

LEGAL BUSINESS

New joint-degree programs offer glimpse into future of legal education

By John Richardson
Toronto

There is perhaps no closer economic relationship than that of Canada and the United States. And despite political differences, that relationship has grown – and continues to grow – at a remarkable rate.

The *Canada-U.S. Free Trade Agreement* of 1989 and the *North American Free Trade Agreement*, which came into effect in the mid-1990s, were the catalysts for the current upsurge in trade between the two countries.

When the first agreement was signed, two-way trade of goods and services was US\$192.4 billion a year. In 2003, that figure surpassed US\$441.5 billion — more than double the amount of 14 years earlier.

But that's not all. There are reportedly more than 300 treaties governing trade between the two countries and the U.S. has become an important market for all Canadian businesses — including the business of law, as legal issues with cross-border implications are becoming the rule rather than the exception.

In response, some Canadian law firms have left behind their east-west expansion plans, setting their sights south instead. Torys LLP and Blake, Cassels & Graydon LLP are two examples of Canadian firms that have expanded their businesses to the U.S. because of the rapidly growing needs of Canadian clients with American interests.

Since its merger with New York-based Haythe & Curley in Oct. 1999, Torys has established itself as a law firm that practises U.S. law as well as Canadian law. Its New York office has approximately 75 lawyers — 70 American lawyers and five Canadian lawyers who have passed the New York State Bar — while its Toronto office has 250 lawyers. Approximately 10 per cent of them have passed the New York State Bar as well, with another five per cent on the road to obtaining that designation.

As a result, the firm's business has become increasingly cross-border. Case in point: Peter Jewett, the chair of the corporate department in the Toronto office, recently headed a joint Canada-U.S. legal team that acted for the federal government in its sale of Petro Canada — the largest equity offering in Canadian history.

Blakes' American business model is far different. It acts as a foreign legal consultant in New York, advising U.S. clients on Canadian law.

Lawyer Virginia Davies, a



Law students at Osgoode Hall Law School (above) will have greater career options thanks to the new LL.B.-J.D. program the school is offering in conjunction with New York University.

Photo courtesy of Osgoode Hall Law School

Canadian practising in the New York office, says lawyers in general must be better trained to deal with cross-border matters.

"Every transaction has multi-jurisdictional aspects and needs lawyers who are not only experts in their own jurisdictions, but who can manage the process of multi-jurisdictional transactions," she explained.

And as a result of the changing market, some Canadian law schools have begun implementing programs or degrees in conjunction with American law schools that will better prepare Canadian-trained lawyers deal with cross-border issues.

The latest example of such an arrangement was announced in January when Toronto-based Osgoode Hall Law School announced the creation of a joint LL.B.-J.D. program between the school and New York University's (NYU) law school. Osgoode students who enroll in the joint-degree program will spend two years at Osgoode and two years at NYU.

"Globalization is having a tremendous impact on the profession," noted Osgoode's dean, Patrick Monahan. "Lawyers will require the skills and training to practise in different jurisdictions. The LL.B.-J.D. program is a reflection of the law school catching up with this reality, as the trend deepens."

The trend of offering these unique degrees was set by the University of Windsor and the University of Ottawa when they became the only Canadian law schools to allow students to earn both a Canadian LL.B. and a U.S. J.D. in the fall of 2001.

University of Ottawa students spend two years in Ottawa and two years at either Michigan State or American University in Washington, D.C. while Windsor students earn the LL.B. and J.D. degrees by studying for three years in an integrated program at the Universities of Windsor and Detroit.

Graduates of joint LL.B.-J.D. programs earn separate Canadian and American law degrees and can take the Bar exam in Canada and the U.S. That, according to University of Windsor Faculty of Law Dean Bruce Elman, is a major benefit not only for students, but for the firms where they will practise once they're called to the Bar(s).

"Students who graduate from our integrated program have had the benefit of studying the law of Canada and the U.S. in an integrated fashion," he explained. "Their value to a firm is that they are well equipped to research and write memos in U.S. law and can assist their firms in understanding what lawyers on the other side of the table are talking about."

Dean Bruce Feldthusen of the University of Ottawa agrees. "The joint-degree provides training in two legal systems, two legal cultures and two national cultures," he noted. "In an era of globalization, this will soon be a minimum requirement for many areas of the practice."

But the deans say these joint-degree programs were not the result of a request or pressure from the legal profession.

"The profession was not involved at all," said Feldthusen. "We have had to work hard to inform the profession about the program [but] in our case, the initiative came from the two U.S. law deans. The U.S. schools increasingly want to take an international perspective to legal education."

Although the deans say these initiatives were not driven by the profession, the response from firms has been nothing but positive and many of their lawyers are supportive of it.

Blakes' Virginia Davies noted that the firm "is very enthusiastic about this initiative." She sees it as a "new integrated process for people to get an education in both Canadian and U.S. law."

Meanwhile Peter Jewett of Torys believes that LL.B.-J.D. programs will "not turn out experts in U.S. law," but, instead, graduates will start their careers "with an exposure to both legal systems" in

"an international world where international awareness is becoming more and more crucial."

And even U.S. lawyers and firms are excited about the prospects. Willard Taylor, a partner at Sullivan & Cromwell LLP in New York and a part-time professor at NYU, notes that the number of Canadian lawyers and law students who already go to New York is huge — largely because New York is a "magnet for lawyers."

His firm regularly interviews Canadian law students because of the firm's international agenda. "Canada is a great source of good law students," he said, "some of them speak French and Sullivan Cromwell has an office in Paris."

From a student perspective, he sees the already existing interest in New York as proof that there is "an appetite for an LL.B.-J.D. program."

There is also early proof that these degrees are an effective tool to combating the academic brain-drain.

According to the deans, early evidence suggests that LL.B.-J.D. programs are not only keeping strong law students in Canada, but are providing an opportunity for Canadians studying law in the U.S. to return to Canada.

Dean Monahan says that Osgoode's new LL.B.-J.D. program is already attracting interest from Canadians who were only considering top U.S. schools, but now see the Osgoode-NYU joint-degree as an opportunity for the "best of both worlds."

And Dean Feldthusen has received interest in the Ottawa LL.B.-J.D. from Canadians in the U.S. who see it as a way to return to Canada.

From a student perspective, the programs are becoming more and more popular.

The University of Ottawa program received over 300 applications last year and it expects to graduate 25 students per year while the University of Windsor had 21 graduates in 2004 and expects that to increase to 29 graduates by 2006.

Thus far, Osgoode has received enormous expressions of interest, according to Dean Monahan.

Besides Osgoode, Ottawa and Windsor, none of the other law schools in Canada have yet to offer such a program. But with the potential of a joint-degree to redefine legal education, as well as the increasing demand of the profession to offer more cross-border services, many say it's only a matter of time before other Canadian law schools begin to offer their own joint-degree programs.