nexus

SUMMER 2009

THE UNIVERSITY OF TORONTO FACULTY OF LAW ALUMNI MAGAZINE

IT'S NOT ALL BAD

FACULTY AND ALUMNI REFLECT ON THE UPSIDE OF THE DOWNTURN

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MAKING SENSE OF THE CONSTITUTIONAL CRISIS

PAGES 8 AND 15

PLUS

ONE OF THE BEST CONVOCATION SPEECHES WE'VE EVER HEARD

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MESSAGE FROM THE DEAN

It has been a year of bad news, and I, for one, am ready for some optimism. So while it is impossible to ignore the sweeping economic changes of 2008-09, we wanted this issue of *Nexus* to focus on some positives, and on the many strides that our institution has made over the past year.

The post-mortem of the economic crisis will last for years, as lawyers and legal academics look closely at the regulatory failures that brought us to the brink. In this issue, faculty members Anita Anand, Tony Duggan, Mohammad Fadel and Jeff MacIntosh offer their perspectives on the positive effects of the crash: the shining reputation of our banks, the restructuring that will restore our businesses to health, and the new regulations – both domestic and global – that will make our economy stronger into the future.

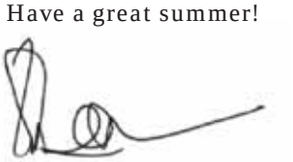
One of the bright spots in all of the economic gloom has been the unexpected success of small business ventures. We hope that you enjoy our profile of six alumni entrepreneurs who are living proof that a law degree opens all kinds of doors.

The Faculty of Law has not been sheltered from economic shocks. All universities have been hit hard in the downturn, and as Dean, I have had to make difficult choices to address our budget shortfall. But there have also been many achievements to celebrate. We are thrilled at the success of our inaugural Summer Institute for Executive Legal Education, which offered four courses in May and June: Bankruptcy Basics, Corporate Tax Basics, Civil Advocacy Before Trial and Women in Transition. We are also indebted to the many generous alumni and friends who participated in these programs as adjunct faculty and who received rave reviews from the students.

As we go to press, we celebrate an unprecedented announcement that was made on June 29th. The Faculty of Law has received a $4M grant from the Ontario Ministry of Citizenship and Immigration to develop education and cultural fluency programs for internationally-trained lawyers who wish to practice law in Ontario. The integration of internationally-trained lawyers has been an ongoing challenge for regulators, employers and governments. The new program will make a huge difference to these talented new Canadians, and I am thrilled that the Faculty of Law will play such an important role in strengthening our great profession and our country.

Of course, the greatest reason for optimism is, and has always been, the extraordinary quality of our graduates. Last month, I presided over a wonderful Convocation as the Class of 2009 stepped out of the law school into the next chapter of their careers. I have had the pleasure of teaching many of them as students, and I know that you will be impressed by their passion, commitment and intelligence when you encounter them as lawyers.

Have a great summer!



MAYO MORAN ('99), DEAN
U of T Faculty of Law

nexus

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ON THE COVER

In this issue of *Nexus*, Faculty of Law professors Anita Anand, Tony Duggan, Mohammad Fadel and Jeffrey MacIntosh each consider critical aspects of the global financial crisis. Considering issues from national to international financial regulation, the strengths of the Canadian banking system and the benefits of restructuring, Faculty of Law experts are keeping their hands on the economic pulse of the nation and the world.

LETTERS TO THE EDITOR

We invite you to write to us with comments, suggestions and news.
Please e-mail: k.hilton@utoronto.ca or
visit the Faculty of Law, website at www.law.utoronto.ca

Rita Maxwell ('01) commended us on the Public Inquiries issue of *Nexus*, writing: "It is astounding to see how many U of T grads have been involved in such important affairs. It is a real salute to our fine law school."

Jeff Oliphant said the issue has "already proved to be helpful, in terms of the inquiry upon which I am embarking."

Canadian and international business lawyer **Richard A.B. Devenney ('76)** was pleased to see his law school colleague Professor Michael Code and former Business Law Professor The Honourable Justice Frank Iacobucci featured on the cover. *"Nexus* is a key regular and important reminder of the privilege of attending U of T law school (1973-76), which were both years of tremendous challenge and growth in mind, body and spirit, and also years of education about things that matter in this world."

Several alumni wrote to remind us that we should have cast the net wider when mentioning alumni involved in public inquiries and commissions. "It would have been great if Nexus had looked east! I had the privilege of acting as lead commission counsel in 2005-2007 to the Nunn Commission of Inquiry in Nova Scotia," says **Michael Messenger ('98)**. Similarly, **Ian Roland ('72)** has been involved in many public inquiries over his 34 years of practice, including as Junior Commission Counsel to the McKenzie Valley Pipeline Inquiry, and Counsel for the Ontario Public Service Union and its members at the Walkerton Inquiry. He wrote: "…although the 'Walkerton Inquiry' is featured in the cover promotion – and is also a model, with the Goudge Inquiry, on how to conduct an efficient and effective public inquiry – it is not mentioned."

Editor's Note: Thank you to everyone who wrote in about our Public Inquiries issue. The response was truly overwhelming. We will try to include additional updates on other work done by alumni working in public service roles in future editions of *Nexus*.

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PROF. ERNEST WEINRIB AWARDED KILLAM PRIZE


Professor Ernie Weinrib

Prof. Ernest Weinrib, the Cecil A. Wright Professor of Law, has been awarded the 2009 Killam Prize in the social sciences. The Killam Prize is Canada's highest honour for scholarly career achievement.

Weinrib, who has been at U of T since 1968, is Canada's pre-eminent legal theorist and a leading scholar of private law. His work addresses fundamental questions about the relationship between law, freedom and rationality and presents new insights into the nature of legal coherence, the limits of judicial competence, the autonomy of legal reasoning and the relation of legal doctrine to legal theory. Combining legal and philosophical analysis, he has been a pioneer in interdisciplinary legal scholarship in Canada.

"We are all so proud of Ernie," said Dean Mayo Moran of the Faculty of Law. "He is a treasure, and it is wonderful to see him receive this public recognition for his years of inspired and pioneering scholarship in legal theory. He has had a profound influence on so many students and colleagues over the course of his career. We are all fortunate that he has chosen to make his intellectual home at the Faculty of Law."

PROFESSOR MICHAEL CODE APPOINTED ONTARIO SUPERIOR COURT JUSTICE

ON MAY 20, 2009, The Honourable Rob Nicholson, P.C., Q.C., M.P. for Niagara Falls, Minister of Justice and Attorney General of Canada announced that Professor Michael Code was appointed to the Ontario Superior Court of Justice. Professor Code has been an Assistant Professor at the Faculty of Law since 2006. He was elected by students to give the Hail and Farewell speech at Convocation in 2009, 2008 and 2007, and received the Mewett Teaching Award from students in 2007.


Professor Michael Code

Michael Code received a Bachelor of Arts in 1972, a Bachelor of Laws in 1976 and a Masters of Laws in 1991 at the University of Toronto. He was called to the Ontario Bar in 1981. He was a partner at Ruby & Edwarth from 1981 to 1991 and Assistant Deputy Attorney General (Criminal Law) at the Ministry of the Attorney General from 1991 to 1996. He also served as a partner at Sack Goldblatt Mitchell from 1996 to 2005 and Counsel in a Commission Inquiry from 2005 to 2007 and prior to his teaching career at the Faculty of Law.

The Faculty of Law congratulates Professor Code on his prestigious appointment.

SEE YOURSELF HERE: BLACK LAW STUDENTS ASSOCIATION ENCOURAGES YOUTH TO CONSIDER LAW SCHOOL OPTION

FOR THE SECOND YEAR IN A ROW, the Black Law Students' Association at the University of Toronto Faculty of Law sponsored a one-day open house on March 14 at the law school – entitled "See Yourself Here" – to encourage young black high school and undergraduate students to pursue professional studies at the Faculty of Law.

Students from the community had an opportunity to meet with current law school students and lawyers and talk to them about their experiences.

Law students Tobi Aribido and Michelle Jackson co-chaired the event this year. Over 70 students and their parents turned out on a chilly Saturday afternoon for the program.

This year, in an attempt to increase attendance, organizers used social media such as Facebook, and further outreach to local community organizations and church networks to get the word out. They also made a concerted effort to inform high school guidance counselors about the program.

The U of T chapter of the BLSA is a member of the Black Law Students' Association of Canada (BLSAC). It works with the Canadian Association of Black Lawyers, Canadian law schools and other legal bodies to identify and remove the barriers that keep black people from attending law school and considering a career in law.

FACULTY NEWS

…The Government of Canada has reappointed **Professor Colleen Flood** as the Canada Research Chair in Comparative Health Law and Policy…

…**Professor Michael Trebilcock** authored a report for the Ontario Attorney-General that made several recommendations on the province's legal aid program. Providing the middle class access to the system and improving the pay of lawyers who work in the legal aid program were some of the key recommendations of the report that received wide media coverage.

…Three faculty members received Social Sciences and Humanities Research Council (SSHRC) grants. **Professor Patrick Macklem's** grant will support scholarship on international human rights that defines their legal nature and purpose, in terms of the capacity to promote a just international legal order. **Professor Lorne Sossin** will examine how the principles of aboriginal self-government and administrative law ought to inform one another, constituting an original and significant contribution to public law discourse in Canada. **Professor Arthur Ripstein's** grant will enable him to write a book about the philosophy of tort law, which has been at the center of many of the leading debates in the legal academy in recent decades, pitting economic analysis against theories of fairness, and both of these against accounts that seek to explain tort law in terms of corrective justice…

…**Professor Douglas Sanderson,** a Visiting Research Fellow at the Faculty since 2007, has been appointed as a full-time faculty member, effective July 1, 2009. As a first-rate J.D. student at the Faculty, Douglas founded the *Indigenous Law Journal.* Douglas went on to earn his LL.M from Columbia University, where he was a Fulbright scholar. Douglas's research areas include Aboriginal and Constitutional law, as well as private law (primarily property law) and public and private legal theory…

… **Professor Mariana Prado's** dissertation on "Policy and Politics: Privatization of the Electricity Sector in Brazil," earned her a JSD degree from Yale Law School last fall. She also traveled to Brazil, where she conducted research on institutional reforms…

… **Professors Colleen Flood** and **Trudo Lemmens,** with co-applicants from three other Canadian law faculties, have recently received a significant six-year training grant from the Canadian Institutes of Health Research (CIHR), valued at more than $1.9 million. The grant will provide funding for graduate student scholarships and training initiatives in the area of health law, policy and ethics. **Professor Rebecca Cook** and several researchers from other U of T faculties are also involved in this grant.

…**Professors Trudo Lemmens** and **Lisa Austin** have also recently completed a one-year research project on *Privacy, Access to Data and Biobank Research,* funded by the Privacy Commissioner of Canada's Contributions Program…

…**Professor Betty Ho** joined the Faculty from Tsinghua University Law School in Beijing. An expert in corporate, commercial and financial law and one of China's preeminent legal scholars, Ho's current research interests include corporate and commercial law, as well as legal process, particularly the role of law in the administrative state…

…**Professor Darlene Johnston** was awarded the designation of Indigenous People's Counsel from the Indigenous Bar Association (IBA), a non-profit professional organization for Indian, Inuit and Métis persons trained in the field of law. The Indigenous Peoples' Counsel designation (IPC) is awarded each year to an Indigenous lawyer in recognition of outstanding achievements in the practice of law and service to her community. The award was presented to Prof. Johnston at the IBA's annual conference in Toronto…

…**Professor Michael Code** co-authored, with The Honourable Patrick LeSage, a major report for the Government of Ontario reviewing the procedures for large and complex criminal trials. Released in November, their report provided many recommendations for improving the procedures for such trials, which in recent years have taken excessively long periods of time to be resolved…

…International and humanitarian law scholar **Professor Nehal Bhuta** was awarded early this year the prestigious Toscana Giorgio La Pira Prize for his paper, questioning the fairness of Saddam Hussein's trial in Baghdad three years ago, published in the *Journal of International Criminal Justice* (JICJ) in March 2008. Entitled "Fatal Errors: The Trial and Appeal Judgments of the Iraqi High Tribunal in the Dujail Case," the article is based on Bhuta's observations of the Saddam Hussein 2005-2006 trial and a review of the decisions of the court that found him guilty and sentenced him to death. The Giorgio La Pira Prize is named after a former mayor of Florence who was well-known as an activist and politician committed to human rights, social justice and the cause of peace…

…**Professor Denise Réaume** has been appointed a Visiting Professor of Law at the University of Oxford for a three-year term…

…Professor Ayelet Shachar served as Jeremiah Smith Jr. Visiting Professor at Harvard Law School last year, during which her work on multiculturalism and gender equality has been cited by the Supreme Court of Canada *(Bruker v. Marcovitz)* and by the Archbishop of Canterbury. In addition to her new book, *The Birthright Lottery: Citizenship and Global Inequality* (Harvard University Press, 2009), she published articles in *Theoretical Inquiries in Law; Citizenship Between Past and Present* (Routledge, 2008); *Michigan Journal of International Law;* and *Toward a Humanist Justice: The Political Philosophy of Susan Moller Okin* (Oxford University Press, 2009).

FACULTY OF LAW FIRST: FEDERAL JUDICIAL REVIEW HELD AT SCHOOL

PROFESSOR AUDREY MACKLIN'S ADMINISTRATIVE LAW CLASS was treated to a "real judicial review in real time"on-site at the Faculty of Law in late November.

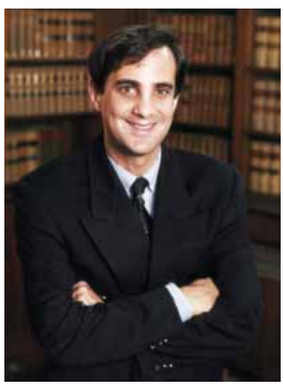
Justice Douglas Campbell presided over the review on a British Columbian forestry company's attempt to obtain a government permit to export their surplus timber. The session was highly interactive, with Judge Campbell taking the time to explain concepts to the students while the review was in session. Petitioning lawyers were also encouraged to direct their arguments towards the students, to further engage them in the process. One student told Professor Macklin that she was really impressed at how gracious the judge was, and that it was clear that he wanted to make the proceedings as educationally valuable for the students as possible.

For her part, Macklin was delighted to get such positive feedback from her students and hopes to be able to make judicial reviews a part of the curriculum in future Administrative Law courses.

Former Dean Dazzles South of the Border

IT HAS BEEN QUITE THE YEAR for former Faculty of Law dean Ronald J. Daniels. Not only is he the newly appointed president of Johns Hopkins University, a leading research-intensive institution in Baltimore, Maryland, he has also recently been recognized as a leader in higher education by the American Academy of Arts & Sciences – one of the most prestigious honorary societies in the U.S. and a centre for independent policy research.

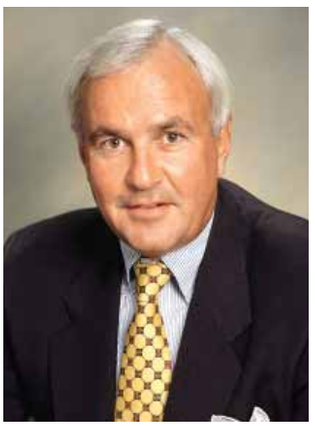
Daniels, who served as dean of the law school from 1995 to 2005, is an internationally accomplished legal scholar, specializing in corporate and securities law, regulation and government reform and the legal institutional challenges of economic development. Prior to joining Johns Hopkins, Daniels was the provost of the University of Pennsylvania.



Ronald J. Daniels ('86)

David Peterson re-elected Chancellor of the University of Toronto

THE HONOURABLE DAVID R. PETERSON ('67), chairman of the Toronto law firm of Cassels Brock and Blackwell LLP and former Premier of Ontario, will serve a second term as Chancellor of the University of Toronto, effective July 1, 2009. He is U of T's 32nd Chancellor since the university's founding in 1827.



The Honourable David R. Peterson ('67)

Elected by the Alumni College of Electors for a three-year term, the Chancellor is the ceremonial head of the university, presiding at convocations, conferring all U of T degrees and acting as ambassador to more than 400,000 graduates worldwide and to the wider community. The Chancellor also plays an essential role in advancing the university's interests within the local, provincial, national and international arenas.

ASPER CENTRE LEADS THE WAY ON CHILDREN'S RIGHTS

IN FEBRUARY 2009, the David Asper Centre for Constitutional Rights at the Faculty of Law recently hosted a two-day conference on the Best Interests of the Child in collaboration with leading child rights organizations in Canada including the Canadian Coalition for the Rights of Children, UNICEF Canada, Justice for Children and Youth, and the International Bureau for Children's Rights.

The focus of the conference was based on the principle of the best interests of the child, one of the basic principles of the United Nations Convention on the Rights of the Child, which as of 2009 is 20 years old. The 'best interests' principle has traditionally been used as the test when individualized decisions are made about children, particularly regarding custody and access arrangements. Organizers of the conference are currently working on a formal report that will be presented to the federal government with the hope of influencing children's rights policy municipally, provincially and federally.

Cheryl Milne, Executive Director of the David Asper Centre for Constitutional Rights, says that topics of the conference focused on where Canada is failing children, and where it is succeeding.

Presentations were also made about best practices in Aboriginal child welfare policies from field workers in British Columbia. Milne says that in B.C., the most successful models of child welfare cases keep children in their communities with increased support.

"The B.C. experience tells us that incorporating elements of the UN Convention on the best interests of the child really works. We have to study these models more comprehensively, continue to consult with children directly about their best interests and try to do more in the way of collaborative law to keep children out of courtrooms," adds Milne.

Professor Carol Rogerson, one of the organizers, said that the conference also raised hard questions about the issues facing children. One panel focused on the many ways that the voice of the child is being brought into custody and access determinations, both within and outside the courtroom.

The David Asper Centre for Constitutional Rights will continue to keep children's welfare and well-being in the public consciousness and on the radar of policy discussions in Canada.

LEGAL GIANT CREATES A LASTING LEGACY

ONE OF CANADA'S GREAT LEGAL MINDS, the Honourable Charles L. Dubin, Q.C. – whose royal commission cleaned up amateur sport in Canada and set an anti-doping standard for the world – has left behind an inspiring legacy at the Faculty of Law, thanks to a generous bequest from his estate.

The substantial bequest will create The Honourable Charles L. Dubin Memorial Scholarship, two awards presented annually to JD students in any year of criminal law studies, his specific area of expertise. The scholarships will be granted based upon academic merit and financial need beginning in 2009.

Justice Dubin died last fall at the age of 87. He was recognized as one of the top lawyers in Canada – a natural leader so revered and respected amongst family, friends and colleagues that they topped up the scholarship fund with additional gifts.

His wife of 56 years, Anne Dubin ('50), was one of the first women to graduate from the Faculty of Law and to pursue a successful career in private practice in Toronto. Her death, just 14 months before her husband's, was a devastating blow to Justice Dubin, ending a unique partnership of heart and mind, according to his niece Francie Klein.

Born in Hamilton, Ontario, Dubin was appointed to the Ontario Court of Appeal in 1973 and served as Chief Justice from 1990 to 1996. Upon his retirement as Chief Justice, Dubin rejoined Torys, working in arbitration as well as litigation and dispute resolution. A 1944 graduate of Osgoode Hall, Justice Dubin maintained close ties with the University of Toronto, receiving an honorary doctorate of laws in 1993.

The Hon. Charles L. Dubin

In 1988, the U of T Faculty of Law presented Dubin its highest honor, a Distinguished Alumnus Award, recognizing his extraordinary public leadership and life-long commitment to the community. He was also distinguished as an Officer of the Order of Canada, and invested in the Order of Ontario. A remarkably talented advocate, he was appointed Queen's Counsel in 1950, making him the youngest lawyer in the British Commonwealth to receive the honour.

Dubin was perhaps best known for the high-profile commission he headed in the 1980s. Known as the Dubin Inquiry, the commission grew out of a celebrated incident in which sprinter Ben Johnson was stripped of his gold medal at the 1988 Olympic Games for taking performance-enhancing steroids.

"Uncle Charles felt it was his duty to give back to society – his motto was 'justice will prevail,'" Klein explains. He was thrilled to know he was able to provide future scholarships to bright, capable students. It gave him tremendous satisfaction.

Provincial Funding Supports Innovative Outreach Program for Aboriginal Students, Library Collections

A RECENT $6-MILLION INJECTION of funding from the Ontario government through the "Access to Opportunities Strategy," aimed at boosting the number of Aboriginal post-secondary graduates province-wide, will help support a range of Aboriginal initiatives at the University of Toronto. About one-quarter of the $200,000 grant U of T received has been earmarked for the Faculty of Law. Other University of Toronto funding recipients include the faculties of Physical Education and Health, Arts and Science, First Nations House and the Ontario Institute for the Study of Education.

The generous grant will be used by the Faculty of Law to explore strategies to bolster current efforts at supporting Aboriginal students in law and law-related careers. The grant has also been directed towards the acquisition of Aboriginal-related library materials, making the Faculty of Law's library collection among the best in Canada. "This collection will provide scholars with comprehensive access to legal, as well as sociological, historical and anthropological material. It is easily the strongest Aboriginal legal collection in the country. We're thrilled to be able to offer this at our library," says Bora Laskin Law Library Acting Chief Librarian John Papadopoulos.

Also as part of the funding, the faculty's LAWS program, working with U of T's First Nations House, organized an educational outreach symposium for Aboriginal youth in April. Bussed in from across the province, high school students were welcomed to the event by an Aboriginal elder, with opening remarks from recently appointed Faculty of Law Professor Douglas Sanderson. The one-day event included justice-related workshops and a mock trial.

Greg Sitch, acting director of the LAWS program at the Faculty of Law, says that he is thrilled that this event also coincided with "Law Week," an annual program designed to encourage young people to think about careers in law and run by the Ontario Bar Association in partnership with the Law Society of Upper Canada and the Ontario Justice Education Network.

"Our goal was to inspire and encourage," says Sitch. "We wanted to provide Aboriginal young people with a chance to learn about all the post-secondary opportunities in law and law-related careers, and to engage in discussions around justice issues that affect them directly."

First Nations House was instrumental in recruiting students for the one-day program, and is also working with the LAWS program to develop both evaluation and follow-up tools to keep participants engaged. The Faculty of Law is hoping to turn the program into an annual event.

According to government statistics, there are about 50,000 Aboriginal students in the Ontario publicly funded school system and approximately 11,000 enrolled at post-secondary institutions.

Dean Mayo Moran says that it is very encouraging to see the Ministry of Training, Colleges and Universities and the Law Foundation of Ontario (LFO) engaging in this issue, and giving it the serious consideration and financial support that it deserves. The LFO was one of the financial supporters of the one-day outreach program.

"We are very proud of the Faculty of Law's current outreach initiatives to Aboriginal communities. We have seen how integral Aboriginal students, lawyers and professionals are to the broader pursuit of justice for Aboriginal communities," she says. "With the proper social, financial and academic supports in place, there is no limit to what Aboriginal students can achieve in law and related fields."

SUMMER INSTITUTE FOR EXECUTIVE LEGAL EDUCATION DRAWS CROWDS

For The Faculty of Law is thrilled with the success of its new Summer Institute for Executive Legal Education. Featuring some of the country's leading scholars and lawyers, the Summer Institute represents the Faculty's first foray into continuing education.

"The reaction to the programs has been incredibly positive, both in terms of attendance and evaluation," says Dean Mayo Moran. "We collaborated extensively with leading firms and legal practitioners to develop courses that are timely and relevant and that also meet the rigorous standards that students expect from our Faculty."

The Faculty offered three subject-specific courses in May and June: *Bankruptcy Basics, Corporate Tax Basics* and *Beyond and Civil Advocacy Before Trial: Essentials for New Litigators.* A fourth course, *Doing the Deal: Legal, Strategic and Practical Considerations for Corporate Lawyers* is planned for the fall. All courses are tailored to practitioners at various stages of their careers and offer high-level instruction from leaders in the field, combined with opportunities for hands-on learning.

"The goal of the program is to provide practitioners with the critical skills and tools to give them the edge, especially given the current economic climate," says Assistant Dean Jane Kidner, who has been involved in the development of the programs of the Summer Institute. "This is just the beginning – the Faculty is exploring ideas and opportunities for future courses, as well as in-depth programs offered at the Master's level tailored to practicing lawyers. We are committed to providing innovative and enriching programs that are responsive to real-world concerns and needs."

As part of the Summer Institute, the Faculty of Law also organized a special two-day intensive program for women returning to legal practice or considering an alternative career in law. Held at the Verity Women's Club in Toronto on June 17 and 18, the Women in Transition program brought 42 women lawyers together from across the country. The program covered a range of topics designed to help women evaluate their options in the new legal marketplace.

"I'm absolutely thrilled about this concept and wish something like this had been available when I returned to practice," says Sarah Fitzpatrick, who after returning to Canada after several years of practice in England, took a five-year hiatus to raise three children, and has since practiced part-time for four years. "Over time you lose your professional contacts and the legal marketplace changes. As in any industry, new players emerge. Tapping into an enormous resource of highly skilled women with fantastic talent and expertise has tremendous value, and has never existed before," says the 41-year-old wills and estates lawyer, who practices in a downtown boutique firm.

The program, which will be offered again in 2010, emphasizes interview and networking skills, and incorporates sessions on career coaching and behavioural analysis to help women make satisfying professional choices. A highlight of the program is a "speed-dating" session that allows participants to meet women in alternative legal careers in a series of short interviews.

The retention of women continues to be an issue within the legal profession, with female lawyers leaving private practice two and half times faster than men. Punishing hours and the need for a balance between work and family are some of the factors responsible for this ongoing trend.

Carrie Hardy, 36, practiced real estate law at Cassels Brock & Blackwell before taking a leave to raise a family. With two babies a year apart, a lengthy daily commute, and a lawyer husband who also practiced long hours in a private firm, Hardy gave it up for two and a half years to raise two children. When she was ready to return to work, she found employers very suspicious of her ability to commit since she'd been at home so long. She was also not willing to compromise her family life for the long hours that large firms expected of their associates.

"The issue of taking time to start a family is not about being less committed to the profession of law; it's about making a very personal lifestyle choice," says Hardy, who eventually found a good fit as in-house counsel for U of T's real estate operations.

Dean Moran says she is seeing some shifts in attitude from the "old firm mentality," but compares a female lawyer's return to the legal world to starting all over as an articling student. "My hope is that programs such as the one offered at the Faculty will help provide female lawyers with the tools, and, most importantly, the confidence to prepare for a new and rewarding law career," she adds.

For more information on the Summer Institute for Executive Legal Education, visit http://www.law.utoronto.ca/ExecutiveEducation

New Helen Rose Himmel Bequest

To Assist J.D. Students in Need

HELEN ROSE HIMMEL WATCHED THE GREAT DEPRESSION destroy her sister Frances's dreams of a legal education. More than three-quarters of a century later, a bequest from Himmel's estate honours her sister's memory by creating a bursary for aspiring law students with financial need.

Aunt Frances would have been extremely pleased with "Aunt Helen's bequest," says Arnold Somers, a Toronto-based lawyer and executor of Himmel's estate. "When Aunt Frances passed away, she left the bulk of her estate to Aunt Helen. It was only fitting that when my Aunt Helen passed away last year it should be put towards something dear to her sister's heart." Although Frances didn't realize her dreams of becoming a lawyer, she taught high school in Montreal and then pursued a diplomatic career. Himmel became an admired nurse at Mount Sinai Hospital, participating in the training of many physicians. Recalls her nephew: "She was always a big believer in education."

The Helen Rose Himmel Bursary will support one J.D. student each year, starting in September 2009.

U OF T FACULTY OF LAW ANNOUNCES FIRST-OF-ITS-KIND PROGRAM IN CANADA TO ASSIST INTERNATIONALLY TRAINED LAWYERS WITH ACCREDITATION PROCESS

(Front Row L-R): The Hon. Michael Chan; Dean Mayo Moran; and Member of the Internationally Trained Lawyers' Working Group, Sowmya Vishwanatha (Back Row L-R) Treasurer of the Law Society of Upper Canada, Derry Millar; Executive Director, Toronto Region Immigrant Employment Council, Elizabeth McIsaac; Managing Partner of Fraser Milner Casgrain LLP, Christopher Pinnington; President of the Federation of Law Societies of Canada, Stéphane Rivard

(Insert): The Hon. Michael Chan, Minister of Citizenship and Immigration for Ontario with Faculty of Law Dean Mayo Moran.

For many years, foreign trained lawyers have come to Canada with the dream of practicing law in our country, only to face significant hurdles and challenges in the formal accreditation process, and in securing meaningful employment in their field. Thanks to a generous grant from the Ontario government, their plight is about to become a bit easier.

On Monday, June 29th, the Ontario Ministry of Citizenship and Immigration announced an unprecedented investment of $4 million in the U of T Faculty of Law to develop and run a bridge training program for foreign trained lawyers. Joined by Dean Mayo Moran, the Treasurer of the Law Society, the President of the Federation of Law Societies of Canada, and more than 50 alumni and friends, Minister Michael Chan praised the program, which will feed the future strength and diversity of the Canadian workforce.

"This investment in bridge training for internationally trained lawyers is a first in Ontario," said Michael Chan, Minister of Citizenship and Immigration. "Helping newcomers practice their profession builds the highly skilled workforce we need in Ontario. We have chosen the University of Toronto Faculty of Law because of their track record and commitment to excellence."

In 2007, over 500 foreign trained lawyers sought accreditation to practice in Ontario, more than double the number that did so a decade earlier. The success rate, however, is a different story. Without the proper support and academic training, only about 50% of the lawyers who start the process end up completing it and obtaining their Certificate of Equivalency from the Federation of Law Societies of Canada, the official governing body that is responsible for assessing the credentials of foreign lawyers, sitting the equivalency exams (or "challenge exams" as they are sometimes referred to), and providing the necessary Certificate of Equivalency to those who meet the requirements and standards.

And that is only half the battle, according to Assistant Dean Jane Kidner, who is helping to develop the program. Those who pass their challenge exams still face significant hurdles in gaining relevant Canadian work experience and securing articling positions to meet the requirements of being called to the Bar. "Many internationally trained lawyers lack the support networks and mentorship roles that most of us take for granted having been born, raised and schooled here in Canada," says Kidner. "Without work experience on their résumé, it is often difficult to secure a job in a law firm, and they are at a significant disadvantage in an increasingly competitive marketplace."

The ITL Program hopes to address many of these issues through a comprehensive package of services that will help approximately 90-100 internationally trained lawyers each year with the complicated accreditation process and the more nuanced aspects of securing employment in what is for many a culturally foreign environment.

"One of the most important aspects of the program will be the work placement," says Kidner. "That is why we are absolutely thrilled that 10 law firms have already agreed to work with us over the next year and a half to develop four-month work placement internships for ITL program students. These firms have shown incredible leadership and vision."

Now in the beginning stages of development, the program will be up and running in May 2010, and will have academic training, career skills workshops, cultural fluency training, job-specific language training, employment counseling, work placement opportunities and more.

"We are extremely grateful to the Government of Ontario for its visionary commitment to internationally trained lawyers and for its leadership in addressing an issue that has long challenged our justice system and the legal profession," says Dean Mayo Moran. "We look forward to creating an outstanding program that will benefit internationally trained lawyers, the people of Ontario and the Canadian justice system."

The U of T Faculty of Law would like to thank the following law firms, which have shown incredible vision, leadership and commitment by supporting the ITL program through the development of work placement opportunities: **Blakes, Borden Ladner Gervais, Fasken Martineau, Fraser Milner Casgrain, Heenan Blaikie, McCarthy Tétrault, Miller Thomson, Ogilvy Renault, Stikeman Elliott** and **Torys.**

We are also grateful to the following organizations, which have supported us in this important initiative: the **Law Society of Upper Canada,** the **National Committee on Accreditation, Pro Bono Law Ontario, Pro Bono Students Canada** and the **Toronto Regional Immigrant Employment Council.** Finally, we would like to thank the **Law Foundation of Ontario,** whose generosity and support of diversity initiatives at the law school allowed us to imagine and create this program.

CONSTITUTIONAL CRISIS GRIPS A NATION AND A FACULTY

BY MICHAEL BENEDICT

Canada's most serious constitutional crisis in more than eight decades exposed "frightening" rifts in our parliamentary democracy that lawyers and legal experts can play a critical role in repairing. The Faculty of Law's David Asper Centre for Constitutional Rights has seized the initiative in leading the public debate about the appropriate relationship between an elected Prime Minister and an appointed Governor-General who may be asked to decide the PM's political fate. Recently, the Centre twice brought together leading experts to consider the constitutional issues raised by Prime Minister Stephen Harper's unprecedented request to prorogue Parliament in order to avoid a confidence vote that he was sure to lose.

Photo: Michael Stuparyk/Toronto Star

Gathered to debate the Governor-General's decision are (from left): Dean Mayo Moran; Professors Peter Russell and Lorraine Weinrib; MPs Joe Comartin and Bob Rae; Asper Centre Executive Director Cheryl Milne; Professors Lorne Sossin and David Cameron.

"What was clear throughout this crisis was that the Canadian public was worried and cared deeply about what was happening in Ottawa," says Cheryl Milne, executive director of the Asper Centre. "Unfortunately, many were misinformed about how our parliamentary democracy works, at times by media commentators and, remarkably, by politicians themselves. The Centre's aim in hosting the panel was to provide authoritative commentary on the events as they were unfolding and to answer the many questions that even members of the bar and our student body had about the powers of the Governor-General and how a coalition government might come to be."

Another surprised observer with more than a passing interest in the crisis was Tim Murphy ('87), chief of staff to Paul Martin when he was Prime Minister from 2003 to 2006. "What frightens me most is the misunderstanding about our political process," Murphy says. "I can understand people's political objections to the proposed coalition government, but the idea of a coalition was in no way illegitimate."

Indeed, a public opinion survey in December, at the height of the crisis precipitated by what the opposition parties considered the Harper government's inadequate response to the economic crisis, showed that half of all Canadians wrongly believed that the Prime Minister is directly elected by the people. Instead, the Prime Minister is appointed by the Governor-General based on the constitutional convention that the office is first offered to the leader of the political party with the most seats.

LAWYERS ARE WELL POSITIONED TO EXPLAIN HOW THESE ISSUES, which go to the core of Canadian political legitimacy, are based on law and precedent. "Lawyers occupy a privileged position in society and have a responsibility to be intelligent participants in the life of the country," Murphy says. "By and large, they stood idly by during the crisis and watched the parade go by."

Adds Professor Lorne Sossin: "Lawyers can be the catalyst to bring our political system in tune with public expectations." Sossin says that lawyers should undertake this responsibility because the profession is a critical defender of the rule of law, another cornerstone of our democracy.

Sossin, who helped organize the "Was the Governor-General's Decision Constitutional?" panel discussion on December 5, a day after Governor-General Michaëlle Jean granted Prime Minister Harper's prorogation request, has co-edited a book on the implications of the crisis. Called *Parliamentary Democracy in Crisis: The Dilemmas, Choices and Future of Parliamentary Government in Canada*, the volume was published in early April. It features essays about Canada's unwritten constitution from the country's leading legal and constitutional scholars (for a sneak peek, see page 15).

Says Sossin: "After the first panel discussion, we realized immediately that there was a need to deal with the loose ends of the crisis and suggest ways to address these issues in the future. There were all these questions about the relationship between the Prime Minister and the Governor-General with few clear answers and lots of disagreement."

THE BOOK'S CO-EDITOR, U of T professor emeritus of political science Peter Russell, also believes the legal profession can play a leading role in clearing up widespread misunderstandings about how our parliamentary system works. "What is clear is that we don't have a consensus among politicians and the public about the powers of the Prime Minister and Governor-General," Russell told the follow-up January 13 panel on "Parliamentary Democracy and its Constitutional Foundations and Future: Beyond the Headlines." Says Russell: "When it comes to the unwritten rules of our constitution, there is no bigger issue."

"The time has come to write down our casual conventions, especially those in regard to the Governor-General's reserve powers. We can't have an open rift on the question of who has the right to govern. The law schools are a good place to begin that process," he adds.

Clearly, these questions have become more practical than theoretical. Thinking back to the Martin minority Parliament, Murphy recalls: "We never knew how the Governor-General would react because there is nothing specific to refer to. That's a ridiculous situation. The last thing we wanted was to do something that would put the Governor-General in an awkward position."

The Governor-General's role, says Murphy, is a rather "odd" one. Because it is an unelected position, its legitimacy comes from its extensive power on paper being "boxed in by rational theories and the use of precedent." For Murphy, the relationship between the Prime Minister and Governor-General can be seen in two ways. On the one hand, there is the view that the Governor-General, as an unelected official, must accede to any request by the Prime Minister.

ON THE OTHER HAND, Murphy accepts that one can argue that the Governor-General must use the office's authority to maximize the power of elected officials, a view that would have justified Governor-General Jean's rejection of Harper's prorogation request and her acceptance of the coalition alternative. In 1926, former Governor-General Lord Byng applied the same rationale when he rejected Prime Minister Mackenzie King's request to dissolve Parliament. (King headed a minority government at the time, and Byng called upon opposition leader Arthur Meighen to form his own minority, only to see it soon defeated. In the ensuing election, King won after campaigning against Byng's alleged abuse of power.)

"Either view of the Governor-General's authority is reasonable and touches upon the kinds of issues that inevitably involve lawyers," says Murphy. "They, in turn, should be pushing for a resolution based on the fundamental principles of democracy."

For his part, Sossin says there must be much more transparency in how the Governor-General exercises power for that office to retain its legitimacy. The public has no idea what transpired when Jean met with Harper for more than two hours before she granted his prorogation request. Sossin asks whether Jean read and considered a petition from 161 Members of Parliament asking her to allow a coalition government? Also, did she place limits on Harper's power until Parliament resumed?

"Why did the Governor-General do what she did?" asks Sossin. "We can't make a determination of whether she acted appropriately since we have no idea about her reasons. Surely, it's not too much to ask that in our constitutional democracy we know why and how an unelected ceremonial position exercised incredible power."

Sossin argues that it is only natural for the legal profession to lead the fight for democratic accountability. Even the judiciary is now subject to this transparency principle, following the 2002 Supreme Court of Canada decision calling upon trial judges in criminal proceedings to provide cogent reasons for their decisions.

Lawyers can help fill the gap between public expectations and reality by explaining the basic principles of parliamentary democracy and pushing for more accountability and transparency.

"Lawyers are qualified to think more broadly about our system and ensure that the rule of law prevails," he says. "They can help fill the gap between public expectations and reality by explaining the basic principles of parliamentary democracy and pushing for more accountability and transparency."

Not everyone shares Sossin's view that the Governor-General should have disclosed the rationale for her decision. Patrick Boyer, a former MP, author and one-time teacher at the Faculty of Law, feels the office of the Governor-General is a "relic" in a 21st century democracy, but that its occupant nevertheless is under no obligation to provide an explanation for any decisions. "It would have been good to learn the reasons," Boyer says, "but in our system, it's not required. It's like cabinet secrecy."

Similarly, Boyer says it would have been more democratic for Prime Minister Harper to face a Commons vote and risk defeat rather than ask for prorogation. But once he made his request, Boyer adds: "The Governor-General was right to grant it. To ignore the Prime Minister's advice would have caused an even greater constitutional crisis."

Boyer, too, feels there is an urgent need to better define the relationship between the Governor-General and the Prime Minister. "If we believe in the rule of law, the relationship and the powers should be codified," he says, suggesting that such a process might be the catalyst to a public examination as to whether Canadians still want a system where residual powers lie with the Crown.

Sossin agrees that the constitutional crisis put the spotlight on many issues that need to be resolved, especially since minority governments in Canada have recently become the norm, rather than the exception.

"The crisis showed that the system does not have a credible way to resolve a dispute between the Governor-General and the Prime Minister," he says. "We came to the brink, and survived. But what happens if we cross the brink?" ■

ANVER EMON

BY LAURA ROSEN COHEN

From the publication of the Danish Mohammed cartoons in 2006, to the wars in Iraq and Afghanistan, interaction between the Islamic and the Western world makes front page news on a regular basis. While the average person in the West must rely on broadcast media to interpret and present the points of conflict and exchange, Faculty of Law Professor Anver Emon is busy at work behind the scenes, diligently using his own research on Islamic law to foster greater understanding and cooperation between the two cultures.

"What I am concerned about is an ignorance of Islamic law in the West, and particularly among forces serving in Islamic countries," says Emon. "Without a basic understanding of Islamic law, we cannot have a high-level dialogue about the rule of law in these countries. In order to discuss violence, torture, abuse and conflict, we have to have both a high level of scholarly exchange and create the institutional capacity in Muslim countries for these discussions."

Professor Emon is an expert in Sharia law, who received his BA from UC Berkeley, a JD from UCLA School of Law, an MA from University of Texas at Austin, an LLM from Yale University Law School and a PhD in history from UCLA. A current research project has him focusing on law, tolerance, and the treatment of minorities under Islamic law.

"How can we talk to Muslims about torture without using Islamic law as the basis for that conversation?" he asks rhetorically. To that end, Emon has been working with several international organizations such as the International Bar Association, the Salzburg Global Seminar, the law faculty's International Human Rights Program, and the Centre for Theological Inquiry in Princeton, New Jersey. He has been a frequent speaker on Islamic law to NATO forces and to senior military personnel at the Canadian Forces College and also recently addressed a group of American military lawyers, as part of their judicial education initiatives program.

"In Afghanistan, the situation on the ground is that military forces are creating provincial reconstructions teams (PRTs). The military realizes that it has a limited understanding of Islamic law, and knows that although it is armed sufficiently – they are not equipped with a sufficient understanding of Sharia law and Islamic issues. At the present time, the security situation simply does not allow for civilians to introduce concepts of the rule of law to the general population. Therefore, it is military personnel that need to be equipped with a more in-depth knowledge of Sharia in order to encourage the development of rule of law institutions," he adds.

In 2006, a Danish newspaper published caricatures of the Muslim prophet Mohammed. Almost immediately, European nations contended with widespread demonstrations by Muslim protesters who felt that the cartoons were blasphemous and insulting to their faith. Emon maintains that the debate was incorrectly framed in terms of two fundamentalist polarities – Muslims facing off with free speech fundamentalists.

"The way the issue was presented was an 'either or' situation. The assumptions were that either Muslims support freedom of speech or they do not," he says. "Both groups were asserting positions that claimed no limit, yet both groups clearly do have a tradition of limiting freedoms."

The Western tradition of freedom of speech, he says, is not unlimited. "In Austria, for example, people can be convicted of a crime for Holocaust denial," he explains. "In Pakistan, there are limits on blasphemy against the prophet Mohammad. Freedoms are limited in national interests. So really, the question is – when we limit freedoms, why do we do so, on what assumptions? What does this say about our values, and what is at stake?"

When the dust finally settled in the Netherlands, he says, the result was only greater xenophobia in Europe toward Muslim immigrants.

Emon believes that such public debates about cultural differences can be valuable. "By having this kind of dialogue, we can only foster greater understanding and perhaps a greater appreciation of other cultures," he says. ■

BORDEN LADNER GERVAIS
RENEWS FIVE-YEAR COMMITMENT TO FELLOWSHIP PROGRAM

Beginning in 2009, Borden Ladner Gervais LLP (BLG) has renewed its commitment to the University of Toronto's Faculty of Law to fund two research fellowships, each worth $12,000, annually for the next five years. Fellowship recipients are chosen by the law schools based upon their academic achievements, and are supervised by prominent faculty members.

The program, established in 2004, arose out of BLG's commitment to strengthen university-based research law schools. It has so far awarded 100 fellowships, valued at $1 million, to 14 law faculties, one of the largest donations to Canadian law school research.

In 2008, fellowships at U of T were awarded to Jamie Baxter and Tim Barrett. Baxter researched *Property Rights and First Nations in Canada: An International Context* under the direction of Professor Michael Trebilcock. Barrett worked with Professor Ian Lee on a project entitled *Freedom of Expression and the Regulation of Corporate Political Speech.*

The Borden Ladner Gervais Fellowship allowed Jamie Baxter to research a proposal for the creation of a land titling system for First Nations communities on reserve land currently held in trust by the federal government. "The challenges First Nations face regarding their land tenure systems and economic development are humbling," he remarked.

"Changes to the legal status of reserve land under Anglo-Canadian law would change the way First Nations' lands and resources are regulated, and likely alter how they are used. One aspect of the title system proposal is that non-community members may be able to acquire a legal interest in reserve lands. We explore some of the economic and social implications of this change in our study," explains Baxter of his project.

"U of T has a strong Aboriginal law community, and on a personal level, it was a tremendous experience working with such an outstanding mentor as Professor Trebilcock and such a distinguished First Nation leader as Chief Commissioner Manny Jules.

"The BLG Fellowship gave me the freedom and the resources to engage with a complex set of issues in a meaningful way. When combined with the opportunity to work with a researcher of Professor Trebilcock's calibre, the result was something truly special for me, and I feel very grateful to Borden Ladner Gervais and to all those involved," says Baxter.

At the age of 26, Tim Barrett calls himself "a straight up and down policy wonk" with a passion for the kind of difficult, dense issues you can really sink your teeth into.

HE SAYS HE'S GRATEFUL FOR THE BLG FELLOWSHIP for allowing him to provide a comprehensive overview of national campaign finance regimes in the U.S. and Canada, with the aim of developing a framework for evaluating the limitations placed on political activities of business corporations.

"I really wanted the opportunity to work with someone great, an expert in the field of public policy like Professor Ian Lee. He is incredibly smart and interesting with a legal career I'd like to emulate," says Barrett.

ANOTHER FACULTY OF LAW FIRST: IHRP STUDENTS GET SPECIAL PENTAGON PERMISSION TO OBSERVE OMAR KHADR PRE-TRIAL HEARING IN GUANTÁNAMO BAY

Imagine getting a call from the Pentagon giving you and your fellow students from the International Human Rights Program special permission and security clearance from the US Department of Defense to travel to Guantánamo Bay to observe Omar Khadr's final pre-trial hearing. Amazingly, that's exactly what happened to University of Toronto law students Kate Oja and Tony Navaneelan last fall.

Assisted by Sarah Perkins, former director of the IHRP, the two legal students obtained special Pentagon permission to visit Guantánamo as part of their IHRP clinical work. Faculty of Law Professor Audrey Macklin, long active in the Khadr case, attended on behalf of Human Rights Watch. Professor Macklin had previously appeared before the Supreme Court of Canada as part of Khadr's Canadian battle to obtain disclosure of documents held by the Canadian government, thought to be relevant to charges brought against him in the US. The IHRP made joint submissions with Human Rights Watch as third-party interveners in the case.

Omar Khadr was 15 when captured in Afghanistan following a firefight in which a U.S. officer was killed. His supporters claim he has been refused his right to a fair trial and his status as a child soldier since his initial imprisonment at the Guantánamo Bay detention centre seven years ago.

Upon their return from Cuba, Oja and Navaneelan wrote a report describing the motions argued at Guantánamo Bay. They evaluated the compliance of the proceedings with international fair trial standards, and incorporated materials from their informal discussions with Khadr's defense counsel.

Back at home and inspired by their experience in Cuba, they started the Omar Khadr Project and mobilized law students across the nation, demanding Khadr's immediate repatriation in the name of justice and Canadian values.

Human rights remain on the radar of both Oja and Navaneelan. This summer, they will be travelling The Hague to intern for the defence team during the trial of former Bosnian Serb leader Radovan Karadžić at the International Criminal Tribunal for the Former Yugoslavia. Karadžić stands accused of genocide and crimes against humanity for leading the slaughter of thousands of Bosnians and Croats.

The Faculty of Law is proud of IHRP students, program staff and faculty advisors for their dedication to the promotion and protection of human rights around the world.

LAW STUDENT WINS DOMAIN NAME BATTLE WITH INTERNATIONAL RETAIL CHAIN


Zeynab Ziaie Moayyed

Last fall, law student Ziaie Moayyed and her family got a letter in the mail from the World Intellectual Property Organization (WIPO) in Geneva, Switzerland, accusing her father of cybersquatting on an Internet domain name. Her father's site www.metro.ir was developed to promote a new railway line in Iran, but the international Metro grocery store felt otherwise. Ziaie took the case into her own hands, filing a 20 page brief response and a box full of supporting evidence. She submitted proof that her father hadn't registered and used the domain name in bad faith, that it was being used for legitimate purposes, and was not being held in order to 'flip' the name for profit. She recently got word that she won the case. Ziaie's story is yet another inspiring example of how capable and effective our students are.

STUDENTS THRILLED WITH CENTRE FOR TRANSNATIONAL LEGAL STUDIES PROGRAM IN LONDON, ENGLAND

NINE JD STUDENTS recently attended the inaugural semester at the Faculty of Law's newest student and faculty exchange program through the Center for Transnational Legal Studies (CTLS). The CTLS is a joint venture between the University of Toronto and other premier law schools from countries around the world, including Georgetown, Fribourg, Hebrew University, Melbourne, the National University of Singapore and King's College, London.

It is a global education centre where students and faculty come together to examine and contribute to an understanding of the development of transnational legal norms, institutions and processes. The first CTLS program was held in London, England, with Professor David Dyzenhaus assisting in the overall design of the curriculum, and Professors Kerry Rittich and Stephen Waddams teaching in the program. Professor Kent Roach will be teaching a course on Comparative Anti-Terrorism Law as part of the Fall 2009 CTLS program.

"U of T's Faculty of Law has been involved from the very beginning stages of this exciting program," says Dean Mayo Moran, who attended the opening ceremonies in October. "We are delighted that both our faculty and students have this opportunity to experience a unique, collaborative teaching environment that exposes them to the very best and brightest minds in specific legal disciplines."

Student Robert Gold says that his semester at the CTLS in London was an enriching and rewarding experience, and he's glad that he took advantage of the opportunity to engage in this new initiative. Gold and several of his classmates recently spoke to Nexus about their experiences.

"The CTLS was a unique and wonderful opportunity to engage with students and professors from the four corners of the globe," says Gold. "Since there was no real host institution, everyone was in the same boat and all were eager to connect with each other. I had the chance to study with both professors and students from vastly different countries who were able to offer their perspectives on the law in a way that one would seldom otherwise experience. It gave me a new appreciation for studying law in a transnational perspective and enticed me to learn more."

Gold was surprised by how quickly and effortlessly friendships were formed amongst everyone from everywhere. "It was as if any cultural barriers that one might perceive to exist either disappeared the day we met or else never really existed in the first place. I now have friends to visit in countries as far ranging as Brazil, Israel, Australia and Italy," he adds.

Pictured are law students (from left) Ryan Sakamoto, Gail Elman, Adam Lazier and Chloe Snider.

Chloe Snider said meeting and becoming friends with students from all around the world was one of the highlights of the program.

"Because we were all on exchange everyone was eager to make new friends and create a community," she explains. "One of my favourite academic experiences was the bi-weekly colloquia in which a visiting speaker would deliver a paper that we read in advance. The speakers were engaging and always tried to answer questions that we wrote in our response papers (a requirement of the course)." Snider said that there were also many opportunities to get to know the faculty and that class sizes were kept quite small.

"The CTLS is a unique program both in that it unites people from across the world, creating a community or network of people that would otherwise never exist and in that it focuses on a topic that doesn't seem to get enough attention - transnational law. The program provided me with a different perspective for how law operates across borders."

FACULTY OF LAW FIRST AMONG LAW SCHOOLS IN ENVIRONMENTAL RESPONSIBILITY

We are pleased to announce that the Faculty of Law has been recognized by *Corporate Knights: The Canadian Magazine for Responsible Business* as the best law school in Canada for incorporating environmental and social practices. The survey, as well as information about the methodology used, can be found online at: http://static.corporateknights.ca/KnightSchools2009.pdf

The Faculty of Law works closely with students, faculty and staff to make our law school a greener place to work and study. Many recent improvements in our sustainability practices have been the result of student initiatives, particularly those recommended by our Environmental Sustainability Working Group. As the article observes, "sustainability is not just about conserving the natural world: it's about creating an inclusive, responsible society that cares about its future." We couldn't agree more.

SPOTLIGHT ON PROFESSOR AYELET SHACHAR

THE BIRTHRIGHT LOTTERY: CITIZENSHIP AND GLOBAL INEQUALITY

Within the space of one year, Professor Ayelet Shachar has spoken all over Europe and in several capitals in the Middle East, in addition to teaching at Ivy League universities such as Harvard and Stanford in the United States. Her work from a previous book on multiculturalism and women's rights has been cited by the Supreme Court of Canada and the Archbishop of Canterbury. The recent publication of her new book *The Birthright Lottery: Citizenship and Global Inequality*, and the groundswell of interest in it, will no doubt continue to keep this Faculty of Law scholar similarly busy throughout the next year.

"This book aims to advance our understanding of citizenship by moving beyond the standard emphasis on status, rights and identity. It adds a global justice component by highlighting the way in which citizenship is transferred: by birthright," Shachar explains. "The harsh reality on the ground is that most people alive today – indeed, 97 per cent of the global population – are assigned citizenship by the lottery of birth and either choose, or are forced, to keep it that way."

Citizenship, she explains, is passed to a restricted group with very strict conditions for transfer. Traditionally, it is passed by two legal methods: *jus soli* (by right of territory) and *jus sanguinis* (by right of bloodline). "Gaining privileges by such arbitrary criteria as one's birthplace or bloodline is discredited in virtually all fields of public life, yet birthright entitlements still dominate our imagination and our laws when it comes to allotting membership in a state," she says.

> Professor Shachar suggests that an entirely new category of citizenship transfer is necessary to correct global injustice: *jus nexi* – citizenship by connection to the country.

Professor Shachar suggests that an entirely new category of citizenship transfer is necessary to correct global injustice: *jus nexi* – citizenship by connection to the country. This would ease the tremendous injustice facing individuals who have resided in certain countries for extended periods of time, but do not have a traditional claim to citizenship. It's a revolutionary new concept that she hopes will encourage spirited debate among academics and policy-makers throughout the world.

"The implications of the birthright citizenship lottery are dramatic – it grants to some a world filled with opportunity and condemns others to a life with little hope. A child born in Mali might not have access to clean water or access to education, but a child born in Canada will," she explains. "By deploying a creative framework for understanding citizenship as a form of inherited property, we can see membership inheritance in a fresh light: it operates as a distributor – or denier – of opportunity on a global scale."

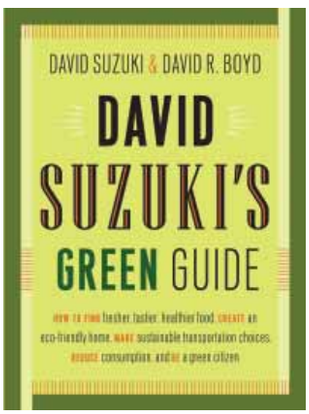
Shachar believes that winning the birthright lottery creates an obligation to give something back to the rest of the world, and by developing the analogy to inherited property this book, published by Harvard University Press, provides a theoretical framework for addressing the most glaring global inequalities that attach to birthright citizenship. Drawing on insights from law, economics and political philosophy, she offers concrete legal-institutional ways in which that could be accomplished.

One such idea, she explains, is to introduce a "privilege levy" on citizenship inheritance in affluent policies, distributing these revenues to specific projects designed to improve the life opportunities of children in the world's poorest nations – regardless of their (unchosen) birthplace or ancestry. She says that without thinking about new ideas to change the world, change can never occur and scholarship is precisely about introducing new ideas to the world that can have a significant impact.

"A serious consideration of the privilege of citizenship will also take into account the need for people to give back to the world. It's really a matter of global justice and democratic fairness, and it's exciting to be able to put the concepts together in this way, and bring these ideas about citizenship as public inheritance to the world," she says smiling.

ON THE BOOKSHELVES

Faculty and alumni continue to produce world-class literature, textbooks and casebooks at an enviable rate. The following are a selection of alumni and faculty publications that reached the Nexus editor's desk throughout the past year. If you have recently published a book, please send a brief summary and a high-resolution cover image or PDF file to k.hilton@utoronto.ca and it will be considered for inclusion in a future issue of *Nexus.*



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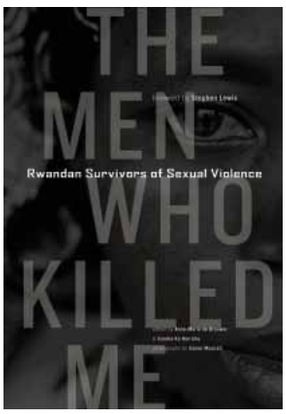

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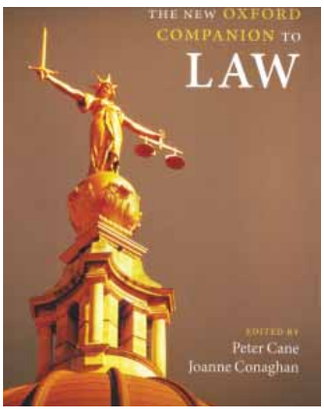

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Justice Linda Abrams ('86) and **Dr. Patrick McGuiness ('79)** recently published the first edition of ***Canadian Civil Procedure Law*** (ISBN 978–0–433–45742–8)

1 **David Boyd ('89),** along with environmentalist David Suzuki, has published ***David Suzuki's Green Guide: How To Find Fresher Tastier Food, Create an Eco-Friendly Home, Make Sustainable Transportation Choices, Reduce Consumption and Be A Green Citizen*** (Greystone Books, 2008).

2 **Sandra Ka Hon Chu ('02),** co-editor, and **Samer Muscati ('02),** photographer, recently published the book ***The Men Who Killed Me: Rwandan Survivors of Sexual Violence.*** All proceeds from the book will be given to *Mukomeze*, a charitable organization established to improve the lives of girls and women who survived sexual violence in the Rwandan genocide (ISBN 978-1-55365-310-3)

Professor Michael Code ('76) was a contributor to a new casebook on professional responsibility, entitled ***Lawyers Ethics and Professional Regulation,*** published by Lexis Nexis and edited by alumna Alice Wooley.

Randall Echlin ('75) has two books to tell us about: ***The Annual Review of Civil Litigation*** (2007) and ***Special Lectures 2007– Employment Law.***

Steven Elliot ('95) has written ***The Law of Rescission*** (OUP 2008).

Professors Colleen Flood ('94) and **Lorne Sossin** have co-edited ***Administrative Law in Context*** (Emond Montgomery 2008).

Joseph Groia ('79) and **Pamela Hardie ('79)** let us know that their book ***Securities Litigation and Enforcement*** came out in 2008.

Lawrence Herman ('69) has published ***Canadian Trade Law: Practice and Procedure,*** (Thompson Carswell 2008).

Chris McNaught ('73) has written a novel called ***The Ambulance Driver*** (Baico Publishing Consultants, Inc. (ISBN 978-1-897449-19-6).

3 **Dean Mayo Moran ('99)** wrote the entry for the "reasonable person" in the ***New Oxford Companion to Law*** (ISBN 978-0-19929054-3)

Professor Kent Roach ('87) has published the fourth edition of ***Criminal Law*** which includes a new chapter on specific offences including homicide, sexual, and terrorism offences (ISBN 978-1-55221-161-8).

Nora Rock ('92) has written three recent books. One is ***Occupational Health and Safety in Ontario*** (Emond Montgomery Publications, 2008). Her novel ***More Than Bread*** (Smith Bonappetit & Son, Montreal, 2008) also came out in 2008 and ***Law and Legislation for Social Service Workers*** (Emond Montgomery Publications, 2008).

Professor Ayelet Shachar has recently published ***The Birthright Lottery: Citizenship and Global Inequality*** (Harvard University Press, 2009).

Anita Szigeti ('90) tells us that the 2009 edition of ***A Guide to Consent & Capacity Law in Ontario*** was recently published by Lexis Nexis Canada.

Alice Woolley ('94) has co-edited a casebook on professional responsibility called ***Lawyers Ethics and Professional Regulation,*** published by Lexis Nexis.

Simon Wormwell ('98) and adjunct faculty member **Eric M. Roher** let us know about the publication of the second edition of ***An Educators Guide to The Role of the Principal.***

Paulina Wyrzykowski ('04) wrote her first novel, ***The Year of Numbers*** (Seraphim Editions, 2008).

A COUNTRY ON THE CONSTITUTIONAL BRINK

NEW BOOK EXPLORES FUTURE OF PARLIAMENTARY GOVERNMENT IN CANADA

BY MICHAEL BENEDICT

The following is an excerpt from the introduction of Parliamentary Democracy in Crisis: The Dilemmas, Choices and Future of Parliamentary Government in Canada *(U of T Press), co-edited by Professor Lorne Sossin and political scientist Professor Peter Russell*

The presentation of the Harper government's economic and fiscal statement in the House of Commons on Thursday, November 27, 2008 set off a political explosion in Canada's parliamentary life, the likes of which have not been seen since the Byng-King affair of 1926. Two features of the explosion were immediately evident. First, it engaged Canadians politically at a level not matched since a decade or so ago when the continuation of confederation was at issue. Second, in the ensuing deluge of debate and discussion, it became apparent that Canadians were not well schooled in the principles and rules of parliamentary democracy. It was those two features of the political eruption that inspired John Yates, the president of the University of Toronto Press, in the early days of the political storm, to inquire if we would be interested in organizing and editing a book about it. At the time John approached us, though the course the crisis would take was far from clear, public interest in the issues it was raising could not have been clearer.

The day after the Governor-General's decision granting Prime Minister Stephen Harper's request to prorogue Parliament, the Asper Centre for Constitutional Rights at the Faculty of Law, University of Toronto, hosted a public noon-hour forum on the crisis. A large and aroused crowd of students, faculty, politicians, members of the general pubic, and journalists jammed the law school's hall, flowing out into the reception area and down the corridors of the building. A glance at newspaper headlines and television screens or a few minutes of talk radio showed similar levels of engagement across the country.

To those of us who participated in public fora and media interviews on the crisis and who teach and write about the parliamentary side of our constitution, it was equally apparent that the Canadian public's knowledge of the constitutional foundations of parliamentary democracy was very low. It was obvious to us that there was a great and immediate need for accessible scholarly writing about this 'unwritten' part of Canada's constitution. John Yates did not have to twist our arms to respond positively to his suggestion. The book we have organized and edited in response to John Yates's invitation has three aims. First, it is intended to provide contemporary accounts of how political events that will become legendary in Canadian history were experienced and debated at the time. Second, by obtaining contributions from leading Canadian scholars in

"Our constitution is one of the oldest in the world: the French have had five in the time that we've had ours. We don't change our minds; we just tend to refine things in a continuing and stable manner. When I became Governor-General, somebody mentioned to me a principle that one of the essayists in this volume repeats: the Governor-General, like a physician, should first of all 'do no harm.' This is all very well, but it must not be interpreted to mean 'do not do anything.' This would be a betrayal of our constitution and of parliamentary democracy as it continues to develop in this country."

Excerpted from the Foreword by **The Right Honourable Adrienne Clarkson,** Twenty-Sixth Governor-General of Canada

"Perhaps – just perhaps – experiencing a coalition government at the national level might have emboldened the politicians and the people to move beyond the unsatisfactory status quo that has immobilized and neutered Parliament for far too long. This is by no means a 'change for change's sake' argument. The 'if it ain't broke, don't fix it' approach has much to recommend it in the governmental realm. But does anyone seriously think that Parliament ain't broke?

Excerpted from **Graham White's** "The Coalition That Wasn't: A Lost Reform Opportunity"

"...if we agree that formal law cannot solve everything, we also think that informal law or normative political precedents may sometimes prove insufficient or useless, particularly if they become ossified and impervious to crucial societal shifts. That being said, and irrespective of the path that will be chosen, one thing seems sure: by herself, the Governor-General cannot save us from the abyss. And, all things considered, it may very well be that we enjoy being at the edge of the abyss."

Jean Leclair and **Jean-François Gaudreault-Desbiens** in the "Of Representation, Democracy, and Legal Principles: Thinking about the *Impensé"* chapter.

"It might appear to the casual observer that the 2008 constitutional crisis was really nothing more than a storm in a teacup, with the usual partisan jockeying for power spilling into the Governor-General's saucer for a change of scenery… A particular question to emerge from this crisis is whether Governor-General Michaëlle Jean made the right decision to prorogue Parliament. Should she have acted on Prime Minister Stephen Harper's advice, or should she have refused and insisted that Parliament be allowed to continue? We need to know the answer because the repercussions of her decision will likely be felt for many years to come."

Excerpted from "The Governor-General's Suspension of Parliament: Duty Done or a Perilous Precedent?" by **Andrew Heard.**

"…if any precedent was set in this decision, it was a precedent that the Governor-General is free to refuse to accede to this sort of request from a Prime Minister. That she did not refuse does not prove that she was obliged to accede to the request, but in this particular set of circumstances she chose to do so. A different set of circumstances might have produced a different answer…"

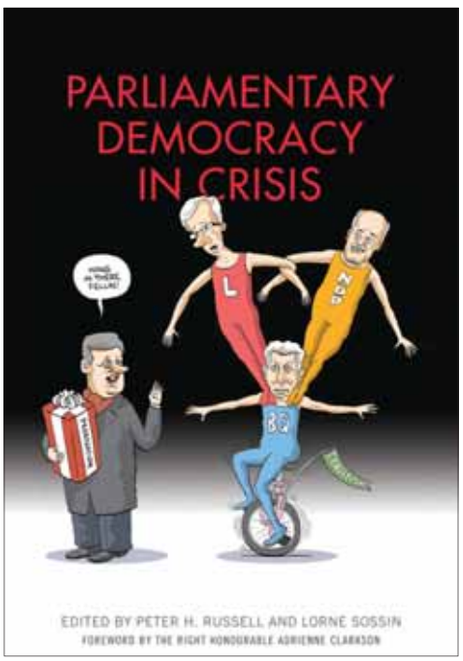
From "To Prorogue or Not to Prorogue: Did the Governor-General Make the Right Decision?" by U of T political scientist **Professor C.E.S. (Ned) Franks.**

"What has been an itch in my mind since early December 2008 is the word 'crisis.' Was it a parliamentary crisis when our country's constitution – shaped through centuries of inherited and home-moulded evolution – worked precisely as it should, however baffling the machinery appeared to most Canadians (let alone foreigners)? Was it a crisis, or an empurpled drama created by politicians and the news media? Or was the machinery by which we govern ourselves as a 21st-century progressive, liberal democracy revealed to be flawed and inappropriate, or perhaps merely in need of tweaking, a dash of transparency added here, some new rules and different players added there?"

Excerpted from "The Crisis – A Narrative" by *Globe and Mail* columnist **Michael Valpy.**

constitutional and parliamentary studies, we hope to reduce the knowledge deficit that became so evident in the crisis. Third, many of the contributions are forward-looking, anticipating the role that coalition governments might have in Canada's future and charting the evolution of constitutional conventions.

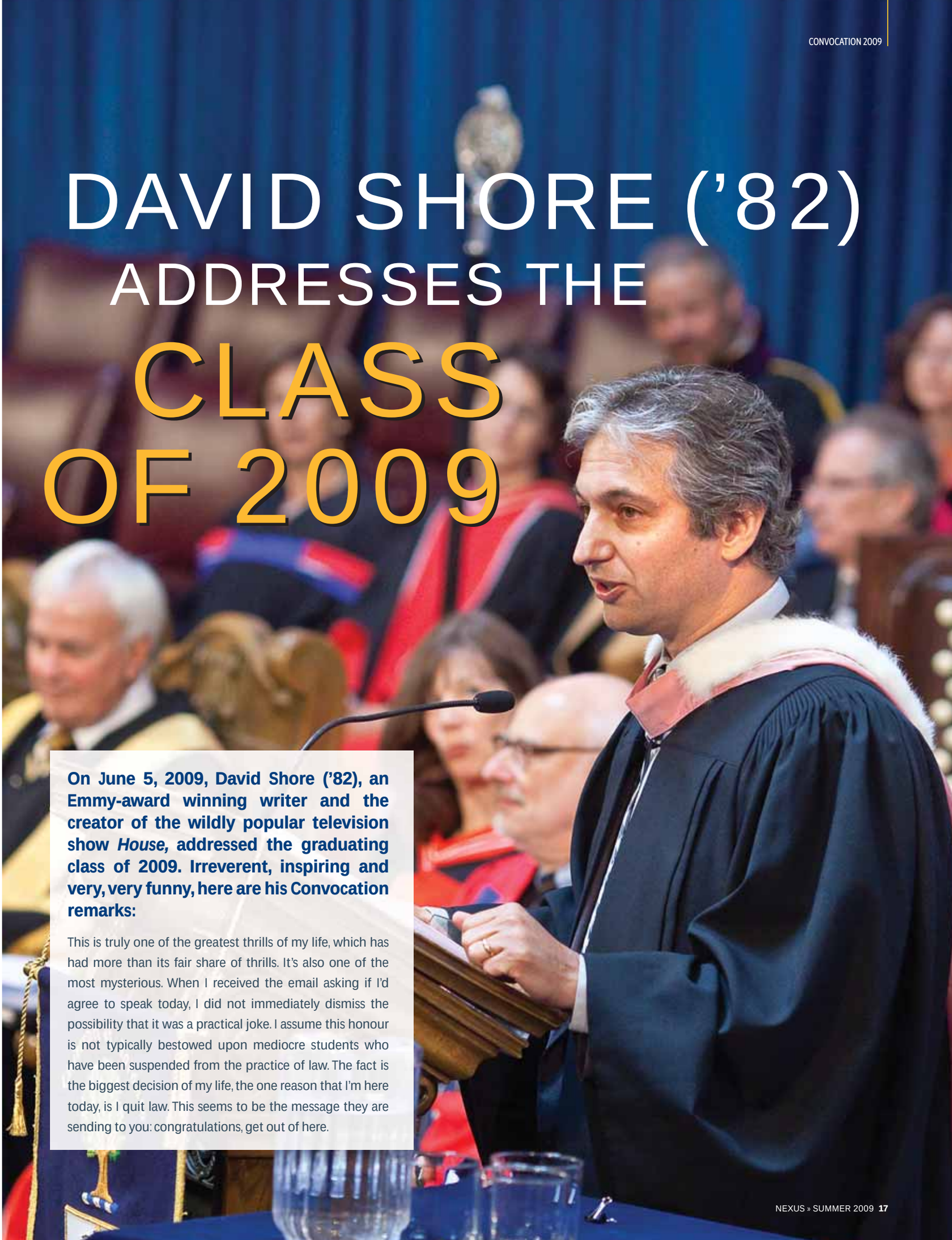
In selecting colleagues to contribute to the volume, we were not looking for a single point of view. We were looking for Canadian scholars who have been teaching and writing about Parliament and its constitutional foundations for a considerable period of time. We also wanted an experienced and respected journalist to provide a chronicle of the main events of the crisis. We were delighted with the positive and quick responses we received to our invitation. The contributors are a strong, country-wide group of Canada's leading scholars and writers in the fields of constitutional and parliamentary studies. When we approached them in early December, we knew that a new session of Parliament was scheduled to open on January 26, 2009 and that the confidence of the House of Commons in the Conservative government would likely be tested that week. With that in mind, we asked our contributors to complete final versions of their chapters by the end of the first week in February 2009.



We are most grateful to our authors for their willingness to set aside other projects in order to meet our deadline and to write in a way that makes their ideas and knowledge accessible to all Canadians interested in learning more about the crisis and the issues it raised. Many of the authors also took time to comment on one another's drafts and cross-reference other chapters in their own contribution. We appreciate the way this interaction makes for a more coherent collection…

…While some of the contributions to this volume show how the crisis of the winter of 2008–2009 highlighted the fragility of Canada's parliamentary traditions, constitutional safeguards, and public understanding of our parliamentary democracy, we believe that the book as a whole points to an optimistic conclusion. The crisis has renewed interest in, and critical reflection about, our political and constitutional system. The esoteric act of prorogation became a central concern for all Canadians. The remote figure of the Governor-General became the subject of unprecedented scrutiny. This crisis has served as a spark that we believe will rekindle public debate, public understanding, and ultimately public confidence in Canada's parliamentary democracy. ■

DAVID SHORE ('82) ADDRESSES THE CLASS OF 2009



On June 5, 2009, David Shore ('82), an Emmy-award winning writer and the creator of the wildly popular television show *House,* addressed the graduating class of 2009. Irreverent, inspiring and very, very funny, here are his Convocation remarks:

This is truly one of the greatest thrills of my life, which has had more than its fair share of thrills. It's also one of the most mysterious. When I received the email asking if I'd agree to speak today, I did not immediately dismiss the possibility that it was a practical joke. I assume this honour is not typically bestowed upon mediocre students who have been suspended from the practice of law. The fact is the biggest decision of my life, the one reason that I'm here today, is I quit law. This seems to be the message they are sending to you: congratulations, get out of here.

I wanted to be a lawyer from the time I was 12 years old until the second week of law school. I first made that joke 27 years ago at the law school final banquet and I appreciate the chance to do it again, because it's a good joke. This speech, though, is actually tougher. That time, I just had to be funny for eight minutes; this time, I have eight minutes to say something worthy of what you've achieved. I have to somehow summarize everything I've learned in the past 27 years, to give you words to live by and truths to inspire, and be funny.

So be true to yourself, stop and smell the roses and all that stuff. It's all trite, it's all true and it's all useless – not life, just the bumper sticker version of life. Eight minutes is just a longer bumper sticker, so take everything I say with a grain of salt. Not least of which because I haven't figured it out. I know there are right answers out there for every question. I really believe that. I also believe I may never figure out the right answer. You are going to make mistakes, you are going to keep on making mistakes and that's OK. By the way, if I were speaking to a medical school graduation, I wouldn't give the same speech.

Success cannot be what drives you; failure cannot be what you run from.

But no matter what words I choose today, there is an obvious message implicit in my being here, implicit in the only thing you really know about me; I'm sort of a walking, talking example of what can happen when you pursue your dreams. I'm famous by lawyer's standards. I'm rich by lawyer's standards, and pretty much any other standard at this point. And I get to spout off on a weekly basis on almost any subject and have millions of people listen throughout the world, which is pretty damn cool. But I can tell you that there's also a fry cook in North Hollywood who gave up everything to pursue his dreams of becoming a writer, and he wasn't on the short list of speakers today….

When I left law and moved to Los Angeles my mother bought me a book: Do What You Love, The Money Will Follow, which was a very supportive gift from a Jewish mother whose son was resigning a partnership at a law firm. I never read the book. The title always stuck with me, though. It seemed like the equivalent of Eat What You Want And Get Skinny. Which obviously is going to sell better than Do What You Want, The Money Might Follow If You Get Exceptionally Lucky.

The fact is, I don't believe that things always turn out for the best. I think that's something said by people for whom things have turned out for the best. Find a homeless guy on your way home, say it to him and see how he reacts. Which is why I'm very uncomfortable with my life story being held up as an example to aspire to. Because I was an idiot. The fact that it all worked out very nicely doesn't make me any less of an idiot. The fact that people say it was courageous, the fact that a shockingly large number of my legal colleagues at the time told me they wished they'd had the guts to do what I was doing – none of that makes it any less idiotic. I quit law, moved to L.A. and started writing, in that order. I didn't write part-time honing my craft while continuing to earn a living. I quit, moved and then started typing. Not because I knew I had what it takes – I didn't have a clue. Not because I thought if I could dream it, I could live it – if that were true, I'd be playing shortstop for the Detroit Tigers. I just knew if I was going to do it I had to just do it....

But I want to clarify something. I'm not saying my decision wasn't courageous because it was idiotic. I actually think it can be both idiotic and courageous, which sort of calls for a George Bush joke, but I'm going to move along.

In this case, it wasn't courageous just because it wasn't that big a deal.

The one thing I was smart about from the beginning was that I knew the worst case scenario. The worst case scenario was that I'd get rolled by a transvestite hooker on Santa Monica Boulevard. OK, I knew the second worst-case scenario, which was that I would fail miserably, that I'd fall flat on my face and in two or three years I'd have to go back to law with my tail between my legs and with a tan and a story. And five years after that it would just be an amusing anecdote on my résumé. And this is what separates you and me from that fry cook. And this applies even if you are not thinking of joining the circus, a monastery or becoming an astronaut. If you are just thinking of changing firms or changing specialties or teaching for a while or taking six months to do anything.

You have a degree from the finest law school in the country, or at least it was in 1982. Which means one thing: You have what we call "screw you money". Actually that's not precisely what we call it, but you get the point. You have it even before you start your first job, because you will always be able to make a living proudly and honorably, which means you never have to be scared of failure. The great thing about safety nets isn't the reason your mother wants you to have one. It's not about planning for failure, it's not even about protecting you from failure. It's about making failure irrelevant.

Success cannot be what drives you; failure cannot be what you run from. I've always written what I found entertaining and crossed my fingers that other people would like it. I've always completely accepted that they might not. And if they didn't, I'd have come back to law with no regrets. I had no interest in being a success writing stuff that everyone loved except for me. That just seemed pointless.

And here's where I start getting trite, or triter as the case may be. There is no magic job. I did not hate every minute I practiced law, not even close, and I don't love every moment I write, not even close. Happiness isn't a binary equation. Was I destined to write? Was writing my only way to happiness? If I had failed, if my career had not unfolded as it had, would I be miserable today? I hope not. Yes, for millions of people, Monday nights would be a miserable time, but I'd be fine. I hope I would have been able to take whatever career I wound up in and made the most of it. Because your job does not define you. What you do with your job, what you do with everything else in your life, that's what defines you – which is too bad, because I've got the coolest job in the world.

People tell you life is short, but it's not. My mother will curse me for tempting fate like that, but for most of us there is plenty of time to screw up over and over and over again, and maybe get one or two things right eventually.

So take your time, make the best choices you can, and try, try, try to have fun. It's not always easy, even when your dreams come true.

So I am ultimately saying: Be true to yourself and stop and smell the roses. And finally, congratulations. No matter what you do with your life, you will always be proud, as I am, to call yourself a University of Toronto law school graduate – even if it means nothing in the States.

Thank you and good luck. ■

You can watch David Shore deliver his Convocation speech online at http://mediacast.ic.utoronto.ca/20090605-LAW/index.htm

WHAT RECESSION?

HOW SIX LAWYERS FOUND HAPPINESS – AND PROFIT – IN THE MIDST OF THE MELTDOWN

BY LAURA ROSEN COHEN

It's pretty easy to find a bad news story these days, with headlines daily predicting the demise of the world as we know it. But U of T-trained lawyers are a resilient bunch, so when we sat down with a group of young alumni, we were not surprised to find that many of them are thriving despite the economic times. Creativity, energy and optimism – these are qualities that define this group of entrepreneurial graduates who are using their legal educations to strike out in new directions.

Melissa Kluger '01 is the owner, publisher and Editor-In-Chief of the hip, new legal magazine *Precedent: The New Rules of Law & Style* and its sister web site, lawandstyle.ca. The founding editor of the Faculty's student newspaper *Ultra Vires*, she started Precedent to fill a gap in the market. While there were a number of legal trade publications in existence, none of them addressed the concerns of young lawyers.


Melissa Kluger ('01)

"Being a lawyer by training is actually very helpful when starting a business. The entrepreneurial side of me is a little more impulsive, energetic and 'go with your gut'. The lawyer side of me is always double-checking everything, reminding myself or cautioning myself about what can't or shouldn't be done within a business context," she says.

Twenty thousand copies of *Precedent*, which is produced on a quarterly basis, are distributed for free to every lawyer in Ontario and at every Ontario law school. Klueger says that there has been a fantastic response to the magazine, and that it has high credibility in the field.

"I think that *Precedent* brings issues to print that were not really covered before, but that are really important to young lawyers who are 10 years and under in the profession. For example, we had a 'how to' story about the etiquette of taking a client out for lunch, and another feature about what to wear to an interview. We seem to have tapped into a lot of issues that young lawyers really are interested in talking about," she adds.

Daniel Debow '00 caught the entrepreneurial bug while he was still a J.D./M.B.A. student at the Faculty of Law. Several successful ventures later, Debow is now the Co-Chief Executive Officer of Rypple.com, a pioneering web-based survey system.


Daniel Debow ('00)

Rypple is designed to allow managers to solicit feedback from a new generation of employees, who are technologically sophisticated and who are accustomed to voicing their opinions. Says Debow, "I thought about how executives might solicit information from the people they work with about how they themselves are performing in a job, without exposing colleagues or employees to any risk to their position as a punishment for their candour. I knew that the incorporation of feedback had to be rapid and the cycle of learning just as fast. The core idea of Rypple is a web-based system of information feedback that is anonymous and can be applied to small firms or large corporations with thousands of employees."

Rypple has been an internet and business world sensation. Without having spent a single dollar on advertising or formal public relations, Rypple has been covered in major business publications such as *The Economist, National Public Radio* and the *Globe and Mail's* prestigious Report on Business Magazine. The major buzz has been generated by word of mouth on the internet and by referrals and recommendations from the geeky underbelly of internet-based high-tech web sites, e-magazines and tech forums. "All the buzz," Debow confirms, "has been organic."

After a rich and varied early career as a commercial lawyer, an award-winning human rights activist, and an engaged mom to two toddlers, **Tamara Kronis '98** decided to pursue a new passion. She returned to school, earned her

Being a lawyer by training is actually very helpful when starting a business.

Tamara Kronis (centre, wearing a red jacket) designed cuff-links with the logo of the newly launched firm Di Luca Copeland Davies LLP for partners (L-R) Joseph Di Luca ('96), Breese Davies ('98) and Peter Copeland ('95).

professional accreditation as a gemologist and became an award-winning jewellery designer.

"I just fell in love with jewellery design and to live a life doing what you love is unbelievably lucky," she says. "The fact I really enjoy what I'm doing takes nothing away from my law career. I realize if I'd gone to goldsmith school at the age of 18, I wouldn't be here with a successful, growing design business."

Kronis grew up in a professional family (her father is a lawyer), but genealogical research has uncovered other artists in her family history, including goldsmiths and cabinet-makers. While Kronis is delighted with her new career, she is grateful for the skills that her legal education and her years of practice gave her: "The practice of law made this opportunity possible. It tempered my personality, and I use much of what I learned in law school in my jewellery business – especially skills like patience and client service," she says.

As for the economy, Kronis is happy to report that people are still willing to celebrate the important occasions in their lives with beautiful jewellery: "I'm unbelievably fortunate that people are still getting engaged and married and are not prepared to skimp," she says.

For the partners of Di Luca Copeland Davies – **Joe Di Luca '96**, **Peter Copeland '95** and **Breese Davies '98** – the practice of criminal law is both a passion and a good business.

Peter Copeland '95 jokes that growing up, all of his classmates wanted a Wayne Gretzky hockey jersey. Peter, on the other hand, had different ideas, and pined for a jersey with his own personal hero on it: Eddie Greenspan. With a father and a sister in the field of criminal law, his interest was piqued at an early age.

Partner-in-crime Breese Davies '98 spent a year clerking at the Superior Court of Ontario after law school. She says that the experience taught her that criminal lawyers were the most likely to get into court and deal with critical constitutional issues on a regular basis. "That," Davies laughs, "and the fact that Clayton Ruby would kill me if I practiced in any other area, really influenced my choice of career path."

In April 2008, Copeland and Davies teamed up with Joe Di Luca '96, and started their own firm, which recently celebrated its one-year anniversary. It has been a busy year, but the partners are energized by their achievement.

Copeland is the firm's business manager. "Running a firm is like running any other kind of business," he says. "There are many, many hours of work that are basically unobservable, and not even rational. We have all had to learn a lot about developing a business plan and a professional profile and taking care of the business as we simultaneously practice the profession that allows us to make a living."

They are particularly proud of having created a supportive office culture. "Criminal law is a very stressful area of the law," says Davies, "so it's even more important to have a great balance between working well together with people, and also being able to have fun with them." The partners, other lawyers and the administrative team all celebrate victories together – a fact which Davies describes as 'pretty amazing'.

Joe DiLuca says that he and his partners credit their years at the Faculty, and their criminal law professors, as having laid the foundation for each of their individual, and now collaborative, career successes.

"We all look back and are so grateful for the excellent criminal law education that we received," he says, praising Professors Alan Mewett and Michael Code (who was recently appointed to the Ontario Superior Court of Justice – see page 2 for details), adjunct professors Eddie Greenspan and John Norris, and former Dean Martin Friedland for their collective dedication to their students.

The economic downturn has not had much effect on the demand for criminal law services. So the partners have been able to choose their cases and to retain control over them, a situation which Davies describes as 'liberating.' In addition to their regular case load, the trio makes a point of taking on pro-bono and Legal Aid work (which they all agree 'is as badly paid as ever'). It's hard work, but for the partners of Di Luca Copeland Davies, the success of their entrepreneurial venture is sweet.

RESTRUCTURING: IT'S NOT A DIRTY WORD

BY PROF. ANTHONY DUGGAN

Since the onset of the financial crisis, bankruptcy has become big news. On the personal bankruptcy front, the number of filings has skyrocketed: for example, the figure in 1970 was 2,732, by 2007 it had climbed to 99,382 but in 2008 it jumped to a massive 115,789.[1] Surprisingly, on the business front Bankruptcy and Insolvency Act[2] (BIA) filings have dropped, falling 11.2 *per cent* in the first quarter of 2009 compared to the same period last year.[3] It seems the reason is that firms anticipated the crisis and were able to take pre-emptive measures to cut costs. These measures would have included layoffs, hence the dramatic increase in the personal bankruptcy figures. In the meantime, there have been some high profile filings under the Companies' Creditors Arrangement Act[4] (CCAA) in Canada and Chapter 11 in the United States.[5] The cast includes Nortel, Abitibi, Chrysler, Lehman Brothers and General Motors, to mention just a few. These are all front page stories but at least in terms of coverage, the Phoenix Coyotes' Chapter 11 filing arguably tops the lot, making not only front page news but also garnering significant attention simultaneously in the business and sports pages.

IN THE PUBLIC MIND, BANKRUPTCY IS COMMONLY ASSOCIATED WITH LOSS, FAILURE AND FINANCIAL IRRESPONSIBILITY. From this perspective, news of a company's filing is apt to be heard as a death knell: the business is finished, the hearer assumes, and all that remains is to sell off the remnants so that unpaid creditors may at least salvage something from the wreckage. But this paints an outdated picture of Canadian bankruptcy and insolvency laws. It is true that 25 years ago, a failed company's likely fate was liquidation followed by dissolution. Today's laws, though, reflect a shift in mentality away from killing off financially distressed enterprises in favour of rescuing the company, or at least the business, if at all possible. The modern rescue culture works on the assumption that a company's failure does not necessarily mean the business itself is not viable: perhaps the company got into trouble because its management was incompetent, or because it took on too much debt or because its organizational structure was too unwieldy. In cases like this, so the thinking goes, it should be possible to bring the company or the business back to health by doing what is necessary to cure the root cause of the problem: replacing the old management for example, or renegotiating the company's debt obligations and perhaps converting some of it into equity or shedding unprofitable divisions. These are the processes the restructuring laws, including the CCAA, are designed to facilitate.

In this respect, CCAA proceedings are quite different from bankruptcy proceedings in the traditionally understood sense: if bankruptcy proceedings are the death knell, CCAA proceedings are the life raft. CCAA proceedings offer a ray of hope that is typically missing when a company goes into bankruptcy. Canadian law makes this point by drawing a distinction between "bankruptcy" and "insolvency": a firm that enters into CCAA protection may be insolvent, but it is not bankrupt. This distinction which United States law, by contrast, fails to make, is supposed to avoid the negative connotations references to "bankruptcy" carry. On the other hand, it seems the message is too subtle a one for the Canadian public and media to grasp, or perhaps it is just too hard to shake off the American influence, because reports of CCAA filings are routinely peppered with references to the company's "bankruptcy".

WHY RESTRUCTURE FAILING ENTERPRISES? At first glance, the answer may seem obvious: if companies can be brought back to financial health, workers, or at least some of them, may get to keep their jobs, suppliers who depend on the company's business can look forward to continued dealings, customers avoid having to find an alternative and possibly inferior supplier, the local community that perhaps depends on the company for its survival may avoid disintegration and so on. Canadian courts quite commonly say that the CCAA was designed to serve a broad constituency of interests and that, when considering applications under the Act, the court must take account not just of creditors' preferences, but also the wider public interest.[6] The court must take account not just of what creditors want, but also the wider public interest.

The point calls to mind a famous debate 20 years ago between Douglas Baird (University of Chicago Law School) and Elizabeth Warren (Harvard Law School) on the policy of bankruptcy law (or "bankruptcy and insolvency law", in Canadian terms).[7] According to Baird, the sole justification for restructuring a company is that keeping the firm – or at least the business itself – intact will net creditors a larger return than they would receive on a liquidation and breakup sale. While it is true that workers, suppliers, customers, townsfolk and other constituencies may benefit from the company's rescue, these are consequences of the restructuring process and not reasons for resorting to it in the first place.

On the other hand according to Warren, bankruptcy law has a role to play in protecting vulnerable, non-creditor constituencies. While acknowledging the importance of creditors' interests, she also says that the revival of an otherwise failing business serves the distributional interests of other, more vulnerable constituencies and she implies that rescuing a company may be justified on this basis, even if it makes the creditors worse off relative to their prospects under some alternative insolvency proceeding. But should we keep unprofitable companies going just to save jobs or preserve the company town? As Baird points out, it is anomalous to confine the protection of vulnerable constituencies to cases where the company is in bankruptcy. Firms shut down, downsize or relocate for all sorts of reasons other than bankruptcy, but the consequences to the affected constituencies are exactly the same. As a matter of both consistency and sound bankruptcy policy, if we want to protect vulnerable constituencies from the consequences of firm closures,

Should we keep unprofitable companies going just to save jobs or preserve the company town?

we should do so both inside and outside the firm's bankruptcy. Of course, governments occasionally intervene to protect vulnerable constituencies *via* bailouts, subsidies, tax breaks and so on. Once this becomes apparent, the parties should not waste time and money persevering with the informal workout option but, in Warren's world, they might end up doing just that in the hope of capturing the distributional advantage.

Besides, there is an important difference between government bailouts and court-supervised restructuring as methods of corporate rescue. In the case of a bailout, taxpayers bear the burden, but in the case of a restructuring, the costs fall on the creditors, at least to the extent that they would have been better off collectively if the company had not been kept intact. One likely consequence, if it became the norm to use the corporate rescue laws for the distributional purposes Warren has in mind, is an increase in the cost and a reduction in the availability of credit for business enterprises across the board. Another possible consequence is that creditors might start forum-shopping; for example, parties may invest excessively in informal workouts and other out-of-bankruptcy solutions to the problem of debt recovery in the hope of avoiding the distributional burden the corporate rescue laws impose. Of course, informal workouts and the like have an important place in the pantheon of insolvency regime alternatives, but the choice between the different alternatives should be driven by relative cost considerations, rather than by the collateral advantages creditors can gain by opting for one type of proceeding over another. As it happens, formal proceedings may turn out to be cheaper than informal workouts, particularly if there are numerous stakeholders which might make co-ordination difficult, or if one or more influential stakeholders is un-cooperative. Once this becomes apparent, the parties should not waste time and money persevering with the informal workout option, but they might end up doing just that in order to capture the distributional advantage.

Where does Canadian law currently stand in terms of the Baird-Warren debate? Sadly, it seems the debate has never been openly aired in Canada and so the case law is at best ambivalent and at worst misguided regarding the key policy issues.[8] The repeated judicial emphasis on the public interest, job preservation and so on in CCAA proceedings seems to indicate sympathy for Warren's position. On the other hand, a healthy dose of legal realism may be salutary here. It is important to keep in mind that what the courts say does not always correspond with the results they actually arrive at; in other words, there is often a gap between the rhetoric and the reality. In the CCAA context the reality is that, while the court may have some influence on the success of a restructuring through the interstitial exercise of its discretion during the course of the proceedings, a restructuring plan must be put to the vote and it will fail unless a majority of creditors supports it. Non-creditor constituencies, for their part, have no voting rights. Needless to say, a plan that benefited non-creditor constituencies at the expense of the creditors themselves would be very unlikely to pass muster.[9] So, while the rescue of a failing enterprise may save jobs, other businesses, families and towns, these are probably best seen as consequences of the restructuring effort – albeit highly desirable ones – but not, in themselves, sufficient justification for making the effort in the first place.

AN INTERESTING RECENT DEVELOPMENT HAS BEEN THE INCREASING USE OF THE CCAA FOR LIQUIDATING PLANS. A liquidating plan involves a going concern sale of the debtor company's business to a willing buyer, in contrast to a restructuring plan where the business stays in the debtor's hands. The two types of plan are functionally similar in that, in both cases, the business survives, jobs are saved and suppliers' and customers interests are protected. Traditionally, receivership was the mechanism of choice for liquidating plans but the CCAA has taken over, largely as a result of the Supreme Court's decision in the *TCT Logistics* case.[10] This holds that a receiver who takes over the running of a company's business in the lead-up to a going concern sale may face liability as a successor employer under provincial employment statutes and CCAA proceedings avoid this risk because the debtor typically stays in possession and conducts the liquidation itself. The trend towards CCAA liquidating plans has been most pronounced in Ontario. Some courts outside Ontario have refused to play along, arguing that the CCAA can only be used for restructuring plans, regardless of whether a liquidating plan might be the more efficient alternative.[11] The opposition to liquidating plans may partly be due to confusion

Why take the trouble to get the best sale price if the shortfall is borne by the creditors and not the debtor itself or its management?

over what "liquidation" means: insolvency practitioners use the expression to describe both going-concern and breakup sales and some courts who oppose using the CCAA for liquidating plans may, mistakenly, have breakup sales in mind. This, in turn, may betray their pro-restructuring bias because breakup sales, in contrast to restructuring and liquidating plans leave the vulnerable constituencies Warren identifies entirely out in the cold. On the other hand, breakup sales, too, have their place and as Baird would surely point out, if a breakup sale nets larger returns for the creditors than any alternative approach and if, for whatever reason, it is cheaper to use the CCAA for conducting the sale than other mechanisms such as receivership or bankruptcy, then, in principle at least, the court should not oppose the proceedings.

On the other hand, there are procedural concerns with CCAA liquidating plans as the law currently stands and these also help explain why some courts have misgivings about them. While it is clear that a court-appointed receiver, in carrying out a sale, owes duties to all the creditors and not just the creditor who initiated the appointment, it is unclear whether a self-liquidating debtor-in-possession has the same responsibilities. If not, the debtor may have an incentive to shirk: why take the trouble to get the best sale price 'if the shortfall is borne by the creditors, or some of them, and not the debtor itself or its management? In theory, the creditors' right to vote on the plan should protect them against this risk but the Ontario courts have held that there is no need for a vote if dissenting creditors have no hope of recovery anyway.[12] The trouble is that the court may have no way of knowing for sure that the sale price was the best obtainable and, therefore, that the dissenting creditors' position really was hopeless. Recent CCAA amendments tackle the problem by requiring court approval for asset sales outside the debtor's ordinary course of business. Key factors the court must consider include the reasonableness of the sale process, the effect of the sale on creditors and the sufficiency of the sale price.[13]

CANADA'S BANKRUPTCY AND INSOLVENCY LAWS WILL BE RIGOROUSLY TESTED OVER THE COMING MONTHS, as the current spate of BIA and CCAA filings works its way through the system and it is almost inevitable that the courts will be faced with some difficult issues of both law and policy, particularly in the CCAA context. These questions may be easier to address if courts, along with the insolvency law community at large, take time out to think hard about the most fundamental question of all, "why rescue failing companies?" ■

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[1] Office of the Superintendent of Bankruptcy (OSB), *Annual Statistical Report-2007;* OSB, *Overview of Canadian Insolvency Statistics to 2008.*

[2] Bankruptcy and Insolvency Act RSC 1985, c.B-3.

[3] *Globe and Mail,* 13 May 2009, p.B4.

[4] RSC 1985, c.C-3.

[5] Bankruptcy Code 11 USC, Chapter 11.

[6] *E.g., Metcalfe & Mansfield Alternative Investments II (Corp.) (Re)* (2008) 45 CBR (5th) 163 (OCA) at para.[52]; *cf Lehndorff General Partner Ltd (Re)* (1993) 17 CBR (3d) 24 (Ont. Gen.Div.)

[7] Elizabeth Warren, "Bankruptcy Policy" (1987) 54 *University of Chicago Law Review* 775; Douglas G. Baird, "Loss Distribution, Forum Shopping and Bankruptcy: A Reply to Warren" (1987) 54 *University of Chicago Law Review* 815.

[8] See Andrew J.F. Kent, Wael Rostom, Adam Maerov and Tushara Weerasooriya, :Canadian Business Restructuring Law: Whe Should a Court Say 'No'?" (2008) 24 BFLR 1 at pp 4-5.

[9] Roderick J. Wood, *Bankruptcy and Insolvency Law* (Irwin Law, Toronto, 2009), p.514.

[10] *GMAC Commercial Credit Corp. – Canada v. TCT Logistics Inc.* [2006] 2 SCR 123.

[11] *E.g., Royal Bank of Canada v. Fracmaster Ltd* (1999) 244 AR 93 (Alta CA).

[12] *E.g.,* assume a secured creditor has a security interest in all the debtor's assets and the value of the assets, by any measure, is less than the amount the debtor owes the secured creditor. In these circumstances, a court might approve a sale with payment of the sale proceeds to the secured creditor and without giving unsecured creditors the opportunity to vote: *Re 1078385 Ontario Limited* (2004) 16 CBR (5th) 152 (OCA) (the *"Bob-Lo Island* case").

[13] CCAA, s.36 (not yet in force).

HOW CANADIAN BANKS BECAME THE ENVY OF THE WORLD

BY PROF. ANITA ANAND

In September 2008, the U.S. economy was crippled with the collapse of major investment banks and the corresponding stock market decline. The U.S. government passed its bailout plan under which it authorized the Department of Treasury to purchase troubled assets and other financial instruments with a newly created body to oversee the program. Since this time, the government bailout and the prospect of global financial regulation have been daily news items. The effects of the crisis have rippled throughout the world and like the United States, the governments of other individual nations – including the U.K., France, Belgium and Greece – also intervened to create liquidity and guarantee deposits in their respective economies.

While Canada's securities markets have been vastly affected by the credit crisis, Canadian banks have been relatively insulated from the economic turmoil that has crippled their U.S. counterparts. Indeed, Paul Volker, former Federal Reserve chief and an adviser to President Obama, has argued for a U.S. structure that is similar to the Canadian financial system.[1] Ireland's Prime Minister has indicated that Ireland's new financial system will be modeled after the Canadian banking system.[2] Of course, it is not the case that Canadian banks have been unaffected – market activity has slowed and credit markets are tight. However, Canadian financial institutions have not collapsed, unlike some of their U.S. counterparts (e.g. Lehman Bros., Bear Stearns etc.). Why is this the case? What characteristics particular to the Canadian economy and corresponding legal regime have protected Canada's financial institutions?

UNDER CANADA'S BANK ACT, Schedule I and Schedule II, banks are both investment banks and deposit-taking institutions. They therefore have a steady, secure stream of capital. On the contrary, under the Glass Steagall Act, U.S. institutions were prohibited from engaging in investment banking as well as commercial banking. Arguably, the U.S. investment banks that failed were holdovers from Glass Steagall (despite the fact that the U.S. legal regime changed in 1999).[3] They did not have this retail base of capital. Indeed, there are no more stand-alone investment banks in the U.S., as even Goldman Sachs and Morgan Stanley were forced to become bank holding companies in order to survive the turmoil in the capital markets that Lehman's bankruptcy set in motion. As Gerald McCaughey, CEO of the Canadian Imperial Bank of Commerce has stated, "market conditions worldwide for banks remain

difficult. Yet arguably one of the better places to be right now is in Canada. At CIBC, the majority of our revenue is derived from retail markets, where we enjoy strong market positions in a broad range of products and services."[4] Thus, there is in the structure of the banking regime a partial explanation for the relative stability of the big five Canadian banks.

IN ADDITION, we need to consider that Canada's banking system has proven to be well-regulated by the Office of the Superintendent of Financial Institutions (OSFI). Unlike the U.S. where regulatory jurisdiction is fragmented, OSFI has jurisdiction over a broad list of financial institutions including banks, trust and loan companies, insurance companies and other financial institutions. OSFI's broad mandate is "to ensure that financial institutions are regulated…so as to contribute to public confidence in the Canadian financial system."[5] While OSFI's approach is to supervise financial institutions to ensure that they are in sound financial condition,[6] it leaves the management of the financial institution to individual boards of directors and management of the institution itself. Thus, in understanding why Canadian banks have been relatively successful, it is also important to examine approaches to systemic risk at the bank level.[7]

Throughout the credit crisis, Canadian banks have remained well capitalized, being not only Basel II compliant but also by maintaining high Tier 1 ratios relative to banks in other countries. For example, at the end of the third quarter in 2008, these ratios ranged from 9.47 per cent to 9.81 per cent compared to other global banks that were in the 6, 7 and 8 percentage range.[8] Thus, it is unsurprising that Julie Dixon, Superintendent of OSFI has stated that, "[t]he first lesson is capital, capital, capital. We have seen how strong capital cushions have paid off to the benefit of our institutions and overall financial system."[9] In addition to relatively high capital levels, the quality of the Tier 1 capital is also said to be high in Canada with banks common equity representing a greater portion of their regulatory capital relative to banks in other jurisdictions, which have a greater reliance on preferred shares and other hybrid forms of capital such as trust-preferred securities. Thus, both the level and quality of capital have placed Canadian financial institutions on a strong footing vis à vis their counterparts in other countries.[10]

While it is clear that levels of capital are relevant, one may question why the quality of capital matters. Where capital injections are in the form of preferred shares, these shares often have a redemption feature (such as step-ups or other incentives to redeem) that undermines the capital's overall permanence. In OSFI's view, "…permanence is a critical element for OSFI to consider something as Tier 1 capital."[11] The Canadian government has not made capital injections of this sort into the banking system. Rather, the level of its intervention has been relatively limited, e.g. purchasing $125 billion of insured mortgages (thereby increasing banks' capacity to make new loans) and increasing the borrowing limit of the Canada Deposit Insurance Corp.[12]

The point about permanence is a broader one that speaks to the importance of the quality of the banks' assets. Hindsight now tells us that there were loans that should not have been made: loans with no covenants, leverage ratios that were sky-high, and sub-prime loans that could barely cover the asset values at their peak. The fact that a bank's Tier 1 ratio is at 10 per cent is not centrally relevant when we consider that this means that for every $100 of capital, the bank's assets sit at $1,000 and third-party debt at $900. A decline in the value of the assets by 10 per cent means that the bank's capital base is eradicated. When global stock markets declined by 35 per cent in 2008, the problem was clear to see. Capital adequacy is significant but it only takes us so far in understanding the issue. The quality of capital is crucially important.

In addition to strong regulation, Canadian banks have survived because a more conservative culture pervades all aspects of banking business, from lending to trading.

To understand further the stability of Canadian banks, we also need to examine risk management. Though difficult to document, there appears also to be a more conservative understanding of, and protection against, systemic risk within Canadian banks. The approach to the housing sector is instructive as Canadian banks (and brokers) have exhibited more restrictive mortgage lending practices than their U.S. counterparts. They did not rely on third-party brokers/originators to the same extent or succumb to ninja and liar loans with the result that the likelihood of defaults on their mortgage portfolios remained, and continue to remain, relatively low. As a general rule, Canadian banks did not vary the standard mortgage model (e.g. no loans with 50-year amortization periods or negative amortization). While U.S. banks sold a large portion of their mortgages, Canadian banks did not. In fact, Canadian banks tended to keep the mortgages on their balance sheets and therefore were more diligent in their credit assessment of their borrowers. Even now with federal aid available, Canadian banks are choosing to refrain from selling mortgages to the government under the $125-billion plan if they do not need to.[13]

WITHOUT QUESTION, Canadian financial institutions have been well-regulated. However, in addition to strong regulation, Canadian banks have survived because a more conservative culture pervades all aspects of banking business, from lending to trading. With other countries turning to examine the Canadian financial system in redesigning their regulatory regime, it is important to remember that prudence and conservatism are not necessarily creatures of law. Rather, they are cultural phenomena particular to this country and this economy. Law can only do so much. ■

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[1] This is The Emergency Economic Stabilization Act of 2008 enacted October 3, 2008 (H.R. 1424; Public Law No. 110-343).
[2] Tara Perkins and Boyd Erman, *The Globe and Mail*, 7 March, 2009 "Why Canadian Banks Work" B1, B5.
[3] *Ibid.*
[4] The 1999 Gramm-Leach-Bliley Act removes many of the restrictions in place under Glass Steagall including previous prohibitions on banks from offering investment, commercial banking, and insurance services.
[5] Gerald McCaughey, cite in Perkins and Erman, supra note 2 at B5.
[6] *Office of the Superintendent of Financial Institutions Act*, R.S., c. 18 (3rd Supp), Part 1.
[7] *Ibid.*, section 106(2).
[8] *Ibid.*, section 106(4) which states, "Notwithstanding that the regulation and supervision of financial institutions by the Office and the Superintendent can reduce the risk that financial institutions will fail, regulation and supervision must be carried out having regard to the fact that boards of directors are responsible for the management of financial institutions, financial institutions carry on business in a competitive environment that necessitates the management of risk and financial institutions can experience financial difficulties that can lead to their failure."
[9] Julie Dixon, "Remarks by Superintendent Julie Dickson, Office of the Superintendent of Financial Institutions Canada (OSFI) to the Langdon Hall Life Insurance Forum" (Cambridge, Ontario November 12, 2008) at http://www.osfi-bsif.gc.ca/app/DocRepository/1/eng/speeches/Julie_Dickson_Langdon_speech_2008_e.pdf.
[10] *Ibid.*
[11] Note that OSFI recently stated in a press release that "OSFI has not pushed for higher capital ratios across the board…OSFI agrees that capital is a cushion that should be available to be drawn down when faced with unexpected losses." See News Release, December 19, 2008 at www.osfi-bsif.gc.ca/app/DocRepository/1/eng/media/cap_lvl_e.pdf.
[12] Julie Dixon, supra note 8.
[13] See Kevin Carmichael, "New Moves to ease strain of credit crisis" The Globe and Mail (28 November 2008) B1; Perkins and Erman, *supra* note 5; Tara Perkins, "Banks begin to decline federal aid in first sign of recovery" The Globe and Mail (17 March 2009).
[14] Perkins, *ibid.*

THE GLOBAL ECONOMY GROWS UP

BY PROF. MOHAMMAD FADEL

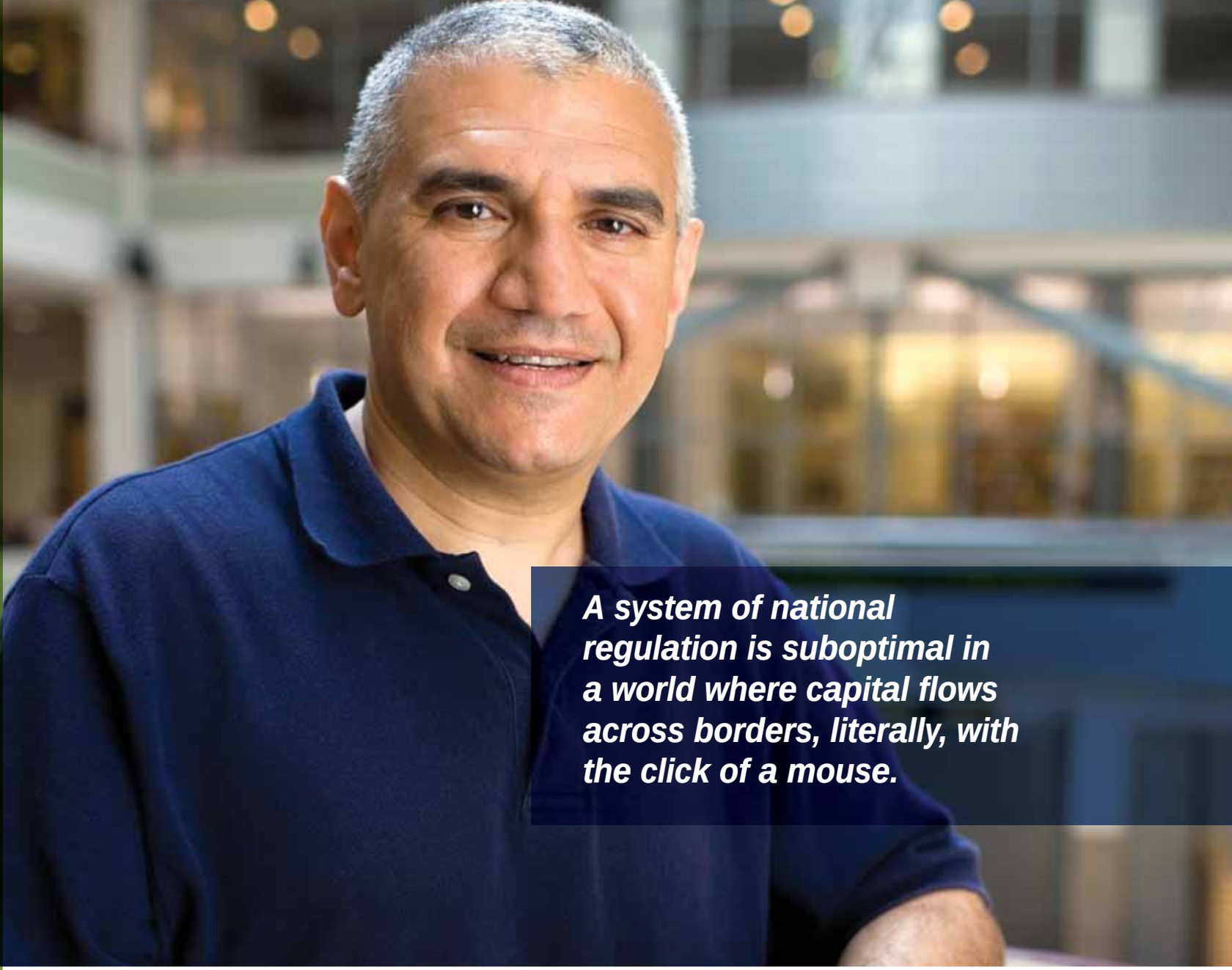
The events of the last 18 months have demonstrated that globalization is more than a hackneyed phrase: it is equally capable of expanding transnational trade and investment as well as bringing them to a screeching halt. Globally integrated capital markets permitting the relatively free flow of capital across national boundaries can result in "contagion" whereby what, in prior days, might have been a local crisis, becomes a global crisis. Because globalization means the increasing integration of national economies – in good times and bad – it is no longer a sufficient guarantee for a country's prosperity that it pursue prudent policies. It must also work to ensure that the global community is pursuing prudent policies at the risk that it suffer "blowback" if and when reckless economic behaviour by one or more jurisdictions result in a disruption in the ordinary operations of the global trading and financial system.

THE SHEER SCALE OF THE CURRENT GLOBAL SLOWDOWN, combined with its rapid spread throughout all areas of the world economy from its U.S. epicenter only demonstrates the need for effective transnational regulation of the global economy. While the international trading system in goods and services enjoys a fairly advanced set of international regulatory institutions in the form of the World Trade Organization, international finance continues to be regulated largely through the Bretton-Woods era institutions of the International Monetary Fund (IMF) and the World Bank. These arrangements were crucial in establishing the conditions necessary for economic stability and prosperity following World War II; however, they had already become obsolete by the mid-70s. While the IMF subsequently served a positive role as an international lender of last resort, it is designed largely to help resolve crises arising out of trade imbalances, not the sudden withdrawal of foreign capital as occurred in this crisis when foreign investors withdrew capital from emerging markets virtually overnight to meet other obligations.

Prior to this crisis, there was no sustained attempt to respond to the obsolescence of the original Bretton-Woods institutions with the creation of a new set of international institutions. This non-response was justified largely on the assumption that private parties and firms would be able to manage these risks relatively effectively. Central bankers were given the responsibility to establish sound monetary policy, but other than that, it was assumed that sophisticated international financial institutions could largely take care of themselves. The tendency to trust that market forces as generally sufficient to protect the stability of the international financial system is best evidenced in the Basel II accord, published in June 2004, which, among other things, permitted international financial institutions to apply their own models to determining whether we're adequately capitalized.

IN RESPONSE TO THE CRISIS, there have been numerous calls for the establishment of a new global financial regulatory system, alternatively called Bretton Woods II, or even a "Global New Deal." There is little doubt that a new global financial regulatory system needs to be put in place. By failing to assure the solvency of the international financial system, Basel II, as applied through a system of national regulation of international financial institutions, has failed to achieve its most important goal – preservation of the stability of the global financial system.

While it is premature to reach any definitive conclusions on the causes of the crisis, there are obvious structural weaknesses in the current system that will need to be addressed in any revamped global financial regulatory system. First, this crisis teaches that it is not enough that a bank actually be solvent; it must also have the *appearance* of solvency. Capital adequacy in the new system, therefore, must be established according to a transparent and objective metrics that can be confirmed by third-party



counterparties, regulators and investors, rather than proprietary models developed by the regulated institutions for their own use. Accordingly, Basel II's regulations on capital adequacy must be revised in favour of objective tests of capital adequacy that do not rely on the banks' own risk-adjusted capital models.

Second, the new global regulatory system must restore confidence in the securitization market. Credit from securitization of all manners of receivables collapsed between 2006 and 2008 by approximately $2.4 trillion. This market, however, cannot be revived without restoring trust in third-party ratings agencies. Because the current ratings agencies such as Moody's and Standard & Poor's are structurally conflicted, insofar as they themselves are profit-seeking firms or parts thereof, it may be advisable to consider establishing a not-for-profit ratings agency under the direct control of an international institution (e.g. the Bank for International Settlements, that is structurally free of these conflicts of interest and whose ratings, therefore, could be taken as more credible by the market).

Third, an international financial regulator must be established that has the authority to supervise all the activities of international financial institutions on both a consolidated, holding company basis and on a subsidiary-by-subsidiary basis. Such a regulator is needed both to develop and administer a set of uniform substantive financial regulations in order to prevent a regulatory "race to the bottom" of the sort that appears to have occurred in the last decade of the 20th century and the first part of this decade. An international financial regulator is also needed to act as a credible and impartial enterprise-wide supervisor. Since there will always be an element of discretion in the application of financial regulations, it is critical that the regulator administering these rules be as independent of the entities it is regulating as possible to prevent the risk, or even the perception of regulatory capture.

Financial experts continue to disagree on whether the crisis is closer to its end or its beginning. In either case, however, the global financial system will not simply return to the status quo ante without substantial changes in the global regulatory system. While nation states will be reluctant to cede regulatory authority over the largest players in the financial system, this crisis has made clear that a system of national regulation is suboptimal in a world where capital flows across borders, literally, with the click of a mouse. Such a system enables a regulatory "race to the bottom" and accordingly contains the elements of a potential disaster. If the world is to retain the benefits from globalized capital flows, it will, despite the serious political obstacles, have to act to establish a truly international system of financial regulation. ■

THE PERFECT FINANCIAL STORM: LESSONS LEARNED

BY PROF. JEFFREY MACINTOSH

In the movie, "The Perfect Storm", two unusually large pressure systems united to create a cataclysmic storm of epic proportions. If one imagines what it might be like to have *ten* rotating vortices simultaneously converging on a single point, one would have a fair representation of the nature of the Credit Crisis.

The Credit Crisis can be described as an astonishing and unprecedented conjoining of multiple forms of market, regulatory, and political failure, working in tandem to create a cascading sequence of progressively amplified financial disruptions. In what follows, I outline only some of the more important pressure systems that combined to form the Perfect Financial Storm.

I. Fannie and Freddie Sharpen Their Fangs[1]

Remarkably enough, the seeds of the Credit Crisis were sown a full year before the "Summer of Love". Fannie Mae was founded in 1938 by President Roosevelt, and for its first 30 years played a relatively modest role in supplying funds to the mortgage market. However, major changes occurred in 1968. Facing large deficits from the Vietnam War, the Johnson Administration decided to "privatize" Fannie by allowing it to sell shares and debt to the public (Fannie was, and still is listed on the NYSE). This was done in order to move Fannie's expenditures off-budget while preserving Fannie's important role in supporting the mortgage market. Freddie Mac, Fannie's brother institution, was created in 1970 and also "privatized" in 1989 on similar terms.

Had Fannie and Freddie ("F&F") been fully privatized, there is a compelling argument that the Credit Crisis would never have occurred. Unfortunately, however, the political compromise for moving F&F off-budget was a *quasi*-privatization in which Congress retained substantial influence over their activities. Perhaps most importantly, F&F owed their existence to Congressional charters which could be changed at will by Congress (and the President was empowered to appoint five directors of Fannie). Both Fannie and Freddie were given the unusual privilege of being able to borrow money directly from the Treasury. These measures ensured that, unlike other private corporations, F&F's managers were subject to a divided mandate –shareholders *and* Congress. It was ultimately this divided (and inconsistent) mandate that was a – or perhaps *the* – pivotal cause of the Credit Crisis.

For many years, F&F managed to stay out of trouble. However, in the early 1990s, Congress's saber rattling over "affordable housing" greatly intensified. Knowing on which side their bread was buttered, F&F significantly scaled up their borrowings in private debt markets in order to fund the purchase of mortgages. In this respect, F&F's status as "government sponsored organizations" played a large role. Normally, suppliers of debt capital base their willingness to fund on the credit worthiness of the borrower. The riskier the borrower, the higher the interest rate demanded. Because it was generally assumed, however, that the federal government would never let F&F fail, the issue of credit-worthiness was essentially moot. F&F were allowed by public debt markets to run their debt-to-equity ratios up to as much as 60 to one – and still get away with selling their debt at prime. By the same token, the government's implicit guarantee (often disavowed, but subsequently confirmed), substantially impaired the incentive of F&F's managers to exercise due care over its balance sheet and the quality of its mortgage portfolio. The result was essentially a Ponzi scheme in which fresh borrowings were indirectly used to fund huge dividends to shareholders ($4.1 billion in 2007) as well as large salaries and bonuses for managers.

The chickens really came home to roost in 2005-2007. In 2003, Freddie was rocked by disclosures of serious financial irregularities; in 2004, Fannie obligingly followed suit. These scandals led to intense pressure in some quarters to rein in F&F's participation in mortgage markets, and/or create an effective regulatory apparatus to control the runaway moral hazard. Faced with loss of its money-printing Congressional mandate, F&F re-doubled their efforts to buy political support. Always generous campaign contributors (between 1998 and 2008, Fannie and Freddie were, respectively, the twentieth and thirteenth largest campaign contributors in the U.S.), F&F opened offices in key Congressional districts, hired politicians' relatives, and made sure that they took special care to create "affordable housing" in the districts of their most important supporters.

The result was that F&F's asset portfolios experienced the financial equivalent of a nuclear meltdown. While using creative accounting to obfuscate the quality of its assets, an AEI study by Peter Wallison and Charles Calomiris[2] suggests that between 2005 and 2007, Fannie and Freddie added about $1 *trillion* of "junk loans" (sub-prime and "Alt-A" mortgages, "which include loans with little or no income or other documentation and other deficiencies") to their books. These loans were the proximate cause of the failure of these two institutions.

The legacy of Fannie and Freddie is a potent testimony to the perils of faulty institutional design. Private corporations thrive when single-mindedly committed to maximizing shareholder wealth. F&F's commitments to shareholders were severely, and ultimately fatally compromised (its equity is now essentially worthless) by the inconsistent political mission of supplying "affordable" housing. The implicit governmental guarantee of F&F's debt obligations created runaway moral hazard – *and* the borrowing capacity to endlessly indulge it. In addition, F&F's mandate to borrow funds directly from the government gave blinkered, if not unabashedly opportunistic, politicians a further means to feed F&F's habit.

But F&F were not the only causes of the meltdown. They had partners in crime.

II. The National Mortgage Brokers: Bride of Dracula

While F&F were casually sucking the blood from the American body politic, the rise of the national mortgage brokers ("NMBs") gave them a stalwart and willing bedfellow.

Traditionally, the great bulk of mortgages in the United States were both originated and held to termination by a local bank. Because it held each loan to termination, the local bank had a potent incentive to vet the credit quality of its borrowers. The cost of a mistake was borne entirely by the originating bank.

But in the early 1990s, national mortgage brokers ("NMBs"), unaffiliated with any bank, came on the scene. These brokers originated, but did not retain their mortgages, which were

immediately sold into the secondary mortgage market. It does not take a doctorate in agency theory to see that this creates a powerful moral hazard. Despite the fact that the seller/purchaser relationship is a repeat game, mortgage defaults on bad loans are notoriously slow train wrecks – often taking several years to come to fruition. The national mortgage brokers knew full well that by the time the unmentionables hit the fan, they would be comfortably clipping coupons in Palm Springs.

The obvious question, then, is why secondary mortgage market buyers did not anticipate this moral hazard and either i) adjust their willingness to pay to reflect the heightened risk, ii) insist on contractual risk-sharing or other arrangements that would create appropriate incentives for the brokers to vet borrower quality, or iii) simply refuse to buy such mortgages. One part of the answer has already been given: F&F, the largest buyers of mortgages in the secondary market, were themselves subject to out-of-control agency costs, and – particularly in the 2005-07 period – made it clear that they were willing to purchase virtually anything. To make matters worse, public securities markets, apparently immersed in the illusion that U.S. house prices would rise at a clip of 10-15% per year without end, were also willing participants.

This is essentially a story of flawed institutional design, exacerbated by political and regulatory failure.

The NMBs, in short, simply responded to the incentive structure they faced – and wrote mortgages to anyone with a detectable pulse and/or a willingness to be creative on their mortgage application. Remarkably enough, employees of some of the NMBs were specifically instructed *not* to make any attempt to verify mortgagor information. That would have spoiled the party.

In addition, many of the NMBs engaged in sales practices which can most charitably be characterized as shady. Customers who could not, in anyone's wildest imagination, be able to afford their mortgage payments were given zero-down-payment mortgages with introductory (but time limited) "teaser" rates (or payment holidays) – and told that in a market with robustly rising house prices and low interest rates, they could easily re-finance rather than default. For a while, this became a self-fulfilling prophecy. So many new buyers were brought into the market, and so many existing homeowners induced to trade-up, that house prices soared – on average, more than doubling between 1997 and 2006. The ratio of family income to house price – historically in the neighborhood of 3, reached 4 as early as 2004, and 4.6 by 2006.

Unfortunately, gravity eventually reasserted itself. Interest rates, which had been at historical lows in the early stages of the housing boom, started to rise. This clipped the wings of many would-be re-financers. In addition, once the pool of first-time home buyers and refinancers was more-or-less tapped out, what had seemed an inexhaustible well of renewable housing demand rapidly evaporated. House prices flattened and the first round of mortgage defaults occurred. Lack of affordability was by no means a precondition to default; many well-heeled owners, who now found that they had little or no equity in their homes (and no personal covenant to restrain them), simply walked away from their homes and became renters.

Once this happened, a feedback loop of cascading credit failure was inevitable. Flat house prices quickly turned into falling house prices as more and more home owners, lacking a re-financing option or seeing their home equity evaporate, defaulted. The rout was on.

III. Asset Securitization: The Marriage Broker

Financial economists like to crow about the virtues of asset securitization.

Securitization involves the deposit of a large number of theoretically uncorrelated risks (whether credit card debt, mortgages, or pretty much anything else) in a special purpose vehicle ("SPV"). By selling securities against this pool of assets, investors can be fully insulated from the unsystematic risk of the individual assets. Only the systematic risk remains. In addition, the SPV is a "bankruptcy remote" vehicle, such that neither the bankruptcy of the SPV or the sponsoring institution affects the other entity.

Moreover, when "structured finance" is employed, a variety of securities with different priorities – and hence different risk/return characteristics – can be written against the SPV. These are sometimes denominated (in order) "senior tranche", "mezzanine tranche", and "equity (or junior) tranche". Hence the risk of holding securitized assets can be sliced and diced to suit the risk preferences of various buyers. By isolating and efficiently spreading the risk of various exotic asset pools, the magical result of asset securitization is to lower the cost of credit for individual borrowers in the asset pool.

Beginning in the 1970s, the most basic forms of asset securitization were applied to the residential mortgage market. However, the use of structured finance in the 1990s turned mortgage securitization into a multi-trillion dollar global market. Many basic mortgage-backed securities ("MBS") were assembled and sold by F&F, as well as the Government National Mortgage Association ("Ginnie Mae"). Other "private label" products were packaged and sold by banks, investment banks, and others.

Asset securitization played a vital role in the Credit Crisis insofar as the widespread use of MBS and CDOs enormously expanded the secondary market for mortgages, furnishing mortgage originators with seemingly endless opportunities to originate and then sell worthless or greatly overpriced residential (and other) mortgages. Once packaged into MBS and CDOs, these products were sold to institutional investors and hedge funds around the globe. The use of structured finance amplified the risk for those investors who purchased the most junior CDO tranches (the so-called "toxic assets").

When the chickens came home to roost, and the highly questionable value of these assets was exposed, the Credit Crisis was in full swing. The market values of MBS and CDOs fell off the edge of a cliff. Many commercial banks in the U.S. that had loaded up on high-yield MBS and CDOs either became insolvent, or tottered on the brink of insolvency. The failure of Lehman

Brothers, and the distress sales of Bear Stearns and Merrill Lynch were directly attributable to the huge quantities of MBS and CDOs on their balance sheets (coupled with stratospheric leverage).

The parlous condition of the commercial banks, coupled with uncertainty about *which* banks were insolvent, caused the short-term credit (or "commercial paper") market to grind to a halt. Short-term credit (technically, loans of less than one year, but with a significant admixture of overnight or single week loans) plays an indispensable role in ensuring that banks have enough cash on hand to meet depositors' and borrowers' needs. It also ensures that corporations can make payroll, fund receivables and inventory, and meet other short term cash needs. When the vital conduit that moves financial assets from net savers to net borrowers slammed shut, the crisis quickly spread from the financial sector to the so-called "real economy". It is for this reason that the U.S. Troubled Asset Relief Program ("TARP") was adopted – to relieve commercial banks of the burden of their most "toxic" assets, shore up their balance sheets, relieve concerns about their solvency, and thus restore the flow of credit.

IV. Why Did Securitization Fail?

An efficient market in any form of security requires that the market be capable of making an unbiased – and reasonably accurate – estimate of the true value of the underlying cash flows. At some point, this became an essentially irrelevant criterion for F&F, which succumbed to political pressures for "affordable housing". This is essentially a story of flawed institutional design, exacerbated by political and regulatory failure.

But what explains the packaging and issuance of equally flawed private label securities? Why did institutional investors and hedge funds from around the world stand in line to buy these toxic assets? And why did credit rating agencies blithely slap AAA ratings on nearly worthless securities?

The mis-pricing of MBS and CDOs seems nothing less than a significant assault on efficient market theory. An efficient market exists only when the market is a "fair game". Although investors may mis-value assets in individual cases, the market is nonetheless a fair game when market values are, *on average*, an unbiased assessment of the true or intrinsic value of the underlying assets and/or earning power. It is clear that the market for mortgage-related derivatives was *not* a fair game. The market seems to have entirely failed to appreciate the potent moral hazard arising from the new technology of mortgage origination, and the predictable effect that this had on the quality of securitized mortgages. Moreover, to fully understand the risk associated with any securitized asset, it is necessary to have experience of default rates over one or more business cycles and under a variety of economic conditions. This simply was not the case with mortgage derivatives. But no one seems to have noticed.

The extent of the myopia is illustrated by the collapse of Lehman Brothers and the distress sales of Bear Stearns and Merrill Lynch. All of these investment banks enormously increased their leverage in the years leading up to their collapse – while simultaneously loading up with the most toxic portions of CDOs. None seem to have been bothered by the fact that a downturn in housing prices, or a rise in interest rates, or both, that resulted in no more than a 3-4% drop in the value of their assets, would totally wipe out their equity. Like many others, the investment banks seem to have had an extraordinary and overweening faith in the ability of the U.S. housing market to endlessly produce double-digit increases in house prices.

In short, asset securitization fails when future cash flows are systematically overestimated and systematic risk systematically underestimated. That, regrettably, is the story of mortgage derivatives, and the underpinning of the Credit Crisis.

V. Lessons?

I have outlined only some of the more important actors in the Credit Crisis. Others include credit-debt swaps ("CDS"), the role played by the credit rating agencies, the Feds' decision to keep interest rates low to promote economic recovery after the tech meltdown in 2000, regulatory failures (e.g. the lack of regulatory supervision of CDS, MBS, and CDOs, including a failure to ensure transparency), the combined impact of extreme individual, GSE, and investment bank leverage, as well as the deductibility of mortgage interest in the U.S. and the absence of a personal mortgage covenant in many states (both of which have long sharpened the incentive for Americans to jump into the housing market).

The role played by F&F, however, makes it clear that hybrid private/public vehicles create enormous risks not only for their investors, but for the economy at large. The divided mission of these entities, and the ever-present risk of short-sighted and opportunistic political interference, suggest that such organizations have no role to play in a modern economy.

The Credit Crisis also demonstrates that the entities that originate, but do not retain mortgages are subject to a very serious moral hazard – and one that is not necessarily adequately addressed by secondary mortgage markets. It is important that these entities – and their relationship to the secondary mortgage market – be closely regulated.

Securities and financial regulators also have much work to do to ensure the quality and transparency of instruments such as MBS and CDOs – even if sold only to exempt investors. Financial regulators should make sure that credit debt swaps are subject to strict regulation, including capital and other prudential requirements demanded of banks and insurance companies.

In closing, the Credit Crisis is a keen demonstration of the functions and importance of the financial sector. Though it amounts to only about 4% of GDP in the U.S., it serves the vital task of spiriting money from net savers of capital to net users. A clog in the pipeline can bring the entire economy to its knees. ■

[1] Much of the following discussion of Fannie and Freddie is informed by Peter J. Wallison and Charles W. Calomiris "The Last Trillion-Dollar Commitment: The Destruction of Fannie Mae and Freddie Mac", AEI Online Financial Services Outlook, September 30, 2008, available at www.aei.org/outlooksBinder?page=1&bid=100007.

[2] Ibid.

WHAT IMPACT WILL THE EVENTS OF THE LAST YEAR HAVE ON LAWYERS IN PRACTICE?

WE ASKED SOME OF OUR ALUMNI TO SHARE THEIR THOUGHTS:

"If you work with people at a time of their greatest need, when they are under incredible stress, and you come through it together, then you develop bonds and relationships that are as strong as can be. That bond can extend to the entire firm and all its services."

Susan Grundy ('78), Blakes

"In boom times, we weren't examining invoices the way we are now."

Gordon Haskins ('91), Royal Bank of Scotland

"Everyone realizes that the level of due diligence has to increase because of the massive failures we have experienced. As the post-mortems come in about the Bernie Madoff scandal and the problems with Asset Backed Commercial Paper and the collapse of sub-prime mortgages, clients will be asking what lawyers could have done differently."

Doug Harris ('92), Investment Industry Regulatory Organization of Canada

"Mid-sized firms are rationalizing, and larger firms will have to decide whether they should continue to grow and, if so, how – through continued lateral hiring, by acquiring practice groups from other firms, or through mergers, which are usually very complicated."

Jim Christie ('76), Blakes

"This, too, will pass. Many lawyers don't realize how fortunate we are, despite the circumstances. The pain others are experiencing is way more dramatic than ours – and we should consider ourselves very fortunate."

Clay Horner ('83), Oslers

"I'm looking for billing proposals tailored to *our* needs, not an hourly rate that reflects traditional billing models."

Timothy Hutzel ('95), Aecon Group Ltd.

LESSONS FRANK TAUGHT ME: THE CLASS OF 1983 AND THE BUSINESS PLANNING CLUSTER

"It was the most rewarding course I ever taught," says The Honourable Frank Iacobucci, speaking about the business planning cluster program he created and taught for the Faculty of Law in the early 1980s.

As Chair of the Law Faculty Curriculum Committee, Iacobucci wanted to design a program integrating real-world subjects with the practice of law, as a bridge between school and practice. The course was restricted to a small group of students in their final year, and fashioned after a business planning casebook created by Harvard Law Professor David Horowitz.

"At that time teaching in the U.S. was way ahead of ours, and their business cluster course was our model," he explains. Along with Professor Tom McDonnell and part-time lecturer Peter Dey, Iacobucci built on the idea of overlapping course subjects in a meaningful way to reinforce the academic and professional links. "It was tremendously rigorous, labour intensive and challenging to create. The intended goal of melding corporate, securities and tax law was to make third-year students more conscious of the realities of real-world practice," says Iacobucci.

Twenty-five years later Peter Ballantyne, Jim Hinds, Clay Horner, Chris Murray, Henry Sykes and Murray Edwards, all from the Class of 1983, pay tribute to a trailblazing professor and a course that set them on the path to professional success.

Calling himself "the luckiest guy in the world", **Jim Hinds** chose to semi-retire from a distinguished career in investment banking in his mid-forties. He credits the course with helping him to choose to leave law practice after articling.

"As it turned out I had balance in my life: lots of risk which I love, more cash compensation and a lot of fun. This model taught us to handle complex problems. Because of it very few of us emerged as specialists in terms of wealth creation. The format was a perfect, multi-faceted finishing course, a capstone to our legal education. It was tremendous that such exceptional leadership would sacrifice their busy, lucrative careers to teach us. In a stellar group of individuals like this, great things are destined to happen," remarked Hinds. Today, Hinds continues in his role as Chair of Irish Line Capital Inc., and also has the privilege of performing public service, as Board Chair of the Independent Electricity System Operator (IESO).

Henry Sykes left law practice a decade ago and as president of Calgary-based gas exploration company, MGM Energy Corp., is known for his risk-taking, determination and proving the skeptics wrong.

"This was the one class that kept me from being bored because it was tough and held so early in the morning that you had to really want it to get up at such an ungodly hour. It drew those with a pre-existing interest in business, those eager like me to get out of law school. It was full of smart people unafraid to call BS what it was. A lot of great people came out of this class to become role models. We didn't intend to makes millions: we were interested in what business did in society and what it could do," said Sykes.

"One of the unique features of the course was the fact that it combined elements of corporate, securities and tax law in the problems we were given to analyze - that approach, of course, is more realistic in the actual practice of law than analyzing problems in a one dimensional way, and was terrific training for future corporate lawyers," says **Peter Ballantyne,** a partner at Torys LLP and head of the firm's Private Equity Fund Formation Practice Group. "Frank was a tremendous role model who taught us what was really relevant."

Clay Horner is the Co-Chair of Osler, Hoskin & Harcourt LLP and one of the country's leading practitioners in the area of mergers and acquisitions. "I loved Frank Iacobucci, just loved him. He had the most impact on me of any teacher and there was such a rich mix of incredibly capable participants. I saw creativity as the most alluring aspect of business law, and in that class learned just how creative you could be," he says.

Chris Murray, also partner at Osler, Hoskin & Harcourt LLP, is co-chair of both the Corporate Finance Practice Group and the Asia-Pacific initiative in China and Korea. "Frank Iacobucci was much loved, and he solidified my interest in the intersection of business and law. It was a very colourful group, all with successful business careers," says Murray.

Murray Edwards is Director and Vice Chair of Canadian Natural Resources, and Chair of the Calgary Flames. He says the success of this class can be attributed not only to Iacobucci's razor sharp mind, but to the bright classmates who brought so much more to the table, enabling problem-solving as a group. Hailed as one of the greatest entrepreneurial minds of his generation, Edwards left law practice in 1988 to pursue his longstanding interest in business after the untimely death of a colleague. "Life is short," he says, "Do the work you want to do."

Law school legend has it that Edwards slipped out of his first-year contracts exam to monitor the performance of his stock portfolio, but he would neither confirm nor deny the rumour.

"It was tremendously rigorous, labour-intensive and challenging to create. The intended goal of melding corporate, securities and tax law was to make third-year students more conscious of the realities of real-world practice," says Iacobucci.

The Honourable Frank Iacobucci

FORMER LAW PROFESSOR, ALUMNUS JONATHAN FRIED: CANADA'S NEW AMBASSADOR TO JAPAN

LAST SEPTEMBER, Jonathan T. Fried, former University of Toronto professor of international law and alumnus, assumed his duties as Canada's Ambassador to Japan, following a successful term in Washington, D.C. as executive director of the International Monetary Fund (IMF) for Canada, Ireland and the Caribbean. At the age of 55, Fried possesses a list of credentials that speaks to a compelling diplomatic career of remarkable accomplishment in championing international law and building good governance.

"I am privileged to represent Canada globally," remarks Fried, who along with his wife and two canines of dubious heritage (whom he claims bark bilingually), reside in the heritage official residence in downtown Tokyo, alongside the Raymond Moriyama-designed modern chancery, set amidst beautiful gardens.

"Japan has the second largest economy in the world and, with a richness of creativity and the leading edge in information and environmental technology and life sciences, is of prime importance to the global economy; and it is the Pacific anchor for global security. There is a reason why U.S. Secretary of State Hillary Clinton made Japan her first stop, and why the Japanese Prime Minister was the first foreign dignitary to visit the White House," remarks Fried.

"Tokyo is remarkably cosmopolitan and outward looking. With a combination of Buddhist and Shinto religions, there is tremendous respect for equality and for the environment. In the world's largest city by most measures, there are more Michelin stars in Tokyo restaurants than all of France. It's easy to see why all of my predecessors say their time in Japan has been the most wonderful," he adds.

Fried was born in Edmonton to parents, both medical doctors, who encouraged their son from an early age to adopt a world view. He chose the University of Toronto for both undergraduate studies in political science and philosophy, and again for his LLB, which he received in 1977.

He credits teachers of tremendous stature as a strong influence in law school. "Professor Gerald L. Morris was a wonderful man and career diplomat; Professor Frank Iacobucci, a tower of strength, a wonderful human being, and visionary of great leadership," he recalls.

Fried articled in Alberta, but a greater thirst for knowledge led him to a LLM and "a wonderfully rich year" at Columbia University in 1979 studying international law. While visiting his U of T classmates, he ran into Professor Martin Friedland, the then dean of the Faculty of Law, who enquired if he would consider substituting for Professor Morris, as a visiting professor teaching international law for the following academic year.


Jonathan T. Fried ('77)

With many older students in the class, Fried says he felt pretentious teaching an area of law he had never practised. Yet he says it catapulted him into a future in the Foreign Service that made him "feel like a kid in a candy store."

Fried served as senior foreign policy advisor and head of the Canada-United States Secretariat in the Privy Council Office to Prime Minister Paul Martin, and subsequently senior foreign policy adviser to Prime Minister Stephen Harper until elected to the IMF. In addition to providing advice on international issues, he served as secretary to the Cabinet committees on Global Affairs and Canada-U.S. affairs, and coordinated the Security and Prosperity Partnership of North America, working with the U.S. Assistant to the president for National Security Affairs, Condoleezza Rice.

Fried served as associate deputy minister of Foreign Affairs and International Trade. He was previously the senior assistant deputy minister of Finance and G-7 (as well as G-20) finance deputy for Canada and on the board of directors of the Export Development Corporation. He was Canada's senior trade and economic policy official and chief negotiator on the accession of China to the World Trade Organization and principal legal counsel for NAFTA, negotiating, drafting, and overseeing its implementation.

Fried was elected three times to the General Assembly of the Organization of American States, chaired the Inter-American Juridical Committee and the APEC Experts' Group on Dispute Mediation, and was vice-chair of the OECD Trade Committee.

With such specialized knowledge of trade law, treaty negotiation and international finance, Fried's new role is a sign of great things to come for the Canada-Japan economic relationship. ■

ALUMNI NEWS

2008

June

Vince Del Bueno ('75) was invested as a Member of the Order of the Federal Republic of Nigeria at a ceremony in Abuja.

August

The Hon. Justice John C. Major ('57) was appointed a companion to the Order of Canada.

September

The Law Foundation of Ontario selected **A. Alan Borovoy ('56),** General Counsel of the Canadian Civil Liberties Association, as the recipient of the 2008 Guthrie Award.

Stephen Grant ('73) has been appointed editor of the *Advocates' Society Journal.*

October

The Hon. Tony Clement ('86) was re-elected and appointed as Minister of Industry…**Bob Dechert ('83)** was elected MP for the Mississauga-Erindale riding… **The Hon. Bob Rae ('77)** was re-elected as MP for the Toronto Centre riding.

November

The following graduates were named *Lexpert's Rising Stars Under Forty:* **Rob Centa ('99), Mark T. Bennett ('93), John Connon ('98), Lisa C. Damiani ('96), Peter S. Hong ('95), Cynthia Kuehl ('98)** and **Kathleen Ritchie ('96).**

2009

January

David A. Brown ('66) was appointed to the Order of Canada.

February

Professor **Jody Freeman ('89)** left Harvard Law School to serve as a top environmental policy aide at the White House under President Barak Obama's administration.

LEENA GROVER

At the age of 31, Leena Grover's unconventional career path has already taken her to Mexico, Scotland, Holland, South Africa, India, Germany, Belize, U.S.A. and Switzerland. While she denies being on any kind of job track, Grover admits to being guided by one simple rule: "to only pursue meaningful opportunities that challenge and excite me in some way."

Leena Grover ('03)

The result? A lot of adventures. "I have loved every job I have had and am excited to see what the future holds. International law is constantly evolving," she says.

A 2003 graduate of the Faculty of Law, Grover is currently writing her doctorate in international criminal law while working part-time in her field. She recently moved to Switzerland to provide legal assistance to Prof. Helen Keller, one of 18 experts comprising the United Nations Human Rights Committee. Grover also serves as a legal adviser on the Crime of Aggression to Liechtenstein Ambassador Christian Wenaweser, who is President of the Assembly of States Parties (ASP) to the International Criminal Court and Chair of the ASP Special Working Group on the Crime of Aggression. Prior to moving to Zurich, Grover worked as a research associate to Prof. Claus Kress and lecturer in the faculty of law at the University of Cologne.

Grover, who was born and grew up in and around Toronto, says it was Nelson Mandela's first autobiography, *Long Walk to Freedom*, and a comparative constitutional law course that lured her to spend a semester at the University of Cape Town. While there, she worked pro bono on trying to reform legislation that adversely affected HIV-infected persons and victims of domestic violence, as well as taught fine arts at a township high school.

"I was in awe of what this country had endured and overcome. I wanted to immerse myself in post-Apartheid South Africa, to understand its strengths and challenges," remarks Grover.

Her work with refugees during law school also drew her to India, where she was stationed in New Delhi as a resettlement officer for the United Nations High Commissioner for Refugees. Grover has also done pro bono work on truth commissions for an American NGO, has been a Visiting Fellow at a Max Planck Institute in Germany, and twice worked in The Hague – the first time in a Trial Chamber of the International Criminal Tribunal for the former Yugoslavia, later, in the Office of the Prosecutor at the International Criminal Court. Grover says that, while she is indeed fortunate to have opportunities to live in so many wonderful places, none can take the place of Canada.

Her work with refugees during law school also drew her to India, where she was stationed in New Delhi as a resettlement officer for the United Nations High Commissioner for Refugees

Grover managed to squeeze in a couple of years in Toronto as a litigator at Blake, Cassels and Graydon LLP where she acted as counsel to the Federation of Law Societies of Canada in a trilogy of terrorism cases that went to the Supreme Court *(Charkaoui/Almrei/Harkat v Canada [Citizenship and Immigration])* as well for Belizean Maya in a representative action opposing government surveying and leasing of reserve lands. Blakes' work in Belize was done in partnership with the Faculty of Law's International Human Rights Clinic.

Grover's interest in international justice and protecting the rights of vulnerable groups harkens back to childhood, these passions awakened by the first Gulf War. "I was in Grade 8, and it was the first time I was aware of a war being fought. I was obsessed with newspaper reports of civilian casualties," says Grover. Her teacher nurtured this interest by allowing her to create a classroom bulletin board where she posted photographs and news clippings as daily updates for her classmates.

When not working, Grover tries to find a creative outlet through volunteer work. Inspired by an old high school art teacher, she picked up a paintbrush after many years. "He said it would be good for my soul. He was right," she says.

CLASS NOTES

CLASS OF 1969

In April 2008, **Tudor A. H. Beattie,** Q.C., was appointed as a Commissioner with the Alberta Utilities Commission (AUC)for a five-year term. The AUC is an independent, quasi-judicial agency of the Government of Alberta that regulates investor-owned electric, gas and water utilities and ensures that these services are delivered in a manner that is fair, responsible, and in the public interest.

CLASS OF 1973

Chris McNaught published in February 2008 his novel *The Ambulance Driver* available on-line from the publisher, at baico@bellnet.ca, or the author's website at www.chrismcnaught.ca, or at www.chapters.ca. Chris now works with Justice in Ottawa, lectures at Carleton University, the Dominican University, and on television about crime and state in history and ethics, security and terrorism.

CLASS OF 1978

Douglas Campbell After graduating from U of T, Doug practised law for four years in Toronto and Calgary until a longstanding interest drew him to the study of architecture. He pursued a Master of Architecture degree from the University of Calgary and embarked on a career in 1990. Doug is now a Vice-President with Cannon Design, building their new Calgary office. He has been a member of the Council of the Alberta Association of Architects for six years and is currently serving as its President. Doug is married with one son.

John Clements left the U.S. Federal Energy Regulatory Commission in 2006 for private practice. "I have had a successful transition from indolent, clueless federal bureaucrat to hard-charging, BlackBerry-addicted champion of downtrodden hydroelectric project operators," he explains. "Most fun this year: CEO of major client, shouting that I was 'outlawyered' by opposing counsel and slamming down the phone. Months later, my opponent is completely vanquished and is suing for peace. I expect the CEO to call and apologize any day." He has been married for 25 years to fiber artist Cathie Chung. His son Brian senior is at Northland College and was recently elected to City Council. ("Not bad for 20.") His daughter Maggie is a sophomore at Mt. Holyoke and changing majors weekly. I'm still woodworking a bit and expanding my repertoire of kayak tricks," he adds. John can be reached at jhc@vnf.com

CLASS OF 1980

Dr. Nella Cotrupi recently taught a poetry course at the School of Continuing Studies at the University of Toronto.

CLASS OF 1983

Tony Lambert and **Jenny Harris** Jenny and Tony met the first day of first-year law, got married in the first week of second-term, and their son Simon was born 10 days before mid-term exams in third-year. "Third-year was the toughest," he says. "Our student loans were exhausted. We lived in an insect-infested basement suite on Avenue Road. We each took the same classes in second term of third-year, so one of us could stay at home with Simon while the other attended class. Some classes were too good to miss, like Mewett's evidence class. One of us would sit in the class, while the other would carry Simon and listen at the door. Occasionally, Simon would make a cry, causing some confusion in the class." Simon, 24, is now finishing his master's in theoretical physics at the University of Victoria. Adrian, 22, will start U of T law in September, after finishing a math degree and working for a year in Tony's Edmonton patent law office. Tony and Jenny's daughter Carolyn, 18, is about to start a math degree, and their youngest son John, 15, is finishing Grade 9.

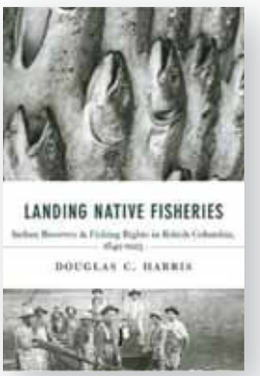
CLASS OF 1992

After 14 years of practice at Cassels Brock, **Chris Schnarr** has opened Toronto's newest litigation boutique, Thomas Gold Pettingill LLP with six other Cassels partners. The firm's focus is on insurance-related litigation. The firm opened with a total of 12 lawyers. Chris has been named the Administrative Partner.

Susan J. Stamm left private practice in April 2007. She is now working as counsel at the Office of the Children's Lawyer (Ministry of the Attorney General), practicing primarily in the area of wills and estates. Married to Richard Guttman with two children, Andrea and Jonathan, they also have a lovely chocolate labrador by the name of Milo.

CLASS OF 1993

Doug Harris, a member of UBC's Faculty of Law, has recently published *Landing Native Fisheries: Indian Reserves and Fishing Rights in British Columbia, 1849-1925.* The book is a study of Indian land policy and fisheries regulation in British Columbia, and reveals the contradictions and consequences of a land policy premised on access to fish, on one hand, and a program of fisheries management intended to open the resource to newcomers, on the other. It also reconsiders the history of colonial dispossession, offering a nuanced examination of the role of law in the consolidation of power within the colonial state.



CLASS OF 1994

Bayani "Abe" Abesamis practises in Mississauga, Ontario but since 2000, has maintained an office in Manila where he extends his Canadian immigration law practice. He is a founding member and current president of the Philippine-Canadian Centre, a Manila-based organization. In 2005, the association, through the help of former Ontario Premier and fellow U of T Law alumnus Bob Rae, held a symposium on the Canadian parliamentary and federal system in Manila.

CLASS OF 1997

David Crerar and **Julia Lawn** announce the birth of their daughter Isla Margaret Lawn Crerar on March 3, 2008, in North Vancouver.

CLASS OF 1998

Tamara Kronis has made a major career change. She invested in four more years of schooling to become a gemologist and jewelry designer. She is a certified gemologist in Canada and the UK and is now working full-time running her own business designing and making jewelry. She does mostly custom work in gold, platinum, sterling silver and other precious metals, and incorporate diamonds and other gemstones in much of my jewelry. You can see what she has been up to at www.tamaradesigns.ca.

She remains active and interested in the legal community through the work she has been doing with Egale Canada, a national organization that advances equality and justice for lesbian, gay, bisexual, and trans-identified people and their families across Canada. She served as Egale's Director of Advocacy in 2006 and 2007, and was awarded the Canadian Bar Association's SOGIC Ally Award in 2007 for advocacy work done in the LGBT community. She and her husband Martin Traub-Werner have had two wonderful children – Samantha, 21 months old, and Joel, 2 months old.

After being called to the Bar, **Alissa Hamilton** went back to Yale (alma mater) to do a PhD in the School of Forestry and Environmental Studies. She graduated in 2006 and has since turned her dissertation on Florida's orange juice industry into a book, *Squeezed: What You Don't Know About Orange Juice*, which is being published by Yale University Press and will be in stores May 2009. On Sunday December 7, 2008, there was a blurb about the book in the *New York Post.* She is currently a Woodcock Foundation-funded "Food and Society Policy Fellow." As a Fellow, she is writing about, and advocating for, a right to know how food is produced. Although the fellowship is American, she is back living with her nine-pound Jack Russell/Chihuahua named Dixi, in an 800-square-foot house in Toronto – Kensington Market area. "I love it (the house, the neighborhood, and Toronto)," she says.

CLASS OF 1999

Harriet Nowell-Smith is working for the UK Government Legal Service in London at the Ministry of Justice. She is currently on maternity leave, enjoying herself with Clara, born to her and her husband Oliver on April 13, 2008.

In January 2008, **David Collins** was appointed Visiting Professorial Fellow of the Institute of International Economic Law at the Georgetown University Law Center in Washington, D.C., to research remedies at the World Trade Organization on a grant from the British Academy of Humanities and Social Sciences.

CLASS OF 2000

Danika B. Littlechild is currently at the University of Victoria in the LLM program. She practised law on her home reserve of Ermineskin Cree Nation (Hobbema, AB) up until September. Danika is currently a member of the Board of Directors of the

North-South Institute, and she is the Interim Chair of the Sectoral Commission on Culture, Communication and Information (Canadian Commission of UNESCO). Danika also advises various Aboriginal representative organizations such as the Assembly of First Nations on a number of issues facing Aboriginal peoples in Canada. Her thesis at the University of Victoria will be on water – resource management / governance and Indigenous rights.

CLASS OF 2001

The last three years have been full of exciting changes for **Cibele Antunes.** She moved to London (where she joined Linklaters LLP), got married in the summer of 2007, and in May 2008 moved to Paris with her husband. Cibele is now a Managing Associate in the Derivatives and Structured Products Group of Linklaters LLP in Paris, and looking forward to the next challenge.

CLASS OF 2002

Jeanette Teh (JD/ MBA 2002) moved to the Middle East in May 2008 with her husband Michael Todd. She is legal counsel for a local diversified conglomerate comprising predominantly of luxury retail, automotive, food and beverage, and furniture franchises. They are settling in nicely in the city-state of superlatives with its incredible development, enjoying the many social aspects of Dubai, its endless sunshine, and having such wonderful amenities like living across the street from a beach, while battling the administrative and traffic nightmares. They have already embarked on a few trips around the region, but are looking forward to many more exciting travel opportunities. Jeanette invites her classmates to e-mail her at: jeanetteteh@yahoo.com.

CLASS OF 2005

Allan John Ritchie left Loopstra Nixon LLP to join the Corporate Finance practice group at the Toronto office of Baker & McKenzie LLP in spring 2007.

CLASS OF 2006

Daniel Sperling (LLB and BA from the Hebrew University of Jerusalem and LLM (2003) and S.J.D. (2006) from the University of Toronto) is the author of *Posthumous Interests: Legal and Ethical Perspectives* (Cambridge: Cambridge University Press: 2008), *Management of Post-Mortem Pregnancy: Legal and Philosophical Aspects* (Aldershot: Ashgate: 2006) and other numerous articles in the area of law and bioethics. Before going to the Hebrew University, Daniel had a full-time appointment as an assistant professor of philosophy of law and bioethics at Netanya Academic College, and taught at Tel-Aviv University and Haifa University.

Dr. Jennifer L. Schulz and John Pozios announced the birth of their son. Max Schulz-Pozios was born in June, 2008 and is a welcome playmate for his older brother Jack.

REMEMBERING OUR FRIENDS

IRWIN KOZIEBROCKI

Irwin Koziebrocki passed away Sunday December 7, 2008 while on holiday in the Dominican Republic. He spent his last day on the beach with his wife, Carolyn Fineberg. They relaxed, drank, ate, read, and enjoyed being together. Then, suddenly he died. He lived his last day the way he lived every day of his life.

He had a deep gap-toothed smile, a jolly walk, calm, compassionate, brilliant and humble. His definition of success was love and enjoying life. He worked at the Ministry of the Attorney General and as a leader of the Criminal Lawyers Association. The way he lived life, enjoying every opportunity, taught those around him to do the same. Irwin's friends and colleagues admired his calmness, integrity and wisdom. He had a wonderful sense of humour.

Irwin and his wife Carolyn were inseparable. Wherever they were, they spoke each hour. They rarely were apart. He deeply loved his children – Joshua and his wife Michelle, Rachel, Ruth and Melissa. Irwin's family has no regrets as to how they loved him or how he loved them. But, as his wife Carolyn put it, they just wanted more.

If you would like to send in a brief In Memoriam tribute and a photo of a loved one for use in a future issue of *Nexus*, please contact k.hilton@utoronto.ca

The Faculty of Law also notes the passing of the following alumni and friends, and sends condolences to their families and friends:

Siobhan Alexander ('96)
Stephen Borins ('59)
Markus Cohen ('63)
Charles Dalfen
Walter Devenney ('77)
Charles Dubin
Brinley Evans ('92)
Carlo Greco ('88)
Judith Hoffman ('83)
Donald Lyons ('60)
Ronald McInnes ('69)
Daniel Ublansky ('73)

THE LEGAL PROFESSION AND THE FINANCIAL CRISIS

BY JAMES C. BAILLIE

The financial crisis has evoked an extraordinary profusion of analyses and recommendations. More-or-less helpful comments flow from more-or-less knowledgeable commentators in government, academia, NGOs and the private sector.

Among the widely divergent views expressed, there are important areas of consensus. All concur as to the pervasive importance of financial institutions and their effective operation; the huge amounts of money being invested in them by governments is a clear recognition of this. And all concur that the institutional and regulatory arrangements within which these institutions operate, both domestically and globally, require reconsideration. However, the nature and extent of the changes required is a subject of vigorous debate within each country and among governments.

Mohammed Fadel's note in this issue of *Nexus* is a helpful contribution to that debate. Amid the plethora of other reports and recommendations, those published by the Financial Stability Forum, the Group of Thirty, the High Level Group on Financial Supervision in the EU and the FSA in the United Kingdom (the Turner Report) are particularly persuasive and significant. All of these papers contain worthwhile recommendations. But – and this is important – all those recommendations are at a level of generality. Any lawyer reading them is aware not only of the importance of the issues raised but also of the immense amount of fleshing out that would be necessary to give effect to any of the recommendations.

> Lawyers will have a key role in shaping the outcomes. Whether as decision-makers or advisors, our training helps us to think through the significance of a broad-brush recommendation and translate it into the detail that is needed.

Basel II; the IMF; the World Bank; international coordination of supervision and of insolvencies – these are only some of the international arrangements that require reconsideration. In each developed country there are issues requiring local resolution as to which international coordination is desirable: examples are the role of the central banks (should they become macro-supervisors?); universal banking (should we revert to Glass-Steagall and the four pillars?); the scope of the too big to fail doctrine; the use of derivatives; and the role and regulation of credit rating agencies. And there are country-specific issues: in Canada, such issues include the teachings of the ABCP mess and the quest for a National Securities Commission. The latter being an example of an important issue whose outcome could be unduly affected by political pressures and compromises.

The recent G20 conference both highlights the international issues and made modest steps towards resolution of some of them.


James C. Baillie ('61)

At one extreme, the resolution of these issues could result only in minor tinkering to the existing structure. At the other (and, in my view, more likely) extreme, we could see changes in the global financial system more fundamental than any made since the reshaping of that system at the end of the Second World War. Indeed, a real concern is that in the rush to regulate, we might attempt more change, more quickly than the system can absorb.

These are major issues and they are being addressed in a very difficult environment. Despite the slight progress made at the G20, international consensus on key issues is lacking, and even domestic consensus is lacking in most countries. Too many decisions are being taken by comparatively ill informed politicians motivated by populist objectives. The atmosphere of financial crisis surrounding the current debates imposes tensions and constraints on political decision-making, particularly in the area of international cooperation.

Lawyers will have a key role in shaping the outcomes. Whether as decision-makers or advisors, our training helps us to think through the significance of a broad-brush recommendation and translate it into the detail that is needed. In government, in academia, in the NGOs and in the private sector these skills will be essential.

Our training and our skills bring, in my view, an attendant responsibility. As, in our various capacities, we contribute to these critically important debates, we must be cognizant of long term implications and contribute towards a balanced approach, resisting short-term and populist remedies.

It is important to world economic well-being that the legal profession rises to this challenge. I am confident that graduates of the University of Toronto Faculty of Law will do so and, indeed, will be at the helm, navigating their various organizations through this crisis. ■

One of Canada's leading senior corporate lawyers and counsel at Torys LLP, James C. Baillie ('61) advises corporations, financial institutions, federal and provincial governments and agencies, as well as self-regulatory organizations, on strategic business issues, complex legal matters and legislative options.

***NEXUS* IS PLEASED TO ANNOUNCE A NEW FEATURE WHICH WILL BE LAUNCHED IN OUR UPCOMING ISSUE:**

Nexus would like to hear from you about interesting cases that you are either working on, or have recently put to bed. We are looking for 300-500 words (written in the first person) that describe your work on the case. If you have a story to tell, we'd like to read and share it with our alumni and friends through *Nexus.*

Please send all submissions to k.hilton@utoronto.ca and we will print a selection of them in an upcoming issue of *Nexus.* The first two submissions will earn a complimentary copy of Professor Lorne Sossin's new book, *Parliamentary Democracy in Crisis* (featured on page 15).

REUNION 2009

FRIDAY, OCTOBER 23RD
AND SATURDAY, OCTOBER 24TH, 2009

Alumni who graduated in a year that ends in "4" or "9" are invited back to the law school for special reunion festivities. There will be a cocktail reception for all honoured years in Flavelle House on Friday, October 23rd from 5-7 p.m. There will also be an event for each class celebrating reunion. Be sure to visit the Faculty of Law website often for updates on plans for each class event.

If you have any questions about your reunion, please contact Corey Besso in the Alumni & Development Office at corey.besso@utoronto.ca or 416-946-8227

We look forward to seeing many of you at reunion this fall.

OUR COMMITMENT TO THE ENVIRONMENT:

With this issue of *Nexus,* the U of T Faculty of Law continues its commitment to do what it can to protect the environment by using natural resources responsibly. We are committed to implementing policies that will facilitate the meaningful conservation of ancient and endangered forests globally and ensure that we are not contributing to the destruction of these irreplaceable natural treasures. This issue of Nexus is printed on paper that meets the strict guidelines set out by Markets Initiative, i.e., free of ancient or endangered forest fibre and chlorine free.

Preserving the remaining ancient and endangered forests of the world for future generations will require that all organizations join us in this important effort.

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