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CUSTOMARY
CHANGE

KNOWLEDGE, TECHNOLOGY
AND LEGAL WISDOM IN THE
DIGITAL AGE

2015-16 / HIVER

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EN
COUVERTURE

This year, the Faculty of Law's annual *Focus* magazine explores the brave new world of knowledge transmission—the transmission of legal knowledge in particular—in an age of change. Pictured above: some of the volumes tucked away in the Peter M. Laing Rare Book Room of the Nahum Gelber Law Library.

GARDEZ LE CONTACT

Stay in touch online: www.mcgill.ca/law/alumni

Passez lire notre mensuel électronique, *Focus online*, pour des articles sur nos professeurs, étudiants et diplômés: Publications.mcgill.ca/droit

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ARTISTIC CONVICTION

When Old Chancellor Day Hall closed for renovations, the walls of the building that give onto the Atrium were boarded up with drab drywall.

To bring some life back to the space, the Law Students' Association-funded Art Committee initiated a project to decorate the walls with art.

« Le mandat que nous a donné le doyen était d'enjoliver l'atrium », explique Nicholas Charest, étudiant en première année en 2014 qui a participé au comité.

Charest, who arrived at McGill after completing a liberal arts degree at Champlain College, created a website asking students for suggestions and contacted artists across the country, eventually choosing Montreal-Khmer-French artist Fonki to create four murals, each four feet by eight feet.

“I've been calling it the Corner of Conviction,” Charest said of the area of the Atrium where the four murals were installed. The name is a reference to the theme of the works, which feature two outstretched hands as well as profile images of Pakistani human-rights advocate Malala Yousafzai, and Burmese politician and activist Aung San Suu Kyi.

And while the reopening of Old Chancellor Day Hall means the Corner of Conviction will be displaced and a new home found for the works of art, Charest hopes that the project has demonstrated the appeal of bringing more colour to the Atrium.

“It would be fun to protect the space and do drip painting à la Jackson Pollock,” he said, smiling. “Or have a wall where students can write on it, the way they do with the chalkboard that is already there. Art doesn't have to just be decorative. It can be very physical, very emotional.”



(Clockwise from above): Pouring the glaze on one of the canvases
A detail from one of the works of art
The Corner of Conviction was installed in the Atrium linking Old and New Chancellor Day Hall

SPRING CONVOCATION 2015

THIS YEAR, LAW'S SPRING CONVOCATION TOOK PLACE ON MAY 28, AND FEATURED A TRIO OF ELOQUENT SPEECHES FROM DEAN DANIEL JUTRAS, HONORARY DOCTORATE RECIPIENT MARTTI KOSKENNIEMI AND VALEDICTORIAN DAVID GROVES. A SUMMARY OF THE EVENT, WITH EXCERPTS FROM KOSKENNIEMI AND GROVES ON THE BIGGER PICTURE FOR LAW AND LEGAL EDUCATION.

Cette année, l'Association des étudiantes et étudiants en droit (AÉD) a remis le prix John W. Durnford d'excellence en enseignement au professeur **Frédéric Bachand**. Dans sa présentation, la professeure Angela Campbell a souligné que nos « étudiants ont montré leur appréciation... pour un professeur emblématique de notre mission pédagogique: enseigner le droit dans une perspective transsystémique, au sens le plus large. » Dans sa nomination, l'AÉD a mis en relief « son dynamisme incomparable », « sa passion contagieuse » et la structure très claire de tous ses enseignements.

Martti Koskenniemi, a professor of International Law at the University of Helsinki and the Director of the Erik Castrén Institute of International Law and Human Rights, was awarded the LL.D. distinction.

In his address, Koskenniemi spoke about how “Law not only has a rightful place at the university... with theology and medicine, it became one of the three higher faculties at medieval universities. To be in a higher faculty meant—and I suggest still means—that its study is designed to have a practical effect, practical in the Aristotelian sense, directed at human flourishing.

“Medicine was to bring about the flourishing of the human body; theology, the flourishing of the human soul; law was and is meant to realize the happiness of human beings as social animals. Law was and is the science of the flourishing of the human community. Like theology and medicine, law is both a craft and a practice of intellectual reflection.”

Valedictorian **David Groves**, BCL/LLB'15, gave a humorous speech about the beauty of failure: “Everyone here, success aside, has struggled... Everyone had their colossal errors of judgment, their missed deadlines, their comic misunderstandings. No one was immune. Mais loin d'en avoir honte, nous devrions nous réjouir de nos échecs, ou à tout le moins en réaliser la valeur. Because while unending success might make you a great lawyer, the occasional failure will make you a good person.”

*Enjoy more photos and catch the videos here:
<http://publications.mcgill.ca/droit/2015/06/01/2015-convocation/>*



MARTTI
KOSKENNIEMI



DAVID
GROVES



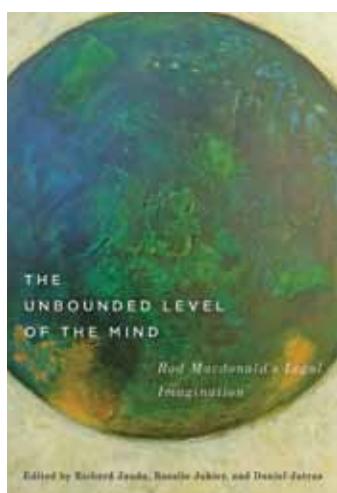
FRÉDÉRIC
BACHAND



(Clockwise from above): Frédéric Bachand receives the John W. Durnford Teaching Excellence Prize, as awarded by the Law Students' Association.

David Groves encourages his classmates to celebrate both unending success and occasional failure.

Martti Koskenniemi reminds graduates that Law, as one of the higher faculties at medieval universities, was designed to encourage the study of human beings as social animals.



McGill-Queen's University Press, July 2015. 304 Pages. Formats: paperback, cloth. Cover art: Pothole (2000). Acrylic painting by Shelley Freeman, a Montreal artist and Macdonald's spouse.

THE UNBOUNDED LEVEL OF THE MIND

ROD MACDONALD'S LEGAL IMAGINATION

A BOOK OF ESSAYS HONOURING ONE OF CANADA'S MOST BRILLIANT LEGAL MINDS, EDITED BY PROFESSORS RICHARD JANDA, ROSALIE JUKIER AND DANIEL JUTRAS, IS NOW AVAILABLE FROM MCGILL-QUEEN'S UNIVERSITY PRESS.

The Unbounded Level of the Mind brings together the fascinating essays developed from presentations made at a symposium held in February 2014 at McGill's Faculty of Law, in honour of Rod Macdonald.

Eminent legal scholars from Canada and beyond explore various aspects of Macdonald's rich scholarship, reflecting on the influence it has had on their own work and its implications for the future. Organized around six cross-cutting themes—kaleidoscopic federalism, producing fairness, pluralizing the subject, the priority of distributive justice, contextualizing governance, and pursuing virtue—this volume is both a tribute to Macdonald's dedication to the law and a call to challenge all assumptions in the quest to better our society.

Find out more: bit.ly/unboundedlevel

Roderick A. Macdonald (1948-2014), internationally renowned for his expertise on access to justice, legal pluralism, and the philosophy of law, was first and foremost a teacher and mentor. He believed in the law as a promise our society makes to itself, and passionately imparted this message to students who went on to become lawyers, judges, and

academics. Throughout his career, including participation in several government commissions and tenures as dean of law at McGill University and president of the Law Commission of Canada, he strove to promote ideas that have become woven into our contemporary understanding of unity, reconciliation, accommodation, and social justice.

FACULTY NEWS FLASHES

Professor **KIRSTEN ANKER** was the inaugural recipient of the Richard M. Buxbaum Prize for Teaching in Comparative Law, awarded by the American Society of Comparative Law in April 2015. Anker also recently published a book titled *Declarations of Interdependence: A Legal Pluralist Approach to Indigenous Rights* (Aldershot, 2014).

Le Barreau du Québec a attribué à **FRÉDÉRIC BACHAND** la distinction Avocat émérite (Ad. E.).

ANGELA CAMPBELL was appointed Associate Provost (Policies, Procedures and Equity), starting September 1, at McGill University.

RICHARD GOLD was named Associate Dean (Graduate Studies) in her place.

FRANÇOIS CRÉPEAU, titulaire de la Chaire Oppenheimer en droit international public, est devenu directeur du Centre sur les droits de la personne et le pluralisme juridique le 1^{er} août. Il succède à **COLLEEN SHEPPARD**, qui en avait pris la barre en 2010.

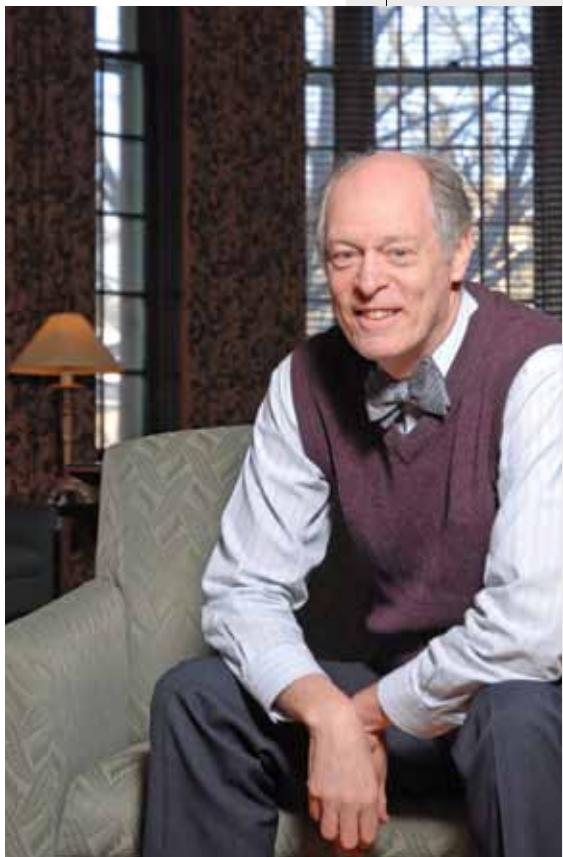
ANDREA BJORKLUND was named the first Scholar in Residence of the International Centre for Settlement of Investment Disputes.

JAYE ELLIS was appointed Acting Director of the McGill School of Environment (MSE) for a one-year term beginning in September 2015.

ADELLE BLACKETT, FABIEN GÉLINAS, DAVID LAMETTI, ROBERT LECKEY, RENÉ PROVOST, GENEVIÈVE SAUMIER et SHAUNA VAN PRAAGH ont été promus au rang de professeur titulaire, tandis que **PAUL B. MILLER** et **VRINDA NARAIN** ont accédé au rang de professeur agrégé.

ROBERT LECKEY, who has a new book out, *Bills of Rights in the Common Law* (Cambridge U. Press, 2015), was elected in 2014 to the Global Young Academy, a prestigious organization that addresses topics of global importance.

HOI KONG a été nommé vice-doyen aux études et à la vie étudiante pour un mandat de deux ans. Il participe aussi très activement à la révision du programme d'études.



THE RODERICK A. MACDONALD

MEMORIAL TRIBUTE CAMPAIGN

Over a year ago, McGill University bid farewell to Professor Roderick A. Macdonald, one of its most generous, brilliant and dedicated members—a wonderful, original, caring and passionate human being and scholar, a model for us all.

His bold vision of legal education, his extraordinary energy as a scholar, his ability to redefine and reimagine the boundaries of law, his deep commitment to justice, his unfailing integrity, and his dedication to his students and colleagues—all continue to inspire us.

La Faculté de droit a ainsi lancé une campagne pour créer un héritage durable à sa mémoire. Petite ou grande, votre contribution vous permettra de participer concrètement au succès de notre projet à la mémoire de Rod!

Découvrez le projet que nous avons imaginé sur le site Seeds of Change de l'Université McGill : bit.ly/RodTribute

FRÉDÉRIC MÉGRET has been named a William Dawson Scholar for a five-year term. Mégret finished his mandate as the Faculty's Associate Dean of Research, which has been taken up by **LARA KHOURY**.

The Centre for International Governance Innovation appointed **ARMAND DE MESTRAL** as Senior Fellow of its International Law Research Program in December 2014.

Première titulaire de la Chaire Peter MacKell sur le fédéralisme, **JOHANNE POIRIER** est entrée en poste en août 2015. Faites connaissance avec elle à la page 21.

MARGARET SOMERVILLE received the 2014 Jean Echlin Award for Ethics in Palliative Care, and was invited as a thought leader at the inaugural BEINGS Biotech and the Ethical Imagination Global Summit that took place in May 2015.

Le Barreau du Québec a remis son Mérite Innovations 2015 au Laboratoire de cybersécurité, cofondé en 2010 par le professeur **FABIEN GÉLINAS**. Ce dernier a par ailleurs été élu président du Comité d'arbitrage de la Chambre de commerce du Canada en novembre 2014.

In June 2015, the Faculty hosted the Canadian Maritime Law Association's **WILLIAM TETLEY** Memorial Symposium to celebrate the contribution of the late Professor to maritime and international law, and to Quebec society as a Member of the National Assembly and Cabinet Minister, and as a great humanist.

Kicking off the **LI KA SHING** Professors of Practice program, Professor **GUANGHUA YU** of the University of Hong Kong's Faculty of Law joined us in August for a period of five months to teach Chinese Business Law. Another scholar, Professor **QIAO LIU**, from the TC Beirne School of Law at the University of Queensland, will be in residence from January to June 2016.

STUDENT PROFILE

NGOZI OKIDEGBE

NGOZI OKIDEGBE HAS MADE A PRACTICE OF REACHING FOR THE LONG SHOTS, AND IT HAS PAID OFF.



Ngozi Okidegbe moved to Montreal eight years ago because she had fallen in love with the city during a visit from her native Washington, D.C. She had started her undergraduate education at a liberal arts college in the United States, but made a snap decision to change course.

"Midway through my first year, I just kept thinking about how much I loved Montreal," she says, smiling at the memory. "One of my friends said, 'Why don't you just apply?' and I said, 'Huh, I had never thought of that.'"

She studied History at Concordia and then applied to the Faculty of Law, uncertain about her chances of getting in.

But she told herself to give it a shot, poured her heart into her admissions essay and was pleasantly surprised when she was accepted.

She was similarly pleasantly surprised by her successful applications to clerk at the Ontario Court of Appeal, the Constitutional Court of South Africa, and for her academic publications at the International AIDS conference and *Canadian Journal of Law and Technology*.

"For so many of these opportunities, I thought, 'Long shot. No way am I going to get that,'" she says. "But in the end, I think you feel just as bad if you don't apply, if you think you are not good enough. Then you have a terrible feeling inside your heart."

The newly minted BCL/LLB grad brings this irrepressible energy and enthusiasm to everything she does, and it is her optimism that helped her get through the culture shock of being a first-year student.



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YOU ARE NOT GOOD ENOUGH."**

"When I started law school, I actually wanted to be an academic but after my first semester, I started thinking, 'No, I have to be a lawyer, that's why you go to law school.' Also, my first semester didn't go very well, which made me think I had to give up on the dream," she says, again grinning at the memory. "I got grades I was not accustomed to—I got a lot of Bs, a few B minuses and even one C plus!"

In her second term, she reached out for help, asking upper-year students for advice, and found that this improved not only her grades but the entire experience of being at McGill.

"It was really scary, especially for me, to come from a smaller pond at Concordia and be in this huge pond with all these amazing students and not being sure where I was going to fit," she says. "I think that happens with a lot of students and now that I'm done, one of the things I realize is that there's no winning law school. There's no pot of gold at the end that some people get and some people don't. You just take all the opportunities that come your way and you will find something that will work for you."

In the second term of her first year, Okidegbe organized a gathering to mark the death of Trayvon Martin, who was shot by a Neighborhood Watch volunteer in Florida, in February 2012.

"I put a post on Facebook about how I wanted to wear a hoodie in solidarity with those protesting his death in the United States and immediately I was overwhelmed with comments of others saying, 'I want to do that, too,'" she recalls. "So we started a group, where over 500 people indicated their support, and we were featured in the local news."

The experience was Okidegbe's initiation to the active engagement of the McGill Law student community and she drew inspiration from that to start an exam prep session for first years, to actively mentor other students, and to join the Black Law Students Association, where she has held active posts throughout her time at McGill.

"This is a community where people are really aware of the issues going on and you can always find support for different initiatives," she says. "There is a stereotype of law students only caring about reading and getting good grades, and what is great

about McGill Law is that that is not the case. Students are involved in the community and care and want to advance really amazing positive changes."

In her second year, Okidegbe hit her stride, becoming a research assistant for Professors Juanita Westmoreland-Traoré and Adelle Blackett. She wrote a paper about HIV discrimination in Nigeria for a class she took with Professor Vrinda Narain, who recommended she try to get it published and look for opportunities to present it, which she then did at the International AIDS conference.

In her third year, she clerked at the Municipal Court of Montreal and wrote a paper about bit torrent technology that got her published in the *Canadian Journal of Law and Technology*.

"I mentor first and second years and I notice that they often count themselves out of opportunities because they think they won't get it, but at the end of the day, you can't exclude yourself," she says, her fearless optimism brimming through her smile. "Let yourself get rejected. Let them reject you. Don't do it for them."

Ngozi Okidegbe is currently clerking for Justice Mbuyiseli Madlanga at the Constitutional Court of South Africa. Her clerkship is made possible by the Schull Yang International Experience Awards, created thanks to the generosity of Joseph Schull (BA'82, MA'85) and Anna Yang (BCL, LLB'88) to help students gain first-hand international experiences related to their fields of study.



**THIS IS A COMMUNITY WHERE PEOPLE ARE
REALY AWARE OF THE ISSUES GOING ON
AND YOU CAN ALWAYS FIND SUPPORT FOR
DIFFERENT INITIATIVES.**

STUDENT NEWS FLASHES

Recent graduates **CORINA MANOLE** (BCL/LLB'15) and **ÉTIENNE COSSETTE-LEFEBVRE** (BCL/LLB'14) finished first and second respectively among the École du Barreau du Québec's 2014-2015 cohort. Having obtained the two highest scores among 1,092 students, they were entered in the Quebec Bar's Honour Roll of Excellence. (In 2014, the Faculty had a Quebec Bar exam success rate of 91.23 percent without additional preparatory courses, the highest rate among all Quebec faculties of law.)

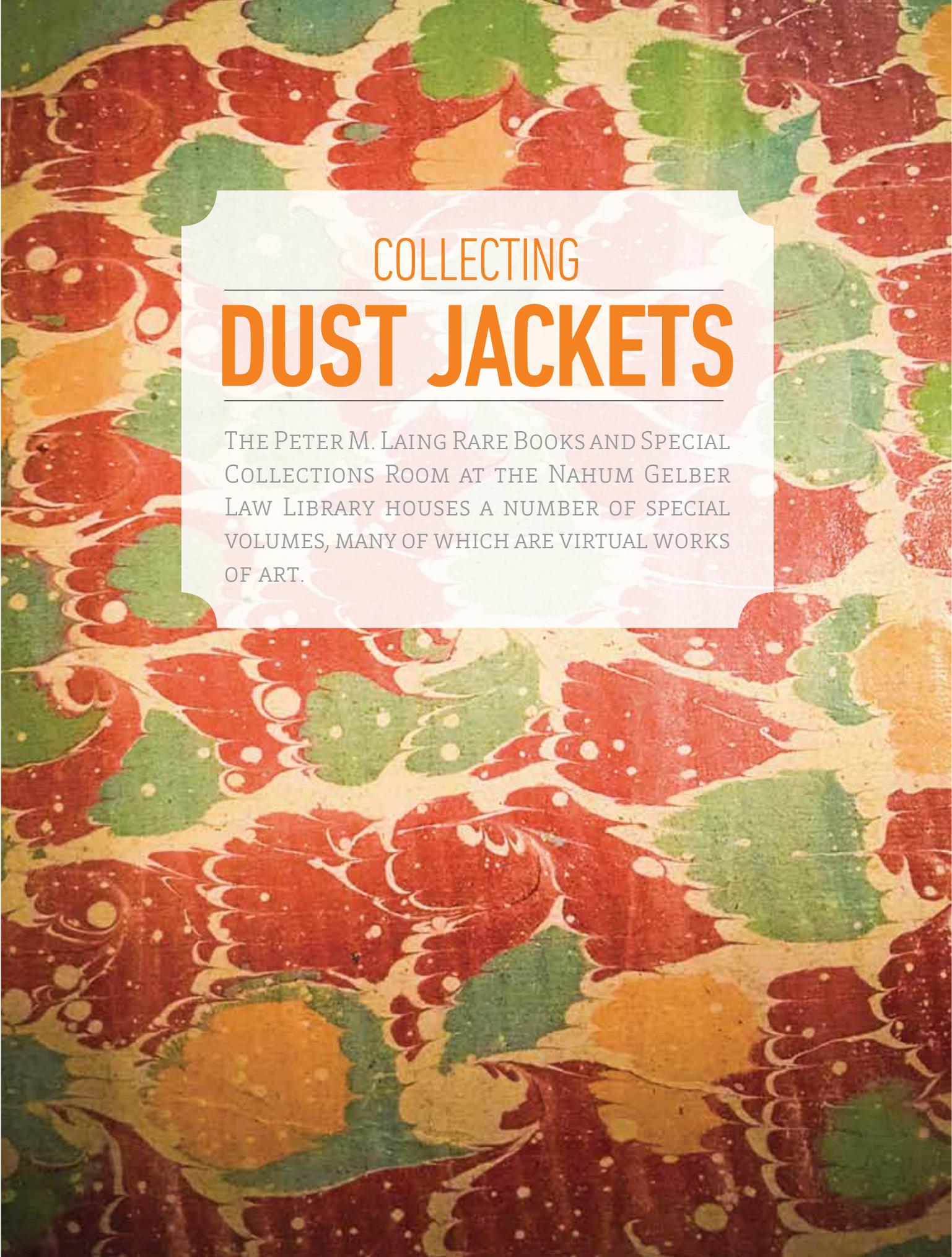
IÑAKI NAVARRETE a participé à une séance de négociations à la Commission interaméricaine des Droits de l'Homme.

Le tandem mcgillois composé d'**OLIVIER BEAUBIEN** et **GABRIELLE TREMBLAY** a remporté la grande finale au concours de débats oratoires Droit de cité, organisé par le Barreau du Québec, la clinique Juripop et la station de radio montréalaise CIBL.

ALYSSA WISEMAN & VIVIEN LEUNG competed for the prestigious Hult Prize with Team MILA (MILestone Achievement through play), a group of women from McGill who want to solve the problem of bringing early childhood education to urban slums with their plan for a sustainable fair trade educational toy system.

Four students were given the nod to clerk at the Supreme Court of Canada for 2016-2017: **CAROLINE BÉLAIR**, **JESSICA MAGONET**, **JOHN ZELENBABA** and **JÉRÉMY BOULANGER-BONNELLY**. Professor Paul Miller oversaw the clerkship application process, the outcome of which has matched Bélair with Madam Justice Rosalie Abella, Boulanger-Bonnelly with Mr. Justice Clément Gascon, Magonet with Madam Justice Andromache Karakatsanis and Zelenbaba with Madam Justice Suzanne Côté.

More than 40 students participated in various moots, whose themes ranged from criminal law and international law to securities and social justice.



COLLECTING **DUST JACKETS**

THE PETER M. LAING RARE BOOKS AND SPECIAL COLLECTIONS ROOM AT THE NAHUM GELBER LAW LIBRARY HOUSES A NUMBER OF SPECIAL VOLUMES, MANY OF WHICH ARE VIRTUAL WORKS OF ART.

The Gelber Law Library's esteemed Wainwright Collection was established in 1958 with the acquisition of several hundred volumes dedicated to the history of French law. The collection is primarily composed of early French jurists on general civil law before the Codification of 1804 and was the personal library of French legal historian François Olivier-Martin. At the time of its acquisition, it was considered one of the most comprehensive private law libraries in France.

The books were shipped from Paris to Le Havre and then to Montreal in six crates aboard the S.S. Montreal. Upon their arrival, they were sorted and shelved in a special room on the third floor of Old Chancellor Day Hall. This room, the Wainwright Room, was so named in acknowledgement of McGill Law graduate Arnold Wainwright, BA1899, BCL1902, who taught at the Faculty for a quarter century and who bequeathed his estate to the Faculty upon his death in 1967.

In the 1980s, the Wainwright Fund evolved to allocate an annual amount of money to be dedicated to continue to acquire volumes for the collection. These acquisitions have allowed the library's collection to move beyond the classic vision of civil law, centred on France, to reflect the global influence of civil law across languages and continents.

Today, it consists of 800 works comprising 1,200 volumes and is conserved in controlled atmospheric conditions in the Peter M. Laing Room of the Gelber Library.

The collection's physical presence provides fascinating insight into how technology has shaped, and is continuing to shape, the legal profession. Access to information, which could also be considered access to insight, underpins the study of law, and these rare books are a tangible—and beautiful—reminder of how that information was collected, contained and passed on.

Digital technology has changed the playing field, Gelber Head Librarian Daniel Boyer notes.

"In many ways, computers have democratized the practice of law," Boyer says. "When I was practicing law, the big firms had access to what we call a *jurisprudence occulte* that less-endowed jurists didn't have access to. Now, if they have a QuickLaw or SOQUIJ password, everybody has access to the same pool of resources."

A lawyer by training who obtained a degree in Library Science from McGill, Boyer designed a course in the 1990s for the National Judicial Institute to help judges understand and make the best use of computer-assisted legal research. He opened the course showing his pupils—the judges—a side-by-side comparison of the print version and CD-ROM version of a dictionary (Oxford English Dictionary for the Anglophones and the Grand Robert for the Francophones).

"When these tools were paper-based, it was fairly unidimensional because you looked up words according to the alphabet," Boyer explains. "In a database, we have all the articles from all the law journals, and I can see the word I am looking up, used in context."

The result: an immediate broadening of perspective thanks to a simple restructuring of how information is presented. This is what makes access to technology so powerful, Boyer argues. "The big challenge, whether you are a first-year law student or a Supreme Court judge, is characterization, or, in French, *qualification*. Using dictionaries to define legal concepts is a very helpful part of that process."

The demonstration impressed the judges, and Boyer also took the opportunity to point out the impact computers would have on people's daily lives.

"As judges and lawyers, we have to understand the impact the digital evolution has on society."

(Below) A recent addition to the Wainwright Collection — one of only four copies of the *Coutumes générales du duché d'Aoste*. Published in Chambery by Loys Pomar in 1588, this volume has kept its original binding in hard vellum with its three-node spine ornamented with gilded florets.



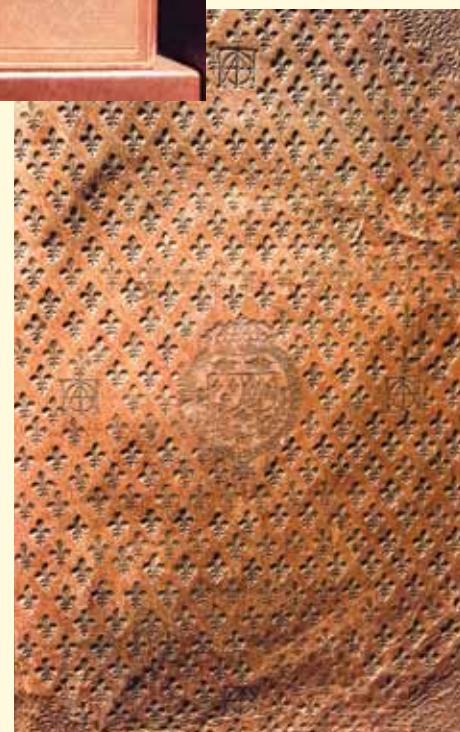
(Above) Books numbered and sorted for resheling in the Peter M. Laing Rare Book Room.



Selection of 17th-to-18th century UK case reporters.



Imperial Institutions, published in Amsterdam by Lodewijk Elzevir in 1652.



Les six livres de la république de J. Bodin (1580) in original binding embossed in fleur-de-lys pattern.

TAKE A VIDEO TOUR OF THE
PETER M. LAING ROOM:
[HTTP://BIT.LY/22504i1](http://bit.ly/22504i1)

De la

DOCTRINE

aux pages des

JOURNAUX

LES JURISTES,
L'ENGAGEMENT SOCIAL ET
LE DÉBAT PUBLIC

/ par AURÉLIE LANCTÔT /

LES JURISTES QUI CHOISISSENT DE MENER DES RECHERCHES ENGAGÉES ET DE PRENDRE LA PAROLE PUBLIQUEMENT POUR EN FAIRE LA PROMOTION FONT ŒUVRE UTILE. ILS CONTRIBUENT À BRISER L'IMAGE QUE L'ON SE FAIT SOUVENT DES UNIVERSITAIRES DANS LEUR TOUR D'IVOIRE.

L'engagement social des juristes apporte au débat public une perspective fondamentale en amorçant un dialogue sur ce que nous nous estimons être juste, collectivement. Pour les professeurs de droit, la participation au débat public, d'une manière ou d'une autre, est presque incontournable. Les professeurs de la Faculté s'acquittent dûment de leur fonction d'intellectuels publics. Lorsque l'actualité met de l'avant les sujets qui les préoccupent, ils n'hésitent pas à sauter dans l'arène pour apporter leur perspective savante à la discussion.

On voit alors régulièrement les professeurs de la Faculté de droit de McGill s'illustrer dans les médias en publiant des lettres

ouvertes, généralement sur des sujets en lien avec leur champ de recherche. Ils interviennent aussi sur les ondes radio et télé, passant souvent du français à l'anglais, afin de présenter à leurs concitoyens une analyse avisée de divers enjeux liés à leurs champs d'expertise.

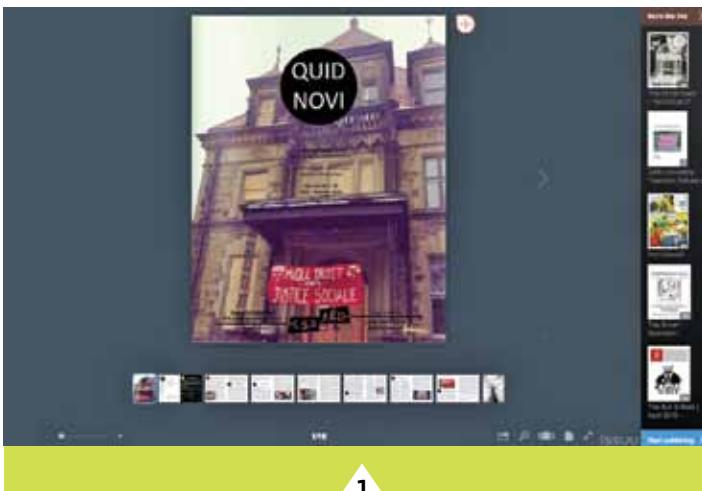
Les exemples sont légion. Le professeur Robert Leckey, par exemple, contribue régulièrement à divers médias francophones et anglophones, sur des sujets aussi variés que le mariage gai, les droits de personnes trans, la procréation assistée, ou encore, la Charte des valeurs.

En mars 2015, la professeure Shauna Van Praagh publiait dans le *Globe and Mail* un article visant à alimenter la réflexion sur la



LORSQUE JE PRENDS LA PAROLE PUBLIQUEMENT, C'EST PARCE QUE JE RESSENS UN CERTAIN DEVOIR. NOUS AVONS LE PRIVILÈGE DE TRAVAILLER DANS UNE INSTITUTION FINANCIÉE PAR LES CITOYENS, NOUS JOUISSEONS DE CERTAINS PRIVILÈGES ET GRÂCE À CELA, NOUS AVONS ACQUIS UNE CERTAINE EXPERTISE."



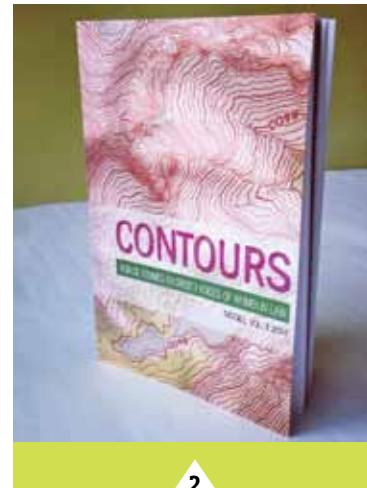


1

liberté religieuse dans les salles de classes au primaire et au secondaire, à la lumière de la décision rendue par la Cour suprême dans l'affaire *Loyola High School*. Le professeur Daniel Weinstock a réagi à la décision du gouvernement conservateur de contester en Cour suprême le jugement de la Cour d'appel fédérale ordonnant le maintien du droit de prêter serment à visage couvert.

Le professeur Frédéric Mégret a discuté des dessous juridiques de l'affaire Dominique Strauss-Kahn sur les ondes de Radio-Canada, alors que la professeure Angela Campbell a commenté la décision de la Cour suprême du Canada qui, en 2014, avait invalidé des dispositions des lois canadiennes sur la prostitution. La professeure Margaret Somerville multiplie les interventions publiques sur de nombreuses questions qui touchent à l'éthique, notamment sur l'assistance médicale à mourir. La liste pourrait s'étirer longtemps.

Le professeur Richard Gold, régulièrement invité par les médias à commenter le droit canadien en matière de brevets, considère pour sa part qu'il incombe aux académiques de s'assurer que leurs travaux de recherche pourront se traduire en mesures d'action concrètes capables d'avoir un impact réel sur le monde. Pour Robert Leckey, les interventions sur les tribunes publiques découlent d'un véritable sentiment de responsabilité. « Lorsque je prends la parole publiquement, c'est parce que je ressens un certain devoir, explique-t-il. Après tout, nous avons le privilège de travailler dans une institution financée par les citoyens, nous jouissons de certains priviléges et grâce à cela, nous avons acquis une certaine expertise. »



2



3

DES PLUMES INCISIVES

Les juristes ont souvent la parole franche et fluide, ainsi que la plume incisive. Et surtout : ils ne ratent jamais une occasion de parler, encore moins de s'obstiner, dira-t-on à la blague ! Cela n'est pas un reproche : c'est bien ce qui fait leur charme redoutable.

Cette inclinaison évidente à la prise de parole et à la revendication s'esquisse souvent déjà sur les bancs de l'université.

À la Faculté de droit de McGill, plusieurs étudiants tiennent un blogue, contribuent à des journaux étudiants ou publient des lettres ouvertes, n'hésitant pas à prendre la plume pour défendre ce qui leur semble juste.

On soulignera à cet égard les micropolémiques qui envahissent régulièrement les pages du *Quid Novi* (1), la proverbiale gazette hebdomadaire de la Faculté. Certaines revues à vocation engagée ont été également mises sur pied par des étudiants.

On pense par exemple au magazine *Contours*, (2) une revue consacrée à l'analyse féministe du droit. Ou encore les nombreuses revues de droit de la Faculté, de la vénérable *Revue de droit de McGill* à la *Revue de droit et santé de McGill*, en passant par la *Revue internationale de droit et de politique du développement durable de McGill* (3), dont le comité éditorial se compose d'étudiants déterminés à mettre en valeur la littérature savante consacrée au développement durable et aux transformations des politiques publiques à cet égard.



4



5

D'autres étudiants choisissent de tenir un blogue sur une base individuelle. Moses Gashirabake, étudiant de 3^e année, publiait dans *The Gazette* en avril 2015, à l'occasion du 21^e anniversaire du début du génocide au Rwanda, un article sur la promotion de l'enseignement supérieur chez les survivants rwandais (4).

Au cours de la session d'hiver 2015, Raymond Grafton, Margery Pazdor, Erin Moores et Soumia Allalou ont tous apporté leur contribution, dans divers médias traditionnels (CBC, *The Gazette*, etc.), au débat entourant la création de plages horaires non-mixtes aux installations sportives de l'Université. (5)

Certains étudiants de la Faculté, comme Michaël Lessard ou Suzanne Zaccour, choisissent quant à eux d'offrir leur contribution au magazine en ligne de débats et d'idées *Point de fuite* (6), qui met de l'avant les points de vue des jeunes de 30 ans et moins issus de divers horizons.

LE JURISTE DANS LA CITÉ

Selon le professeur Leckey (7), les liens sont plus étroits qu'il n'y paraît entre recherche, enseignement et intervention publique, d'autant plus qu'avec l'avènement des réseaux sociaux et de l'information continue, il est de plus en plus facile de s'exprimer publiquement.



6

Même son de cloche du côté d'Allen Mendelsohn (8), BCL/LLB'01, avocat spécialisé en droit de l'Internet, qui tient un blogue et intervient régulièrement sur les plateaux de télévision et à la radio sur des enjeux en lien avec le droit, le Web et les nouvelles technologies. Selon lui, les juristes, praticiens comme professeurs, ont un devoir de vulgariser les enjeux juridiques pour leurs concitoyens.

« Chaque fois que j'écris un billet de blogue, souligne-t-il, je pense au public et je me demande : comment leur expliquer les enjeux juridiques de façon exacte, mais simplifiée ? »

Selon lui, trop rares sont les juristes qui déploient un tel effort de vulgarisation. Il déplore qu'au sein de la profession juridique comme des facultés de droit, les détenteurs du savoir juridique sont trop souvent enclins à rester dans leur « tour d'ivoire ».



7

« Cela m'inquiète pour l'avenir de la profession et l'avenir des affaires juridiques, indique M^e Mendelsohn. Les citoyens devraient être à même de mieux comprendre leurs droits et responsabilités de base. Quand les avocats disent qu'on ne doit pas trop vulgariser le droit, ça me dérange. C'est très important pour la profession et l'avenir du monde juridique que les gens aient accès au savoir juridique. »

De façon générale, les interventions de ces juristes et apprentis juristes dans le débat public sont toujours stimulantes et enrichissantes pour les citoyens. Lorsque des professeurs de droit s'expriment, il faut également noter que cela fait rayonner la vie



**CHAQUE FOIS QUE J'ÉCRIS UN BILLET DE BLOGUE,
JE PENSE AU PUBLIC ET JE ME DEMANDE : COMMENT LEUR EXPLIQUER
LES ENJEUX JURIDIQUES DE FAÇON EXACTE, MAIS SIMPLIFIÉE ?"**



8

intellectuelle de la Faculté. Nous qui la fréquentons savons qu'elle est riche et qu'entre les murs du Chancellor Day Hall, les débats sont nombreux et effervescents. Autant partager ce joli bouillon avec l'ensemble de la collectivité.

Lorsque le juriste prend la parole dans la cité, en dehors des milieux savants, peut-être doit-il se rappeler que pour contribuer vraiment à la marche de la société, il se doit de se « décoller » du droit pour amorcer véritablement, avec ses concitoyens, un dialogue sur ce que nous estimons être juste, collectivement. C'est sans doute là que loge la responsabilité première du juriste dans la société. Pour parler véritablement de cette chose qu'on appelle la justice, peut-être faut-il oser sortir un instant du droit, pour y replonger ensuite, de meilleure façon.

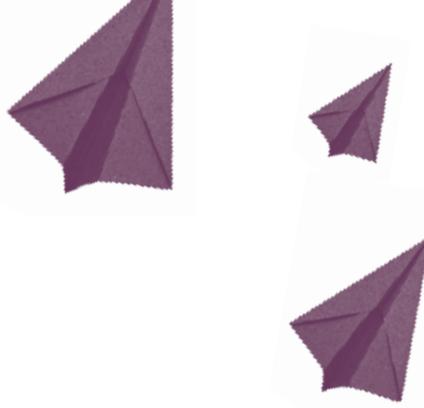




CREATE, REGULATE, INNOV8

RESEARCHERS AT THE CENTRE FOR INTELLECTUAL PROPERTY POLICY TAKE A HANDS-ON LOOK AT WHERE NEW IDEAS COME FROM AND WHAT WE DO WITH THEM

/ by MARK WITTEN /



A comparison of Montreal and Silicon Valley's legal and regulatory rules. An educational documentary. A public interest lawsuit in Federal Court. A journal article on how the presence of the digital cloud affects copyright. Legal research comes in all shapes and sizes and these are just some of the examples of research underway at the Faculty of Law's Centre for Intellectual Property Policy.

The CIPP is a hub for research and action, through which its members and collaborators on five continents carry out cutting-edge research in the realms of technological and artistic innovation.

A key to keeping these research findings relevant is to communicate the results clearly and openly to the people who need the information. The Centre disseminates its findings not only through workshops, conferences and academic publications, but also public discourse in the media, appearances before parliamentary committees and the submission of educational briefs to the courts.

Three action-oriented research initiatives by CIPP members—Professors Pierre-Emmanuel Moyse (its director), Allison Christians, Richard Gold and David Lametti—look at how existing intellectual property laws and practices may often deter rather than spur innovation. This critical questioning leads to new ideas and perspectives on how the law can best advance creativity and the broad dissemination of knowledge, hence innovation—in a global context.

LAW AND THE CREATIVE DISTRICT

In their research project "Regulating Innovation: Law and the Creative District," Christians and Moyse are investigating how legal institutions, regulations and the ability to enforce the law affect the creation and development of new ideas, products and methods. Through literature reviews and field interviews with industry employers and employees in creative roles, they plan on examining the effects of varying legal and regulatory rules and practices in several innovative districts, including Montreal and Silicon Valley.

The team conceived of this project as an opportunity to look at two areas of law that are drivers of innovation—intellectual property and taxation—and chose Montreal because its aggressive tax incentives and rigorously enforced non-compete covenants were developed for the purpose of attracting innovation to the area.

PIERRE-EMMANUEL MOYSE



ALLISON CHRISTIANS



IP TAX BREAK PERILS

The H. Heward Stikeman Chair in Tax Law, Professor Allison Christians is a tax law specialist and co-investigator with Moyse on this CIPP research project. She will look at the economic effects of tax incentive schemes governments use to attract technology companies. Examples of these tax regimes include research and development credits, tax holidays and patent boxes, which offer reduced tax rates on profits from IP licensing or products derived from patents in that jurisdiction.

States increasingly offer such tax incentives in the hope of gaining a net benefit from increased jobs and consumer spending resulting from technology businesses in that district. But Christians questions whether these regimes have the intended effect of attracting technology or innovation businesses to a given jurisdiction and whether the innovation district really gains the promised economic benefits.

"Our hypothesis is that tax incentives are not driving business decisions about where to locate. If governments offer tax incentives, businesses will gladly take them but enterprises and innovators are motivated to locate in places where the workforce has access to good education, social services and health care," Christians says.

Indeed, Christians argues, government tax policies are key to creating a healthy society that is a foundation for innovation, but many government policies encourage tax avoidance and represent a larger governance crisis.

U.S. congressional hearings revealed that Apple, for example, had successfully avoided US\$44-billion in taxes from 2009 to 2012. One common tax avoidance method is a clever IP manoeuvre, which involves moving a patent or trademark to a subsidiary in a low-tax jurisdiction, charging a royalty to subsidiaries in other countries for using it, and in this way shifting profits away from higher-tax countries.

Christians argues that new governance policies are needed that would require technology companies to pay their fair share of taxes to support the social and educational infrastructure that encourages innovation and broad dissemination of knowledge. "Taxes pay for the good education and social services that build a healthy society that is a foundation for innovation," she says.

A final product of the study by Christians and Moyse will be a storyboard and script outline for an educational documentary, which would use the 2011 Martin Scorsese film, *Surviving Progress*, as a model. "We don't want to stop with the publication of academic papers. We'll move on from there and have more impact on planning policy with a documentary through which the issues and arguments can be presented to a non-academic viewer," Christians says.

RICHARD GOLD



GENE PATENT ACTION PROMOTES INNOVATION AND PUBLIC ACCESS

Richard Gold, a James McGill Professor and a founding director of the Centre for Intellectual Property and Policy, sees the need for academics to translate their research into policy actions that have an impact in the real world of technological innovation. Last November, Gold announced his involvement in a Children's Hospital of Eastern Ontario, or CHEO, legal action filed in Federal Court. The action challenged U.S. patent holders of five human genes related to Long QT syndrome, a rare heart disorder. He says that the purpose of his involvement is to develop patent law so that it supports Canada's public health care system.

Gold is leading an international team of lawyers, academics and scientists who are offering their expertise on gene patenting and the delivery of medical care. The case addresses issues not only of genetics but also of policymaking and its consequences. Gold has previously tackled this subject, most notably in 2013, when he submitted an amicus brief to the U.S. Supreme Court in *Association for Molecular Pathology et al v. Myriad Genetics*, based on his research. The court ruled that it isn't possible to patent naturally occurring genes because they are products of nature, invalidating the patents on the BCRA1 and BCRA2 genes (associated with an increased risk of breast and ovarian cancer) in the U.S.

Because it is a U.S. decision, it tells us little about whether the thousands of gene patents that exist in Canada are valid, because Canadian courts haven't addressed the issue. Gold thinks Canadian legislators are unlikely to intervene to change the patent statutes. So he and his colleagues worked with CHEO, a leading Canadian health care institution that delivers and develops genomic medicine, which was keen to bring the issue before the courts.

"There isn't a lot of public intervention in Canadian patent law. The CHEO action was launched as a test case to get clarity on whether gene patents are valid in Canada. The U.S. Supreme Court ruled these types of patents are invalid but we have no similar ruling in Canada. We need to restore certainty about the rules for the benefit of patients and innovators," Gold says.

DAVID LAMETTI



The patents in this case relate to Long QT syndrome, a heart rhythm disorder that can trigger sudden fainting spells, seizures or sudden death. If detected, the condition is treatable but a substantial portion of cases can only be detected through genetic testing. If not found, the patient may die without warning, often at a very young age.

The U.S. company that holds rights to the patents on the tests and the genes complained when the Ontario government tried to have the test done in Canada. CHEO could perform the genetic screening for half the cost of having the analysis done in the U.S.—US \$4,500—saving a significant amount within the health-care system.

Beyond that, the hospital claims gene patents have a chilling effect on the future of genetic medicine in Canada. For example, while CHEO was able to secure a contract from the Ontario Ministry of Health and Long Term Care to provide screening for a large number of inherited cardiac disorders, it had to exclude the Long QT syndrome genes after a warning from the patent holder.

Gold sees Canadian companies and researchers losing out because single gene patents deter them from developing new, multi-gene tools in genomic medicine, whereas their American competitors are free to innovate without fear of gene patent shackles.

"We have the worst of both worlds right now. Companies assume gene patents are invalid in Canada but hospitals assume they are valid. We don't get the investment in research and we're not part of developing knowledge but we get all the costs. We want legal certainty in a way that increases innovation," he says.



**THESE ARE PROVOCATIVE THOUGHTS,
WHICH WE HOPE WILL CHANGE THE
NATURE OF THE CONVERSATION AND
BROADEN THE PUBLIC DISCUSSION
OF THESE ISSUES."**

COPYRIGHT, CREATIVITY AND THE COMMON GOOD

"It's important for academic researchers to participate in the public debate on intellectual property issues," says another CIPP member, David Lametti, who researches copyright, patents and technological innovation.

His most recent area of focus is that of the digital cloud and whether tech companies will act as gatekeepers, owning and controlling their respective cloud domains, thus diminishing open access and limiting innovation by users. In "The Cloud: Boundless Digital Potential or Enclosure 3.0?," published in the *Virginia Journal of Law & Technology*, Lametti observes that the cloud is "manageable" in a way that the internet was not. Cloud service providers will have an enhanced ability to control or manage users as their power grows.

Lametti suggests that the internet, with all its associated technological innovations and virtually unlimited dissemination of knowledge, wouldn't have developed and evolved in such an organic and creative way if the rights of copyright holders had been broadly and rigidly enforced at the expense of users.

"If we'd been harder on copyright, we could have shut the Internet down," he says, pointing to the ways in which music sampling pushed and changed the boundaries of music and of the recording industry itself. "Our culture would be so much poorer if some of that creativity had been stifled."

Lametti sees a cultural shift taking place in which our relationship to technology is defined increasingly by passive information absorption rather than one of control or influence. The digital cloud may reduce the range of user possibilities for strong interaction even further, in a way that prevents our participation as creators, collaborators, and sharers. So he urges policy action to encourage or, if necessary, legal measures to force private technology businesses to keep the cloud open and accessible in the long term. He proposes a publicly held cloud to achieve this goal for the common good.

"Users shouldn't be digital sheep," he says. "We should be digital shepherds."



Allison Christians and Pierre-Emmanuel Moyse's project is funded by an Insight Development Grant from the Social Sciences and Humanities Research Council.

Richard Gold and his team are funded through PACEOMICS, a project supported by Genome Canada, Genome Alberta, Genome Quebec and the Canadian Institutes for Health Research; the Social Sciences and Humanities Research Council; and the Stem Cell Network.



REGARDS NEUFS SUR LA CONSTITUTION

/ par VICTORIA LEENDERS-CHENG /

JOHANNE POIRIER NOUS EXPLIQUE POURQUOI L'HISTOIRE DE LA CONSTITUTION CANADIENNE, LE FÉDÉRALISME ET LES DÉBATS CONSTITUTIONNELS NE SONT PAS DÉPASSÉS, MAIS SOUÈVENT PLUTÔT UNE FOULE DE QUESTIONS CRUCIALES POUR L'AVENIR.

Première titulaire de la Chaire Peter MacKell sur le fédéralisme, Johanne Poirier détient un doctorat de l'Université de Cambridge. Celle qui a codirigé le Centre de droit public de l'Université libre de Bruxelles entre 2008 et 2012 a acquis, au cours de sa carrière, une expertise reconnue en matière de fédéralisme et de droit constitutionnel. Elle nous a récemment accordé une entrevue.

D'où vous vient cet intérêt pour le droit public et constitutionnel?
Je viens de Montréal, d'une famille purement francophone, et j'ai eu l'occasion d'aller étudier en Colombie-Britannique quand j'avais 16 ans. C'était à une époque politiquement très chargée,

juste avant le référendum de 1980. C'est là que j'ai commencé à découvrir « les diverses solitudes » du reste du Canada. Déjà fascinée par les relations Canada-Québec, je me suis intéressée aux dimensions juridiques du fédéralisme dès ma première année à la Faculté de droit de McGill.

J'étais étudiante lors des négociations de l'Accord du lac Meech : c'était une période d'effervescence pour le droit public « institutionnel ». Je suis alors partie à Bruxelles étudier les réformes constitutionnelles en Belgique, en Espagne et en Europe plus généralement. Je m'interrogeais sur les facteurs qui permettent à des États de réformer leurs institutions en profondeur—notamment leur système fédéral—alors que le Canada semblait s'engluer dans une sorte de paralysie constitutionnelle.



J'AI ENVIE DE SUGGÉRER AUX ÉTUDIANTS QU'AU-DELÀ DE L'INTERPRÉTATION DE LA CONSTITUTION PAR LES JUGES, ON PEUT ÉGALEMENT S'INTÉRESSER À LA CONSTITUTION COMME UN OUTIL PERMETTANT D'EXPRIMER UNE CONCEPTION DYNAMIQUE DE L'ÉTAT."

Pourquoi les « conversations constitutionnelles » se sont-elles estompées au Canada?

Depuis plusieurs générations, on transmet aux étudiants, en droit notamment, le message que la Constitution canadienne est pratiquement irréformable. Qu'introduire des réformes constitutionnelles serait non seulement vain, mais probablement périlleux pour la stabilité du pays, et que, dès lors, on doit gérer les relations entre les composantes de la fédération autrement, par le truchement d'ententes et d'aménagements plus indirects, officieux.

Ce message m'interpelle énormément, entre autres parce que mon principal domaine de recherche porte sur le fédéralisme comparé et les relations intergouvernementales. J'ai eu le privilège de travailler comme consultante et chargée de mission dans différents pays qui avaient connu des conflits, où les aménagements institutionnels et les réformes constitutionnelles font partie du processus de pacification. C'est un moyen de refléter et de consolider le « vouloir » ou le « pouvoir » vivre ensemble.

Dans ces contextes, l'exercice, souvent participatif, de rédaction constitutionnelle fait partie du processus de transformation sociale, de démocratisation. Les organisations internationales conçoivent ces efforts comme un mode de gestion de conflits et de consolidation de la confiance entre minorités et majorité.

Depuis une vingtaine d'années, les Canadiens ont été de très grands exportateurs d'expertise constitutionnelle (par exemple sur le multiculturalisme, le plurinationalisme, la diversité des modèles fédéraux). Paradoxalement, les messages transmis à l'étranger semblent avoir eu très peu d'échos au sein même du Canada, où l'on évoque une sorte de « fatigue constitutionnelle ». Pourtant, jamais les besoins d'articulation des intérêts des uns et des autres n'ont été aussi grands : peuples autochtones, minorités linguistiques, Québécois, nouveaux arrivants, provinces qui se sentent marginalisées au sein du Canada, etc.

Il me semble que le message selon lequel toute réforme constitutionnelle est inatteignable est antidémocratique : il suggère que les institutions sont cadenassées, peu importe la volonté des citoyens, et que les institutions relèvent des élites politiques et échappent au(x) peuple(s). Ce n'est pas un message très positif ou porteur pour les jeunes. J'espère que ceux-ci auront davantage confiance dans leur capacité à porter le changement. Je ne prétends pas que ce soit facile, ou réalisable à court terme. Mais ce n'est pas une raison pour éviter les débats, les conversations, ou l'étude comparative de « l'ingénierie constitutionnelle ».

Vous avez évoqué le rôle des jeunes. Sont-ils encore interpellés par les questions constitutionnelles?

Le Canada a procédé à une espèce d'introspection et de réflexion sur son statut constitutionnel d'une façon extrêmement intense durant les années 80 et au début des années 90. Depuis le référendum de 1995, cette forme d'analyse collective s'est estompée.

Les jeunes qui étaient engagés politiquement il y a 20 ou 30 ans consacraient sans doute plus volontiers leur énergie intellectuelle à réfléchir aux questions de réformes constitutionnelles, à la souveraineté du Québec, à la place des minorités linguistiques, par exemple. Je constate qu'ici, la conviction selon laquelle les transformations constitutionnelles sont pratiquement impossibles, voire constituent une menace pour la paix sociale, fait en sorte que si on est intelligent et engagé, on se dit « j'ai 25 ans, 26 ans, j'ai énormément d'énergie, je ne vais pas investir mon temps dans un projet futile ». Les jeunes ont peut-être plutôt tendance aujourd'hui à s'orienter vers d'autres dimensions des affaires publiques, comme la protection de l'environnement, la justice sociale, le droit des GLBT, les mouvements alternatifs.

Ces engagements sont évidemment tout à fait louables et positifs. Face à ces enjeux, l'étude du fédéralisme leur semble peut-être un peu statique ou moins efficace pour favoriser les transformations sociales. Cette attitude, que l'on peut comprendre, a laissé un trou béant dans la réflexion sur les institutions démocratiques, celles qui consolident, partagent, contrôlent « le pouvoir » et les mécanismes d'aménagement des droits et des intérêts collectifs. J'ai envie de suggérer aux étudiants qu'au-delà de l'interprétation de la Constitution par les juges, on peut également s'intéresser à la Constitution comme un outil permettant d'exprimer une conception dynamique de l'État.

Comment voyez-vous le rôle de la Chaire MacKell sur le fédéralisme dans ce contexte?

Je souhaiterais que les débats constitutionnels redeviennent une conversation non seulement autorisée, mais bienvenue, souhaitée, inclusive et riche, tant à la Faculté qu'ailleurs. Il est non seulement acceptable, mais essentiel, de réfléchir à des réformes non pas uniquement pour consolider l'image du pays, mais surtout pour aborder collectivement des questions primordiales liées à la démocratie et à la représentation. Ces conversations doivent s'ancrer dans plusieurs disciplines, aborder plusieurs perspectives, et puiser dans l'immense richesse du droit constitutionnel comparé.

L'un des projets auxquels je songe pour les 150 ans de la Confédération serait d'inviter des constitutionnalistes étrangers à venir réfléchir, avec des Canadiens, à l'opportunité de moderniser la *Loi constitutionnelle de 1867*, celle qui fournit la charpente fédérale au Canada. Depuis 25 ans, de nombreux constitutionnalistes canadiens ont partagé leur expertise en matière de réformes institutionnelles à travers le monde : du Sri Lanka à l'Afrique du Sud, et du Népal à la Tunisie, en passant par le Soudan ou la Bosnie-Herzégovine. J'ai moi-même réalisé plusieurs missions de ce type. Si cette fois nous renversions les rôles, pour écouter ce que les « architectes institutionnels » étrangers auraient à suggérer pour le Canada du 21^e siècle?... Pourquoi n'aurions-nous pas la curiosité—and l'humilité—d'apprendre des Népalais, des Boliviens, des Indiens ou des Sud-Africains?

Un autre projet qui nous tient à cœur est un concours de rédaction juridique sur le fédéralisme, ouvert aux étudiants et aux jeunes diplômés, qui sera lancé sous peu. Financé par un généreux don d'un couple de diplômés, Colin et Rachel Baxter, il visera notamment à solliciter des réflexions innovantes sur les institutions qui facilitent—ou freinent—la coexistence pacifique de groupes distincts au sein d'espaces politiques communs, de même que sur les mécanismes qui encouragent le dialogue et la coopération entre composantes, dans les systèmes fédéraux.

La Chaire MacKell nous offre donc l'occasion de relancer le débat sur les dimensions « institutionnelles » de la Constitution, dans une perspective ouverte, créative et comparative. Et donc, de consolider notre « imaginaire constitutionnel ».

GETTING TO THE
GIST *of the* **JEST**

(gist: from Old French, *gesir*, and
Anglo-French, *cest action gist*)



LAW GRADS TURNED STAND-UP COMICS JESS SALOMON, BCL/LLB'04, AND DAVID HETI, BCL/LLB'09, OPINE ON WHETHER THE LAW HAS A SENSE OF HUMOUR.

JESS SALOMON

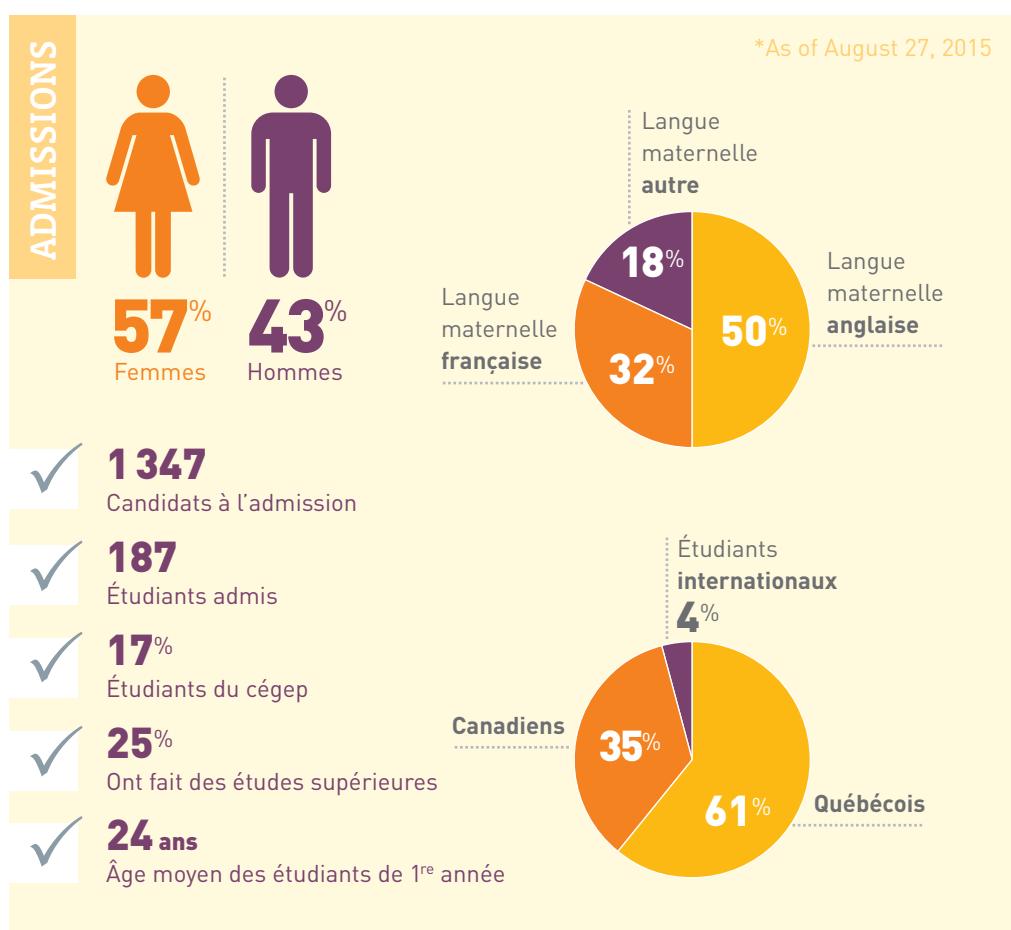
DAVID HETI

NAME	YEAR OF GRADUATION	2009
REASON FOR STUDYING LAW	I was chasing my dream of working in human rights and international affairs and law seemed like a concrete way to do that. Coming out of undergrad, I felt kind of useless and felt this would be a good way to give back.	I had a lot of reverence for the idea of law, coming into it: rights, obligation, the person, all these things. It was a professional school.
EXPERIENCE AS A LAW STUDENT AT MCGILL	I had a good time here! My first year, I dated a guy who was the Law Students Association president and I felt like the First Lady for a few months. I was full on into it. Comedy was not on my radar at all during law school. I couldn't have lived those two worlds—I am an all-or-nothing person. I was in and then I was out. It would have been a totally different experience for sure.	I ran for class president my first year and in my first week here, I put up a poster that was a big joke and it was taken down. I was like, 'Why am I in trouble?' Procedurally, I felt like it was a systemic issue because I had run it by the authorities and they said okay and stamped it. But it's telling because it shows that I had more a comedic impulse than a legal impulse, I think. I did not win. The class was better off with someone else leading them.
UPON GRADUATION	Articled with the Department of Justice in Ottawa	Articled with the Department of Justice in Toronto
LAW vs COMEDY: BROAD STROKES	With comedy, you are on the outside of society looking in. Comics are detached a little bit from life as you are commenting on it. There is a window for subversion by using the law to make change and that was what excited me to get into it, working within the system and making change from within using those tools. It's a different mechanism than the subversion you get through humour.	Every field has its own image of success and the idea of a lawyer is of someone who is very successful. Comics have to make themselves look miserable. That's their image. Lawyers have to look well put together.
COMEDY CAREER HIGHLIGHTS, SO FAR	Selected as a semi-finalist for the SiriusXM Top Comic competition in 2015. Performed at clubs and festivals across North America, including Just for Laugh's OFFJFL, and three solo shows at the Montreal Fringe.	Released album "it was ok," in 2014, then in 2015, re-released album through American independent comedy label Stand Up! Records. Teaches a comedy writing course at McGill.
LAW vs COMEDY: IN ACTION	There is something in the way that you make a joke and in the way you make a legal argument. You have to zero in on what is the issue here. You start with a premise and there is a justification that goes to explaining the premise. You take power away from things when you laugh at them, which is one way of making it not like a punishment. Let's laugh about this, make light of it and maybe bond in that moment and find common ground.	Law and comedy are both rhetoric. They are forms of communication. Comedy brings this emotional, intellectual or physical response (if you are laughing) to a situation. Both are about making you aware of these fine categorical distinctions. You go around thinking your world is normal to you. And all of a sudden, it's presented in a new light.
WHY THEY DO WHAT THEY DO	I have burned every bridge. Comedy has to work out for me. There is no going back—I would not be taken back anywhere.	On stage, which is my office now, I can make the jokes I want to make. It's such a cliché, trite thing, but in comedy, you can get away with what you want.
SAMPLE TWITTER QUIP	@jess_salomon: There's an "It burns when IP" wifi network in my building. Guess I'm not the only comedian. @jess_salomon: Is it normal that I get scared when people want to high five that I'm going to miss? @jess_salomon: Looking for a next-level out-of-the-box forward-thinking marketing company to help me monetize the work I do in my dreams. PM me. Thx.	@davidheti: Appropriating whatever I can. Whatever's cheapest, easiest. @davidheti: Tired of not understanding a thing until I experience it. @davidheti: Being sorry means having to say I love you.

DEAN DANIEL JUTRAS INVITED OTTAWA-AREA LAW GRADS FOR A COFFEE-HOUSE HELD AT METROPOLITAIN BRASSERIE AND IN NOVEMBER, HE RECONNECTED WITH ALUMNI FROM THE GREATER TORONTO AREA AT A GATHERING HOSTED BY TORYS LLP. HE ALSO MET UP WITH ALUMNI AT COFFEEHOUSE AT NORTON ROSE FULBRIGHT IN NEW YORK AND ALSO ATTENDED THE JOINT CANADIAN LAW SCHOOLS ALUMNI EVENT IN LONDON AT THE CANADIAN HIGH COMMISSION.

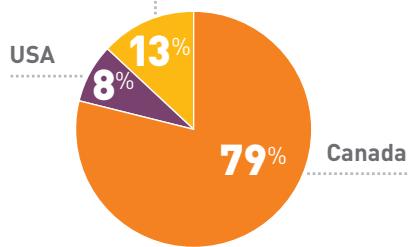




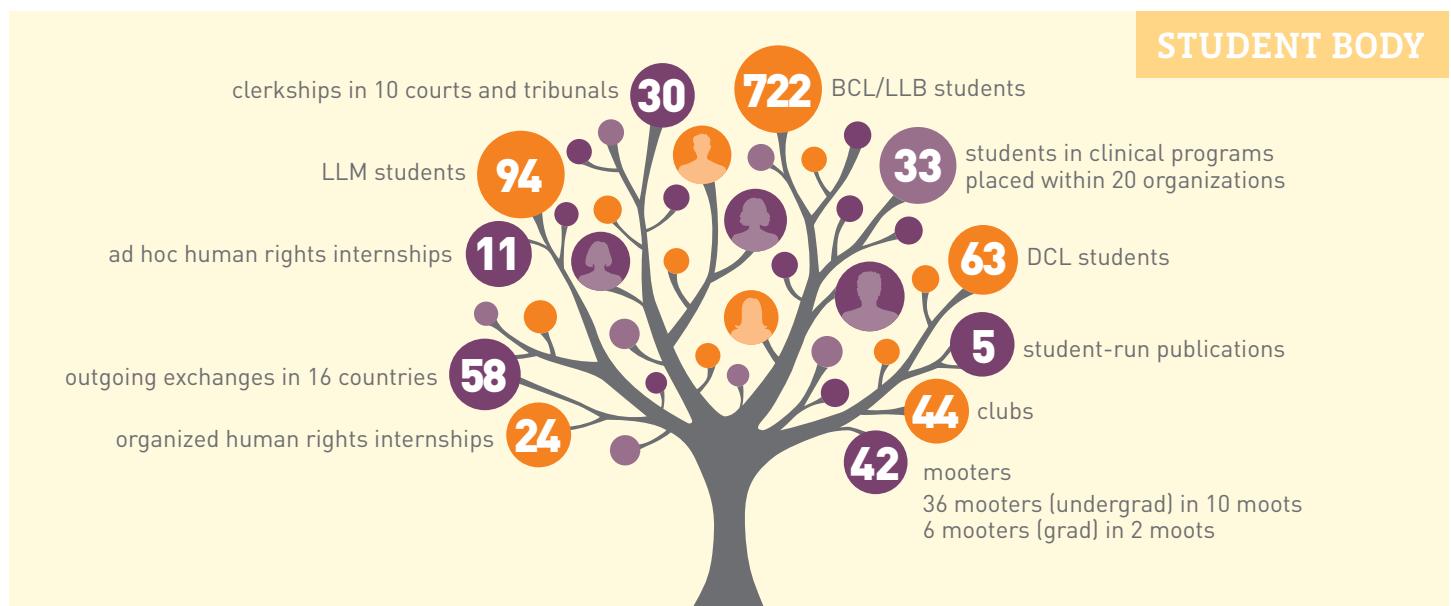
**GLOBAL REACH****Social media membership**

3,573
2,704
2,102

International
(in over 112 countries, from Andorra to Zimbabwe)

**Alumni**

8,427 alumni around the world
\$569,272 in annual donations in 2015

**STUDENT BODY**

IN MEMORIAM

MOE ACKMAN, BCL'54

SOLLY B. APEL, BCL'66

RAYMOND G. AYOUP, BCL'61

B. ROBERT BENSON, BCL'58

ANDREW GORDON BLEAU,
BCL'94, LLB'94

JOHN B. CLAXTON, BCL'50

MARC E. CORDEAU, BCL'57

DEL COLLEEN DAIGNAULT, LLB'86

JEAN-LOUIS DAUNAIS, BCL'55

CESAR DUBLER, LLM'84

HOWARD H. FARLEY, BCL'50

JOHN A. GIBBS, BCL'71, LLB'72

DAVID GOLDENBLATT, BCL'64

SOLOMON S. GOSSACK, BCL'54

HOWARD GRIEF, BCL'64

ZUNE ITZKOVITCH, LLB'73

ROY V. JACKSON, BCL'48

PAUL-ÉMILE L'ÉCUYER, BCL'55

MAURICE LANGLOIS, BCL'43

JAMES T. LYON, LLM'63

KENNETH CHARLES MACKAY, BCL'50

T. R. ANTHONY MALCOLM, BCL'56

JEAN MARY MCBEAN, LLM'88

ANDRE STEPHEN MILLAR, BCL'63

CLARE MURRAY, BCL/LLB'12

HARRY PINKER, BCL'53

JOE C. POSMAN, BCL'69

GEORGE R. RADWANSKI, BCL'71

PETER JOHN REMILLARD,

BCL'76, LLB'77

DOUGLAS C. ROBERTSON, BCL'62

GUY ROULEAU, BCL'50

MAXWELL SHENKER, BCL'56

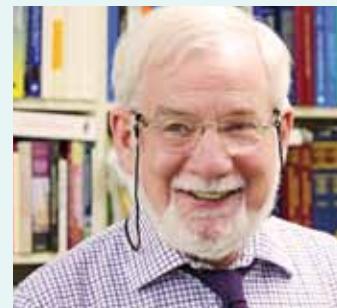
CECILE SOLOMON (NÉE KALIFON),
BCL'76, LLB'77

RAYMOND VIEN, BCL'52

JOHN HOWARD WATSON, BCL'49

ROGER W. B. WHITE, BCL'64

K. HUNTER WILSON, BCL'50



H. PATRICK GLENN

(1940-2014)

H. PATRICK GLENN, PROFESSEUR DE DROIT ET TITULAIRE DE LA CHAIRE PETER M. LAING, EST DÉCÉDÉ LE 1ER OCTOBRE 2014. IL AVAIT 74 ANS.

Above all, I remember his laughter and the mischievous twinkle in his eye. He would say something insightful, and immediately cover it up with a chuckle. Only later would one realize the depth of his learning, as layers upon layers of wisdom emerged from a casual conversation in the hallway.

Professor Glenn and his wife, Jane Matthews Glenn, came to McGill in 1971, part of a group of young scholars recruited by the Faculty to bring to life the new National Program. Originally from Toronto and a member of the Bar of British Columbia, Glenn embodied the cosmopolitan spirit that characterizes McGill: he had studied law at Queen's, Harvard and Strasbourg, and he spoke flawless French. He also learned Italian, Spanish and German by listening to language tapes as he walked to work every day. A distinguished McGill ambassador wherever he went, he always returned to his beloved country home in Sutton, where he and Jane welcomed colleagues, students and scholars from around the world.

Glenn was a voracious reader, absorbing ideas from wherever they came. His office was a maze of books—on shelves, on chairs, in shaky piles on the floor and on his desk. He weaved together images from law, art, science, history, literature, anthropology, and behavioral psychology into a kaleidoscopic account of modern legal cultures. His achievements were prodigious—a dozen books and more than 200 scholarly articles—earning him the respect and recognition of the global community of comparative law scholars.

Au moment de son décès, il n'avait pas encore pris sa retraite. Il venait tout juste de terminer une monographie et prévoyait continuer à enseigner et à écrire pendant encore quelques années. Il avait exactement la même silhouette qu'au début des années 1970, cheveux blancs, épaisse barbe blanche et sourire enjoué.

Homme modeste, Patrick Glenn ne recherchait pas les honneurs. Néanmoins, sa carrière est jalonnée d'une série de prix et de distinctions. Bien peu de chercheurs dans les domaines du droit et des sciences sociales ont eu une influence aussi déterminante sur l'évolution de leur discipline que celle que le professeur Glenn a eue au chapitre du droit comparé et de la théorie juridique. Et bien peu ont eu une influence aussi durable sur leurs étudiants, leurs collègues et leur institution. Pourtant, aujourd'hui, c'est l'amitié, la grâce et l'humour de cet homme extraordinaire qui nous manquent le plus.

Daniel Jutras

Doyen et titulaire de la chaire Wainwright en droit civil

Le 3 octobre 2014

Version complète de cet hommage : <http://bit.ly/1xXs3CD>

THE '60s & '70s



- In February 2015, Professor emeritus **IRWIN COTLER**, BCL'64, received the Law Society of Upper Canada's inaugural Human Rights Award. First elected to Parliament in 1999, Cotler served as Minister of Justice and Attorney General of Canada under Paul Martin from 2003 to 2006, where he introduced Canada's first human trafficking legislation; crafted the *Civil Marriage Act*, the first legislation to grant marriage equality to gays and lesbians; and initiated the country's first prosecution under the *Crimes Against Humanity and War Crimes Act*. Cotler has also recently been awarded the 2014 Canadian Bar Association's President's Award; was the first Canadian recipient of the International Raoul Wallenberg Foundation's Centennial Medal; was the first recipient of the Romeo Dallaire Award for Human Rights Leadership; the 2014 Canadian Parliamentarian of the Year; and the recipient of the Sir Zafrullah Khan Award for Distinguished Public Service.
- **RICHARD W. POUND**, CC, OQ, QC, FCA, BCL'67, LLD'09, the former chairman of the World Anti-Doping Agency and the former vice-president of the International Olympic Committee, was named a companion of the Order of Canada. It is the highest distinction within the order.
- **IAN M. SOLLOWAY**, BCL'73, one of Montreal's most prominent family lawyers, was honoured with the 2015 Mérite du Barreau de Montréal at the Annual General Meeting of the Bar of Montreal held in May 2015. Me Solloway is the Chair of the English-Speaking Section of the Montreal Bar, having been elected to a seventh consecutive term in March 2015.

THE '80s

- In June 2015, **PEARL ELIADIS**, BCL'85, LLB'85, received the Huguenot Society of Canada Award for her book *Speaking Out on Human Rights: Debating Canada's Human Rights System* (MQUP 2015). Granted by the Ontario Historical Society, the award recognizes books that bring public awareness to the principles of freedom of conscience and freedom of thought. Her book was described by the Society as "a highly valuable intervention in a vital conversation in Canada."
- **DAVID LAMETTI**, BCL'89, LLB'89, a été élu candidat libéral dans la circonscription de LaSalle-Émard-Verdun, lors de l'élection fédérale. Le professeur Lametti s'est joint à la Faculté en 1997. Il a été vice-doyen à l'enseignement entre 2008 et 2011. Il est aussi membre de l'Institut de droit comparé et membre fondateur du Centre des politiques en propriété intellectuelle.
- **MARK P. SHELSTON**, BCL'81, LLB'82, a lawyer with MacKinnon & Phillips in Ottawa since 2002, where he focused his practice in family law, was appointed a judge of the Ontario Superior Court of Justice, Family Court Branch, in March 2015. In 2012, Shelston was listed as one of the best lawyers in family law by the directory *Best Lawyers in Canada*.
- **DOMINIQUE VÉZINA**, BCL'87, LLB'87, a été nommée juge à la Chambre civile de la Cour du Québec à Montréal. Spécialisée en responsabilité civile, en responsabilité professionnelle, et en droit des assurances et de la construction, elle exerçait sa profession au cabinet Donati Maisonneuve depuis 2003.

THE '90s

- **HÉLÈNE V. GAGNON**, BCL'93, LLB'93, joined CAE Inc. as VP Public Affairs & Global Communications in February 2015. She is Chair of the Board of Aéro Montréal, Quebec's aerospace cluster, for 2015-2017. In April 2015, she was appointed by the Quebec government as an independent member on Hydro-Québec's Board of Directors and by the Federal government to Aéroports de Montréal's Board of Directors in the fall of 2014.
- **CAROLINE BÉRUBÉ**, BCL'99, LLB'99, the Managing Partner of HJM Asia Law, was selected as a Young Global Leader by the World Economic Forum (WEF). Each year, the WEF recognizes the most distinguished leaders under the age of 40, nominated from around the world. Bérubé is well versed in most Asian jurisdictions. She is highly regarded for her legal expertise in setting up legal and tax corporate structures in Asia, and navigating the challenges and options faced when investing there.
- **HUGO CYR**, BCL'97, LLB'97, est le nouveau doyen de la Faculté de science politique et de droit de l'UQAM. Il est entré en fonction le 1^{er} juin 2015 pour un mandat de cinq ans. Par ailleurs, il a remporté le concours 2014 de la Fondation du Barreau du Québec, dans la catégorie « Manuscrit d'article juridique » pour son article *Conceptual Metaphors for an Unfinished Constitution*.
- **PHILIPPE DUFRESNE**, BCL'98, LLB'98, was appointed House of Commons Law Clerk in January 2015. The office is responsible for providing legal advice to Members of Parliament, standing committees and House Administration. Dufresne previously served as Senior General Counsel and Director General of the Canadian Human Rights Commission's Protection Branch.

→ **JULIA HANIGSBERG**, BCL'91, LLB'91, joined Holland Bloorview Kids Rehabilitation Hospital as President & CEO in January 2015. A teaching hospital fully affiliated with the University of Toronto, Holland Bloorview is Canada's largest pediatric rehabilitation hospital, serving more than 7,000 children each year. The vision of Holland Bloorview is to create a world of possibility for children with disabilities.



→ **KATIA OPALKA**, BCL'97, LLB'97, was named Chair of the CBA's Environment, Energy and Resources Law Section (Québec division) in August 2014 for a mandate of two years. A partner at Lavery LLP in Montreal and an adjunct professor at the McGill School of Environment, Opalka advises foreign investors on aboriginal and environmental risks facing resource projects in Canada.

→ In September 2014, **ALEXANDER PLESS**, BCL'98, LLB'98, a Regional Manager and Senior Counsel in the Commercial Law Directorate of Justice Canada, was named to the group of litigators who are authorized to represent the Attorney General before the Supreme Court of Canada.

→ **RICHARD J. ROSENSWEIG**, BCL'91, LLB'91, has been named to the Executive Committee of Goulston & Storrs PC, a law firm of 200 attorneys, serving corporate, real estate, finance, and private clients in Boston, Washington, D.C., and New York.

THE '00s

→ En juin 2015, **LAURENCE BICH-CARRIÈRE**, BCL/LLB'08, qui pratique au sein du groupe Litige du cabinet Lavery, a remporté le Prix de l'Orateur Francophone du concours de plaidoirie annuel organisé par le Jeune Barreau de Montréal en répondant à la question suivante : « Le carré rouge se déguste-t-il avec ou sans poivre de Cayenne ? »

→ **CRISTINA BIRKS**, BCL/LLB'07, de chez Borden Ladner Gervais, a été nommée Avocate de l'année (catégorie litige civil et commercial) par le Jeune Barreau de Montréal en décembre 2014.

→ **MAUREEN T. DUFFY**, LLM'05, DCL'13, received the 2014-2015 University of Calgary Students' Union Teaching Excellence Award (Law) in April 2015. The Award recognizes individuals who have a positive impact on the undergraduate learning experience and make a long-lasting impact on students.

→ **CARLOS DE VERA**, BCL/LLB'04, has practiced law at Baker & McKenzie in Toronto and Clifford Chance in London. Since 2010 he has been Principal Counsel at the European Bank for Reconstruction and Development, advising on the commercial negotiations and contracting of EBRD's global procurement of goods and services as a treaty-based international organization. He makes his home in London with wife and fellow grad Alexandria Sjöman.



→ **JULIEN FOURET**, LLM'04, a partner at betto seraglini, a law firm exclusively dedicated to international arbitration in Paris, has edited a new book, *Enforcement of Investment Treaty Arbitration Awards: A Global Guide* (Globe Business Publishing, 2015). The book includes a chapter by Professor Andrea Bjorklund.

→ Recently retired Canadian Forces Colonel **PATRICK K. GLEESON**, QC, LLM'06, was appointed a judge of the Federal Court in May 2015. Gleeson joined the Office of the Assistant Judge Advocate General in Halifax as a legal advisor in 1994 and worked in different directorates until 2000. He then became the Director of Legal Services and Senior Advisor of the Office of the Judge Advocate General in 2005.

→ **AMAR KHODAY**, LLM'08, DCL'14, has been an assistant professor of law at the University of Manitoba's Faculty of Law since 2012. His most recent article, "Tough on Terror, Short on Nuance: Identifying the Use of Force as a Basis for Excluding Resisters Seeking Refugee Status" is published in the *Canadian Journal of Human Rights*. He will be teaching a new course titled "Law and Resistance" in September 2015.

→ **JOSHUA KRANE**, BCL/LLB'08, has published a second edition of his book, *Investment Canada Act: Commentary and Annotation*. The 2015 edition contains additional references and legal sources from other countries, including the U.S. and Australia. Krane is an associate at Blakes' Toronto offices, where he advises domestic and foreign firms on all aspects of competition law, including merger review, cartel investigations, unilateral conduct matters and advertising/marketing matters.

→ **MARK MORRIS**, LLB'01, was in Canadian Lawyer's Top 25 most influential lawyers 2014 in the Changemakers category. He and partner Lena Koke have founded Axess Law, the first practice in North America to open an office in a big box store. Their offices, located in several Wal-Marts in the Toronto area, focus on providing convenient law services.

→ **ALEXANDRIA SJÖMAN**, BCL/LLB'05, practiced law as a securities and corporate finance lawyer at Borden Ladner Gervais in Toronto, and in Linklaters and Freshfields Bruckhaus Deringer in London. In September 2014, she was appointed Head of Legal, London at Berenberg Bank, Germany's oldest private bank and second-largest investment bank, advising on all legal aspects of the Bank's operations in London.

THE '10s

- After a stint as a volunteer this summer at the Toronto Pan Am games, **SANDRA AIGBINODE**, BCL/LLB'15, started her articling with the Crown Attorney's Office, Ontario Ministry of the Attorney General in August.
- **MARIE-ÈVE COUTURE-MÉNARD**, DCL'14, a reçu le Prix Henri Capitant 2015 pour la meilleure thèse de doctorat. Sa thèse est publiée depuis septembre 2014 aux Éditions Yvon Blais sous le titre: "La responsabilité publique entourant les collaborations public-privé. Regard sur le domaine de la santé publique au Canada". Madame Couture-Ménard est professeure à la Faculté de droit de l'Université de Sherbrooke.



MARTIN PELLETIER

→ IASL alumni **MARTIN PELLETIER**, LLM'11, was recently appointed by the Canadian Government to the position of Military Judge. Military judges adjudicate at courts martial and other military proceedings, such as the judicial review of persons held in pre-trial custody. Prior to his appointment, Commander Pelletier served as the Assistant Director with the Director of Military Prosecutions, and joined the Canadian Military Prosecution Service in 2001.

→ **ALEXANDER YIU**, LLM'10, became Legal Counsel at the Alberta Court of Appeal in Edmonton in September 2014. Previously, he worked as a civil litigator, with a particular emphasis on insurance litigation matters, at Field Law for close to four years.

→ **ÉMILIE CONWAY**, BCL/LLB'12, a terminé son stage à la Cour internationale de justice à la fin juin 2015, et occupe désormais un prestigieux poste de référendaire au sein de l'équipe du Président de la Cour, le juge Ronny Abraham (France), pour un mandat d'au moins deux ans.

→ **NELCY LÓPEZ CUÉLLAR**, DCL'12, has completed the translation of her doctoral thesis, which is now available at Asociación de Editoriales Universitarias de América Latina y el Caribe under the title *Pluralismo jurídico estatal: entre conflicto y diálogo. Enseñanzas de un caso colombiano*.



FACES OF ELECTION 2015

McGill Law graduates have a reputation for being engaged and engaging, and this was especially true during the federal election campaign this fall. Congratulations to all candidates and hats off to our alumni serving as members of Parliament.

THE '60s

Joe Oliver, BCL'64 (Eglinton—Lawrence, ON)

THE '70s

Thomas Mulcair, BCL'76, LLB'77 (Outremont, QC) – ELECTED

THE '80s

David Lametti, BCL'89, LLB'89 (LaSalle–Émard–Verdun, QC) – ELECTED

THE '90s

Stéphane Duranleau, BCL'96, LLB'96 (Montarville, QC)

Anthony Housefather, BCL'93, LLB'93 (Mont-Royal, QC) – ELECTED

James Hughes, BCL'91 (N.D.G.–Westmount, QC)

Catherine McKenna, LLB'99 (Ottawa-Centre, ON) – ELECTED, NAMED MINISTER OF THE ENVIRONMENT AND CLIMATE CHANGE

THE '00s

Will Amos, BCL/LLB'04 (Pontiac, QC) – ELECTED

Rachel Bendayan, BCL/LLB'06 (Outremont, QC)

Marc Miller, BCL/LLB'01 (Ville-Marie–Le Sud-Ouest–Île-des-Soeurs, QC) – ELECTED

Greg Rickford, BCL/LLB'05 (Kenora, ON)

Phil Trotter, BCL/LLB'07 (Etobicoke-Lakeshore, ON)

Allison Turner, BCL/LLB'01 (Ville-Marie–Le Sud-Ouest–Île-des-Soeurs, QC)

Nick Whalen, LLB'01 (St. John's East, NL) – ELECTED

THE '10s

Tanya de Mello, BCL/LLB'11 (Etobicoke-Centre, ON)

Joël Lightbound, BCL/LLB'11 (Louis-Hébert, QC) – ELECTED



ANNE IAVARONE-TURCOTTE

→ En mai 2015, **ANNE IAVARONE-TURCOTTE**, LLM'15, a reçu la Médaille du Lieutenant-gouverneur pour la jeunesse. Anne s'est mérité ce prix pour son engagement auprès des personnes vulnérables et ses nombreuses activités bénévoles et professionnelles connexes.

CLOSING ARGUMENTS

CONCLUSIONS FINALES

/ by DANIEL JUTRAS /

Several years ago, when my daughters were still wearing the clothes that we picked for them, we spent an afternoon in Canada's Science and Technology Museum in Ottawa. We got to one of the rooms describing the progress of computers and digital technology. There it was. My very own Olivetti M24, the first personal computer introduced in the Faculty of Law at McGill, was part of the exhibit. That made me feel kind of old, and my daughters agreed.

Les changements dans le processus d'archivage, de communication et de dissémination du savoir se sont succédé à un rythme effarant au cours de mes trois décennies à McGill. À l'époque, une professeure et son assistant de recherche passaient une bonne partie de l'été à découper et coller, au sens strict, les colonnes de textes qui componaient le recueil imprimé pour le bénéfice des élèves. On accédait aux jugements, articles de revues scientifiques et autres matières premières en format papier, à partir d'index imparfaits et incomplets. Les étudiantes et étudiants dévelloptaient une relation amicale avec le préposé à la photocopieuse au coin Sherbrooke et Peel. Les professeurs qui utilisaient un rétro-projecteur en classe pouvaient être qualifiés d'innovateurs.

Enough said. You have read paragraphs like these before, written by nostalgic academics who bring up quaint memories of their formative years. Still, there is a point to these stories. Everything about legal education, research and scholarship has shifted in fundamental ways over a very short period of time. Learning and teaching in this environment is not at all what it used to be. The



volume of information has exploded. That alone requires a careful consideration of what we mean by knowledge—what it means to know the law, and by way of consequence, what it should mean to learn the law.

McGill is still home to the smartest students, and in the present age this means individuals with an extraordinary ability to calmly weather the mega-storm of information that is raining on them both within and outside of the Faculty. The boundaries of what can be learned are no longer fixed, least of which in a Faculty that defines itself by a desire to expand the range of traditions, cultures and legal systems that are brought to bear on a deep understanding of legal phenomena. What is our task, then, as legal scholars and teachers? It can only be to identify and convey truly foundational knowledge, and provide students with the ability to expertly sort through, structure, and use the rest—the mountain of data that is

now accessible to anyone with a mobile phone—to solve real life problems. *Relevance* becomes the keyword and greatest challenge for legal education.

These days, the Faculty of Law at McGill is buzzing with discussions of teaching methods, classroom reconfigurations, knowledge dissemination and curriculum renewal, looking for what is true, perennial and relevant in this ever-changing world. Just as an antiquated personal computer can find second life in a museum, so the discussions and the quest for insight contained in these dusty volumes find new breath in the conversations we have—at the Faculty, and beyond.

Participez à la Campagne annuelle de la Faculté

Les dons annuels versés à la Faculté de droit nous permettent d'atteindre de nouveaux sommets à l'égard de quatre objectifs fondamentaux: promouvoir l'action communautaire, l'avancement de la recherche juridique de pointe, le développement de pratiques pédagogiques novatrices et l'amélioration de la formation juridique et, enfin, le rayonnement international de la Faculté. Votre don à la Faculté de droit aura un impact dans un domaine qui vous tient à cœur.

Aidez-nous à faire une différence aujourd'hui. 



For more information, please contact Nicholas Synnott at 514-398-5054 or nicholas.synnott@mcgill.ca



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