



ASPER CHAIR VISION FOR 2010

The focus on the coming year will be on developing teaching and research in the area of **internet law and e-commerce**. International agreements, as well as domestic case law and legislation, are being rapidly devised to address issues raised by developing technologies. **A new course on cyberlaw will be introduced into the curriculum in 2009-2010**. It will be a “perspectives course” looking at not only legal doctrine but the associated law and policy. Students will write papers on cutting-edge topics. The course has been approved by Faculty Council, and a set of course materials has been developed this past summer. The new course will join international business and trade law as major components of the teaching program that have been created with the support of the Asper Chair.

In tandem with the Desautels Centre, led by my colleague and friend John Pozios, we hope to host an **international symposium in the spring of 2010, on emerging issues of civil liberties raised by information technologies**. Three main topics would be addressed. The first is efforts by authoritarian regimes, such as Iran and China, to stifle free communication over the internet, and what legal and technological responses are appropriate from democratic societies. The second is the regulation of the internet here in Canada, including the latest thinking by the potential regulator, the Canadian Radio and Television Commission. The third are issues of privacy raised by social networking.

John and I are also looking at whether it would be possible **to develop a program in international business law at the LL.M. level**. By combining the resources of the Asper and Desautels programs, we are hoping we can provide an educational option that is unique in Canada, and will help to profile the law school on the international stage.

Another major focus will be the completion of an **interactive Asper Chair website**. It will contain all of the Asper Chair publications, including the Asper Review conference live webcasts and recordings, and a discuforum.

The Asper Chair will also be involved as one of the sponsors of a new **Specific Claims website**. I was honoured to serve for over a decade as a negotiator and drafter for the Assembly of First Nations as it worked in collaboration with the government of Canada to create the new Specific Claims Tribunal Act. Since its passage, I've done presentations on the new system to many symposiums across Canada and testified on it as an academic expert before committees of both the House of Commons and Senate. I am hoping to be able to draw on this experience to create the premier web resource on law and policy in the area, which will be available at no charge to any one interested, researchers, policy makers and practitioners in the area.



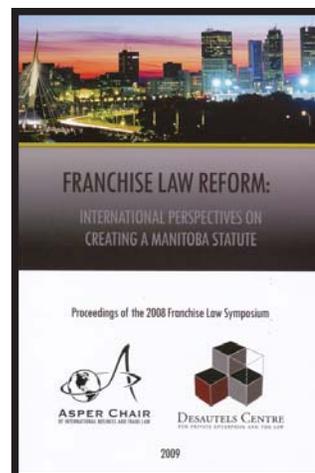
Bryan Schwartz, Asper Chair

BRYAN SCHWARTZ holds a LL.B. from Queen's and a Master's and Doctorate in law from Yale Law School. He has been a member of the Faculty of Law since 1981, and in 1999 became the inaugural Asper Professor of International Business and Trade Law. Bryan has published seven books and over sixty academic articles. He is the founding and general editor of both the Asper Review of International Business and Trade Law and of the Underneath the Golden Boy series, an annual review of legislative developments in Manitoba. Over the years, he

has received numerous awards and honours for teaching, research and community service.

Bryan's practical experience has included acting as counsel for the Pitblado Law firm since 1994. He has advised or presented in a wide variety of public and commercial law cases in a wide variety of courts and tribunals. He has participated in the drafting of briefs or presentation of oral argument in over a dozen Supreme Court of Canada cases. In recent years his clients have also included federal, provincial, municipal and aboriginal governments,

PUBLICATION OF FRANCHISE LAW BOOK



The Asper Chair and Desautels Centre released this spring the publication that emerged from our conference last year on *“International Perspectives on Creating a Manitoba Statute.”* It includes the report by the Law Commission of Manitoba on a first comprehensive franchise law statute for this province.

The study prepared for the conference by B. Schwartz, J. Pozios and L. Zylberman is cited several dozen times in the Commission's report, and we are pleased to have been able to contribute to the policy process in this way.

as well as private individuals, non-profits and administrative agencies. The issues in which he has been involved include constitutional, aboriginal human rights, labour, the environment, health care reform and regulation of the professions.

Bryan has also served as an arbitrator in international trade law cases and labour grievances. He teaches labour law, has been a Canada Labour Code adjudicator since 1994, and has served as a sole arbitrator or panel member in a number of grievances brought under collective agreements.

ASPER CHAIR LL.M. STUDENT



ANDREA SIGNORELLI has been researching international law, environmental protection and trans-boundary controversies involving water resources. Check out the article *The Boundaries That Divide Us* by Andrea, published on page 22 in ResearchLife Magazine.

ResearchLife magazine is a new publication of the Office of the Vice-President (Research). Two issues are published annually. The publication highlights the quest for knowledge that artists, engineers, scholars, scientists and students at the University of Manitoba explore every day.

LL.M. CANDIDATE, BRYCE JATTO

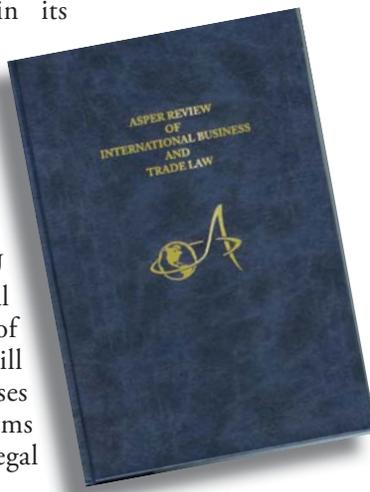
BRYCE JATTO is an LL.M. candidate at Robson Hall. For his thesis, he is undertaking in-depth research in the area of Public Private Partnerships (PPPs) and Prof. Bryan Schwartz is his advisor. Before joining the LL.M. program, he was a trial lawyer at Banwo & Ighodalo, a leading law firm in Lagos, Nigeria. And before that, he taught Jurisprudence and Legal Theory at the University of Ado-Ekiti, also in Nigeria. He is the recipient of both the prestigious Manitoba Graduate Scholarship (MGS) and the Desautels Fellowship in Private Enterprise and the Law. He is married and loves to play scrabble, cricket and badminton. "The Asper Chair simply makes the Law come alive!"



PUBLICATIONS

The Asper Review of International Business and Trade Law is the only Canadian law journal dedicated to the subjects of international business and trade law. The journal addresses issues of interest to Canadians, practitioners, and students of international business law and international trade law around the world.

The journal is currently in its ninth year of publication. Volume IX, forthcoming in 2009, will cover a variety of international business and trade topics, including Canada's opposition to the regulation of the international asbestos trade; the EU banning the import of all seal products; and the future of investment arbitration. It will also contain an article that uses the famous battle of the forms as a case study to explore legal strategy development.

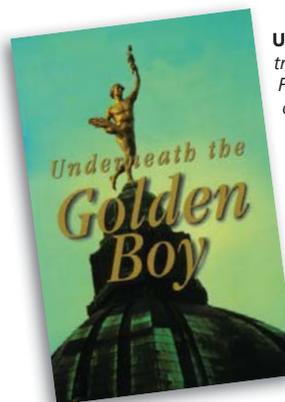


Washington and Lee University publishes annual rankings of law journals throughout the world. In its latest rankings, the Asper Review of International Business and Trade Law was ranked 22nd among 66 Canadian journals and 78th among 630 non-US law journals. For the full rankings, see <<http://lawlib.wlu.edu/LJ/index.aspx?mainid=954>> With the Manitoba Law Journal ranked 23rd in the survey of Canadian journals and 84th in the non-US survey, the Faculty of Law at the University of Manitoba already has two well-ranked journals in the Canadian and world markets.

Underneath the Golden Boy, Volume 6, was published in September 2009 and continues the journal's tradition of

reviewing a variety of legislation. Two articles focus on amendments to The Employment Standards Code and The Consumer Protection Act (with respect to gift cards). Four articles examine new legislation in Manitoba: The Apology Act, The Good Samaritan Act, The Registered Retirement Savings Protection Act, and The Organic Agricultural Products Act. Volume 6 has three special feature articles. Dr. Bryan Schwartz and last year's student editor, Andrew Buck, explore the effects of amendments to Manitoba's Elections Act that proposes changes to political communications in non-election years. Dr. Schwartz and Natasha Dhillon-Penner, a Canadian Credit Management Foundation Fellow, analyze constitutional, international, and human rights issues related to Manitoba's recognition of foreign credentials. Edward H. Lipsett proposes legislation that offers a compromise to restriction on hate communication and protection of freedom of expression.

Volume 7 of Underneath the Golden Boy is proceeding towards publication next year. Three articles focus on amendments to legislation in Manitoba: The Environment Amendment Act (Permanent Ban on Building or Expanding Hog Facilities), The Legal Profession Amendment Act, and The Strengthening Local Schools Act (Public Schools Act Amended). One article examines new legislation in Manitoba: The CentrePort Canada Act.



Underneath the Golden Boy is part of a trio of annual publications issued by the Faculty of Law. The Asper Review works in close cooperation with UTGB as well as the Manitoba Law Journal. The Shelley M. Weiss Publications Office now houses all three publications, and student assistants and editors working together have found the exchange of ideas and resources to enhance both the efficiency and enjoyability of the experience. Equipment and software purchased with Asper Chair resources is shared whenever possible with the creators of the other two publications.

ASPER PROFESSOR APPOINTED TO INTERNATIONAL ARBITRATION PANEL

Bryan Schwartz was appointed in 2009 to the NAFTA arbitration panel that is dealing with the case of Bilcon Canada against the Government of Canada. His fellow panelists are Judge Bruno Simma of the International Court of Justice and Mr. Donald McRae, former Dean of the University of Ottawa Law School.

Dr. Schwartz served on the arbitral panel in the S.D. Myers case. The decision of that panel, including its reflections on the interaction between international environmental law and the law protecting foreign investors, has been the subject of

In addition to serving as editor of the Asper Review and Underneath the Golden Boy, Dr. Schwartz's activities since the last newsletter have included the following:

Publications

- Franchise Law Reform: International Perspectives on Creating a Manitoba Statute, co-editors Bryan Schwartz and John Pozios. Two articles included by Bryan Schwartz:
- B. Schwartz, J. Pozios & L. Zylberman, "Response to Consultation Paper on Franchise Law," at p. 73;
- B. Schwartz & L. Zylberman, "International Franchise Regulation" at p. 137
- Underneath the Golden Boy, Vol. 6, founding and general editor Bryan Schwartz (student co-editors Heather Belle Guest and Kata Bashutski). Three articles included by Bryan Schwartz:
 - B. Schwartz & Andrew Buck, "Bill 37: Battle Hymn of the Incumbent" at p. 1;
 - B. Schwartz & Natasha Dhillon-Penner, "Effective Foreign Credential Recognition Legislation: Give It Some Teeth" at p. 81;
 - B. Schwartz, J. Pozios & L. Zylberman, "Franchise Legislation and Associations Around the World" at p. 3.
- Asper Review of International Business and Trade Law, Vol. IX, founding and general editor (student co-editors Timothy Mitchell & Heather-Belle Guest):
 - "Minimal Compensation Rights," B. Schwartz & Melanie Bueckert, International Bar Association, International Takings, 2009
 - "Doer Sings a Different Tune," Winnipeg Free Press, page A6, June 24, 2009

extensive commentary.

Dr. Schwartz has also been a member of the roster of dispute-settlement panelists under the Canadian Agreement of International Trade.

Dr. Schwartz's experience in the area of international commercial arbitration is complemented by his record as a labour arbitrator. He has decided dozens of cases in roles that include that of an adjudicator or referee under the Canada Labour Code and as the arbitrator appointed pursuant to a collective agreement.

Presentations

- The Specific Claims Tribunal Act, Kananaskis, Conference, October, 2008
- "What's said and unsaid; Reason-Giving at Administrative Tribunals," Manitoba, Conference of Administrative Tribunals, April, 2009

Court Cases

Dr. Schwartz has been co-counsel in a number of cases involving the commercial rights of First Nations, including:

- Moses v Attorney General of Quebec, co-counsel, with Jack London for the Assembly of First Nations, interveners. Argued at the Supreme Court of Canada in June 2009. First case at the Supreme Court of Canada to address the interpretation of modern land claims agreement.

Labour Law Adjudications (Arbitrator)

- Big Freight Systems Inc. v Horowitz, (2009) Canadian Labour Arbitration Decisions No. 66

Pro Bono Human Rights Advocacy

- Member, international legal support committee, in Dr. Chee Soon Juan case, concerning freedom of expression and assembly in Singapore
- Academic resource, Spirit Wind, advocacy group for students who attended Indian day schools in earlier decades.

ASPER FUNDED COURSES ADD VALUE TO ROBSON HALL PROGRAM

The international trade law course was initiated at the time of the founding of the Asper Chair and has been taught continuously since then. As well as introducing students to the legal structure of the world trade system and the key regional and bilateral agreements involving Canada, the course focuses on the economic, social and cultural dimensions of trade liberalization. Student response has continued to be very positive. Comments from last year's students include the following:

- "A very wide and broad topic was very well focused and taught. Importance, sense of humour is amazing and engaging especially for a night course. Was open to comments and suggestions and responded very quickly with insightful recommendations."
- "Schwartz is awesome - he knows a lot about a lot and is captivating."
- "Very knowledgeable, intelligent and approachable."
- "Schwartz is sexy! Plus he's like totally brilliant."

The international business course was also founded by Professor Schwartz in 1999. Art Stacey is teaching the course this year, using materials developed by both Professor Schwartz and Professor Mary Sharrif, who taught the course the previous year.

- "I enjoy teaching International Business very much. The real life issues students now consider have never been more interesting in the context of the international business community than they are now." - Professor Art Stacey

Professor Schwartz continues this year to teach his popular courses in labour law and legislative process, both areas where comparative and international law are becoming increasingly important. He has volunteered this year to take on all of four classroom courses - including introducing the new cyberlaw course - plus two publications courses, a couple of master's students and one or two supervised research papers.

- "I enjoy the interaction with students, and I'm always looking for ways they can contribute to the Asper Chair program's creative and scholarly activities as part of their learning."

INTRODUCING SUMMER STUDENTS WORKING IN ASSOCIATION WITH THE ASPER CHAIR

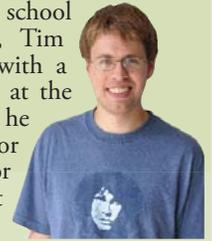
ASPER REVIEW OF INTERNATIONAL BUSINESS AND TRADE LAW - EDITORS



HEATHER-BELLE GUEST is looking forward to her final year of studies at Robson Hall. She is pursuing her law degree after a successful career in arts and cultural management.

Prior to her current studies, she received her Bachelor of Arts Degree from the University of Winnipeg (Business and Administration – Gold Medal; Rhetoric and Communications – Gold Medal). Heather-Belle was very excited to return to Robson Hall's publication office this summer and to have the opportunity to work with a co-editor. "Working collaboratively has been a wonderful experience. I have learned so much from all of the summer students and staff. It is a privilege to be introduced to so many different perspectives."

TIM MITCHELL is in his third year of law school at Robson Hall. Prior to law school, Tim received a Bachelor of Science (Hons) with a double major in Math and Physics, also at the University of Manitoba. Last summer, he worked as a research assistant to Professor Bryan Schwartz, making him a great fit for his current position as a Desautels Credit Management Fellow for the Asper Review. "You'd be surprised how much you can learn editing the work of writers much more talented than yourself."



INTERNET/E-COMMERCE CONFERENCE - RESEARCH ASSISTANT

CELIA VALEL is in her second year of studies at Robson Hall. Prior to entering law school, she completed a Bachelor of Science in Computer Engineering from the University of Alberta and obtained her P.Eng. designation. She initially worked as a software developer in industrial process control, a position which took her all over the globe; she later moved to CN Rail, where she coordinated the electrical design work of the railway signalling systems. Celia spent her summer working on a website for the Asper Chair, researching the role played by human rights law in the World Trade Organization, developing a casebook for an Internet and E-Commerce Law course and planning a conference in the area of Internet freedom. "Researching such a rapidly developing area of law has made for an exciting summer learning experience."



UNDERNEATH THE GOLDEN BOY - STUDENT EDITOR

KARA BASHUTSKI is in her second year at Robson Hall. Before entering law school, Kara completed her Bachelor of Arts in Psychology (with great distinction) at the University in Ottawa in 2006. She then went on to complete her Masters of Arts in Linguistics at the University of Calgary in 2008 on a SSHRC scholarship. "Working in the Publications Office has been a great summer experience. Not only was it a lot of fun, but it was a great learning experience too."



ELECTRONIC PUBLICATIONS, SPECIFIC CLAIMS WEBSITE PROJECT - RESEARCH ASSISTANT



ANNE AMOS-STEWART is entering her third year of studies at Robson Hall. Anne completed a Bachelor of Business Administration at Bishop's University in 1999. She then spent several years living, working and travelling abroad on three different continents. Countries she called home include England, Taiwan and South Africa, where she owned and operated a small business before returning to Canada to attend law school. Last summer, she also worked as a research assistant to Professor Schwartz where she began what is the main focus of her work this summer: the collection of the content for and the creation of a comprehensive specific Aboriginal claims website. "The Publications Office provides a great working and learning environment, making the choice to return for a second summer an easy one."



UNDERNEATH THE GOLDEN BOY - ASSOCIATE STUDENT EDITOR

KYLE B. LAMOTHE is in his second year of law school at Robson Hall. Prior to entering law school, he completed a Bachelor of Arts degree with a major in political studies and a minor in history at the University of Manitoba. During his undergraduate study, he worked for the student newspaper, The Manitoban as a reporter and editor, and is now a member of the Board of Directors. He is also the current Manitoba Law Students' Association representative to the Manitoba Bar Association. Kyle's research explored ways to increase institutional freedom in several areas — including healthcare and education — by studying national and international models which include more diversity and choice. "Being able to combine my personal interest in public policy with a fun work atmosphere has been a unique and exciting experience!"

All articles in this newsletter compiled by Bryan Schwartz. Layout and design of this newsletter facilitated by the Robson Hall Communications Department Jennifer Chlopecki & Sue Law.



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