of the Court of Appeal for Ontario, found time to delight students with details of her rich and varied legal career. Since her appointment to the bench in 1979, Justice Abella has focused on key areas of law reform and education, and has taken an intense interest in human rights law.

Laura Trachuk ('86), Vice-Chair of the Ontario Labour Relations Board, visited the Faculty to speak to students about the significant contributions she has made to her field of law. Laura's vast array of accomplishments in the relatively short time since her graduation include writing numerous articles, and practising law in the areas of labour, employment, human rights, occupational health and safety, pay equity and workers' compensation.

Ed Waitzer ('76), Chair of Stikeman Elliot and former Chair of the Ontario Securities Commission, treated students to a delightful account of the unique path he took to arrive at his current position. Ed encouraged students to pursue social and public policy goals, showing them that by making "change" a motivating factor in one's life, an interesting mix of work and social obligations could result. He concluded by encouraging those in attendance to find their own motivating principles and not be afraid of where they might be led.

Alan Borovoy ('56) led a lively discussion on the topic of careers in public interest law. Alan concedes that corporate lawyers make more money, but insists that public interest lawyers have all the fun. After sharing some of the key strategies he has used to raise public awareness about certain issues, Alan was prevailed upon to share his thoughts about the prospects for Canadian civil liberties in the wake of the September 11, 2001 terrorist attacks in the U.S. He advised students to keep an open mind about any proposals to curtail civil liberties, but also a skeptical disposition. The government, he said, should be specific about what it intends to do, and should demonstrate that such measures are necessary.

Owen Shime ('60), a renowned Labour Arbitrator and Mediator since the late 1960s, is one of the most cited arbitrators in labour law. Owen, who was kind enough to share his thoughts and personal stories with students, has had a remarkable career that includes pioneering work in alternative dispute resolution and the arbitration of numerous landmark cases. In 1973, he began arbitrating and mediating – a rarity at that time – as the president of his own firm, Dispute Services. He has since served on numerous boards and commissions that specialize in areas such as education, labour and human rights.



Alan Borovoy



Ed Waitzer



The Hon. Rosalie Abella

Many of the Past Guests of the Dean's Leadership Luncheon Series

Raj Anand '78

James Baillie, Q.C. '61

David Baker '75

Brent Belzberg '75

Robi Blumenstein '78

Kirby Chown '79

Hon. Tony Clement '86

Gordon Cunningham '69

Garfield Emerson '66

Hon. Gloria Epstein '77

**Hon. J. Trevor Eyton, O.C.,
Q.C. '60**

Hon. Kathryn Feldman '73

Jean Fraser '75

Jonathan Fried '77

Diane Goodman '83

**Hon. Stephen T. Goudge
'68**

**Hon. Senator Jerry
Grafstein, Q.C., C.P. '58**

**Hon. William C. Graham
Q.C. '64**

Robert Grandy '74

**Anthony John Earle
Grey '61**

**Hon. Senator Daniel
Hays '65**

Hon. Keith A. Hoilett '64

John Honderich '71

**Hon. Chief Justice Julius
Isaac '58**

Richard W. Ivey '75

**Chancellor Henry N. R.
Jackman '56**

Fred Kan '67

Allen Karp '57

**V. Maureen Kempston
Darkes '73**

Brian Levitt '73

Hon. Sidney Linden '64

Elizabeth J. McIntyre '76

Aaron Milrad '60

Janet Minor '73

Hon. John Morden '59

**Hon. David Peterson, P.C.
Q.C. '67**

Robert K. Rae, Q.C. '77

Thomas Rahilly '69

Clayton Ruby '67

**Lionel H. Schipper, O.C.,
Q.C. '56**

Jean Teillet '94

Martin Teplitsky, Q.C. '64

**James Marshall Tory,
Q.C. '52**

James G. Ware '68

Richard Wernham '76

Judith Wolfson '80



Executive Director, Richard Owens

In February 2001, Richard Owens joined the Centre as Executive Director. Richard graduated from the University of Toronto Law School in 1987 and was called to the bar in 1989. Since that time, he has built a successful career as a partner with Smith Lyons, LLP practicing corporate and commercial law and specializing in technology related law. Richard has acted for many high-technology companies as well as financial institutions in their uses of technology, including licensing, strategic alliances and joint ventures, privacy, financing, outsourcing, electronic commerce, public/private partnerships, and Internet issues. Richard was recognized as one of Canada's leading computer lawyers in the 1999, 2000 & 2001 Leading Lawyers in Canada Guides, published jointly by Lexpert and American Lawyer magazine. He has written and published widely on the law of information technology, privacy, and the regulation of financial institutions. As an adjunct professor at the University of Toronto, Richard has taught courses in Information Technology law and is currently teaching a course on Innovation Law and Policy.

The Centre For Innovation Law and Policy

Breaking New Ground at the Faculty

In May 2002, the Centre for Innovation Law and Policy celebrated its third year at the Faculty of Law, University of Toronto.

This multi-faceted teaching, research and policy advisory centre — led by Executive Director Richard Owens ('87), a senior Canadian technology lawyer — has many accomplishments to celebrate including the creation of new research initiatives and curriculum, the organization of numerous roundtables, seminars and conferences, and the enhancement of both faculty and staff.

The addition of outstanding new faculty includes the appointment of Professor Jonathan Putnam to the chair in Intellectual Property Law and Economics. An expert in intellectual property, antitrust, technological change, industrial organization and applied microeconomics, Professor Putnam holds a doctoral degree in economics from Yale University, and his research and teaching is focused principally in the intellectual property area.

Trudo Lemmens has been cross-appointed in the Faculties of Law and Medicine at the University of Toronto. Before joining the University, Professor Lemmens was a researcher with the Biomedical Ethics Unit of McGill University, with the Centre de Recherche en Droit Public of the Université de Montréal, and, in his country of origin, Belgium, with the Department of International and Comparative Law of the Catholic University of Louvain (K.U.Leuven). His research currently focuses on research ethics and research regulation and on the ethical, legal and social issues of genetics.

Another key appointment saw Professor Hudson Janisch, Canada's leading academic in the field of telecommunications law, named to the Osler, Hoskin & Harcourt Chair in Law and Technology. Professor Janisch has been a member of the Faculty for over 20 years, during which time he has also served as a Visiting Professor in the Department of Communication at Simon Fraser University and as Chairman of the Regulated Industries Program of the Consumers' Association of Canada. Professor Janisch's current research interest is focused principally on national and international telecommunications regulation.

Further additions include Lisa Austin who was appointed Assistant Professor at the University of Toronto, Faculty of Law. Her research interests include privacy issues, property law and the social implications of technology. She is completing her Ph.D. in Philosophy at the University of Toronto, working in the area of philosophy of technology. Abraham Drassinower joined the Faculty of Law in 1999 as an Assistant Professor and is affiliated with the Centre as are Professors Jeffrey MacIntosh, and David Wolfe.

The Centre also sponsors a minimum of five graduate fellowships each year which are awarded to outstanding LL.M. and S.J.D. candidates writing theses in the field of innovation law and policy. This year, six doctoral and two LL.M. students have been awarded a graduate fellowship.



Prof. Lawrence Lessig



L-R: Richard Owens, Prof. Michael Meurer, Prof. Dan Burk, Richard Corley and Professor Ralph Winter

Nancy McCormack has also recently joined the Centre as its librarian/administrator. Nancy holds an M.A. in English (McMaster) and an M.L.I.S. (Western). She is a graduate of the Faculty of Law, University of Toronto, and is completing an LL.M. at Osgoode Hall Law School, York University. Nancy has worked most recently as a librarian at Fasken Martineau DuMoulin LLP in Toronto, and has acted as a consultant in the area of forensic documentation.

During the 2000/2001 and the 2001/2002 academic years, the Centre brought in several distinguished visitors to teach intensive courses and to speak at the Centre. In January 2002, Professor Lawrence Lessig of Stanford Law School taught an intensive course for J.D. and graduate students on the "Law of Cyberspace." Professor Lessig is one of the world's leading experts in Internet law, and has led public debate on fundamental issues of freedom of expression in the electronic age. He teaches and writes in the areas of constitutional law, contracts, comparative constitutional law, and the law of the Internet. He is the author of the enormously influential book, *Code, and Other Laws of Cyberspace* and the recently published *The Future of Ideas*.

In January 2002, visiting professor Pamela Samuelson (of the University of California at Berkeley with a joint appointment in the School of Information Management & Systems as well as in the School of Law where she is a Director of the Berkeley Center for Law & Technology) taught an intensive course on "Intellectual Property in Cyberspace." Professor Samuelson has written and spoken extensively about the challenges that new information technologies pose for traditional legal regimes, especially for intellectual property law, and she is an advisor for the Samuelson Law, Technology and Public Policy Clinic. In June 2000, the National Law Journal named her as one of the 100 most influential lawyers in the U.S.

During September and October 2001, Distinguished Visiting Professor, Dr. James Alleman taught an intensive course entitled "Network Economics: A Primer and Beyond." Dr. Alleman's impressive telecommunications experience includes nearly 30 years in teaching and in the communications industry, including a post as economist for the International Telecommunications Union. Alleman is a Visiting Associate Professor in the Media and Communications Program at Columbia Business School and Director of Research, Columbia Institute for Tele-Information (CITI), Columbia University, New York, N.Y.

Professor Andrew Christie who is an Associate Professor and Director of the Graduate Program in Law at the University of

Melbourne Law School taught intensive courses during the last two academic years. Professor Christie is a Member on the Panel of Neutrals, World Intellectual Property Organization Arbitration and Mediation Centre, Geneva, adjudicating bad-faith domain name registration ('cybersquatting') disputes under the Uniform Policy of the Internet Corporation for Assigned Names and Numbers. In this capacity, he has decided frequently-cited decisions (telstra.org) and high profile decisions (sting.com).

Other visiting professors during this time have included Professor Wendy Gordon, a Professor of Law and the Paul J. Liacos Scholar in Law at Boston University School of Law and Margaret Jane Radin, the William Benjamin Scott and Luna M. Scott Professor of Law at Stanford Law School and co-director of Stanford's Law, Science & Technology Program. In November 2001, the Centre arranged for David G. Post, Professor of Law at Temple University Law School, to give a lecture at the University of Ottawa entitled: *The Free Use of our Faculties: Thomas Jefferson and the Language(s) of Cyberspace*. David Post is a Senior Fellow at the Tech Center at George Mason University Law School as well as the Co-Founder and Co-Editor of ICANN Watch (www.icann-watch.org), the Cyberspace Law Institute (www.cli.org), and Disputes.org.

Adding to this list of notable visitors are Marc Rotenberg, Executive Director of the Electronic Privacy Information Center (EPIC); Jean Lanjou, Professor, Department of Economics, Yale University; Brian Fitzgerald, Dean, Southern Cross University (Australia), Faculty of Law; Michael Godwin, Former Staff Counsel, Electronic Frontier Foundation; Catherine Kessedjian, Deputy Secretary-General, The Hague Conference on Private International Law; Ruth Gana Okediji, Edith Gaylord Harper Presidential Professor, University of Oklahoma Law Centre; Bradford Smith, Senior Vice President and General Counsel Law & Corporate Affairs Microsoft Corp.; Jean Braucher, Roger C. Henderson Professor of Law, University of Arizona; and many, many more.

Rounding out this banner year, the Centre has also co-sponsored several conferences including a conference on Traditional Knowledge, Intellectual Property, and Indigenous Culture at the Benjamin N. Cardozo School of Law, Yeshiva University, New York, and a conference entitled "Censorship and Privacy: Civil Liberties in a Digital Age" with the Technology and Intellectual Property Group at the University of Toronto.



Prof. Jeffrey MacIntosh

Jeffrey MacIntosh is the Toronto Stock Exchange Professor of Corporate and Securities Law and current Director of the Capital Markets Institute at the University of Toronto. He holds law degrees from Harvard and Toronto, and a bachelor of science degree from M.I.T. Prior to joining the University of Toronto, Professor MacIntosh served as an assistant professor at Osgoode Hall Law School and was appointed a John M. Olin Fellow at Yale Law School in 1988-89.

Professor MacIntosh specializes in Corporation Law, Corporate Finance, Securities Regulation, Venture Capital, and Small Firm Financing. His publications have been principally concerned with Corporation Law, Securities Regulation, and Small Firm Financing.

Capital Markets Institute

The Capital Markets Institute (CMI), a joint initiative of the Faculty of Law and the Rotman School of Management at the University of Toronto, was established in the late 1990s with financial support from the TSE. The University and the TSE created the CMI to be a new forum for independent and rigorous research and debate on the structure and performance of Canadian capital markets.

The CMI aims to improve the performance and competitiveness of Canadian capital markets through timely and rigorous debate and research (applied, empirical and theoretical) on issues unique to Canada's capital markets. The CMI brings stakeholders together serving as a forum for discussion to facilitate the exchange of ideas between academics, market participants and policy makers. All of these activities are intended to make the CMI a significant resource in policy discussions and contribute to the improved functioning of the Canadian capital markets.

The CMI carries out these objectives by offering roundtables, workshops, seminars and conferences, independently as well as in partnership with other organizations. It also funds and disseminates original research within its mandate, as well as supporting the development of teaching materials and executive programs in capital markets related courses. Recent CMI events include:

Roundtable on Relaxing Canadian GAAP Requirements for Reporting Issuers

In early 2001, the Canadian Securities Administrators (CSA) published a discussion paper soliciting public comments on possible changes to the rules governing the accounting standards used for financial statements filed by reporting issuers in Canada. At issue is whether securities regulators should allow issuers to employ U.S. or international standards exclusively for their filings in Canada. This roundtable brought together over 25 senior professionals including securities lawyers and accountants, regulators, CICA Accounting Standards Board members, TSE representatives, institutional investment fund managers, research analysts, CFOs and academics to provide valuable feedback to the CSA on this proposal.

Roundtable on Selective Disclosure – To FD or not to FD?

The environment for corporate disclosure by public companies in Canada is undergoing significant change. In 2001, the CSA proposed a 'best practices' approach to the regulation of selective disclosure in proposed National Policy 51-201. The National Policy is designed to promote actual and perceived fairness in disclosure by public companies, and in particular to ensure that all investors, both institutional and retail, receive information in both a timely and even-handed manner. The CMI brought together a group of experts to debate the new corporate disclosure environment, provide feedback to policy-makers on how the proposed policy has impacted the investment process in Canada, and make recommendations for improvement as the final policy is formulated. Participants at this roundtable included the Vice-Chair of the OSC, research analysts, institutional investors, retail brokers, CFOs, investor activists, investor relations consultants, academics, stock exchange officials and securities lawyers.

Roundtable on Venture Capital and University Innovation

Co-hosted with CICAP, this roundtable examined how universities, university-based innovators and the venture capital communities can better cooperate to their mutual financial benefit. Participants focused on the areas in which Canadian universities can improve relative to the commercialization practices of United States universities, as reflected in the experience of VC investors and innovators from the university environment. In particular, participants stressed the need for Canadian universities to develop and adopt a set of best practices to facilitate the commercialization of technology in a manner that is consistent with a university's academic mission, and for government policy to reduce the obstacles to the private funding of university innovation.

Symposium on the Future of Securities Regulation in Canada

On March 8th, 2002, the Capital Markets Institute, in partnership with the Canadian Foundation for Investor Education at the Toronto Stock Exchange, hosted "A Symposium on Canadian Securities Regulation: Harmonization or Nationalization?" Canada is the only G7 country without a single securities regulator. The aim of the symposium was to bring together key stakeholders and decision makers in Canada to discuss the implications of our regulatory regime for the future of Canadian capital markets, and to explore possible directions for the future. Some 140 participants, from across Canada and from a number of other countries (including the United States, Australia, and various countries in the European Union), joined us for this day-long event. The symposium featured an international line up of speakers who addressed such diverse policy options as inter-jurisdictional cooperation and harmonization, a single national regulator (whether constituted federally or by the provinces), and competitive federalism (in which an issuer may select the securities law of a single jurisdiction to govern its affairs). Panels consisting of presenters from the United States, Australia, and the European Union discussed their own jurisdictions' experiences with national versus local regulation, and a Canadian panel jostled over what the Canadian regulatory landscape should look like in the future. The symposium resulted in generous coverage in the national press.

Valuation for Lawyers

Practitioners play a critical role in representing and protecting their clients' interests in the area of pricing and valuation of securities offerings and M&A transactions. Valuation for Lawyers, a 1 1/2 day workshop, was held in response to robust

demand from legal practitioners. The purpose of the workshop was to better equip lawyers to query methods, review analysis, and assess the assumptions behind professional valuations: in short, to ask the right questions on behalf of the lawyer's client during price and value negotiations. The workshop was led by a pre-eminent panel of respected Canadian financial professionals and academics.

Mutual Fund Governance in Canada: Is Reform Needed?

The Erlichman Report (prepared for the Canadian Securities Administrators by lawyer Stephen Erlichman of Fasken Martineau DuMoulin, Toronto) made a number of significant recommendations for reform of mutual fund governance in Canada. This mini-conference was an opportunity for a blue-ribbon panel to debate the wisdom of the changes proposed in the report. Five presentations were made (including one by Stephen Erlichman, author of the report), followed by a lively and informative discussion and debate.

A complete Webcast and/or white paper for most of the CMI's events are available at the CMI website at www.capitalmarketsinstitute.ca

Upcoming Academic Conferences

In addition, the CMI is currently organizing two academic conferences. The first, "What Next for Private Equity and Venture Capital?", will be held on June 20-21 of this year. A total of eight papers will be presented on various aspects of venture capital financing. The second conference, "The Future of Stock Exchanges in a Globalizing World", will be held on August 16-17 of this year. It will focus on issues related to the future of stock markets in relatively small economies like Canada's.

In addition to these exciting activities, the CMI is beginning discussions with Canadian capital markets leaders to fund the next generation of CMI activities and research. CMI sponsors play an important role that goes far beyond providing funding in helping the CMI to achieve its objectives. In particular, CMI sponsors enjoy a close and public relationship with two leading professional schools in the capital markets field: the Faculty of Law and the Rotman School of Management. Becoming a CMI sponsor demonstrates your firm's commitment to and interest in world-class research that directly benefits stakeholders in Canada's capital markets. Readers who are interested in learning more about becoming a CMI sponsor or who have ideas for research or events, should contact Lisa Porlier, Executive Director in order to arrange a meeting with the Management Board.

Graduate Program News

The Faculty offers an intellectually stimulating and scholarly environment to domestic and international students seeking a graduate education in law. Graduate students have an unparalleled opportunity to work closely with internationally renowned scholars and faculty members who have a diverse range of research interests, and who can offer supervision of graduate research in most areas of law. The pluralistic academic community invites a variety of approaches to legal scholarship including, but not limited to, feminism and the law, law and economics, legal history, law and society, analytical jurisprudence and critical legal theory. The faculty's commitment to inter-disciplinary scholarship (many faculty members are cross-appointed) encourages students to position their legal research within a broader, inter-disciplinary context. The coursework intensive LL.M. option has also been implemented, and specialized LL.M.s in Constitutional Law, International Law, Health Law and Policy, Law and Innovation, Business Law and Institutions, and Legal Theory have been developed.



Associate Dean, Graduate Program,
Brian Langille



Assistant Dean, Graduate Program,
Kaye Joachim



The graduate program continues to attract highly competitive legal scholars from around the world and has undergone a recent period of growth and innovation. Brian Langille, Professor and Associate Dean, Graduate Studies has overseen the program during this exciting phase and the recruitment of Kaye Joachim (LL.M. '97) as Assistant Dean, Graduate Studies has facilitated the implementation of new initiatives such as graduate orientation events, academic orientation for foreign trained graduates, LL.M. and S.J.D. thesis and doctoral seminars.

This past year, 83 graduate students attended the faculty, up from 47 students in 1995. Graduate students come from every corner of the globe: Argentina, Australia, Brazil, Botswana, Bulgaria, Canada, China, England, France, Germany, Hungary, India, Israel, Jamaica, Japan, Korea, Mongolia, Namibia, Nepal, Nigeria, Pakistan, Peru, Philippines, Romania, Scotland, Slovakia, Somalia, South Africa, former Soviet Union, Tajikistan, Tanzania, Uganda and Yugoslavia. The program's graduates also teach in law faculties across Canada and the world:

- Michal Gal, S.J.D. 2000 - Professor
University of Haifa, Israel
- Irene McConnell, S.J.D. 1999 - Assistant Professor
University of Calgary
- Stephan Rousseau, S.J.D. 1999 - Adjunct Professor
University of Montreal
- Janis Sarra, S.J.D. 1999 - Assistant Professor
University of British Columbia
- Eilis Magner, S.J.D. 1994 - Foundation Professor of
Law, University of New England, Australia
- Patrick Osode, S.J.D. 1994 - Senior Lecturer,
Mercantile Law, University of Fort Hare, South
Africa
- Masatoshi Sasaki, LL.M. 1991 - Assistant Professor
Osaka City University, Japan
- Gavin Anderson, S.J.D. Candidate - University of
Glasgow
- Dirk Vanheule, LL.M. 1991 - Assistant Professor
University of Antwerp, Belgium
- Pekka Riekkinen, LL.M. - Lecturer, Faculty of Law,
University of Turku, Finland

The breadth of scholarship produced by our graduate program is perhaps best illustrated with some examples from this year's graduate students: Rachel Ariss (S.J.D. 2001) recently defended her doctoral dissertation on the medical, legal and ethical issues arising from the new technologies available for infertility treatments; Tomer Broude (LL.M.), from Israel, is researching the jurisdiction of the WTO dispute settlement system; Franklin Caceres, a Peruvian lawyer, is studying the situation of cross-border insolvencies; Arminio Rosic is investigating the opportunities for debt and equity financing in the former Yugoslavian countries; and Makgampi Raphasha (LL.M.),

a former Clerk of the South African Constitutional Court, is analyzing constitutional protections for cultural, religious and linguistic communities.

The quality of our graduates is also demonstrated, in part, by the amount of government scholarship support they attract. In 2000, the amount of government scholarship was \$277,416, an increase from just \$57,579 in 1995. Five years ago, the Faculty conferred \$106,231 in total graduate student aid from internal faculty and university funds but this past year the total conferred from internal sources was significantly higher at \$851,853.

Reflections from some of our graduate students:



Laura Grenfell

B.A., LL.B. University of Adelaide
LL.M. 2001

"U of T law school feels dynamic — it has a constant stream of conferences and speakers from all over the world, a talented Faculty who are involved in community centres and Supreme Court challenges, and a remarkably diverse student body. I'm impressed by the range of courses offered here, as well as the level of discussion that takes place in classes. Most of all I'm impressed by the flood of intellectual opportunities which have opened up for me here. When I finish my thesis I will be undertaking a three month human rights internship in New York which is being organized and funded by the Law School."



Alexander (Sasha) Dmitrenko

LL.B. Rostov State University, Russia
LL.M. Central European University
LL.M. 2001 University of Toronto

"Studying at the University of Toronto Faculty of Law has been particularly challenging and rewarding, from both a professional and personal standpoint. I have found the courses interesting and intellectually stimulating and the environment has greatly furthered my research and analytical skills. What has impressed me most, however, is the individual attention accorded me by faculty, both in academic and non-academic matters."



Mecky Kaapanda

B.A. University of Adelaide
LL.M. 2001 University of Toronto
S.J.D. Candidate, Cambridge England

"Diversity in the teaching staff means that graduate students have access to many scholars who are able to provide valuable assistance with research projects that are increasingly becoming interdisciplinary and touch many areas of law. The professors are friendly, approachable and willing to discuss research projects even in the absence of a specific student-supervisor relationship."



Merav Shmueli

LL.B. University of Jerusalem
LL.M. University of Toronto
S.J.D. Candidate

"I came to U of T as an LL.M. student, loved it, and soon decided to stay here for my doctoral studies. The Faculty of Law has offered me a friendly and intellectually stimulating environment. In my area of research – women's rights – there is an abundance of resources, both in the faculty and throughout the university, of which I gladly take advantage."



L-R: Prof. Patrick Macklem, Nadezhda Naydenova, Vincent Kazmierski, Madelaine Chiam, Jarmila Lajcakova



Craig McTaggart

Second-year S.J.D. candidate and Centre for Innovation Law and Policy Graduate Fellow
Craig McTaggart is engaged in ground-breaking research and teaching on the legal framework governing the Internet.

Craig earned his B.A. at Queen's University, specializing in Byzantine studies, and his LL.B. from the University of Western Ontario. Following his 1997 call to the Ontario bar, he

practiced communications and information technology law with McMillan Binch for a year and a half. In 1998, he was awarded the E.S. Rogers Graduate Scholarship in Communications Law and entered the Faculty's Master of Laws program. His LL.M. thesis, "Governance of the Internet's Infrastructure: Network Policy for the Global Public Network," written under the supervision of Professor Hudson Janisch, was awarded the Alan Marks Medal as the best graduate thesis of 1999.

After completing his LL.M., Craig moved to Geneva, Switzerland and served as a consultant to the International Telecommunication Union. There, he co-authored the first international publication on the policy dimensions of Internet Protocol telephony. He served as a member of the international experts group for the 3rd World Telecommunication Policy Forum on IP Telephony (March 2001, Geneva), at which he presented a commissioned report on IP Telephony in Canada.

Craig returned to the Faculty in 2000 to begin doctoral studies, again under the supervision of Professor Janisch, holder of the Osler, Hoskin & Harcourt Chair in Law and Technology. Previously awarded an Ontario Graduate Scholarship, Craig currently holds a Social Sciences and Humanities Research Council of Canada Doctoral Fellowship and Centre for Innovation Law and Policy Graduate Fellowship.

In addition to his research and writing, Craig teaches telecommunications and Internet law in the engineering and law faculties. He and Professor Janisch are involved in the Master of Engineering Telecommunications (MET) program in the Department of Electrical and Computer Engineering, co-teaching the regulatory and policy modules of *ECE 1803 - Internetworking and WWW Infrastructure*. In the Faculty of Law, Craig and Professor Janisch are also co-teaching a new seminar, *Law 472 - Internet Law and Governance*, in the winter 2002 term. Despite the Internet's phenomenal success as a communications medium, fundamental legal and policy issues remain unresolved, particularly at the international level. This course, initiated with the support of the Centre for Innovation Law and Policy, will be among the world's first to address legal issues related to the Internet itself, as opposed those associated with Internet content and transactions. Domain name governance, protocol development, interconnection, and competing theories of Internet law will be explored, giving J.D. and graduate students the opportunity to examine the legal underpinnings of the Internet, and how those may evolve as the Internet itself evolves.

Links to Craig's work can be found on his Web page at: <http://www.innovationlaw.org/cm/index.htm>

This year, the IHRP Program is sending six first-year students and 24 upper year and graduate students on internships to organizations around the world in, among other places, Egypt, Geneva, London, Nigeria, Ottawa, Pakistan, Thailand and Uganda.



International Human Rights Program

Introducing Noah Novogrodsky, Director of the International Human Rights Program

The Faculty of Law is delighted to announce the appointment of Noah Novogrodsky as the Director of the International Human Rights Program. Noah, a native Torontonian, is returning to make a home at the Faculty of Law after being in the United States, England and South Africa for the last 14 years. During that time, Noah obtained a Bachelor of Arts from Swarthmore College (Political Science and English Literature), an M.Phil. Degree in International Relations from Cambridge University, and a Juris Doctor from Yale Law School.

Noah enrolled in the J.D. Program at Yale Law School in order to work closely with Professor Harold Koh (former Assistant Secretary of State for Democracy, Human Rights and Labor under President Bill Clinton) and the Orville Schell Center for International Human Rights. He remained true to this goal and immersed himself in international human rights issues right from the start. In his first two years of law school, Noah co-chaired the Cambodia Genocide Justice Project and then traveled to Cambodia to teach international law as part of an investigation into the crimes of the Khmer Rouge for each of those first two years. He was a member of the Lowenstein International Human Rights Clinic from 1995-1997. Noah's exceptional level of knowledge and experience was recognized when, in his final year of law school, he was asked to co-teach a seminar on the solicitation and reception of testimony to mass crimes in international and domestic courts with Professor Harlon Dalton. Noah's commitment, dedication and contributions to international human rights law were further recognized in 1997 when he was awarded the C. LaRue Munson Prize for excellence in the investigation, preparation and presentation of civil, criminal or administrative law cases under a law school clinical program.

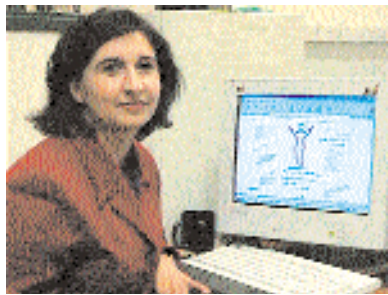
After graduating from Yale, Noah clerked for Judge Nancy Gertner of the United States District Court (Mass.) and then was awarded the Robert Bernstein Fellowship in International Human Rights, spending a year in Capetown, South Africa as a Human Rights Advocate. As part of his fellowship, Noah documented refugee flows and Ethiopian expulsions during the Eritrea-Ethiopia war and was an observer in the 1999 South African elections.

Since 1999, Noah has practiced as a litigator at a California law firm. In addition to his practice in international law, intellectual property law and in appellate litigation, Noah continues to work closely with various international human rights organizations by providing pro bono legal assistance in refugee cases and serving as an expert witness in U.S. Immigration court cases.

We are extremely excited about the future growth of the Program under Noah's leadership and look forward to providing the law school community with timely updates. Noah's coordinates at the Law School will be posted on the Faculty's Web site later this summer.

Women's Human Rights Resources Project

WHRR Helps in a Borderless Community



Reem Bahdi, Director, Women's Human Rights Resources Project

In 2002, the WHRR initiative will become a truly global program, combining forces with the ILS Law College in Pune, India and Themis (Legal Assistance and Gender Studies) in Porto Alegre, Brazil.



Marylin Raisch is the International and Foreign Law Librarian at the Bora Laskin Law Library and also principal content editor of the WHRR project Web site.

In 2001, the Women's Human Rights Resources Program launched the Women's Rights Advocacy Support Program in conjunction with Pro Bono Students Canada. Inspired by Doctors Without Borders, this initiative recognizes that research and advocacy in the age of the Internet need not be hindered by boundaries. The program matches law students with women's rights organizations around the world in need of research and advocacy assistance, and all work is done over the Internet.

Host organizations included the Centre for the Study of Violence and Reconciliation in South Africa, Famafrique in Senegal and the Center for Reproductive Law and Policy in New York.

This inspired initiative is not the only new project the WHRR program is cultivating. In 2002, the WHRR initiative will become a truly global program, combining forces with the ILS Law College in Pune, India and Themis (Legal Assistance and Gender Studies) in Porto Alegre, Brazil.

These institutions hope to work together to develop a shared on-line resource center, and train judges, students, advocates and others in women's international human rights law. The institutions also aim to collaborate on advocacy strategies related to women, with plans to expand the project into the Middle East and Africa.

The WHRR program provides scholars and advocates with information and advice relating to international women's human rights law. A recognized leader in women's human rights information and advocacy, the WHRR program is endorsed and promoted by international organizations such as The International Commission of Jurists and the United Nations Population Fund.

For more information about the WHRR program, visit the Web site at <http://www.law-lib.utoronto.ca/diana/mainpage.htm> or contact Reem Bahdi at whrr.law@utoronto.ca

International Program on Reproductive and Sexual Health Law

Initiated in 1998 by co-directors professors Rebecca Cook and Bernard Dickens, the program's objective is to achieve improved protection and promotion of reproductive and sexual rights through effective laws and policies, and through greater awareness of how human rights laws can be used as advocacy tools by those working in the field of reproductive and sexual health. Building partnerships with academic and professional institutions and non-governmental organizations particularly in southern countries, the program implements four interrelated activities to achieve its objectives: training and capacity building; research and publication; legal advisory and advocacy work; and development of information resources and services.

In September 2001, five Reproductive and Sexual Health Law Fellows entered the Faculty's graduate program, joining seven alumni who have completed the LL.M. program and a doctoral candidate. The Program's Fellows and graduates have come from many countries, including Bulgaria, Eritrea, India, Nepal, Poland, Russia, South Africa, Tajikistan and Venezuela. Graduate Fellows have undertaken research on a range of issues, including, for example, rights of adolescent girls to reproductive health, unsafe motherhood, unsafe abortion, traf-

ficking in girls, testing pregnant women for HIV infection, and access to reproductive health services such as sterilization.

In 2001, the World Health Organization published *Advancing Safe Motherhood through Human Rights*, by Co-Directors Rebecca Cook and Bernard Dickens, and Faculty of Law graduates O. Andrew Wilson and Susan Scarrow. This report considers how human rights laws can be applied to alleviate the problem of maternal death and illness.

The Program has recently completed a series of four manuals on reproductive and sexual rights in collaboration with different partners. The manuals, each focused on one of the international, African, European and Inter-American human rights systems, are designed to assist those who are preparing to submit Governmental Reports and Shadow or Alternative (NGO) Reports relating to reproductive and sexual health to human rights treaty monitoring bodies; those developing advocacy manuals or training programmes; and those conducting research. The manuals are all available on the Women's Human Rights Resources website, hosted by the Bora Laskin Law Library <<http://www.law-lib.utoronto.ca/diana/mainpage.htm>>.

Professors Cook and Dickens are two outstanding scholars

in the field of reproductive and sexual health law.

Professor Cook specializes in the international protection of human rights and in health law and ethics at the Faculty of Law, Faculty of Medicine and Joint Centre for Bioethics. She is ethical and legal issues co-editor of the *International Journal of Gynecology and Obstetrics*, and serves on the editorial advisory boards of the *Human Rights Quarterly*, *Reproductive Health Matters* and the *Third World Legal Studies Journal*. An occasional adviser to the Ford Foundation, MacArthur Foundation, Profamilia Legal Services for Women and the World Health Organization, Professor Cook's publications include more than 100 books, articles and reports about international human rights and law relating to women's health and feminist ethics. She is the recipient of the International Federation of Gynecologists and Obstetricians' Certificate of Recognition for Outstanding Contribution to Women's Health, the Ludwik and Estelle Jus Memorial Human Rights Prize, and is a Fellow of the Royal Society of Canada.



Rebecca Cook Bernard Dickens

Professor Dickens is the Dr. William M. Scholl Professor of Health Law and Policy at the Faculty of Law, the Faculty of Medicine and the Joint Centre for Bioethics. He is legal articles editor of the *Journal of Law, Medicine and Ethics*, co-editor of ethical and legal issues of the *International Journal of Gynecology and Obstetrics*, and a member of the editorial boards of several journals. His writing includes more than 300 publications including books, chapters in books, articles and reports primarily in the field of medical and health law. He is a former President of the American Society of Law, Medicine and Ethics and since 1994 he has been on the Board of Governors of the World Association for Medical Law, and a Vice President since 1996. He is a Fellow of the Royal Society of Medicine (London), Chairman of the Human Subjects Ethics Review Committee of the University of Toronto, and from 1995 to 1999 was Chairman of the Human Subjects Research Ethics Committee of the National Research Council of Canada in Ottawa. He currently chairs the Research Ethics Board of Health Canada and the Research Ethics Board of the Canadian Stroke Network. He became a Fellow of the Royal Society of Canada in 1998.

Careers

Alumni Career Profiles: Working in the Public Service

Alan Borovoy ('56)



You need look no further than Alan Borovoy as a poignant example of an alumnus who has made enormous contributions throughout his career to the public service. In the first 12 years after earning his LL.B. from the University of Toronto, Alan worked for various civil liberties associations such as

the Canadian Labour Congress, the Ontario Labour Committee for Human Rights and the Toronto and District Labour Committee for Human Rights. His achievements in the past 34 years as General Counsel of the Canadian Civil Liberties Association, a non-profit, non-government lobbying and law-reform organization that deals with issues of fundamental civil liberties and human rights, has distinguished Alan as an exceptional leader in this area.

Appointed in 1968 as General Counsel of the Canadian Civil Liberties Association, Alan has made presentations to public inquiries and has given testimony before parliamentary committees on issues such as mandatory drug-testing in

the workplace, wiretapping, and police race-relations. His community organization activities have included delegations to the federal and provincial governments on issues of capital punishment, religious education in public schools, the War Measures Act, campus speech codes, and national security and intelligence. He has also given lectures and public addresses to students, human rights organizations, and policing agencies in Canada and abroad. More recently, Alan served as a panelist chair at the Faculty's highly successful conference last November - *The Security of Freedom: A Conference on Canada's Anti-Terrorism Bill*.

In addition to his work as General Counsel, Alan was a columnist for the Toronto Star between 1992 and 1996. He is published widely across Canada, and is the author of *Uncivil Obedience: The Tactics and Tales of Democratic Agitator* and *When Freedoms Collide: The Case for Our Civil Liberties*, which was nominated for the Governor General's Award in 1988.

In recognition of his achievements, Alan was made an Officer of the Order of Canada in 1982, has received four Honourary Doctor of Laws Degrees, the Law Society Medal from the Law Society of Upper Canada in 1989, an Award of Merit from the City of Toronto in 1982, and he was inscribed in the Honour Roll of the Aboriginal People of Treaty Number 3 in 1991.

Jaime Lavallee ('00)

A member of the Muskeg Lake Cree Nation in Saskatoon, Sask., Jaime graduated in 2000 and has since immersed herself in the area of international indigenous rights. Her first fieldwork project was with the Yomba Shoshone Tribe in the U.S. state of Nevada. This experience led to an internship opportunity with First Peoples Worldwide, a department of the First Nations Development Institute based in Fredericksburg, Virginia, and a Native American grant and technical assistance body that advocates for the rights of indigenous people around the world.

Interested in issues such as maintaining land base, managing natural resources, preserving spirituality, strengthening culture, and fostering development, Jaime has worked in South

Africa since January 2001 helping the native San people with community legal education, and facilitating and designing workshops that focus on land claims, resettlement and relocation issues. The goal is to provide the necessary skills, training, and assistance to empower the San leaders and communities to engage in successful community development and to play a strong role in land reform. Jaime also aids the Lawyers Reference Group on Indigenous Land Claims in South Africa, addressing contemporary challenges and concerns regarding land rights. She helps lawyers and legal advisors representing the San in contemporary land restitution cases that are often difficult to build and likely to be dismissed at court.



Career Development Office, The Next Five Years: Focus on Alternative and Public Interest Careers

By Bonnie Goldberg

The CDO (Career Development Office), which began as a three-day-a-week, solo effort, celebrates its sixth anniversary this year with a full-time staff of three professionals — myself, Recruitment Coordinator Suzanne Bambrick, and Director of Career Development Programs Lianne Krakauer ('93).

Recruiting Lianne in 2000 has greatly enhanced the office's ability to support students' interest in public service careers. Having articulated at the Ontario Labour Relations Board, Lianne was called to the Bar in 1995 then undertook a variety of positions in the Ontario Public Service, with emphasis on labour relations, organizational development and mediation. Lianne recently commenced a Masters of Education degree at U of T, with a focus on counseling psychology.

In 2000-2001, the office counseled almost 250 J.D. students, as well as numerous prospective students, graduate students and alumni. We offer more than 20 panel discussions and career fairs annually and recently, our placement rates at graduation have reached their highest level in years. However, our goal is not just to find students jobs, but also to ensure their aspirations are met.

How do we define public interest law? The office uses a broad definition for public interest-related legal practice, including legal clinics, public interest advocacy groups, NGOs, private practice firms that define a major portion of their client base as "public interest," and all levels of government, tribunals and regulatory bodies. Building pro-bono work into a legal practice is also a significant way to serve the public interest, but the focus of the CDO goes beyond this approach, providing students with greater information and opportunities on how to start a full-time career in the public interest.

Recognizing that the goals of our students are as diverse as the student body, the CDO has developed a comprehensive program to promote and support public interest and alternative aspirations. Our immediate goals are: to help develop skills required for a public interest career path; raise awareness of the kinds of opportunities available; and work with public interest employers to raise their profile among students.



Bonnie Goldberg
Assistant Dean, Career Services

...the Career Development Office has developed a comprehensive program to promote and support public interest and alternative aspirations.

Some CDO initiatives include:

- **Up Close and Professional** — a series of career panels comprising graduates who share their experiences in non-traditional areas such as public interest law, management consulting, government, criminal, labour, corporate counsel, environmental, academia, and “arts” law.
- **Mentor Program** — with support from the Law Alumni Association, this long-running and successful program is designed to build a bridge between first-year law students and alumni. The mentor pool represents a broad range of professional backgrounds, and the program incorporates a diversity outreach component.
- **Guide to Public Interest Careers** — the CDO has created a manual for students seeking employment in the public sector. This guide draws heavily on the experiences of our alumni working in the public sector.
- **Career Fair/Public Interest Law Information Fair** — The CDO makes a concerted effort to ensure representation from an eclectic range of employers at the annual Career Fair for first- and second-year students.
- **Clerkship opportunities** — The Clerkship Committee is committed to raising the profile of clerkships, particularly those at the Supreme Court of Canada. This program includes an information guide, two information sessions, as well as a mock interview program. The class of 2002 has the highest ever number of students clerking at courts across the country (17), including a record number of clerks at the Supreme Court of Canada.

These initiatives are just the start of what will be a vigorous and innovative approach to public interest career development programming and resource-building. Our graduates are our best source of information when it comes to learning about and developing public interest and alternative legal careers. We welcome input from our alumni who can contact **Lianne Krakauer** at (416) 978-2708 or l.krakauer@utoronto.ca.

Young Alumni Leaders

This year, Dean Ron Daniels launched a new series to introduce students to young alumni who have embarked on noteworthy career paths since graduating from the Faculty. To start the series this year, the Dean invited two successful alumni to share with students the interesting choices they have taken thus far in their careers.



Astrid Zimmer ('94)

Senior legal counsel and assistant secretary for NetStar Communications Inc., Astrid Zimmer spoke about her choice to work as in-house counsel. She says having the ability to know the client's business intimately; to work proactively in business and management strategies; and to work as general practitioner of sorts within the business enterprise were a few of the benefits of an in-house counsel position. Students were pleased to learn about the distinctive career path Astrid has chosen, and the manner in which she is able to apply her legal studies in both the legal and business environment.



Rubsun Ho ('95)

Rubsun Ho visited the school in January 2001 and met with a group of students eager to hear about his unique experience as partner of an independent telecommunications company. After graduating, Rubsun worked for a major Toronto law firm with clients in the telecommunications industry. After much soul searching, he left the security of a “firm paycheque” in 2000 to branch out with three friends to form a company that develops cellular telephone messaging services. Rubsun warned that much of the legal work he does now involves contract negotiation and review, and that on many occasions, the fate of his business is at risk if he makes a poor decision. Rubsun made the move from the law firm because he was young and he wanted to be an entrepreneur. He is convinced that if he fails, he could always return to Bay Street.

Alumni-Student Mentor Program

The program is extremely fortunate to have a large number of our alumni willing to serve as mentors to first-year students, imparting wisdom from experience gained in law firms, government offices, public organizations and corporations. The program has completed another successful year thanks to this ongoing commitment from alumni, especially from two new alumni advisors, Laura Trachuk ('86) and Melanie Aitken ('91).

When students meet mentors in November of their first year of law school, it is often the first time they have met a practicing lawyer. Connecting students with alumni sets the groundwork for a mentoring relationship that provides an invaluable learning experience for students. In the last few years, several mentor relationships have continued beyond the first meeting, and both students and alumni benefit from ongoing contact. This year, the ratio of students to mentors was reduced, giving students more personal attention in their meeting with mentors.

The program also provides a diversity component to the matching process, facilitating student requests relating to gender, sexual orientation, race/culture, pre-law academic qualification, and other factors relevant to making a better match. Based on feedback, both mentors and students welcomed the opportunity for candid discussions outside of the recruitment process.

While we are unable to match every volunteer mentor with a student, we appreciate the enormous alumni interest and encourage others to apply. Program information and registration forms are available at http://www.law.utoronto.ca/career/alumni_mentor.htm or please contact **Lianne Krakauer**, Director, Career Development Programs at (416) 978-2708, l.krakauer@utoronto.ca



L-R: Lianne Krakauer '93 and Reena Goyal '03

Many thanks to the following alumni mentors who, over the past two years, have taken time to share their experiences.

Melanie Aitken ('91)
Miriam Bloomenfeld ('88)
Peter Brauti ('96)
Kim Buchanan ('95)
Dana Cohen ('97)
Gary Daniel ('87)
Greg Dee ('92)
Alejandra Flah ('98)
Craig Flood ('86)
Jeremy Fraiberg ('98)
Jeff Francis ('98)
Sheldon Hamilton ('90)

Suzy Kauffman ('97)
Monica Kowal ('87)
Sarah Kraicer ('86)
Cynthia Ledgley ('86)
Leilani Farha ('95)
Alison MacKenzie ('87)
Daniel Melamed ('86)
Rick Nathanson ('93)
Manjusha Pawagi ('95)
Cynthia Pay ('92)
Nancy Pei ('95)
Bindu Pendala ('99)

Heather Platt ('99)
Norma Priday ('93)
Brian Pukier ('92)
Gordon Raman ('96)
Bhupinder Randhawa ('97)
Veera Rastogi ('96)
Joanne Rosen ('86)
Linda Shin ('98)
Maureen Tai ('97)
Rita Vasilopoulos ('91)
Astrid Zimmer ('94)

Eighth Annual International Law Career Conference

Held in March 2001, this conference presented law students with an expanded understanding of international legal issues, and how they might ultimately apply their interest in international law to a successful law career. The esteemed selection of speakers represented a vast array of international careers, with participants speaking about their professional experience in Latin America, London, New York, Moscow and the Pacific Rim. Students were also treated to enlightening panel discussions

about international trade, immigration, environmental, entertainment and human rights law. The borderless realm of international law allowed panel discussions to turn toward telecommunications, e-commerce and high-tech law as well as international banking and consulting, with such firms such as Jackman Waldman and Associates, McCarthy Tétrault, Birchall Northey and Associates, and the Department of Foreign Affairs and International Trade all participating in the discourse.

Class of 1951

Graduates of both the Kennedy and Wright Law Schools

The class of 1952 has long regarded itself as the first class to graduate from the modern Faculty of Law at U of T. However, this claim does not go undisputed. The class of 1951 has also laid claim to that title, and recently reminded us of that fact at their 55th class reunion dinner in November 2001.

Which class is right? As it turns out, they both are.

The class of 1952 was the first class to be directly admitted into Dean Caesar Wright's new law school in 1949. They graduated three years later, in 1952. However, by an extraordinary and fortuitous set of events, the class of 1951, which started in Dean W.P.M. Kennedy's law school in 1947, was in fact the first class to graduate from Dean Wright's new law school in 1951, although not admitted directly into it. What follows is their remarkable story.



L-R: Marvin Arnold and Irwin Cass

In 1947 Marvin Arnold, Irwin Cass, Bill Sherwood, Bernard Berton, Leonard Fine, Gordon Landig, Al Stevenson, Jack Norman, Martin Eisen, and Murray Thompson, along with nearly 50 other young men and a handful of women, were just beginning their first year at the well-established University of Toronto "School of Law". Four years later, with just these 10 of the original group remaining, the "Class of 1951" was about to become part of Ontario legal history and the first class to graduate from the newly formed U of T Faculty of Law.

"We had no real awareness of the changes to come" says Arnold. "We were just eager to learn as much law as we could before entering the Law Society's practical course for admission to the Bar," adds Cass.

At that time, the sole route to becoming a lawyer in Ontario was through the Law Society of Upper Canada, the governing body of the legal profession in Ontario, which operated a school at Osgoode Hall and required a general bachelors degree for admission. There, the law program consisted of three (and later four) years of on-the-job training complemented by a few law courses.

In marked contrast to the Law Society's professional trade school, the U of T School of Law, as it was called at that time, offered a four-year Hons. B.A. in Law under the leadership of Dean, W.P.M. Kennedy. "We wanted to learn the law from a more academic approach – and all of us benefited enormously from the intellectual discussions that took place daily," says Cass. "We particularly enjoyed learning legal subjects under Dean Kennedy," adds Arnold, who remembers him fondly as a fiery Irishman and strong constitutionalist.

Throughout the late 1940s these two distinct visions of legal education continued to percolate in the legal and academic communities. The mounting tensions came to a head in 1949 with a clash of opinions between the Benchers of the Law Society, and the now legendary Cecil ('Caesar') Wright, who was the newly named dean of Osgoode. Like Kennedy, Wright believed ardently in a solid academic grounding for lawyers, and differed with the Law Society's more practical approach.



1st Year Class – School of Law – University of Toronto – 1947

In a standoff of opinions, Wright resigned his position as dean and accepted an offer from U of T President Sydney Smith to join U of T law school (following Kennedy's retirement).

He brought with him legal giants, Bora Laskin and John Willis. "We called them the great triumvirate," remembers Cass. "They were, even then, known to be the best in their field, and we felt fortunate to be given the opportunity to learn under them."

In Wright's first year as dean he started a new three-year LL.B. program. Cass, Sherwood and Arnold had just completed two years of Kennedy's four-year B.A. in Law. "We were anxious to know how our two years would fit into Wright's new program," remembers Arnold. "The question on everyone's mind was what to do," adds Cass. That question was quickly answered. Wright offered the class the option of continuing in Kennedy's bachelors program, or switching to the second year of his new program. All but one took up his offer to join the LL.B. program.

Once at U of T, Wright and his colleagues continued to stress the need for a broader academic component to legal education, and for the educational process to be developed and controlled by professional educators. "Wright was always inviting well known legal academics to add to our law program," says Sherwood. "It really enriched the learning environment and added an intellectual vibrancy that was second to none". All three men agree that Wright, Laskin, and Willis were excellent teachers who offered their students small seminar classes with stimulating debates and intellectual discussions. "Willis was a real standout," says Cass. "He was enthusiastic and engaging – a real teachers' teacher," agrees Arnold.

In 1951, with four solid years of legal training and an LL.B., they became the first class to graduate from Dean Caesar

Wright's newly formed Faculty of Law. However, more challenges lay ahead for this class.

"Wright believed that the Law Society would recognize his law program and allow us to go directly into the third year of its four-year training course," says Sherwood. "We all thought they would recognize U of T's program of study, but remarkably that is not what happened," agrees Arnold. In 1951, the graduating class petitioned the Law Society to be allowed to enter directly into the third year of its four-year program. They were refused. "We were forced to enter the first year of Osgoode along with other students who had never studied any legal subjects," remembers Cass. "It seemed very unfair to us at the time". The class of 1951 subsequently graduated from Osgoode and was called to the Bar in 1954. By an ironic twist of fate, however, the class of 1952, which also petitioned the Law Society one year later – but this time successfully, actually graduated from Osgoode and was called to the Bar one full year ahead of the class of 1951.

It was not until 1958 that Wright's program of study was fully recognized by the Law Society. By then, the class of 1951 had been called to the Bar and were well on their way to establishing themselves in their careers. "We were just a few years too early to benefit from Wright's persistence," says Cass. "But we loved every minute of our legal education and still to this day get together regularly to reminisce."

Today, over 55 years later, members of the Class of 1951 meet monthly to remember their days at U of T but also to engage in discussions of the legal issues of the day. For these graduates, the same intellectual rigor that was instilled in them early in their legal education, still very much informs their critical legal thinking. ■



Second from left: Emily Winter '01, with family and friends.



Convocation 2001

Parents, friends, and faculty gathered at Convocation Hall to congratulate students on having completed three challenging but rewarding years of study at the Faculty. These students will now go on to pursue careers built upon the foundation of legal knowledge and experience nurtured at the law school.

Martin L. Friedland, Professor Emeritus and past dean of the Faculty was the recipient of a Doctor of Laws on this occasion. He spoke warmly and passed on words of wisdom to graduates, family and friends about his educational experience at the Universities of Toronto (LL.B. '58) and Cambridge (Ph.D. '67), and his academic career at both Osgoode Hall Law School and the U of T Faculty of Law.

After graduating from law school in 1958, Marty Friedland articulated for a small litigation firm with expectations of becoming a litigation lawyer, but an opportunity to teach soon led him to what would become a lengthy and inspired career in academe.



Prof. Martin L. Friedland

Academic life, he told graduates, instilled a penchant for rewarding work in areas he found most interesting, including his most recent project, *The University of Toronto: A History*, published by the University of Toronto Press and available at the university bookstore or online at www.uoftbookstore.com. Telling the graduating class that his skills are no different or superior to theirs, Friedland stressed the value of working on any project with great determination and vigour. Projects tackled later in life, he said, were no easier to complete than the earlier ones, and writing the history of the University of Toronto was no different than writing his doctoral thesis 40 years earlier, except there are “computers, photocopiers, and post-it stickers. Otherwise nothing has changed.”

“I still recall walking through the University of Toronto in the early evening of the day that I received the offer (to teach at the Faculty) and feeling enormous pride in being part of an institution with such a long and distinguished history. I feel it again today - as I imagine my fellow graduates also do.”

Martin L. Friedland

Student Awards 2001

The Faculty's commitment to scholarship and teaching has allowed us to continue to attract an outstanding student body ranking among the top law schools on the continent. At Convocation, the Faculty recognizes the many achievements of the graduating class.

Lisa Dufraimont	The Dean's Key	Gina Argitis	The Carswell Prize for ranking first in third year.
Lisa Dufraimont	The Angus MacMurchy Gold Medal awarded for highest cumulative average.	Lisa Dufraimont	The Class of 1967 Prize to the student ranking second in third year.
Gina Argitis	The W.P.M. Kennedy Silver Medal awarded for second highest cumulative average.	Matthew Sammon	The Class of 1967 Prize to the student ranking third in third year.
Shirley Margolis	The James B. Milner Bronze Medal awarded for third highest cumulative average.	Antonia Yee	John Willis Award to the student who best embodies the spirit of leadership at the law school.
Daniel Sonshine	The Gerald W. Schwartz Gold Medal awarded for highest cumulative average in the LL.B. / M.B.A. program.	Gordon Cressy Student Leadership Award to students who have made valuable contributions to life at the law school.	
Gina Argitis	The Justice Michael J. Moldaver Prize awarded to the student ranking first in third year.	Anna Maria Di Stasio	
		Cory Exner	
		Melissa Kluger	
		Dera Nevin	
		Antonia Yee	



L to R: Stephanie Gibson, Justice Moldaver, Lisa Dufraimont, Rita Maxwell, Justice Le Bel, Tim Meadowcroft, Andrew Gray, Justice Lax, and Dean Ron Daniels

Mooting

The Grand Moot: *Miller v. Le Car*

On a crisp autumn afternoon, before the Supreme Court of Flavelle, four of the Faculty's finest mooters argued the case of *Miller v. Le Car*. Students Rita Maxwell and Lisa Dufraimont for the appellant, and Andrew Gray and Tim Meadowcroft for the respondent, made submissions to a distinguished bench consisting of the Honourable Justice Louis Le Bel (Supreme Court of Canada), the Honourable Justice Michael Moldaver (Court of Appeal for Ontario) and the Honourable Justice Joan Lax (Superior Court of Justice).

The moot problem, written by Chief Justice of the Moot Court, Stephanie Gibson, tackled the controversial issues of sexual harassment in the workplace and employer surveillance of personal e-mails. Arguing before students, faculty

and distinguished guests, the mooters displayed exceptional oral advocacy skills and poise under intense scrutiny from the bench.

Volunteer Mooting

Each year, enthusiastic first-year law students experience that exhilarating and terrifying moment when they appear before a panel of volunteer "judges" and argue their first moot issue. Participation in the 2001 voluntary moot surpassed previous years, and an extra night of mooting was added to accommodate all participants.

Armed with *facta* and oral argument, students presented submissions to panels of practitioners, professors and student judges. The mooters were given

facta prepared by upper-year students, and from these prepared oral arguments. Whether they were mooting property, contracts, criminal, constitutional, or torts, performances were outstanding and elicited positive feedback.

Sponsored by Borden Ladner Gervais, which provided both the practitioner judges and post-moot refreshments, the first-year voluntary moots represent the first opportunity for law students to experience the challenges of oral advocacy. The goal of the exercise is to provide a relaxed introduction to the mooting program. Although not scored on their oral advocacy, the experience certainly scored high in the eyes of the students, who found it to be an invaluable learning experience.

Competitive Mooting 2000-2001

The following students represented the law school with honour and distinction at the many moot competitions that took place in 2001.

Jessup Moot

The team gave an outstanding performance and placed second in the Canadian Round, winning the prize for best memorial and advancing to the International Round in Washington, D.C.

Andrew Gray
Penelope Hansen
Dera Nevin
Karen Park

Coaches: Alexis Kerr and Elizabeth Bowker

Wilson Moot

The team came in second place with Rebecca Jones earning the award for best oralist.

Michael Dineen
Estée Garfin
Jacob Glick
Rebecca Jones

Coaches: Nick Adamson and Rima Ramchandani

Gale Cup Moot

The prize for second place factum went to the team's respondents, Ian Campbell and Emily Morton.

Katie Sykes
Salim Hirji
Emily Morton
Ian Campbell

Coach: Andrew Gray

Sopinka Cup Advocacy Competition

While the team did not win the competition, judges were impressed by their "brilliant," "smooth" and "surgical" approach and conduct. Eileen Costello won best cross examination.

Nick Adamson
Eileen Costello

Niagara Moot

Alix Dostal (won fifth prize for best oralist.)

Julie Maclean
Jason Murdoch
Alba Sandre
Coach: Cory Exner

Securities Moot

The team won second place for their factum and Matt Sammon tied for fifth place oralist.

Nick Fawcett
Mike Hollinger
Scott Patriquin
Matt Sammon
Coaches: James Hoffner and Tim Meadowcroft

Laskin Moot

The team placed third overall, with Sophia Reibetanz winning second place oralist and Jennifer Danahy third place oralist.

Eileen Costello
Adrian DiGiovanni
Jennifer Danahy
Sophia Reibetanz
Coach: Matt Horner and Lisa Dufraimont

Callaghan Moot

The Honourable Frank W. Callaghan Memorial Moot is the Faculty's in-house moot. Students compete against their classmates and the problem is written by the Associate Chief Justice of the moot court.

First place team: Sarah Armstrong, Rebecca Hayes
Second place: Eunice Machado, Derek Allen
Best appellant factum: Mindy Noble, Michelle Henry
Best respondent factum: Eunice Machado, Derek Allen
First place oralist: Sarah Armstrong
Second place oralist: Derek Allen
Third place oralist: Anna Marrison
Other participating students:

Adriana Ametrano	Jamie Nelson
Angela James	Gillian Scott
Sarah Millar	Benjamin Shinewald
Brad Moore	Beatrice Van Dijk
Lindsay Neidrauer	



Orientation Committee L to R: Jason Kee, Marni Tolensky, Claire Hunter and Lisa Vatch

Orientation 2001

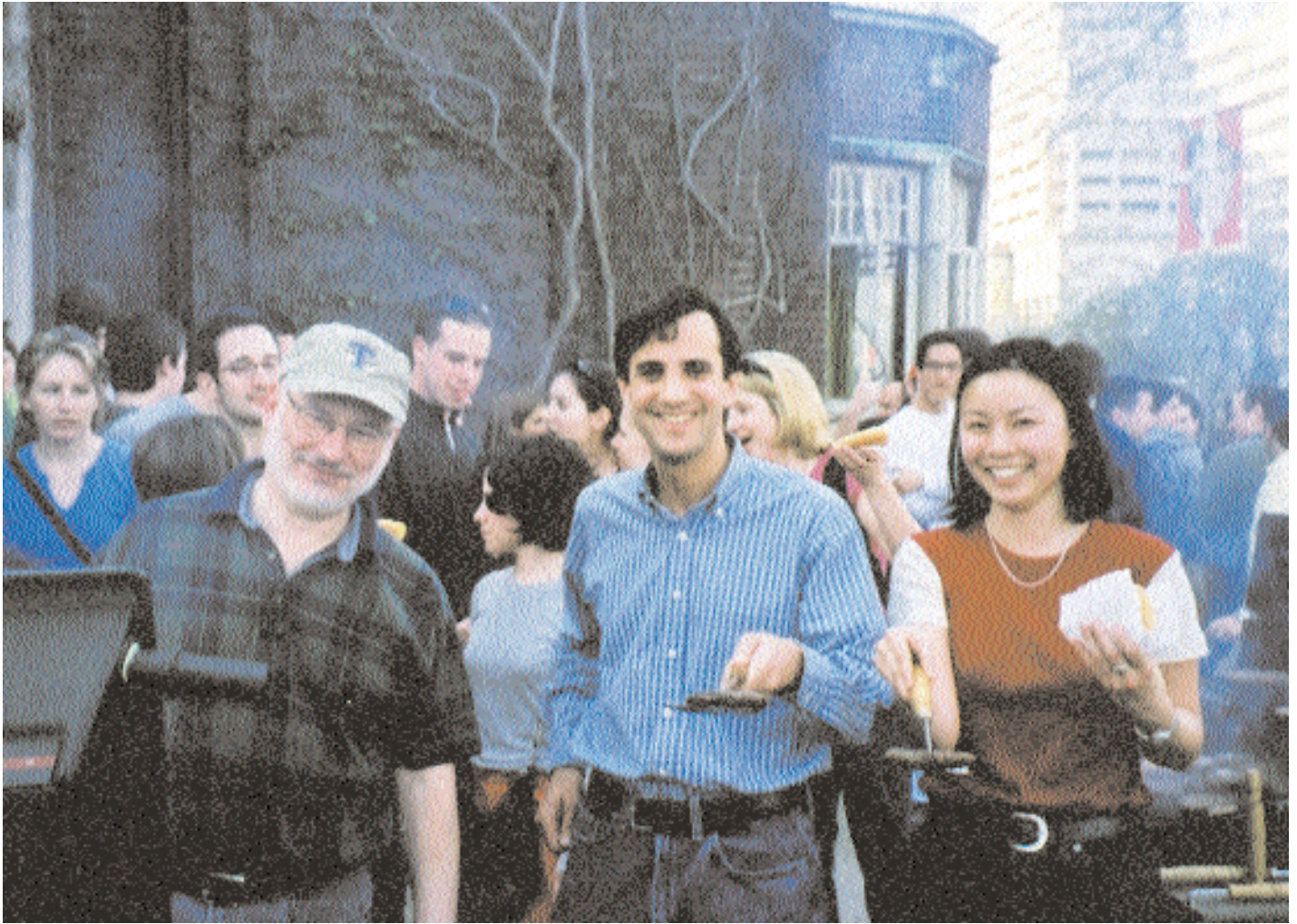
The 2001-2002 academic year began with a revitalized orientation week that focused on the broad array of academic and extra curricular opportunities available within the Faculty.

A welcome addition this year was the presence of many more faculty members and alumni at events, which included the Dean's barbecue, a scenic patio dinner, and an after-party gathering at a local pub. Professors and alumni also joined smaller groups of students for social events at various venues around Toronto.

Also new was the first ever Faculty Panel, featuring Professors Jutta Brunnée, Audrey Macklin and Ed Morgan who have each used their law degree in a unique way to make a difference in their academic, political, and cultural communities.

The launch of the Pro Bono Students Canada program featured Geri Sanson, among the youngest ever recipients of the Law Society Medal, and who was one of six lawyers selected by the Canadian Bar Association magazine as a "local hero." Geri has litigated numerous equality rights cases on issues relating to disability, race, age, pregnancy and gender discrimination, and has appeared before tribunals, Coroners Court and the Supreme Court of Canada.

The 2001 orientation week was a tremendous success and special thanks are extended to the many alumni and faculty for their support and participation in the program.



L - R: Prof. Arnold Weinrib, Dean Ron Daniels, Assistant Dean of Students, Lois Chiang

Dean's BBQ



After another rigorous year of legal studies, first-, second-, and third-year students made their way to the annual Dean's Barbecue. It was a time to relax, catch up with friends and colleagues, and wish students going on to articling the best of success.

By mid-evening, the lawn at Falconer Hall teemed with faculty, staff, students, friends, and family. For the children, the colourful marionette show hosted in Falconer proved to be an instant hit. The older crowd seemed most content indulging in that oldest of post-exam traditions, welcoming the summer with burgers and beer.



Orb Award

Bora Laskin Library News

Susan Barker, Electronic Information Co-ordinator for the Bora Laskin Law Library, has won a Blue Orb award for her design of the library's Web site. The site placed second in the "academic" category of the University's Blue Orb Web Design Contest. The purpose of the contest was to recognize excellence in web design, content, usability and accessibility.



The site has also been recently recognized by Lyonette Louis-Jacques, Foreign and International Law Librarian at Chicago's D'Angelo Law Library, at the Canadian Association of Law Libraries' meeting in London, Ontario. Speaking on the topic of the "best of the web" for foreign and international law, she noted that researchers only need to know one or two really good jumping off points for web-based research, and recommended the Bora Laskin Law Library site for its content, clarity and ease of navigation.

The site is a valuable resource for all aspects of legal research. It includes various research guides, links to a wide variety of law-related material and a bibliography and database of women's international human rights resources which includes the full-text of key articles and documents. Recent additions to the site are "You and the Law," a comprehensive guide to community legal information on the Internet, and the Web site for the Test Case Centre - Green Party's constitutional challenge to the Canada Elections Act.

Please visit the Web site at <http://www.law-lib.utoronto.ca>.
Comments and suggestions can be made to susan.barker@utoronto.ca

Alumni Memoriam

Jeremy Oliver (1961 - 2001) B.A., LL.B. (Toronto)

Jeremy's untimely death on May 31, 2001 was a great loss for his beloved wife, children, family and the entire law school community. Jeremy is survived by his mother and father, Barbara and Murray, brothers Chris and Adrian, his children David, Joshua and Matthew and his wife Jill. Friends young and old gathered together to celebrate Jeremy's life during a moving and heartfelt service at All Saints Kingsway Anglican Church on June 5, 2001. An outstanding alumnus and long-time supporter of the law school, Jeremy was instrumental in the creation and establishment of the Laskin Moot and for many years volunteered at the Faculty to teach the Art of the Deal course. This past year he was recognized by the university with an Arbor Award for his leadership, hard work and dedication. He will be sadly missed by all those whose lives he touched.

William Filipiuk (1930-2001) B.A., M.A., LL.B. (Toronto)

Born in Foam Lake, Saskatchewan on May 11, 1930; died suddenly at home in Toronto on June 12, 2001. In the early 1940's, Bill's family moved to St. Catharines, Ontario, where he attended high school before coming to University College in 1949. For four years he was an active member of the old 73 St. George St. residence and of the honours course in "Modern Languages," where he majored in French and Russian. After a year in Paris teaching English, and another back in Toronto for an M.A. in Russian, he entered the Faculty of Law, graduating in the class of '58. Bill's career as a corporate lawyer was spent in Toronto with the firm of Day Wilson Campbell (later, Holden Day Wilson), where he enjoyed, as he said, working with his best friends. He leaves wonderful memories with his wife Marion (Hogarth), his children Andrew and Christianne (Laframboise), Paul, Mark and Susan (Hainsworth); his grandchildren Jane, Andrew, and William, and many others whose lives he enriched.

Brian A. Kelsey Q.C. (1934-2001) LL.B., LL.M (Toronto)

Brian Kelsey, class of '59, passed away on November 24, 2001 at the age of 67. A trial and appeal court litigator, Brian was also an adjunct professor and mentor for his students at Osgoode Hall Law School where he taught administrative law. His knowledge of the law, devotion to the profession and accomplishments and talent as a litigator helped shape and strengthen the intellectual development and career goals of his students. Remembered for his spontaneity and humour, Brian challenged his students to think critically about the law and always created an ideal environment for debate. During his career, Brian served as an adjudicator with the Health Professions Appeal and Review Board and was general counsel for the Metro Toronto School Board, representing the board in constitutional law matters before the Court of Appeal and the Supreme Court of Canada. Brian, who leaves behind his wife Julie, has made a lasting impression on many people and will be greatly missed.

Community Report

The Campaign for Law: An Update

The last several years have been a time of considerable growth and progress for the Faculty. Since the public launch of the Campaign for Law in the fall of 1997, alumni and friends have generously helped to fund priority areas such as student financial aid, new areas of research, programs and classroom renovations. To date the Faculty's campaign has raised more than \$68 million, allowing the law school to initiate fundamental and far-reaching changes to its program.

In the Spring 2000 issue of *Nexus* we reported that a \$15-million endowment had been established in support of student financial aid. Since that issue, a number of new gifts to the Faculty have allowed for significant expansion of the school's student financial aid program through new scholarships, bursaries and fellowships. Remarkably, the Faculty's student aid endowment now stands at almost \$18 million, and is solely dedicated to supporting outstanding students in financial need and to attracting a student body from a diverse array of racial, cultural, national and socio-economic backgrounds.

Excellence cannot be realized at the Faculty without an outstanding professoriate. Thanks to the wonderful generosity of many alumni and friends, the Faculty has enjoyed tremendous success in establishing 16 academic chairs in a variety of areas of scholarship. These include the Osler, Hoskin & Harcourt Chair in Law and Technology and the William C. Graham Chair in International Law and Development, to name just a few. Most recently, the J. Robert S. Prichard and Ann E. Wilson Chair in Law and Public Policy has been established as the law school's 16th chair by friends and colleagues of Prichard and Wilson. Together these chairs have helped the law school to

increase its faculty complement by almost two-fold and to realize an unprecedented faculty/student ratio of 1:9, the very best in North America.

A third and more immediate challenge facing the Faculty is the rapid deterioration of its physical premises. In a recent external review of the Faculty, chaired by the Honourable Mr. Justice Frank Iacobucci and consisting of representatives from the universities of Chicago, Harvard, Michigan and Melbourne, the Faculty's classrooms, offices and student areas were identified as in desperate need of immediate and significant improvement. Working with an internationally acclaimed architectural firm, some renovations have already started which will see the transformation of the Faculty's physical plant to match its academic excellence.

In the following pages we report on many new outstanding gifts which help address the Faculty's needs in a number of priority areas including student programs, faculty offices, technological advances and accessibility for students and others with physical disabilities. With the continued support of alumni and friends, the law school will continue to move closer to its goal of standing among the world's leading law schools.



June Callwood



Ron Rhodes

June Callwood Programme in Aboriginal Law

Named in honour of the well-known Canadian journalist, author and social activist, the June Callwood Programme in Aboriginal Law is helping the Faculty to increase the Aboriginal presence at the law school and to create a vibrant and stimulating learning environment from which tomorrow's leaders in Aboriginal law will emerge.

Through an anonymous gift and matching funds from the University which established a \$1 million endowment, the Callwood Programme supports undergraduate community-based internships in Aboriginal law as well as graduate fellowships and undergraduate scholarships for Aboriginal students.

Businessman Ronald Rhodes, who was instrumental in the founding of the Women's Television Network, took a leadership role in the creation of the program. At the Oct. 4, 2001 launch, Rhodes was presented with gifts from the University's First Nations House, the Faculty, and the program's first scholarship recipient in recognition of his ideas and initiatives that were central to the creation of the program.

"This gift is allowing the Faculty to significantly enhance the study of Aboriginal law for our students," says Dean Ron Daniels. "We are grateful to Ronald Rhodes for his vision and leadership, and we are proud to have the program named in honour of June Callwood."

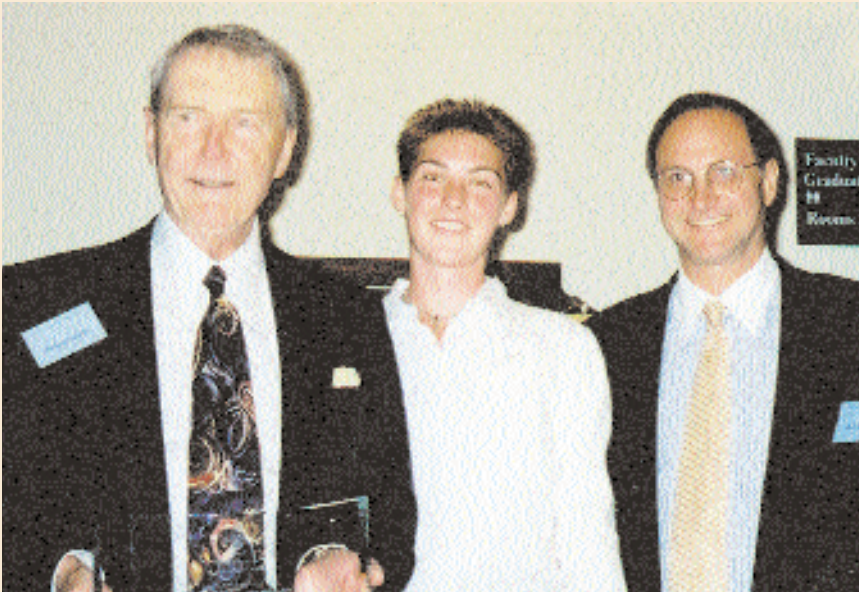
The initiatives created through the Program allow both Aboriginal and non-Aboriginal students to gain an enhanced understanding of Aboriginal rights and the role they play in law, government and public policy. Through community-based internships, the Program enables students to gain practical experience with Aboriginal community organizations while at the same time providing much needed support for these communities. Through the fellowships and scholarships, the Faculty can recruit some of the best and brightest students from around the world for study in the area of Aboriginal law in both the graduate and JD programs.



Nagamonan Nagweabin - Ladies Hand Drum singers

June Callwood's career has spanned more than 60 years. A celebrated author, her 29 books include *Love, Hate, Fear and Anger*, *Twelve Days in Spring*, and *The Man Who Lost Himself*. A long-time contributor to the *Globe and Mail*, she has also written hundreds of articles for magazines such as *Maclean's*, *Chatelaine* and *Toronto Life*. In 1966 Callwood turned her journalistic talents to broadcasting when she hosted the CBC program *Generations*. She went on to host CBC's *In Touch*, Vision TV's series *Callwood's National Treasures*, and Prime TV's *Caregiving*. Callwood is known for her strong commitment to social activism, particularly on issues affecting women and children. She is founder or co-founder of more than 50 social action organizations including Casey House Hospice, Jessie's Centre for Teenagers, and Nellie's Hostel for Women, and in 2001 she received Companion of the Order of Canada in recognition of her work.

"I am thrilled beyond measure that this important addition to the law school is named in my honour," says Callwood. "I am humbled by this tremendous honour, and I would like to give special thanks to Ronald Rhodes for his leadership and to the University of Toronto's Faculty of Law."



L-R: Robert Shirriff, Q.C., Melissa Hogg and Alan Schwartz, Q.C.



L-R: Students Dave Wilson, Jennifer Wilson and Kandia Aird

Fasken Martineau Centre for Legal Services

The Faculty's clinical legal education program, which includes Downtown Legal Services and several other student-operated clinics, has been dramatically enhanced and improved thanks to a generous gift from the law firm of Fasken Martineau DuMoulin LLP to renovate the Faculty's main clinic building. The inaugural gift from the firm's Legal Education Endowment Program was part of an initiative supporting clinical education programs, facilities and educational opportunities at a number of Canadian law schools.

"The objective of the Legal Education Endowment Program is to work with the law school to develop a use for the funds which is individually tailored to the needs of the school and its students," said Alan Schwartz, who was Managing Partner of Fasken Martineau's Toronto office at the time the gift was made.

Fasken Martineau is a national business and litigation law firm with more than 530 lawyers in offices in Vancouver, Toronto, Montréal, Québec City, New York and London. The Faculty is indebted to the firm and its commitment to legal education, and in particular to Alan Schwartz and Rosalind Cooper, whose dedication and vision were instrumental in the new clinic building.

Renamed the Fasken Martineau Centre for Legal Services, the renovated three-storey building at 655 Spadina Ave. will offer more than 7,000 square feet of office space with a special resource library and meeting facilities. Once opened and operational, the new clinic building will be an integral feature of the Faculty's clinical education experience and will provide the low-income Toronto community with much-needed free legal services.

Downtown Legal Services and other student-run clinics at the law school provide law students with an invaluable legal education experience, exposing them to the realities of legal practice and allowing them to explore legal principles and social policy issues first hand. Each year approximately 150 students handle hundreds of cases, advising in the areas of criminal law, housing law, employment law, human rights, university affairs, income maintenance, consumer rights, personal counselling, medical attention and shelter.

"The establishment of a new home for our legal clinics speaks to Fasken Martineau's dedication to philanthropy and community service," says Dean Ron Daniels. "It is a remarkable example of how firms and law schools can collaborate to serve the needs of individuals who may otherwise not have access to legal services."



The Honourable Henry N.R. Jackman '56
Chancellor, U of T

The Rowell Room Reopens as a Student-Faculty Lounge

On November 13th, 2001, the Rowell Room reopened its doors as a newly renovated student-faculty lounge that gives law students a place to gather and serves as a meeting place for the entire law school community. Renovation of the Rowell Room was made possible through a very generous donation from University of Toronto Chancellor, The Honourable Henry N. R. Jackman.

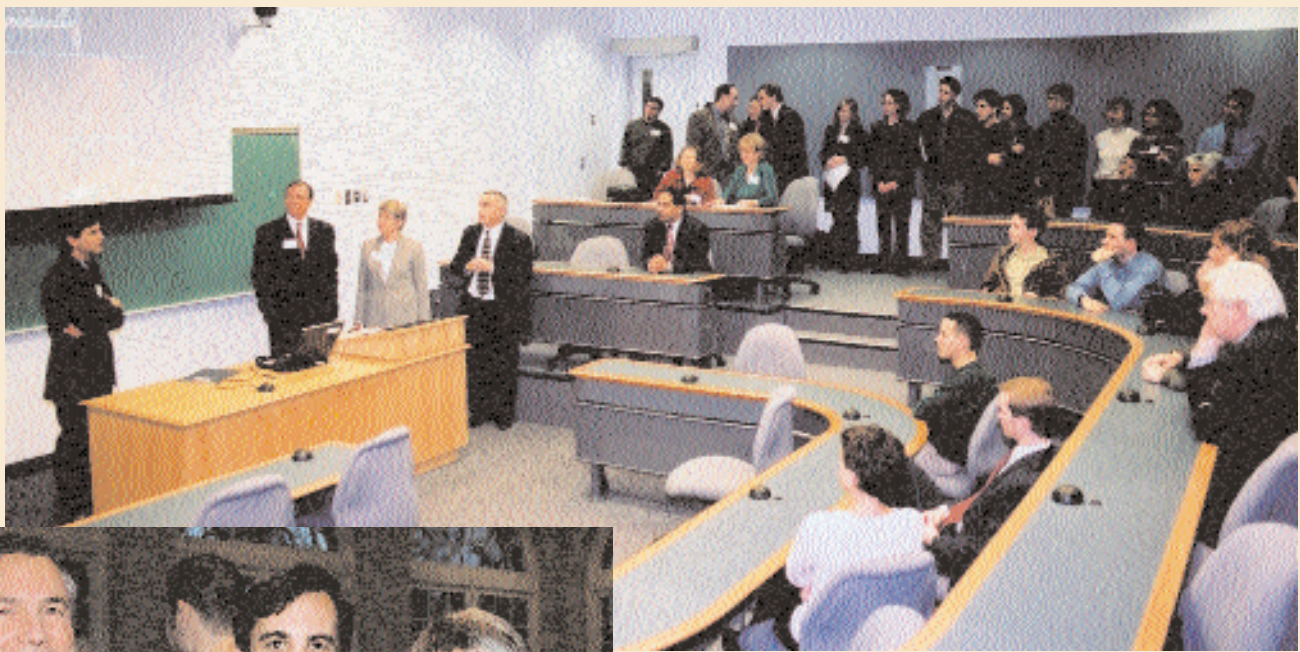
A 1956 graduate of the Faculty of Law, Jackman donated \$200,000 to the law school for the restoration of the Rowell Room to its original form as a solarium. At one time completely enclosed by brick, the Rowell Room's original windows have now been duplicated and replaced, and the mosaic floor has been restored to its original pre-1900 beauty. A dropped ceiling, built-in leather benches and contemporary furnishings have been added, returning the room to a bright, sunny solarium and a beautiful faculty-student lounge. Through this donation Jackman is following a family tradition established by his parents, Mary Coyne Rowell Jackman and Henry Rutherford Jackman, who first funded the renovation of the room in the 1960s to house an international law library, and who named the room in honour of The Honourable Newton Wesley Rowell, Jackman's grandfather.

The Honourable Newton Wesley Rowell served as Chief Justice of Ontario from 1936 to 1938. In 1911, Rowell was elected to the Provincial House, and from 1911 to 1917 he served as leader of the Liberal Opposition in the Ontario Legislature. He was a member of the House of Commons from 1917 to 1921, where he served as President of the Privy Council, Vice-Chairman of the War Committee, and organized and administered the Federal Department of Health. Rowell was a strong

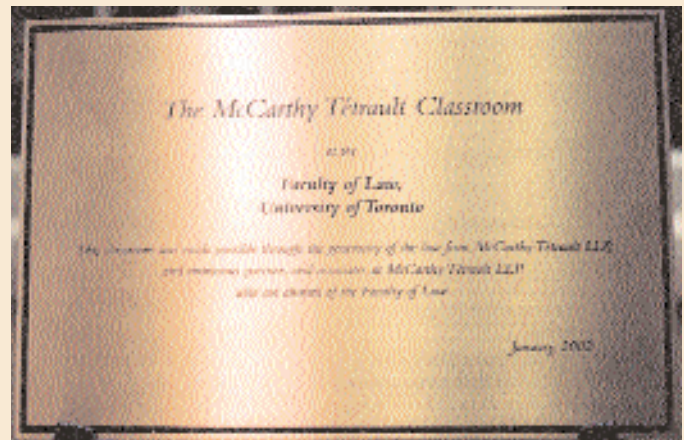
advocate on the issues of temperance and women's suffrage and was instrumental in the groundbreaking Persons Case, when Emily Murphy, Henrietta Muir Edwards, Louise McKinney, Irene Parlby and Nellie McClung sought Rowell out to carry their petition to the Supreme Court of Canada and to the Privy Council of Great Britain.

The Honourable Henry N. R. Jackman has served as Chancellor of the U of T since 1997, and has had a lifelong involvement with the university as a student, alumnus and active supporter. He received his LL.B. from the Faculty of Law in 1956, is a 1953 graduate of U of T's Victoria College, and received an honorary doctorate from the university in 1993. Jackman served as the 39th Lieutenant Governor of Ontario, is an officer of the Order of Canada and was awarded the Order of Ontario in 1998. A firm advocate for private philanthropy and voluntarism, he is the founder and president of the Henry N.R. Jackman Foundation and chairs the J.P. Bickell Foundation. Jackman is chairman of the board for Algoma Central Corporation, Empire Life Insurance Company and E-L Financial Corporation Limited. He has served as honorary patron of more than 150 organizations in the arts, sciences, sports and charitable communities throughout Ontario and has served as a trustee and board member of numerous cultural, health-related and educational institutions.

The Faculty of Law is proud to be able to count The Honourable Henry N. R. Jackman among its most distinguished and highly esteemed alumni, and honoured to be able to recognize his lifelong commitment to the Faculty through the restoration of the Rowell Room.



L to R: Niels Ortvéd, Dean Ron Daniels, Kirby Chown



McCarthy Tétrault Classroom

McCarthy Tétrault LLP has reaffirmed its longstanding tradition of support for students of legal education at U of T with a generous donation of \$500,000 to establish a global classroom at the Faculty. The gift, from the McCarthy Tétrault Foundation and numerous alumni of the law school who work throughout the firm, affords students the opportunity to learn in an international setting, with technologically-enhanced multimedia capabilities never before offered at the Faculty. With its global telecommunications capacity, internet capabilities and laptop computer access, the McCarthy Tétrault Classroom allows for the exchange of ideas between our students and legal experts, faculty and students from around the world.

“The classroom goes a long way towards supporting the Faculty’s goal of graduating young lawyers who are knowledgeable about developments in national and international law,” says Dean Ron Daniels. “We are grateful to the McCarthy Tétrault Foundation and to our many alumni working at the firm for this generous and inspiring gift.”

Located on the lower level of Flavelle House, the McCarthy Tétrault Classroom seats 50 students and has barrier-free access for persons with physical disabilities. Further renovations to the classroom include advanced acoustic, audio-visual

and video-conferencing systems; an infrastructure network with internet connections and access ports for portable computers; CD-ROM and case presentation equipment; projection equipment; and ambient and task lighting.

McCarthy Tétrault LLP is a longtime supporter of U of T’s Faculty of Law and has an impressive tradition of helping to advance legal education. Since 1998, the McCarthy Tétrault Foundation has furthered this commitment by providing money for educational support and development in all Ontario law schools. One of the Foundation’s tenets is to support technological advancements which will provide students with new tools for learning to help them achieve maximum potential in the global era.

“Ontario’s law schools provide the legal community’s most important investment — talented young lawyers,” says Niels Ortvéd, managing partner of McCarthy Tétrault LLP’s Toronto office. “It is essential that law firms like McCarthy Tétrault LLP promote the education of law students. The high-tech classroom complements a key focus of McCarthy Tétrault LLP which is technology law as well as the practice of law in the electronic age.”

J. Robert S. Prichard and Ann E. Wilson Chair in Law and Public Policy



Robert Prichard and Ann Wilson

A new chair in law and public policy has been established to honour former law school dean and University of Toronto president, J. Robert S. Prichard, and Ann E. Wilson, a lawyer who has devoted most of her career to public policy issues. Both Prichard and Wilson are graduates of the Law School in the Class of 1975.

The J. Robert S. Prichard and Ann E. Wilson Chair in Law and Public Policy is the 16th endowed chair at the Faculty and was established by gifts from friends and colleagues of Prichard and Wilson to celebrate the significant contribution they have made to the law school and the University of Toronto.

Prichard joined the Faculty of Law in 1976 and served as dean from 1984 to 1990 where he helped the law school take its place among the finest centers of legal research and teaching in the world. He then served as President of the University of Toronto from 1990-2000. As president Prichard helped to reaffirm the University of Toronto as Canada's pre-eminent university, and one of the finest public research universities in the world. After retiring as President, Prichard returned to teaching for a year as a Visiting Professor at Harvard Law School where he was teaching when appointed Dean sixteen years earlier. Prichard then joined Torstar Corporation in 2001 and in May, 2002 was appointed its President and Chief Executive Officer. Torstar, whose holdings include Canada's largest daily newspaper, The Toronto Star, and Harlequin Enterprises, a leading global publisher of women's fiction, is a broadly based media company.

Ann Wilson's most recent assignment was with Ontario's Ministry of Intergovernmental Affairs specializing in federal-provincial relations. Previously, she worked as a policy advisor with Ontario's Council of Regents governing the community college system and the College Standards and Accreditation Council. She also worked as coordinator of the Task Force chaired by Mr. Justice Peter Cummings on expanding access for immigrants to the professions and trades resulting in the publication of *Access*. Wilson articulated and practiced with Tilley, Carson and Findlay before beginning her work in the public sector.



Gerry Schwartz



Heather Reisman

Many individuals, corporations and firms combined forces to ensure the establishment of The J. Robert S. Prichard and Ann E. Wilson Chair in Law and Public Policy at the Faculty. From the very start, Gerry Schwartz, Chairman and C.E.O. of Onex Corporation and Heather Reisman, Chairman and C.E.O. of Indigo Books & Music Inc. Management, were instrumental in conceiving the idea and plan for the establishment of a chair to honour their close friends and colleagues, and led the effort to secure the necessary financial support. In addition to their vision and commitment, Gerry and Heather made a generous personal gift to commemorate Rob and Ann.

Through the leadership of then managing partner, Bruce A. Thomas, the law firm of Cassels Brock and Blackwell also made a generous contribution to the chair, continuing its long history of support for the Faculty. The firm is also responsible for the renovations to the Cassels Brock and Blackwell classroom, the Cassels Brock and Blackwell Prize and the Centennial Entrance Scholarship at the Faculty of Law.

The Faculty is also grateful to the leadership of Norman Bacal and John Murray at Heenan Blaikie for their firm's generous gift to honour Rob Prichard and Ann Wilson. The tireless efforts of James M. Tory and Les Viner, two of the Faculty's most committed alumni, helped to secure the generous support of their law firm, Torys. A long time friend of the law school, Torys has made leadership gifts to the Laskin campaign, and a number of other Faculty initiatives. In 1996, Torys established the James M. Tory, Dean's Chair. The Faculty would also like to thank the Bank of Nova Scotia for its much appreciated and generous gift. W. Edmund Clark, COO of TD Canada Trust, the Honourable David R. Peterson Q.C., Senior Partner and Chairman of Cassels Brock and Blackwell LLP, and Brent Belzberg, Managing Partner of TorQuest Partners Inc. also made very generous personal donations to help establish the chair.

"We are very honoured by the remarkable generosity of our good friends. No gift could possibly have meant more to us than this chair. The Faculty of Law has been at the center of our lives for thirty years. Our time at the law school profoundly shaped our professional and personal lives forever. We rejoice in having this permanent association with the scholarly and teaching work of this great institution and particularly welcome the focus on public policy which has engaged us both throughout our careers. We thank our many friends and colleagues who made the chair possible," said Prichard and Wilson on the establishment of the chair.

The Faculty of Law is grateful to the dedication and determination of the many friends whose have honoured Ann Wilson and Rob Prichard's extraordinary leadership and contributions to the University of Toronto, the community, and to public service.



Portrait of an Old-Fashioned Lawyer: Nathan Strauss, Q.C.

With the passing away of Nathan Strauss Q.C. on November 22, 1999, the legal profession has lost a distinguished member of the Bar and a “lawyers’ lawyer.” As President of the County of York Law Association and, later, as a Bencher of the Law Society of Upper Canada, Nathan Strauss played an active and influential part in the affairs of the profession. His guidance and judgment were highly valued for their integrity and fairness, combined with compassion and a sound awareness of the realities of legal practice. Years of commitment and dedicated participation in the governance of the Ontario Bar led to Nathan’s appointment as a Life Bencher.

Nathan’s outlook and attitudes towards the practice of law remained unaffected by the growing success and esteem he enjoyed over the years. All clients, regardless of social or financial status, were treated with respect and accorded equal attention and diligence. Sympathetic to their needs, he often helped out with advice in personal matters and support in times of crises, which earned him the enduring respect and gratitude of generations of clients. He worked hard but charged moderately and, where conditions warranted, did the work pro bono or for a nominal fee. His bills were never itemized and he remembered with a chuckle the two occasions on which his fees were questioned by clients who claimed they were being undercharged! For Nathan viewed legal practice as a profession based on the ideal of service to individuals and the community at large, always putting clients’ interests ahead of personal advantage. His reputation for expertise, astute judgment and impeccable ethics also attracted many professional colleagues who turned to him for advice and counsel, which he always provided promptly and liberally.

Acclaimed frequently as a model lawyer, he led by precept and example, leaving an indelible mark on numerous students, colleagues, associates, and clients. Many were deeply influenced not only by his exemplary professional conduct and uncompromising insistence on integrity and fairness, but also by his col-

legality, daily acts of kindness, and an overall generosity of spirit which characterized his life and was manifest in his everyday practice. Over the years, mature lawyers, including prominent legal practitioners, referred with gratitude to the many varied ways in which Nathan fundamentally influenced their lives and careers.

Despite a long and successful career in the highly respected downtown legal firm he founded, Nathan retained the simplicity and lack of pretension which were the hallmark of his character. Upon his formal retirement from active practice, the furnishings of his private office still consisted of the plain oak desk and chairs, and a filing cabinet, which he bought when he started his practice more than 60 years earlier. The sparse décor included a few family photos, sketches of Osgoode Hall and the Supreme Court of Canada, and three large Daumier drawings satirizing the legal profession, gift of his wife, which appealed to his well developed dry sense of humour.

In honour and memory of his lifetime commitment to the practice of law, in all its forms, two legal scholarships were recently established at the Faculty by his surviving wife, Lilly Offenbach Strauss: The Nathan Strauss Graduate Fellowship in the Study of the Legal Profession and Social Change, intended to promote research into broad trends or specific issues currently confronting the legal profession in Canada; and a \$3,000 Essay Prize in Legal Ethics. Reflecting Nathan’s concerns, the intent of the Essay Prize is to stimulate interest and debate among law students on the subject of legal ethics, and to encourage meaningful reflection on conduct proper to the practice of law as an honourable profession and a force for the good in the community at large.

In his lifetime, Nathan Strauss touched the lives of a great many people. Through the scholarships established in his name, his legacy will continue.



L-R: first year students: Christina Grivakis, Greg Imlah, and Yael Bienenstock

Cassels Brock & Blackwell Classroom

A timely and much appreciated \$250,000 gift from law firm Cassels Brock & Blackwell allowed the Faculty to make extensive improvements to one of the most important classrooms in Flavelle House last summer. The gift demonstrated the firm's tremendous commitment to providing quality legal education, and the newly modernized room was open to students in fall, 2001. The Cassels Brock classroom, on the lower level, seats 80 students.

Thanks to the law firm's generosity, a number of major improvements were made to the room. Many of these make the space more "high tech," such as a new audio-visual system, microphone, central processing unit and a wireless internet connection to each desk. Just as important, the room is now more accessible to students with disabilities, and has a more comfortable teaching space. At the same time, the gift provided for new seating and work surfaces, a new lectern, a new ceiling, improvements to lighting and the ventilation system, as well as new acoustical tiles and carpeting.

Cassels Brock, which has been a fixture in the Toronto and Canadian legal scene for 115 years, has a long history of supporting the Faculty of Law as well as the entire university. Besides its latest gift to remodel a classroom, the firm has established scholarships and prizes including the Cassels Brock & Blackwell Prize and the Centennial Entrance Scholarship, has contributed to the establishment of the Robert Law Fellowship in Legal Ethics and is a major contributor in support of the Prichard Wilson Chair in Law and Public Policy.

Senior partner H. Donald Guthrie, Q.C., L.S.M. played a key role in establishing the new Cassels Brock classroom. A University of Toronto graduate, he has remained a loyal supporter of the University and its students throughout the years.

With the Cassels Brock classroom, Mr. Guthrie and his law firm are making an enduring contribution that will enhance the learning environment for generations of students.

Law Foundation of Ontario grant provides greater access in Flavelle



Chair, Trustees of the Law Foundation of Ontario
Ronald Manes

Students, faculty, staff and visitors living with disabilities have greater access to all amenities in Flavelle House thanks to a renovation of the existing elevator in the historic building, a project made possible by a \$200,000 grant from the Law Foundation of Ontario.

Reopened this past year, the existing lift has been replaced, the elevator shaft walls and doors have been widened, and

new door openings have been created on the basement and fourth floors of the century-old building. Thanks to the Law Foundation, the elevator can now properly accommodate wheelchairs and provide access to all faculty offices, student facilities and administrative offices located on all four levels of Flavelle.

With this latest grant to renovate the elevator, a vital component to the Faculty's overall renovation and refurbishment plans for Flavelle House, the Law Foundation of Ontario has again displayed its commitment to legal education at the University of Toronto. In recent years, Law Foundation funding has had significant impact on improving the quality of education, enabling the Faculty to enhance various aspects of life at the law school. Scholarly research, the graduate program, Bora Laskin Law Library, the Faculty's visiting lecturers series, its Law Journal, and student activities and committees such as mootings, convocation and orientation have all benefited from the Law Foundation's ongoing generosity.

The Law Foundation of Ontario was established in 1974 to establish and maintain a fund to be used for legal education and legal research, legal aid, and the establishment, operation, and maintenance of law libraries. The Law Foundation achieves its mandate by awarding grants to organizations for law-related projects and initiatives. Since its inception, the Law Foundation has given out approximately \$115 million in grants to various organizations and individuals.

The Honourable Robert F. Reid Financial Aid Office



Martin Teplitsky

A \$50,000 gift from Martin Teplitsky, senior partner at Teplitsky, Colson, will fund renovations to existing office space at one of the law school's most integral administrative departments. To be renamed in recognition of the Hon. Robert F. Reid, the financial aid office remains critical to the Faculty's success in recruiting the best and brightest students in Canada. The financial aid office administers the bursary and loan programs and will continue, with the help of this generous gift, to play a pivotal role in ensuring students receive the financial assistance they need to attend school.

The Hon. Robert F. Reid Q.C. was called to the bar in 1949 and was appointed Justice to the Supreme Court of Ontario in 1974, from which he retired in 1990. He has served as a member, counsel, and consultant to numerous government commissions and inquiries and has written and lectured widely on administrative law and alternative dispute resolution.

Mr. Teplitsky has shown an unwavering commitment to the Faculty over the years. Dedicated to the advancement and support of the law school, he has helped establish numerous awards including the Louis Linden Prize, the Theodore Libfeld Award, the Warren K. Winkler Prize, the Ori Fidani Prize, the Rocco Marcello Prize, and the Jack and Ida Teplitsky Memorial Bursary. Most recently, Mr. Teplitsky has assisted with the establishment of the Bernard Chernos Graduate Fellowship in Law.

Recognized as one of the country's best arbitrators/mediators, Mr. Teplitsky earned his reputation by settling various teacher strikes across Ontario and health care worker disputes, and by resolving the 1987 dispute between the Government of Newfoundland and the Newfoundland Association of Public Employees. He is the author of *Making a Deal: The Art of Negotiation* and has written numerous academic journal articles on tort law, arbitration and mediation. His current work includes counsel work in the Court and acting as a mediator in administrative tribunals.

Bernard Chernos Graduate Fellowship in Law



Bernard Chernos

Two generous gifts from Martin Teplitsky and Beverley Chernos have been matched by the University and by the provincial government through the Ontario Graduate Scholarship program to create an endowment in support of the Bernard Chernos Graduate Fellowship in Law.

Bernard Chernos Q.C., graduated from the Faculty of Law at the University of Toronto in 1957 as Gold Medalist. In more than 40 years of practice, Mr. Chernos never lost his love for the academic aspect of the law. The Graduate Fellowship is a fitting tribute to his career.

Beverley Chernos, wife of the late Bernard Chernos, is a 1958 graduate of University College and is a good friend of the University of Toronto. Martin Teplitsky is a senior partner at Teplitsky, Colson and a long time associate and friend of Bernard Chernos, with whom Mr. Teplitsky began his legal career practicing civil litigation at the firm of Feigman and Chernos.

This fellowship is open to any graduate student who demonstrates academic excellence and financial need. The Faculty is extremely grateful for the generosity and support of both Mr. Teplitsky and Mrs. Chernos and is honoured to be able to commemorate Bernard Chernos in this way.

Arthur Scace Fellowship in Tax Law



L-R: Susan Scace and Arthur Scace

A graduate fellowship in tax law was recently established at the Faculty of Law with a thoughtful and timely gift from the Henry White Kinnear Foundation. The Foundation's gift, which was matched by the University of Toronto and the Government of Ontario, created an endowed fellowship named in honour of Arthur Scace.

Arthur Scace has been with the firm of McCarthy Tétrault for 33 years and has served as former national chairman and managing partner at the Toronto office. Currently a partner in the tax law section in the Toronto office, he has participated in innumerable domestic and international commercial transactions and is author of *The Income Tax Law of Canada*. He has served as the head of the income tax section of the Bar Admission Course, a lecturer at the University of Toronto and Osgoode Hall, and Treasurer of the Law Society of Upper Canada. His wife, Susan Scace, has served on the University of Toronto's Governing Council since 1995 and currently sits on numerous governing council committees. Heavily involved in the community, Susan has also served on boards for the United Way of Greater Toronto, North York General Hospital and the Trinity College Corp. Currently a director of the National Ballet of Canada Endowment Foundation, Susan received an Arbor Award in 1996, the university's highest honour for volunteer leadership.

The Arthur Scace Fellowship will help the graduate program increase its ability to attract outstanding students. Individual fellowships are valued at \$18,000 and will be awarded to graduate students studying tax law on the basis of academic excellence and financial need. The first fellowships will be awarded in the 2002/2003 academic year.

Gifts to the Law School



Rachel Smith-Spencer,
Assistant Dean, Alumni & Development

One of my early pleasures since joining the Law School as Assistant Dean, Alumni and Development in January 2002 has been the opportunity to oversee compilation of the following list which recognizes the generosity of so many of you who support the Faculty of Law through your donations.

Representing gifts made between May 1, 1998 and April 30, 2001*, the list is a vibrant testimony to the affection and respect which you feel for the Law School.

The gifts acknowledged here represent commitments to the Annual Fund, the endowment fund, student aid programs, fellowships, bursaries, and special

projects. They come from alumni and friends and from many of the firms and companies for whom they work.

We are honoured that you have chosen to support the future of the law school through your gifts.

I look forward to meeting many of you in the months to come to thank you personally for your generosity of spirit.

You truly do make a difference!

Rachel Smith-Spencer
Assistant Dean, Alumni and Development

** Please note that gifts received after May 1, 2001 will be acknowledged in the next issue of Nexus.*

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Chairs, Class of 2001 L-R: Justin Tam, Dean Ron Daniels, Paul Manias and Joe Cosentino

Gratitude - Class of 2000

The gift of the Gratitude Class of 2000 will provide immeasurable benefits for the students at the Faculty of Law, and we are extremely grateful for the leadership of Cornell Wright and Julie Stanchieri who co-ordinated the campaign.

The Class of 2000 Fund supports three areas at the Faculty: book bursaries to assist students in financial need; resources for legal clinics; and an International Human Rights Internship named in memory of April Burey.

The Class of 2000 chose to be acknowledged as a group rather than as individual donors, but we greatly appreciate the generosity and commitment of the many students who helped make Gratitude 2000 a resounding success.

Gratitude - Class of 2001

Thanks to the extraordinary efforts of the 2001 Gratitude co-chairs - Joe Cosentino, Paul Manias, and Justin Tam - and their committee members - Sylvia Avedis, Anna Maria Distasio, Dera Nevin and Bob Nguyen - history was made at the Faculty of Law and the University of Toronto! With gifts totalling \$82,000 for the Law School, the Class of 2001 broke all University records for a graduating class campaign.

The Class of 2001 designated its Gratitude gift to support the "Clubs and Clinics Capital Fund," an initiative that will allow members of various student organizations at the Faculty to purchase equipment such as computer hardware and software and communications equipment (telephones, fax machines, etc.). The Fund can also be used for general operating or administrative purposes by the clubs and clinics. This gift will support student extra-curricular activities at the Law School for years to come.

Through the efforts of Joe, Paul, Justin, and the committee, and the generous support of so many graduating students, the Class of 2001 received the Malcolm McGrath Award for Best Overall Gratitude Campaign across the University.

We are truly grateful to the following contributors to the Class of 2001 Gratitude Fund:

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Owen Shime

Last Word

Owen Shime is a graduate of the class of 1960, and is President of Dispute Services, a firm he established in 1973. Mr. Shime is a renowned labour arbitrator and mediator, and has decided a number of landmark cases, including the first sexual harassment case in Ontario, from which his definition of sexual harassment was adopted by the Supreme Court of Canada. Over the last thirty years, he has served as Chairperson for a number of provincial and federal administrative agencies, including the Education Relations Commission for Ontario, the Public Service Staff Relations Board Arbitration Tribunal (Ottawa), the Ontario Public Service Labour Relations Tribunal, and the Ontario Crown Employees Grievance Settlement Board. In 2001, Mr. Shime was awarded the Law Society Medal.

Coincidentally, the request to write this brief note arrived at my office almost forty years to the date of my call to the Bar and has caused me to reflect on my years at law school and in the profession. I was part of the first cohort that went to law school after university law faculties were recognized by the Law Society. The University of Toronto Law School was reputed to be different from other law schools because it did not teach black letter law and because law was taught against a background of social, political, and economic thought. However, the teaching of law at that time had not evolved to the point that it has now reached, with extensive options and a wide range of subjects encompassing various social, political, and economic aspects of life. The courses that were available when I was there were extremely limited and my memory is that law school consisted of a relentless reading of cases. The University of Toronto Law School is best remembered by me for the integrity of the professors, their love of the law and the feeling they conveyed that the law could improve society.

Reading case law became much more interesting when I entered private practice as a litigator. Dealing with real people and their practical problems gave both life and meaning to case law. However, the excitement of private practice began to wear after a few years when I realized that, for the most part, I was pursuing some financial advantage for an individual or company or defending similar financial interests. It was then that Dean Wright's admonition not to serve corporate financial interests became a contributing factor to my dissatisfaction with the narrowness of private practice and the tyranny of billable hours.

A chance conversation led me to the field of public law as the vice-chair of the Ontario Labour Relations Board, which required an understanding of government, of administrative law, of labour relations, and provided me with an opportunity to learn how to become an adjudicator. After leaving the Labour Relations Board, I became a private sector arbitrator and mediator, mostly in the field of labour relations, and I also continued in public service over the years as a part-time chairperson of a number of provincial and federal administrative agencies dealing with collective bargaining and labour relations.

Since work is such an important and vital part of people's lives, dealing with workplace problems is an exercise in reality. Labour relations or collective bargaining, while abounding in various theories, is not an esoteric area of law, but is a constant lesson about real people and real problems. Deciding whether a person's employment should be terminated is an onerous responsibility, as is determining questions of layoff or issues surrounding health benefits. Resolving interest disputes and trying to project both the financial situation of a public employer and the wages and working conditions for a group of people for a number of years into the future is also extremely challenging; and there is very little in private practice to compare with the dynamics of mediating a postal dispute or a teachers' strike. Dealing with workplace issues has allowed me to have a real impact on the ability of employers to function efficiently and effectively, as well as affecting the lives of numerous employees.

As a private adjudicator I have been involved in numerous private and public disputes. In particular, it was an extremely satisfying experience, as an ad hoc adjudicator for the Ontario Human Rights Commission, to decide the first case of sexual harassment in this province and, ultimately, to see my definition of sexual harassment adopted by the Supreme Court of Canada.

Working in the public sector also has provided me with an opportunity to move beyond the more narrow issues and concerns that I experienced in private practice. Quite simply, public service gave me the opportunity to have a broader impact than working in private practice. My work with various government tribunals has provided me not only with insights into government that I would not otherwise have had, but also an enriching involvement in both policy and adjudicative decisions that have affected governments and public servants, teachers and school boards, community colleges and their unions, and other public sector agencies and their employees.

I have never regretted my decision to leave private law practice and to engage in the area of public law which, to me, has been more interesting and more satisfying than private practice and where, hopefully, I have had the privilege of making some contribution to society.

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