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Volume 88, Issue 13 (2015)

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"Volume 88, Issue 13 (2015)" (2015). *Obiter Dicta*. 23.
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Obiter ♦ Dicta

DEAN FOR A DAY WINNING ESSAY SUBMISSION



► Ryan’s vision for a more accessible Osgoode: throw open the front doors, come on in, and put your feet up! Mi casa es su casa.

RYAN ROBSKI › CONTRIBUTOR

EDITORIAL NOTE: Second-year JD student Ryan Robski was chosen as this year’s Dean for a Day. He was supposed to have moved into the Dean’s Office on 5 March. In light of the labour disruption, however, Ryan and Dean Lorne Sossin decided to forego trading places. Here is Ryan’s award-winning essay submission for the 2015 Dean for a Day contest.

REMEMBER “Big Block of Cheese Day” from everyone’s favourite Aaron Sorkin hit, *The West Wing*? If not, the idea was simple: to throw open the White House doors for one day per year for ordinary members of the public who wanted to have a conversation with their government. While the gesture may have been largely symbolic (or thematic, in its television portrayal), it serves as an important reminder nonetheless: our greatest public institutions are for the benefit of the many, not the

privileged advancement of the few.

Osgoode Hall Law School is one such iconic and storied institution. This year we are celebrating its 125th birthday—and it’s a perfect occasion to reflect upon our fundamental role in shaping not just access to education, but access to the law. My Dean for a Day vision is concerned with instituting a new, “Sorkinesque” tradition of accessibility and community-mindedness—“Open Osgoode.”

Accordingly, I propose that Osgoode open its doors to anyone and everyone who wanted to learn something about the law, try their hand at a law school lecture, watch oral advocates spar over points of law and policy, or ask questions about the ethical obligations of legal professionals. This would be an opportunity

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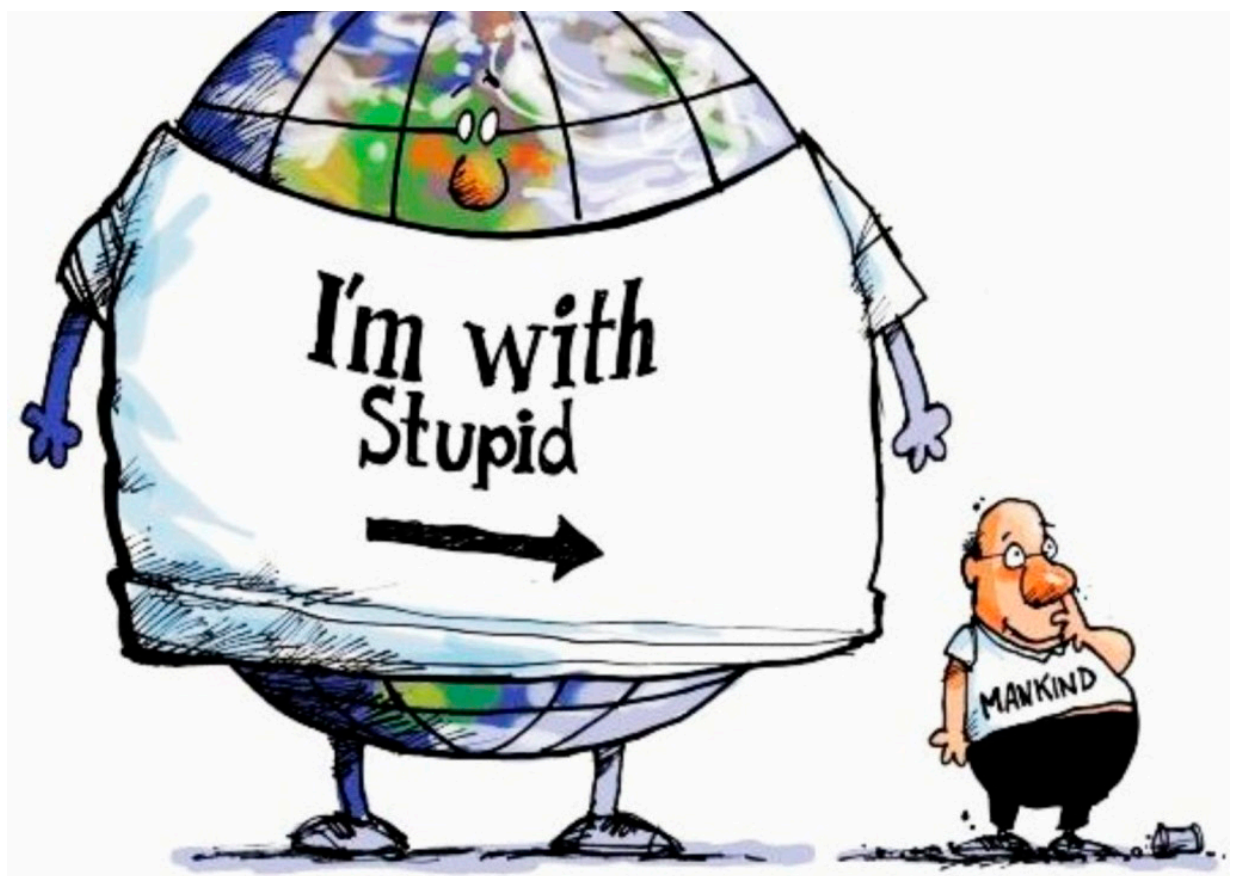
Without Great Power Comes Little Responsibility

It's not our fault; saving the world from climate change just isn't in our nature

THERE'S NOTHING TERRIBLY sexy or salacious to be found in talks of environmental degradation or resource depletion—and rest assured, you likely won't be the life of the party as you enlighten your guests on the disastrous effects of oil spills, acid rain, and urban runoff. In fact, for many people, environmental issues take a back seat to other pressing matters such as picking up the kids from school on time, checking Twitter feeds, and clearing the lint trap in the dryer. A poll conducted by Abacus Data back in August 2014 found that only twenty-three per cent of Canadians listed the environment as one of their top three concerns, below health care (fifty-one per cent), job creation (thirty-four per cent), taxes (thirty-two per cent), debt/deficit (twenty-nine per cent), and accountability and trust (twenty-five per cent). When we consider all the media coverage and political attention that environmental issues have received, it might lead us to ask why people don't appear to be more concerned about it. Why is the catastrophic impact of global warming met with the same concern as whether or not a dress is white and gold or blue and black?

I would like to think that if Hollywood has taught us nothing else, it's that when our planet faces the threat of annihilation—whether it be the result of hostile alien invaders or wayward meteors—its citizens immediately respond by rolling up their sleeves, pulling up their bootstraps, and taking action to the inspirational soundtrack of Aerosmith's "I Don't Want to Miss a Thing." That is the sort of answer that pop culture and mainstream media have conditioned me to expect in situations where our society faces its own destruction. Yet, with equal parts surprise and confusion, instead I see the development of a culture which has come to easily justify meeting these issues with either intense skepticism or detachment from the situation altogether. Despite the fact that climate change no longer stands as a 'theory' and has in large majority been accepted by relevant experts as fact, skeptics persist on muddying the discourse with their fuzzy logic, and a pandemic form of apathy has left many paralyzed by inaction. I don't believe that there is one single cause to explain this but rather it is the cumulative result of a number of factors that work against our human nature.

Our irrational behaviour can readily be explained by the psychological shortcomings that continue to



► Photo credit: OccupyCorporation.org

plague the human mind. There are a litany of cognitive biases that affect our ability to make rational decisions including ambiguity effect, confirmation bias, framing effect, and loss aversion. In situations where there is a deviation from the expected response, the result can often be one of these cognitive biases. According to Daniel Gilbert, a professor of psychology at Harvard, the human brain isn't wired to respond easily to large, slow-moving threats. As he explains, "our brain is essentially a get-out-of-the-way machine. That's why we can duck a baseball in milliseconds."

This line of reasoning might sound familiar to those of you who jumped on the *Thinking, Fast and Slow* bandwagon several years ago. The author, Daniel Kahneman, introduced readers to the two systems driving the way we think: system 1 (fast, intuitive, and emotional), and system 2 (slow,

deliberate, and logical). System 1 is our default; it's automatic and takes little effort to use. It doesn't seek to come up with the best solution, just one that's good enough. As a result, it also gives rise to the majority of cognitive errors we experience. On the other hand, system 2 is better at methodically developing more rational solutions. However, Kahneman describes us as instinctively lazy thinkers, often preferring to rely on system 1's ability to just quickly get the job done. What all of this suggests is that, not only do we find it difficult to perceive the long-term events of climate change as threats requiring our immediate attention, but in responding to these issues we also depend heavily on a system of thinking that is inherently susceptible to faulty reasoning.

» see EDITORIAL, page 21

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Submissions for the April 6 issue are
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submitted to: obiterdicta@osgoode.yorku.ca

The *Obiter Dicta* is published biweekly
during the school year, and is printed by
Weller Publishing Co. Ltd.

Obiter Dicta is the official student newspaper of Osgoode Hall Law School. The opinions expressed in the articles contained herein are not necessarily those of the *Obiter* staff. The *Obiter* reserves the right to refuse any submission that is judged to be libelous or defamatory, contains personal attacks, or is discriminatory on the basis of sex, race, religion, or sexual orientation. Submissions may be edited for length and/or content.

"Beware of hard constructions and strained inferences, for there is no worse torture than that of laws." FRANCIS BACON

Open Letter:

135 Osgoode students urge Dean Sossin to respect the CUPE 3903 strike and not resume classes until a deal is reached

10 MARCH 2015

EDITORIAL NOTE: This open letter was originally published on the *Obiter Dicta* website on 11 March, prior to the resumption of classes on 16 March. It is reprinted here at the request of a student.

Dear Dean Sossin,

We are writing to express our support for members of CUPE 3903 currently on strike at York University. As students and future practitioners of law, we view this strike as the exercise of a constitutionally-protected right, one which deserves recognition and ongoing affirmation from Osgoode Hall Law School.

As others have already made clear, there is no doubt that the strike has caused distress among Osgoode students. We join them in apprehension about the uncertainty of the near future—about finishing coursework by April, writing the bar exam on schedule, and transitioning smoothly to various forms of employment. We too have commitments and responsibilities outside of school that are being affected, along with plans that may be cancelled and opportunities that are in jeopardy. As such, we too hope for a swift resolution to the dispute and the resumption of our normal, everyday lives. But all of these anxieties are more than just understandable—they are to be expected in the context of a strike.

Aside from whatever else it may be, a strike by its nature is inconvenient. It disrupts the normal functioning of all operations touched by striking workers. Devalued and stymied at the bargaining table, workers strike to demonstrate and draw power from the integral contributions they make to the institutions or enterprises dependent on their labour. The reason this tactic persists is the same reason it receives protection from law: the very possibility of work stoppage is what animates good faith bargaining in an adversarial employment relationship characterized by inequality. Protecting strikes through law is thus a mechanism to prevent them.

Accordingly, when a strike does occur, it becomes the duty of all those who take law's purpose seriously to translate legal protection into meaningful protection by refusing to cross picket lines. Otherwise, the constitutional right to strike is reduced to a chimera, a mere paper right enforced in every which way except the way that matters. Because it is contrary to Osgoode Hall's ethos as a law school to partake in such derogation, we call on Osgoode to respect the integrity of CUPE 3903's picket lines by maintaining the suspension of all academic activities until the strike is over. In addition, we seek to join you, the Dean, in urging the York administration to negotiate with the union in order to achieve a fair and reasonable collective agreement at the bargaining table.

Osgoode students want classes to resume swiftly as well as justly. A commitment to respect picket lines achieves both these aims: it protects the right to strike and thereby impels resolution of the dispute through good faith collective bargaining. We expect our law school to strike and maintain such a balance in the days and weeks ahead.

Sincerely,



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Every Day is Monday Morning

The travails of resuming law school on a struck campus

PARMBIR SINGH GILL › STAFF WRITER

EDITORIAL NOTE: Parmbir's article was originally published on the *Obiter Dicta* website on 11 March, prior to the resumption of classes on 16 March.

RECENT DEVELOPMENTS AT Osgoode Hall are conspiring to introduce an unseemly innovation on 16 March 2015: two-tiered legal education.

But first, a brief recap on how we got to this point.

On 6 March, following four days of strike action, CUPE 3903 leaders agreed to put the York administration's latest offer to a ratification vote. The offer, while providing job security for dozens of high-seniority contract faculty (Unit 2), left over two thousand TAs (Unit 1), GAs, and RAs (both Unit 3) without secure tuition indexation language, thereby sealing the fate of current and future international graduate students gouged by a \$7000 tuition hike in 2014. At the administration's behest, the offer also maintained the exclusion of "LGBTQ" as an employment equity group, unless and until another collective agreement on campus included it—a position as difficult to explain as it is to countenance.

Not surprisingly, then, CUPE 3903's 9 March ratification vote resulted in a split: while sixty-five per cent of Unit 2 members voted to ratify, Units 1 and 3 rejected the offer by fifty-nine per cent and seventy-seven per cent, respectively.

With almost three thousand education workers still on strike on 10 March (and gaining public support from faculty, undergraduates, and law students), the administration's next move was unexpected: it passed a motion through York Senate to resume five major academic programs, including the Lassonde School of Engineering, the Schulich School of Business, and the still-in-search-of-philanthropist School of Nursing. 11 March thus bore witness to the first throes of academic activity since the strike began eight days earlier, adding strain and subtracting safety from already assailed picket lines.

As it happened, 11 March was also the day Osgoode Hall's Faculty Council met to determine the law school's position on the work stoppage. After a tense and protracted three-hour discussion with more than twenty spectators in the audience, FC voted 34-17 (with four abstentions) in favour of resuming classes on 16 March, in accordance with the broad-strokes "Resumption and Remediation Plan" (RRP) prepared by Dean Lorne Sossin, Associate Dean Trevor Farrow, and Assistant Dean Mya Rimon. To move forward, the RRP required official approval from York Senate, which was secured at a special meeting held on 12 March.

This brings us to 13 March. Unless circumstances change dramatically over the weekend, Osgoode Hall will reopen Monday on a struck campus replete with seven picket lines, no TTC service, and dozens of non-operational programs. It will be a morning of decisions and divisions, of resumption in the context of a legal disruption—a morning that will recur every school day on loop until this strike is over.

Besides undermining the collective bargaining process, this premature restarting of classes poses several dilemmas for Osgoode students. First, it forces those who support CUPE 3903 to resume academic



► Photo caption goes here.

activity in one way or another. Nowhere in the Plan are students afforded an opportunity to observe the strike to its full extent by withdrawing completely from school-related work until its conclusion. The language of "choice" in the RRP in this way masks a prior and more fundamental act of imposition.

In place of real options, the Plan promises "accommodation" to students who "choose" not to cross picket lines.

Provisionally, this entails access to lecture and seminar recordings, enhanced usage of Moodle, alternative assignment due dates, and the option of electing a credit/no-credit option for final exams. Yet anyone familiar with the state of technology at Osgoode, or the inimitable experience of in-class seminars, or the importance of letter grades for employment and scholarship opportunities will discern that "accommodation" begins very quickly to resemble inferior education. Two-tiered learning, it seems, is what awaits members of the Osgoode community come Monday.

Perhaps the most troubling aspect of the RRP is that it requires "students who elect not to return to classes [to] notify the Assistant Dean's office by 23 March 2015 of their decision." Although the specifics have yet to be filled in, it is peculiar that Osgoode, as a law school, would presume and thereby induce students to cross picket lines by placing the onus of notice on the other side. That is, why aren't students who decide to cross picket lines required to fill out forms communicating this decision? Of course, there are obvious numerical and logistical rationales for such an arrangement, but there is also an ideological element at play, one which normalizes a world where workers' rights are taught and trumpeted in class while seamlessly trampled on the paths taken to get there.

For these and many other reasons, the Osgoode

Strike Support Committee (OSSC) is getting organized. With the backing of law professors and Student Caucus representatives, we will be meeting with the Osgoode administration to propose significant changes to the RRP. We will also be holding pickets outside Osgoode to inform our peers about the stakes

and meaning of attending classes during a strike. At the same time, we are preparing off-campus teach-ins and study groups

to ensure that we all learn course material apace with our classmates and perform to the best of our abilities on exams, papers, and assignments. To get involved or to find out more, send an email to <osgoode4workersrights@gmail.com>.

In doing this work, the OSSC is committed to positive, open, and inclusive dialogue with all Osgoode community members. We resolve to respect differences of opinion and belief, while in protest of the circumstances giving rise to their expression. We are also aware that a silent majority of students will cross picket lines on Monday out of fear, anxiety, and pressure to perform well in school, even though they support CUPE 3903 in its struggle for a fair collective agreement. To these students: know that you are not alone, that you do have a choice (constrained though it is), and that if you decide not to cross picket lines at any point during this strike, the OSSC will be there to support you. For all its failings, the RRP *does* protect your right to stay out of the classroom, and we intend to enhance that protection in both breadth and quality.

All that said, Monday morning is on the horizon, fault lines are emerging, and hard decisions are going to have to be made. As fellow OSSC member Darcel Bullen put it, from that morning onward, Osgoode will be in class and Osgoode will be on the picket lines.

Which Osgoode will you be? ♦

"... 'accommodation' begins very quickly to resemble inferior education."

Politics and Pupils

What comes first for faculty during the strike?

DOUGLAS JUDSON › CONTRIBUTOR

OSGOODE HALL Law School is caught in the crosshairs of yet another York University labour disruption by the Canadian Union of Public Employees Local 3903 (CUPE 3903). The union represents contract faculty, graduate assistants, and teaching assistants, only the latter two of which remain on strike. On 3 March, the university suspended all classes, with limited exceptions. Faculties seeking to resume operations were required to apply to the York Senate for an exemption to the blanket shut down. The Senate policy has become the battlefield of the divided varsity, and the futures and careers of Osgoode students have been haplessly caught in the balance.

Doctrine and duty.

To be upfront: I acknowledge the right to strike. My concern lies with distinguishing faculty support for labour with the execution of their governance responsibilities as part of the institution and their duty to students.

Certainly, the labour rift has been keenly felt by those on all sides of the dispute at Osgoode. Union supporters, CUPE critics, and those who simply want the option to return to school have busied themselves with a hashtagged debate over why or why not a given faculty ought to stand in solidarity with the union and why students should or should not cross the picket line. While that discourse is predictable (and perhaps desirable) across any distressed student body, it is from these political trenches that a disturbing fault line has surfaced in the university's governance structure.

Many are sounding the alarm over what they perceive as the refusal of some faculty with governance roles at Osgoode and York to make decisions in the best interests of the institution and its students, rather than their personal ideological preferences. They point to recurrent attempts to needlessly suspend classes, in solidarity with the impugned union, when doing so is clearly unwarranted. This is particularly true for faculties with minimal reliance on CUPE 3903 members or where the impact on students would be disproportionate. On this rubric, Osgoode is both a distant bystander to the strike, and its students are at risk of becoming one of its greatest casualties.

Impacts and facts.

Only one Osgoode course is taught by a CUPE 3903 member, and two others are supported by CUPE assistants. Osgoode students also have the most to lose if the academic year is delayed. Tuition for one year of study at the law school tips the scales at \$23,000. Its *average* indebted graduate owes over \$70,000 in loans upon completion of the three-year program. First- and second-year students may see summer job offers rescinded, further compounding their impoverishment in the future.

More urgently, for those planning to graduate, an inability to complete the term by late April will render them unable to prepare for or write the Ontario bar exams in June, and thus unable to satisfy the conditions on their articling job offers.

This would leave them unemployed, with derailed careers, at the same time that substantial student loans come due. Graduands have also paid over \$5,000 to enter the Law Society of Upper Canada's licensing process, and to date, the Law Society has indicated that their schedule is fixed and no accommodations will be made for the 280 candidates impacted by York's labour woes. Should classes resume but Osgoode not meet a designated number of in-class hours, the degrees awarded to graduates could lose Law Society accreditation.

This is a substantial amount of collateral damage to endure for someone else's labour dispute, and the irony of striking students holding hostage the livelihoods of other, more deeply indebted students is certainly unsettling. Osgoode administration was right to respond with a resumption plan, and the situation ought to have compelled those on the school's governing bodies to set aside personal views and retreat to fact-based decision-making, not doctrinal entrenchment.

The facts above should have been sufficient to convince any rational person that Osgoode needed to resume classes immediately, perhaps providing some means of accommodation for students unable or unwilling to cross picket lines. Over 200 students made such a request on 8 March, and Osgoode's Faculty Council followed suit, voting 34-17 on 10 March in favour of seeking an exemption to the class suspension policy. Osgoode administration obtained the exemption from the York Senate on 12 March, for

a resumption of classes on 16 March.

Pupils over politics.

Yet, it is the insistence of a minority of faculty (and some elected students) with governance duties that classes remain suspended for everyone until the labour dispute is resolved that is cause for concern. These are professors with six-figure salaries voting in a direction that would have seen their debt-strapped students ushered further into the poorhouse, lose their jobs, and forgo joining the profession they had studied for at least seven years to enter. These academics would watch this transpire in the name of solidarity with striking workers

from a largely external labour dispute, whose demands most could probably fail to enumerate, and who all students do not support.

Hypocritically, during a suspension of classes, all of these professors would continue to receive a handsome pay cheque generated from the fees of their students (who would get no refund), despite not performing any teaching duties. Bluntly put, they appear to be relying on the irreproachability of tenure, the impunity of academic freedom, and anonymity of voting procedures (against the request of students) to inject their personal politics into a governance decision that should turn on other factors. The consequences could have denied their students

"This is a substantial amount of collateral damage to endure for someone else's labour dispute..."

» see **POLITICS PUPILS**, page 21



► Photo credit: TorontoStar.com

Action Committee Meets in Toronto

Event recap

NABILA KHAN ›
CANADIAN FORUM ON CIVIL JUSTICE

ON 13 MARCH 2015, the Action Committee on Access to Justice in Civil and Family Matters—which was assembled in 2008 at the invitation of the Chief Justice of Canada as a catalyst for meaningful action to justice reform—convened a meeting for provincial and territorial access to justice groups in Toronto, Ontario. The groups met to discuss the future of access to justice in Canada following the release of the Committee's final report, *Access to Civil and Family Justice: A Roadmap for Change*, and last year's Action Committee Colloquium.

Over the past few years, the Action Committee has worked to encourage system-wide improvements to ensure access to justice for all Canadians. The Committee has approached this by pursuing a strategic approach to reforms and coordinating the efforts of all participants concerned with civil justice.

The March meeting provided local access to justice groups across Canada with a forum to share access to justice initiatives in their jurisdictions, successes

and failures, and plans to move forward. The meeting provided the groups an opportunity to discuss potential collaborations across jurisdictions and ways to increase communication through institutional support.

The meeting highlighted key issues of relationship-building between local and national access to justice committees, public education, engagement and innovation. These discussions included examining existing and potential committee structures and membership design, as well as approaches to system-wide collaboration amongst the groups and with the public.

The Action Committee, which is made up of leaders across Canada in the access to justice landscape, comes together to foster engagement and coordinate the efforts of individuals and organizations concerned with civil and family justice. The Canadian Forum on Civil Justice is pleased to play a support role in the execution of research and dissemination activities for the Committee. ♦

For more information on the Action Committee, visit: www.cfcj-fcjc.org/action-committee.

Green Tip of the Week

Exam edition

LIANE LANGSTAFF ›
OSGOODE SUSTAINABILITY COMMITTEE

AS WE LEAD up to the end of the semester here are some tips to reduce the environmental footprint (although maybe not entirely the stress) of exams and final papers.

Choose double-sided printing for your summaries:

Preparing summaries can be hard enough! Save your back and binder space by printing your summary out on both sides. You can do so at home or in the comfort of the Osgoode library. After a brief hiatus, the Law Library once again allows double sided printing for the Hewlett-Packard Printer located in the Upper Library. Use the print queue called LW-PRINT-LIB02-DUPLEX. See the following link for details: www.osgoode.yorku.ca/resources-and-services/information-technology-services/services-students/student-printing/print-computer/

Re-use scrap paper to print paper drafts and work through old exams:

Have some scrap paper left over from class handouts and printing out one hundred-page journal articles? Put the blank side to good use! Re-use scrap paper to print paper draft version fifty, or for rough notes as you work through old exams.

Re-purpose old binders, tabs and dividers:

Every year when exams finish there is a certain satisfaction in throwing your summaries promptly into the recycling bin (good riddance!). Take a moment to remove the useful school supplies hidden amongst those pages. Binders, tabs and dividers can be used again next year, saving you money and the headache of realizing you need more supplies the night before your exam.

The Sustainability Committee wishes you the best of luck over the coming weeks. Have a fantastic summer! ♦

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EDITOR'S NOTE

Re: Suspension of printed issues

After discussing recent operational changes with our advertisers, it has been clarified that the *Obiter Dicta* is contractually obligated to publish a minimum print run for each issue. We are thereby prevented from operating exclusively online, as was announced to students last week. We would like to underscore that by resuming our printed format, we are not implicitly condoning or endorsing the crossing of picket lines. This decision was necessitated by our legal situation rather than any ideological or political motivations. The *Obiter Dicta* remains committed to its neutral stance with respect to the labour disruption. It has demonstrated this commitment not only through publication of differing viewpoints regarding the strike and resumption of classes, but also in its operational adjustments.

The *Obiter's* on-campus activities such as in-person staff meetings, remain suspended. Furthermore, we would like to remind students that their on-campus presence is not required to submit to or read the *Obiter*; all of our content has been, and will continue to be, accessible online through our website and Facebook page.

We would like to thank all students for their thoughtful insights, comments, and submissions on the labour disruption. We are proud to publish material that has reflected the utmost respect and civility toward all those involved, and we look forward to continuing to serve Osgoode students by facilitating a dialogue on this and any other subject. ♦

2015 Willms & Shier Environmental Law Moot

Osgoode takes second place and best respondent factum

ZACH D'ONOFRIO › CONTRIBUTOR

OSGOODE'S ENVIRONMENTAL LAW moot-ing program is alive and well. As a member of Osgoode Hall's 2015 Willms & Shier Environmental Law Moot team, I am pleased to report that the 7 March competition went (almost) as well as we could have hoped for. While nine law schools from coast to coast were represented at the competition (from the University of Victoria all the way to Dalhousie University), both Osgoode teams managed to walk away with awards: Martin Banach, Joslyn Currie, and myself took second place while Danielle Cornacchia, Gün Köleoğlu, and Maija-Lisa Robinson won the D. Paul Emond Award for Best Respondent's Factum.

A big thanks also goes out to our coaches, Andrea Bradley, Senwung Luk, and Michael McClurg of Olthuis Kleer Townshend LLP. As second place finishers, Martin, Joslyn, and I had the chance to present our submissions to Justice Karakatsanis (SCC), Justice Stratas (FCA), and Justice van Rensburg (ONCA). While we would have liked to take the first place prize, Osgoode has definitely shown its strength in environmental law by bringing home two team awards. This is the third time that the moot has been held and the second time running that Osgoode has been runner-up. The Willms & Shier Environmental Law Moot is only held once every two years, so consider this a call to present first year students to be ready to bring home the gold two years from now, continuing Osgoode's excellent track record in the competition. ♦



► From left to right: Andrea Bradley, Joslyn Currie, Senwung Luk, Maija-Lisa Robinson, Gün Köleoğlu, Zachary D'Onofrio, Martin Banach and Danielle Cornacchia.

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A Healthy Environment and Healthy Communities Go Hand-in-Hand

ZACH D'ONOFRIO › CONTRIBUTOR

WITH PRESENT CONCERNS over the ongoing strike at York University, it's easy for the environment to take a back seat on our list of priorities. However, rather than making us forget the importance of environmental protection, the labour disruption should remind us of that issue.

The labour movement started about a century before the modern environmental movement, but the two phenomena have followed similar paths and stand for similar principles. Both are premised on the idea that people should be treated fairly, and that the rights of less powerful members of society should not be trodden on by the social elite. The labour movement seeks to guarantee workers' rights by securing fair wages and reasonable working hours. The environmental movement seeks to protect another right that each and every one of us deserves: access to a healthy environment.

While it is certainly true that no one can flourish under poor working conditions or on a wage that places them below the poverty line, it is equally true that a clean environment is an essential component to a healthy lifestyle. The struggle that people all over the world are waging to ensure that local environments stay as healthy as possible is aimed at protecting that essential

component for all of us and for future generations.

While environmentalism is often seen as a pastime for the wealthy, we must remember who suffers most because of environmental degradation. Members of poor communities in developing countries often work in close contact with hazardous waste to earn a living. Coastal communities without the resources to mitigate the effects of climate change will likely be wiped out due to rising sea levels if nothing is done to stop global warming. These types of disadvantaged communities are positioned to feel most keenly the negative impacts of a lack of environmental protection.

As new technologies are developed and policy ideas floated to accompany them, there is growing evidence that the social and environmental health of communities are deeply intertwined. Green energy technologies can help disadvantaged communities to access electrical power even when they are not connected to national energy grids. There is money to be made in performing environmental cleanups, thereby preserving sensitive habitats and supporting

local economies. The preservation of natural landscapes is beginning to be seen as more valuable in terms of tourism

dollars than for resource extraction. All these recent developments point to the fact that social and environmental values can be championed simultaneously.

"... social and environmental values can be championed simultaneously."

While it is still widely believed that the exploitation of the environment is required for economic growth, the trends described above (and others) contest that assumption. There are many cases in which the goods of society and of the environment are in fact intertwined, and in which initiatives can be developed to support both. Let the current labour disruption, the result of a movement seeking to protect the right of workers from being exploited, serve to remind us that the environment deserves protection as well. ♦

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The Carbon Bubble

Shaking up the business community's climate change complacency

LIANE LANGSTAFF › STAFF WRITER

CLIMATE CHANGE—although a hot-button issue for environmentalists and a concern of many Canadians—has taken a political backseat in recent years. This has allowed the fossil fuel industry and investors to delay thinking about transitioning to a low-carbon economy. The wait is over. The growing understanding of the carbon bubble is set to shake up the business community's complacency.

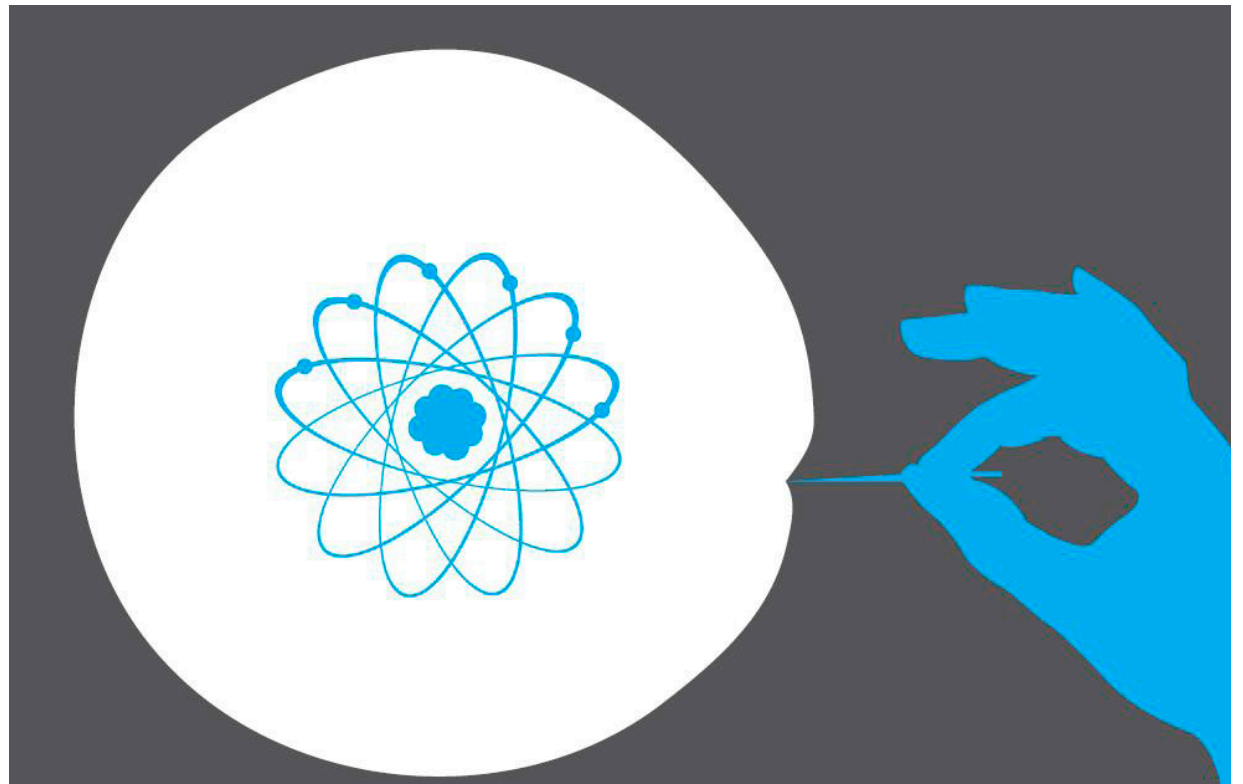
There is growing consensus that climate change must remain below two degrees Celsius of warming to avoid the most harmful impacts to ecosystems and vulnerable populations. Already major changes are being observed. Existing warming of 0.8 degrees Celsius above pre-industrial levels has led to the acidification of the world's oceans, increasing heat waves, and droughts. Furthermore, our current fossil fuel habits are setting us on a path to cause four degrees Celsius of warming by 2100. This four degrees Celsius scenario has been described as no less than “devastating” by a recent World Bank Report—inundating coastal cities and severely impacting food supplies.

Consequently, the *United Nations Framework Convention on Climate Change* and the 2011 Cancun Agreements propose a long-term goal of “reducing greenhouse gas emissions so as to hold the increase in global average temperature below two degrees Celsius above pre-industrial levels.” A draft version of a global climate deal to be signed in Paris at the end of 2015 even includes references to a complete phase-out of fossil fuels by 2050.

Regulators around the world are taking note. In Canada—although concrete action on climate change has been slow at the federal level—provincial policies are having significant impacts. British Columbia already has a carbon tax, and Ontario's Premier, Kathleen Wynne, has pledged to unveil a carbon pricing plan in the spring of 2015.

Lawyers are also leading the charge. The International Bar Association commissioned a Task Force on Climate Change Justice and Human Rights co-chaired by Osgoode's very own McMurtry Fellow and respected environmental lawyer, David Estrin. The Task Force's July 2014 report, *Achieving Justice and Human Rights in an Era of Climate Disruption*, call upon “policy makers, human rights, judicial and other dispute resolution bodies, bar associations, corporate leaders, legal practitioners, businesses, NGOs and individuals” to embrace and implement its recommendations to harness the law to achieve climate change justice.

This is where the carbon bubble comes in. Given that scientists, regulators, and lawyers are finally on the same page about the need to restrict climate change below a dangerous two degrees Celsius of warming, to achieve this target, only 565 more gigatons of carbon dioxide may be released into the atmosphere. Comparing this number to existing fossil fuel



► Photo credit: CarbonTracker.org

reserves, approximately two-thirds of proven fossil fuel reserves must remain in the ground. By this logic, fossil fuel companies are overstating the value of their unexploited reserves, creating a “carbon bubble” in the economy. Just like the sub-prime mortgage bubble in the US before the 2007 financial crisis, the carbon bubble, if ignored, may have significant consequences for industry and investors.

The Carbon Tracker Initiative reveals the crux of the problem—something environmentalist Bill McKibben has coined as “global warming's terrifying new math.” The amount of carbon already contained in proven coal, oil, and gas reserves of fossil fuel companies is 2,795 gigatons—five times higher than the 565 gigaton limit. For Canada, the numbers are equally stark. Since all possible Canadian fossil fuel reserves are estimated to be 1,192 gigatons—more than double the world's carbon limit—seventy-eight per cent of Canada's proven reserves would have to remain in the ground.

With numbers like this, even prominent members of the financial community are coming around. Mark Carney, Governor of the

Bank of England and former Governor of the Bank of Canada, has warned that the “vast majority of [fossil fuel] reserves are unburnable” if we are to avoid catastrophic climate change. Likewise, at the World Economic Forum in Davos climate change featured prominently on the agenda with business leaders discussing how to use low carbon energy sources and participate in a circular economy—designing product materials to be reused instead of thrown out.

How the carbon bubble impacts Canada is still unfolding but, likely, many changes are in store. Given the significant limits on Canadian fossil fuel reserves to keep temperature increases below two degrees Celsius of warming, Canadian fossil fuel companies will have to adjust their strategies. Industry must confront reality by accurately valuing “burnable” fossil fuel reserves and planning for alternative, and less environmentally-harmful, revenue opportunities.

Investors, for their part, will want to reduce their exposure to climate regulatory risks by divesting of fossil fuels or pressuring management to take the carbon bubble more seriously. As researchers Mark Lee and Brock Ellis explain, pension funds and other institutional investors can be part of this “managed retreat” from fossil fuel investments mandating that carbon exposure risks be evaluated prior to investing in companies.

The time of climate complacency is over. The growing understanding of the carbon bubble might just be the shock to the system we need to transition to a lower carbon world. ♦

Check out the following resources for more details:

Bill McKibben, “Global Warming's Terrifying New Math” *Rolling Stone Magazine* (19 July 2012), online: <<http://www.rollingstone.com/politics/news/global-warmings-terrifying-new-math-20120719>>.

Jessica Shankleman, “Mark Carney: most fossil fuel reserves can't be burned” *The Guardian* (13 October 2014), online: <<http://www.theguardian.com/environment/2014/oct/13/mark-carney-fossil-fuel-reserves-burned-carbon-bubble>>.

“...the carbon bubble, if ignored, may have significant consequences for industry and investors.”

A Plan Without Enforcement is no Plan at all

Alberta unveils new rules regarding tailing ponds and water extraction in oils sands production

AMY BRUBACHER › CONTRIBUTOR

ALBERTA HAS RELEASED a new set of rules that it says are designed to limit water use from the Athabasca River. In addition, companies will be expected to diminish the growth of tailings ponds (pools of wastewater from bitumen extraction) and ensure that these ponds have been reclaimed within ten years of the end of a mining project. While these new rules are being trumpeted as a way of improving the environmental sustainability of the oil sands in relation to Alberta's critical fresh water resources, many are critical of this plan.

Kyle Fawcett, Alberta's Minister of Environmental and Sustainable Resource Development, stated that the new water-use limits "are dramatic cutbacks for all operators but they are essential in protecting the lower Athabasca." Yet the true challenge here is not about setting limits or creating frameworks. The challenge for Alberta is to actually stand by them, develop mechanisms for enforcement, and prosecute breaches.

The tremendous use of fresh water by oil sands producers has been well documented. In 2011, operations used approximately 1.7 million cubic metres of water—a figure equivalent to the residential water use of 1.7 million Canadians. In situ petroleum production used in the oil sands requires the use of heated water. At present, these techniques use approximately 0.8 to 1.7 barrels of water in order to fully extract and upgrade a barrel of oil. Processing bitumen requires 0.4 barrels of water for every barrel of bitumen produced. Members of Canada's Oil Sands Innovation Alliance (including Suncor Energy Inc. and Royal Dutch Shell plc) have pledged to halve freshwater use in processing to 0.2 barrels per barrel of bitumen by 2022.

In addition, Alberta's seventy-seven square miles of tailings ponds have been one of the industry's most difficult environmental challenges. For many, they are seen as a symbol of the industry's disregard for the environment. These ponds are more than an eyesore. Recent studies have revealed that they release more than one tonne of toxic hydrocarbons into the air every year. As of yet there is little evidence to suggest that Alberta's regulations will seriously impede the expansion of these ponds.

It is without question that Alberta is heavily reliant on oil revenue. Because of this interconnection, the fate of Alberta is inextricably linked to the fate of oil producers. Clear evidence of this has been the dramatic weakening of Alberta's economy in the wake of the recent plummeting of crude oil prices. In February alone, Alberta's unemployment rate rose by 1.2 per cent as the province lost fourteen thousand jobs. News outlets have reported that these figures are only the beginning.

In this context, where economic stability and government revenues are dependent on one industry above all others, how can the government expect to be taken seriously when it makes proclamations about increasing environmental standards? It seems clear that oil producers will be well aware that at this time the government will not be in a position to jeopardize its primary benefactor. If we accept that there is a trade-off between the economy and the environment, Alberta has made its priorities quite clear. With new projects having been approved, bitumen production

in the oil sands is projected to more than double its current rate by 2030. History shows that the government's enthusiasm for enforcement of environmental regulations has not matched its enthusiasm for approving projects.

In September of 2014, it was revealed that the government would not press charges following Suncor's 2011 discharge of "deleterious effluent" into the Athabasca River. The discharge in question failed "acute lethality testing" thirty-nine times. Failing these tests meant that more than fifty per cent of fish exposed to it died. Although the investigation did not find malice on the part of Suncor, we might question whether pressing charges and pursuing a full investigation might have been more valuable than absolving

them of guilt before their arguments of due diligence could have been scrutinized in court.

Additionally, with respect to the province's new guidelines, although the province has been marketing them as a way forward, in truth they seem to represent a clawing back of standards. In implementing these new rules the government is retracting Directive 74, which had been in place since 2009. According to an Alberta government website, those rules required companies to "reduce tailings and provide target dates for closure and reclamation of ponds," and "[laid] out timelines for operators to process fluid tailings at the same rate they produce them, [in order to] eliminate growth in fluid tailings." Yet these rules were not enforced. In 2013, when companies missed the first set of deadlines, the regulator backed down and refused to impose any penalties. In fact, the new rules are said to have been brought in specifically because companies were persistently unable to comply with these old rules.

One important challenge is that the technology required in order for oil sands producers to meet these guidelines does not exist yet. Fawcett has acknowledged that compliance with the rules will require oil producers to develop new technologies, and invest in new procedures that will allow them to reduce tailings.

Certainly there is cause to believe that producers may see the value in improving their environmental records. Negative press around the environmental destruction caused by the oil sands has created serious public relations problems for those with investments in its projects. Most notable of these are the substantial delays that the American leg of the Keystone XL pipeline has experienced. They may as well take it upon themselves to try to meet the new guidelines.

Unfortunately, given the weakness that we have seen on the part of Alberta's government as far as enforcement is concerned, one is led to believe that that this is the only hope we have that environmental damage will be minimized. Despite the recent rhetoric to the contrary, the Alberta government has given us little reason to believe that it will support environmental protection when such protection is at odds with the interests of producers. ♦

"...the fate of Alberta is inextricably linked to the fate of oil producers."



► Syncrude Tailings Dam—Mildred Lake Settling Basin. Photo credit: Wikipedia.org

Burning Our Mother

Environmental injustice and indigenous suffering

SUBBAN JAMA › COPY EDITOR

WHY ARE WE so apathetic about environmental injustice and indigenous suffering, Canada's two most famous shames? "Going green" is not just a seasonal recommendation for Canadians; it is a moral imperative.

"Continuance of life depends on sustenance and it is the duty of everyone to nurture and protect the land. As women we have a special relationship to Our Mother the Earth because we also give life and nourish children and the generations that come from us. We are responsible to teach and demonstrate that we are stewards of the natural world. The role must now encompass a much greater struggle that Indigenous peoples all around the world are facing in light of the industrialization and destruction of Our Mother the Earth."

HAUDENOSAUNEE CLANMOTHERS, 2007

We are all very aware of Aboriginal people's special relationship to land and to the environment. We know that the preservation of their lands is of paramount importance for Indigenous communities who envision land—"Our Mother the Earth"—in radically different ways from most Canadians. To the Indigenous imagination, land does not exist solely as a resource but as a source of spiritual, social and political life. Many Anishinabek, for example, characterize the Earth as a living, sentient being with emotions, thoughts and agency. In British Columbia, the Haida Nation has historically revered the cedar tree as holy and as "the tree of life." These are sacred relationships wherein spirituality and life flow directly from the Earth. With full knowledge and appreciation of these relationships, we have taken, destroyed and continue to destroy Indigenous lands. To make matters worse, in addition to the *spiritual* harm this has caused, the group that has suffered the most as a result of the *material* consequences of environmental degradation is Canada's Indigenous population. This reality is a double insult and constitutes a phenomenon that has come to be known as "environmental racism."

The language of "going green" and "ecological footprints" only entered our lexicon and has gained popular currency in the last two decades. The environment has never been considered the sexiest political topic; it doesn't rile up public opinion as much as the economy or public security issues do, and with the exception of the aptly-titled Green Party, it is rarely the centerpiece of political platforms. In stark contrast to the reverence of the environment seen in many Aboriginal communities, environmental issues do not command very much respect among Canadians. Environmentalism is often dismissed as the pastime of champagne socialists and moneyed philanthropists; advocates are labeled as hippies or "tree huggers," all pejorative stereotypes that belittle the cause and undermine its urgency.

Sometimes the pendulum swings in the opposite direction and it's "all green everything." Though



► Photo credit: lisacharleyboy.com

Canadians seem largely apathetic, interest in the climate crisis does spike every now and again. Much has been made of the green movement as being more "eco-trendy" than eco-friendly. Leonardo DiCaprio has thrown his titanic prominence behind climate change and acts as a mouthpiece for the movement. Paradoxically, even the environmental cause has been commodified and green has become the favoured hue of corporate Canada.

These developments are worrying. When "going green" becomes a caricature or is reduced to an insincere trend or a crafty marketing ploy that makes people feel better about themselves, we run the risk of breeding complacency and forget the tangible harms suffered. Notably, the only thing Canada seems to care less about than the environment is its Aboriginal population. There are a number of causal and correlative connections between Canada's environmental record and its treatment of its most vulnerable populations. Certainly, there is plenty of apathy in both areas, but environmental apathy has the direct—and well-documented—consequence of devastating First Nations

communities: a doubly debilitating outcome for this group.

Indigenous peoples in Canada and around the globe bear a disproportionate share of the costs associated with environmental damage while enjoying far fewer of the benefits than non-Indigenous populations. On top of the exacerbation of climate change and the devastating impacts on land rights, Indigenous communities pay a very high price in health. High levels of toxins, mercury poisoning and industrial contamination have been found in the waters of different communities across the country for decades. Terrifying levels of cancer in some Indigenous communities in Alberta have been attributed to tar sands extraction. It is telling that this

oil—formerly referred to as "dirty oil"—is these days called "bloody oil."

The United Nations, among other organizations, has publicly criticized Canada for its abysmal treatment of Aboriginal people. In respect of environmental protection and climate change policy too, Canada has consistently ranked the worst performer among industrialized nations in the last few years, and fares among the worst in the world.

Moreover, Canada has gained notoriety for its failure to prevent overseas mining abuses. Last week, I, along with other law students from Osgoode Hall Law School and the University of Toronto, attended the twenty-first annual Canadian International Law Students' Conference. One of the panels was dedicated to Canadian overseas mining companies and Corporate Social Responsibility. Every panel member, including a representative from the mining industry, testified to Canada's ugly and bloody reputation in the extractive industry overseas. We heard about the devastation both to land and communities caused by companies where the sole concern is the financial bottom line. Not many are worse than Canadian mining corporations, they acknowledged, which have been associated with forced labour, slavery, rape, murder, population displacement, contamination of waters, and so on. These corporations shelter in areas where regulatory oversight is lacking and they bury themselves in convoluted corporate structures so as to avoid liability.

And in this regard, the mining companies are largely successful. Even in Canada where a strong rule-of-law culture and institutions exist, mining corporations are almost immune from legislative oversight. Even in our own backyard, access to legal assistance for vulnerable communities is limited. Having said this, it is established law that the Crown owes a *sui generis* fiduciary duty towards Aboriginal

"Canada has gained notoriety for its failure to prevent overseas mining abuses."

A Roof Over Their Heads

The right to housing

ESTHER MENDELSON > STAFF WRITER

SOCIETIES ARE JUDGED by the manner in which they treat their most vulnerable. How will ours be judged?

Over the course of less than one week in January, two homeless men died out in the cold. They died because they were exposed to the elements with no place to go, not in a far-flung developing nation, but here in Toronto.

In an epoch when nearly everyone has a phone that can count steps walked, recommend nearby restaurants, and talk to its owner, it is unconscionable that anywhere between 250,000 and 350,000 people sleep on the streets of this country every night.

It is too easy to disavow any similarity between *those* people and ourselves. Surely, they *did* something to end up homeless. They most likely *chose* to be out on the street. They're all drunks, drug addicts, mentally ill, gamblers, lazy, or otherwise undesirable. Or so we tell ourselves. *Toronto Life* published the story of a formerly homeless youth. Raised in one of the city's most affluent neighbourhoods, she was bullied in school and turned to the wrong crowd—and the drugs they offered her—in order to escape. She was kicked out of her home and wound up on the street, working in the sex trade, addicted to drugs, desperate, and alone. It can happen to anyone.

People lose their jobs, become critically ill and unable to work, go through acrimonious divorces, suffer from addiction or mental illness, or escape abuse, and end up on the street. No one chooses this life; the choice between constantly being beaten and living on the street is not a meaningful one.

Once there, they are often subjected to further abuse and threats to their safety and bodily integrity. The streets are cold and surviving is no simple task.

If they're lucky we'll throw (quite literally) some spare change into their cups, or buy them coffees because we don't want our money going to drugs or alcohol. More often than not, though, we simply glide by, talking on our phones, laughing with friends, listening to music, carrying on with our lives.

If we do decide to spare some change, we carefully select the recipients of our magnanimity, as though we are the arbiters of who is deserving of our

hard-earned money. I submit to you that anyone on the street is deserving of our compassion and help and should not be made to feel humiliated.

While ignoring the plight of the homeless has been a mark of shame, the most outrageous part of how our society deals with homelessness, however, may just be the criminalization of it. The *Safe Streets Act* was enacted in 1999 as a response to the supposed nuisance caused by “squeegee kids.”

Under the Act, homeless people sleeping on the street can be issued fines, none of which they can pay, of course. Accruing enough unpaid tickets could land someone in jail. The tickets are meant to push homeless people off the streets—no doubt in an effort to further gentrify and beautify the city—but where can they possibly be expected to go?

The Supreme Court has recognized commercial expression as a right when the party seeking to enforce that right has been a large corporation, but squeegee kids soliciting windshield washing services do not have the same right.

I was a kid when squeegee kids could be seen on street corners waiting for cars to stop. When

I debated with some of the adults in my life the merits of allowing these mostly homeless teens to offer

their services squeegeeing the windshields of cars at red lights in exchange for whatever coins the drivers had lying around, I was patted on the head and told that when I grow up and understand the issues, I will change my mind.

Well, I have grown up and I now have a deeper understanding of the issues but I have definitely not changed my mind. If anything, I am more convinced than ever of the injustice of this law. One of its original proponents, former Ontario Attorney General Michael Bryant, has now called for its repeal. My ten-year-old self feels vindicated knowing that a child had a better grasp on reality and justice than all those condescending, head-patting adults.

Today, politicians are finally taking note of the problem. Toronto Mayor John Tory should be commended for eschewing exactitudes and protocols, and instead opening up more shelter beds on the coldest winter nights. But shelters are not permanent homes, and they are not permanent solutions.

The Ontario government has committed itself to addressing homelessness, particularly youth homeless, in the province. It is laudable that many of the

“As with many social ills, homelessness costs more than its eradication.”



► Photo credit: TheRoughEdits.wordpress.com

policies are aimed at preventing homelessness, but we must also tend to those currently on the street. Ontarians must also hold the government's feet to the fire and insist that it follow through with these measures.

The South African Constitution includes the right to housing. Though the results have been a mixed bag, it has been an important first step.

In what can be described as a missed opportunity, the Ontario Court of Appeal ruled against the right to housing, which would have created corollary positive obligations on the part of the government to enact legislation addressing the issue of housing, as it did in South Africa.

As with many other social ills, homelessness costs more than its eradication. It costs the taxpayer up to \$120,000 per homeless person per year for institutional responses, as opposed to as little as \$18,000 for affordable housing. But even if the balance sheet indicated the reverse, I suggest that it is immoral not to address the crisis, regardless of the cost.

As future lawyers, we must consider how we can shape and advance the law. While the court may not have recognized Charter breaches in this round, we should work in the spirit of Charter values and insist that security of the person be a guiding principle for legislation and policy pertaining to homelessness.

Creating more affordable housing, instead of flashy expensive condos, and allowing parents to have their children of a different gender stay with them in shelters are some changes we as future lawyers should be advocating for.

Humanitarian crises like the recent Ebola outbreak cast the eyes of the world on the abject poverty in which so many across the globe live. For many, it threw into sharp relief the privilege in which we live and which seems to never quite suffice. Considering the staggering numbers—which become even more shocking in Aboriginal communities—how will our society be judged? ♦

THUMBS DOWN



Yahoo's single-use password “on demand.”

Arctic Discontents

A brief history of the Inuit relocation experiment

RACHEL MCPHERSON-DUNCAN ›
CONTRIBUTOR

“We have to overcome distrust and hostility, make things compatible, and become agreeable. For this to happen, from the Inuit perspective, many things need to be considered.”

AMAGOALIK, JON. 2012

THE ARCTIC is changing. The thawing of permafrost and icecaps induced by climate change has shaken Inuit livelihood and led to an international push for resource exploration and development. Canada’s claim to Arctic sovereignty, however, may not be as secure as Mr. Harper would like to think. Arctic sovereignty has yet to be officially declared and remains largely dependent on the effective occupation and the cooperation of the Inuit communities to self-identify as Canadians under rule of the Canadian government. Conversely, Arctic historian Shelagh Grant explains that Inuit communities generally consider themselves as part of the environment and distinct from Canadian society. This tension currently frames resource development in the Arctic and is the result of a legacy of colonial abuses and failed reconciliation efforts by the Canadian government.

A poignant event that framed the distrust of the Inuit people with the Canadian Government was the 1950s Inuit relocation experiment from Northern Quebec’s Ungava peninsula to Ellesmere and Cornwallis Islands in the Arctic Archipelago. Specifically, in 1953 and 1955 the Canadian government relocated eleven Inuit families from the Port Harris region and four families from Pond Inlet to new communities at Grise Fiord and Resolute Bay. Some Arctic historians claim that this relocation to the high Arctic was a forethought of the Canadian government to secure sovereignty to the Arctic via effective occupation of the Inuit during the Cold War. It also served as an attempt to disseminate and remove Inuit culture from modern society.

The relocation program occurred during a time when Inuit were still referred to as Eskimo, and the paternalistic Canadian Government perceived the project as a “humanitarian success.” During the first Eskimo Affairs conference in 1952 that would finalize the relocation program, the Government rationalized that they were acting for the good of the Inuit, despite not inviting any Inuit representatives:

The only reason why Eskimos were not invited to the meeting was, apart from the difficulties of transportation and language, that it was felt that few, if any, of them have yet reached the stage where they could take a responsible part in such discussions.

The High Arctic exiled families suffered great hardship in the new landscape despite what the Canadian government had promised them. Hunting and shelter was scarce, winters were darker, and partnership options were limited because only a few youth were brought into the new community. Many Inuit needlessly perished during the beginning of the relocation

experiment, though most survived through fierce adaptation. Among the survivors was Jon Amagoalik, a renowned Inuit responsible for leading the push for the self-governing Nunavut Land Claim Agreement.

Despite extensive oral histories, the Canadian government failed to accurately reflect Inuit colonial experiences in official government records of Canadian history. This denial of Inuit historical perspectives is perhaps best exemplified by the controversial reports that we published by the government on the Inuit High Arctic Exiles, popularly referred to as the “Hickling Report” of 1990. Published by the Hickling Corporation, the “Assessment of the factual basis of certain allegations made before the Standing Committee on Aboriginal Affairs concerning the relocation of Inukjuak Inuit families in the 1950s” concluded the following:

Our study reveals that the main reason for the decision by the Government to encourage some Inuit families to relocate to the High Arctic at that time was a concern to improve the living conditions of Inuit, particularly in the Hudson Bay region. Relocation from those depressed areas was seen, by both government officials and the Inuit themselves, as a way of breaking out of a growing pattern of welfare dependency, and as a means of providing the Inuit with new and better economic opportunities through improved hunting, trapping and wage employment.

Government commissioned studies would continue to proliferate the theory that the relocation was a humanitarian project aimed to help the Inuit that was highly successful, and deny that they were forcibly relocated. Fortunately, the descendants of the relocated families pushed for further reevaluation and were unrelenting in their request for an official government apology (which they were repeated

denied). This pressure on Canadian officials led to significant fiscal compensation throughout the 80s and 90s, as well as the passing of *Nunavut Land Claim Agreement Act* and the *Nunavut Act* by the Canadian Parliament which began in 1993 and was completed in 1999. Interestingly, this pressure did not result in an apology until 2010 when Minister of Indian Affairs and Northern Development, Jon Duncan, released a statement entitled “Apology for the Inuit High Arctic Relocation.”

The relocation program is just one example of the hardship that unjustly burdened the livelihood and strength of Inuit communities. It is important to note that the Inuit also survived through attempted genocides, cultural oppression, psychological and sexual abuse, and a general lack of recognition of basic human rights. Captured by Inuit vocal histories, these early interactions are pivotal to framing the contemporary Crown and Inuit relationship. ♦

Selected Resources:

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► Photo of Inuit mother and child from 1922 documentary “Nanook of the North.” Photo credit: Bozar.be

Third World Canada

Scarcity, precarity, and the untenable living conditions of our First Nations in the North

ESTHER MENDELSON > STAFF WRITER

IT IS NOT without hesitation that I use the term “third world”—a term long fallen out of favour. In the next few lines, I hope to prove that my choice was justified.

Dirty floors, little, if any, access to healthcare, and food staples priced out of reach. This is the reality for many rural Aboriginal communities in Canada—and yes, even in the “have” province of Ontario.

Food prices are reminiscent of post-WWI Germany when inflation was at its highest. A head of cabbage—which in Toronto can cost two dollars—can be marked at twenty-eight dollars. Milk, bread, eggs, canned goods, diapers, baby formula, and all the other basics required for human sustenance are simply too expensive for Aboriginal families living in the North.

There is a food security crisis in the North. Fresh fruits and vegetables as well as healthier options for grains, meat, poultry, and fish are far too expensive for families already living near or below the poverty line. What they can afford is mostly processed food, which does not offer much in the way of nutritional value. Children cannot be expected to learn and be active if what they are fed is full of sodium, sugar, fat, and chemicals. Expectant mothers cannot ensure their unborn children are developing properly if they themselves are not receiving proper nutrition. Elderly people whose immune systems are weaker are also at greater risk if they cannot access healthful foods.

A recent report by the Auditor General of Canada delivered a scathing review of the federal government’s food subsidy program. Government cuts and seemingly arbitrary eligibility criteria are some of the problems noted in the report.

The impact of this crisis is felt far beyond the dinner tables of these families. Aboriginal people—especially in rural Northern communities—are at greater risk for diabetes, heart disease, and other chronic illnesses. Since there is also a scarcity of medical professionals in the North—and Aboriginal people often avoid seeking medical attention due to discrimination—the problem is compounded. Seeking medical attention for more serious conditions which have already progressed is detrimental

“The impact of this crisis is felt far beyond the dinner tables of these families.”



► Photo credit: HuffingtonPost.com

to an individual’s health and is more costly for the health care system.

I am proud of the excellent humanitarian work Canada has done across the globe. We have been on the ground, responding to nearly every major humanitarian crisis over the last several decades. We have sent medical supplies, food, shelter, water purification kits, and teams of military personnel and volunteers to lend a helping hand. We do not wait for the call but, rather, readily offer our assistance. It is precisely because of our enormous capacity and overall generous Canadian spirit that I am troubled by the crisis unfolding in our very own backyard.

Aboriginal people have for too long been subject to unjust laws, profiling at the hands of police

and our judicial system, denied treaty rights, and ignored when their interests seem to be at odds with those of the government. Over-represented in our prisons, under-represented on our juries, and more frequently the victims of sexual assault and other forms of gender-based violence, Aboriginal people have been failed by our system. Poverty lies at the heart of many of these problems; accordingly, ameliorating their situation will go a long way in resolving some of these systemic issues.

This will cost money. It will necessitate tremendous political will, cooperation from the private sector, and the kindness and generosity of private individuals. Cost alone cannot be determinative. It is morally wrong to do nothing because doing nothing is tantamount to allowing these communities to starve to death.

As community leaders, lawyers, and law students we must advocate for policy change while also aiding efforts on the ground. If we are serious about reconciliation, we can start by making sure that Aboriginal families are able to access the basic necessities of life. ♦

THUMBS DOWN



Pushback from Starbucks’ attempt to bring attention to social injustice.

Use Your Words

Not sensitivity, but accountability

ESTHER MENDELSON > STAFF WRITER

AS THE COMPOSITION of the law school student body has evolved, so too, have the rules of the game. Some have welcomed these changes, while others demand more; others still lament what they consider to be hyper-sensitivity and the stifling of free speech.

These changes probably seem radical to those who have never been exposed to critical perspectives on topics such as gender and race. A thorough discussion of these ideas is beyond the scope of this piece, so instead I offer some thoughts on the new language and topography of the ideological terrain in law school.

Academic institutions, and perhaps law schools in particular, should be bastions of academic freedom, where ideas can be challenged and arguments made.

The question is whether hateful speech or hateful ideas have any place here. I suggest that they do not. We should not feel the need to self-censor, but we should carefully choose our words and challenge our own ideas to make sure they hold water before releasing them out into the world.

We have probably all noted our “attention to detail” in our cover letters to potential employers, likely right next to the words “team player.” Precision is an essential quality in lawyers. We may not all be wordsmiths of Shakespearean calibre, but as lawyers, our written and oral skills are essential tools for the work we do, be it at a legal aid clinic or on Bay Street. When we use words, we should make sure that they mean exactly what we think they mean, that we are using them in the correct context, and that there is no better word to put in its place. The wrong word can sidetrack a multi-million dollar deal or cause irreparable harm to colleague or client.

To use ableist, misogynistic, homophobic, or otherwise derogatory language is both inappropriate and unprofessional. It is also imprecise, because, as I can assure you, an exam cannot sexually assault anyone and an article of clothing cannot be intellectually challenged. How we speak speaks volumes of our character and level of professionalism. We should endeavour to be polished and polite at all times, as this

is the manner in which we build our reputations.

We are entering a profession characterized by privilege and prestige. Among the privileges granted is that of self-regulation. It is both a necessity (arising out of the need for expertise in adjudicating members’ behaviour and the need for an independent bar) and a sign that our profession can be trusted with, among other things, the onerous task of adjudicating complaints against its members. Along with privilege comes its dowdy cousin, responsibility. Maintaining the public’s faith in the legal profession and, by extension, the administration of justice is of paramount importance. Meaningful and transparent accountability is critical, and it begins right here, in the halls of law school. Civility and courtesy, which the Law Society of Upper Canada has seen fit to expound on in the Rules of Professional Conduct and include in the

“Ideas with no merit should not be given a pass simply because they are someone’s opinion.”



► Sure, you may be entitled to hold your opinions but others aren’t obliged to respect them if they’re wrong. Photo credit: ThoughtCatalog.com

Oath we will take when we are called to the bar, do not only manifest themselves in the tone of voice we use when we speak. They are engaged in our ideas and the words used to communicate them.

Ideas with no merit should not be given a pass simply because they are someone’s opinion. We are all entitled to be wrong, but we are not entitled to be wrong without repercussions. Ideas out of step with the democratic principles and equality values of our political milieu should be ousted as such.

Please do not think that when you suggest that

women are to blame for sexual assault, that anti-Semitism no longer exists, or that welfare incentivizes laziness you are being shouted down because there is some sort of conspiracy against free speech; you are being challenged because your ideas are based on notions which are demonstrably false. Facts, not feelings, rule the day, and in the arena of objectivity, hatred, oppression, and antiquated notions will never triumph.

This is not meant as a sermon from the pulpit. Those who reject what I have suggested are entitled to continue using whatever language they see fit and subscribe to whatever ideas they choose; they should, however, be alive to the logical consequences of their words. ♦

THUMBS UP



Strangers who showed up to Odin Camus’ 13th birthday party. #odinbirthday

The Pebble Watch is Back—But Don't Expect it to Cost \$13,000

The old adage doesn't fail

MICHAEL LY › CONTRIBUTOR

A WISE OLD man once said, “if it ain't broke, don't fix it.” Why bother messing around with something if it was absolutely amazing the first time around? Many would believe that you ought to stick to what works!

The Pebble Technology team took that to heart when they designed their third-generation smartwatch. In February 2015, the company launched pre-orders for its new line of smartwatches, and the old adage couldn't have been more on point. Casting orders on Kickstarter (the global crowdfunding platform), Pebble Technology not only did incredibly well but it obliterated Kickstarter crowdfunding records! To date, the top two Kickstarter projects (by total funds pledged) were Pebble's second-generation smartwatch and the so-called “21st Century Cooler that's actually Cooler.” The new Pebble Smartwatch not only beat itself but took over the “Cooler” to claim the title as the most funded Kickstarter campaign of all time; an astonishing eighteen million dollars pledged to date with seventy thousand backers, all while achieving thirty-six thousand per cent of their funding goal.

And yes, they did it while keeping to their roots. The new Pebble Watch includes many features customers enjoyed in the original—no surprises, nothing overly excessive or fancy, but instead just what works. The new Pebble has several recognizable features: always-on display, impeccable battery life (up to a week!), a daylight readable screen, water resistance, and tactile buttons. Though the team has kept to its roots, there are undoubtedly some new features that will also excite customers. New features, such as a colour e-paper display and microphone provide a fresh upgrade to the Pebble smartwatch lineup without ruining the integrity of what it represents: a practical, inexpensive, and durable product that does everything you need and nothing more.

Canadian Roots

So how did Pebble Technology get to where they are today? Don't worry, we don't have to look far! Born in Vancouver, BC, systems design engineer and founder,

Eric Migicovsky, began building smartwatches alongside a group of friends while studying at the University of Waterloo. He was one of the first classes of students to come through the University of Waterloo's accelerator network, Velocity, which is designed to help students with innovative business ideas.

Building the first prototype in his dorm, the first-generation product was called the InPulse. But like any successful entrepreneur, Migicovsky faced several setbacks with his product. Migicovsky was not able to raise enough funds through the Y Combinator business incubator program—the same program that has raised the likes of Dropbox, BufferBox, and Reddit. Furthermore, the InPulse was exclusive to BlackBerry's platform—leaving out a giant market of Android and iOS users. “We didn't build what people wanted,” says Migicovsky.

Devastated but unwilling to give up, in April 2012, Migicovsky and his team brought the new Pebble Watch to Kickstarter. Having reinvented it from the ground up, the Pebble worked on several platforms, had Bluetooth capability, and a longer battery life, amongst other changes. And that's when things really started to fall in place; within only two hours of going live, the project had met its goal of one hundred thousand dollars and, by the end of it all, Pebble Technology raised over ten million dollars, backed by sixty-eight thousand people. At the time, it was the most funded Kickstarter campaign.

Competition: David Versus Goliath? Migicovsky Doesn't Think So

There is no secret that the wearable devices market is becoming increasingly saturated. There are some hefty competitors out there; products include the classy Motorola Moto 360 Smartwatch and the recently released Apple Watch, which includes the Edition version priced at thirteen thousand dollars. One might wonder how Pebble Technology plans to compete against these tech giants.

Pebble Technology knows that it is still considered

a “small fish.” In an American Public Media interview, Migicovsky conceded that Apple could buy Pebble Technology with its pocket change. Yet, Migicovsky repeatedly stated that he would never sell his company to Tim Cook, the current CEO of Apple. He further added that although there are obvious overlaps between the Pebble Watch and other smartwatches in the market, the Pebble targets a different consumer base. Pebble doesn't target a customer base looking for a luxury product. Instead, Pebble consumers are those who don't want a watch that makes life more complicated with even more notifications or having to charge their smartwatch every few days. They want a durable and practical watch without a hefty price tag; no fancy gimmicks and no compromises.

Though still a relatively small tech company, Pebble has also received its fair share of public criticism. Namely, some consumers questioned why Pebble decided to launch its recent smartwatch on Kickstarter, again. Unlike the first time around, Pebble now certainly has enough capital, consumer awareness, and resources to launch on its own; the

“Pebble consumers are those who don't want a watch that makes life more complicated...”

crowdfunding platform is designed to help those who are just starting out to bring creative projects to life.

Migicovsky stated that his team decided to return to Kickstarter to reward its loyal Kickstart fan base—loyal customers get neat rewards for supporting them the second time around such as “extra special engraving,” and easier product upgrades. It was also more efficient with regards to cost and shipping expediency for Pebble to launch on Kickstarter. Geez, is there anything these guys can't do right?

Moving Forward

What's next for Pebble Technology? Migicovsky hasn't given the tech world many hints. If the new distributor tier in its recent Kickstarter is any indication, Pebble Technology wants its presence in stores. There is great benefit to having customers be able to physically see and play around with the product in retailers. Now that they have more capital, why be limited to only online purchases? Furthermore, Pebble could enter into various partnerships; wouldn't it be cool if Pebble would sync with your car, television, or even your drone?

If one thing is clear, the future generation of Pebble smartwatches won't be looking drastically different from previous ones. They also won't carry a hefty price tag of thirteen thousand dollars and contain eighteen-karat gold. It might be bad news for Pebble if they try to enter into the luxury market and compete with the likes of Apple. Better to stick to what works and continue to provide its loyal customers exactly with what they're looking for. Indeed, it's what Pebble Technology has been doing since its inception.



A Trio of Film Reviews, Currently in Theatres

Vampires, melodrama, and bad erotica: something for everyone?

KENDALL GRANT › STAFF WRITER

Fifty Shades of Grey (2015) 1/4

Tepid, timid, turgid, tedious, and tame, if barely staying off the track of terrible, *Fifty Shades of Grey* is a monochromatic misfire, a syrupy softcore melodrama, a Harlequin Romance with pulleys. Chaste and clumsy, drab and dull, silly and sanctimonious, limp and ludicrous, it's a *Twilight* ripoff that's almost inferior to its already inferior inspiration.

Anastasia "Ana" Steele is a twenty-one-year-old English literature undergraduate at Washington State University's satellite campus near Vancouver. When her roommate, Kate Kavanagh, becomes ill and is unable to interview wealthy twenty-seven-year-old publishing mogul Christian Grey at his company headquarters in Seattle for the college newspaper, Ana agrees to go in her place. Ana's instantly intimidated; Christian's immediately intrigued, showering her with lavish gifts, asking for a non-disclosure agreement, and pushing her to pursue a lifestyle of radical sexual experimentation, with him as the tour guide.

There are more accurate ways to describe the plot of *Fifty Shades of Grey*: A wimpy, wounded billionaire/dominant with a cleanliness fetish and no friends stalks a passive-aggressive virgin with helicopter rides and sports cars. A charm-free hero with control issues and a passive, fretful heroine have simpering and vanilla pretend-sex. The point's the same: if searching for erotic cinema, choose *Last Tango in Paris*, choose *That Obscure Object of Desire*, choose *9 1/2 Weeks*, choose *sex, lies and videotape*, choose *Crash* or *Secretary* or *Blue Is the Warmest Color*. Avoid *Fifty Shades of Grey*.

As clinical as a classroom lecture and as sleek as a Calvin Klein commercial, *Fifty Shades of Grey* has at least one more redeeming quality as Ana, the coy, likeable Dakota Johnson (*The Social Network*, *21 Jump Street*) summons warmth and sweetness, traversing Ana's zig-zagging with reasonable aplomb. Yet the dreary Jamie Dornan has no ability to communicate deep, unimaginable pain. He's more self-serious than self-loathing. Grey is a cutout character with an actor who refuses to transcend the material.

Fifty Shades of Grey needed to strengthen the sexual moments and submit to its "mommy porn" reputation. Instead, it played it safe. If not exactly embarrassed by its subject matter, director Sam Taylor-Johnson (*Nowhere Boy*) and writer Kelly Marcel (*Saving Mr. Banks*) are extremely wary of plunging into it. Where *Fifty Shades of Grey* should be fun and frisky, it's sterile and sanitized. Creating a genteel R-rated film from an X-rated book is like adapting a musical without the songs.

Taylor-Johnson may have tried: anyone would struggle to make EL James' BDSM potboiler into a spanking cinematic silk purse. Marcel certainly didn't: she lifts much of the book's lukewarm, laughably rudimentary dialogue verbatim, and there's nothing as agonizingly awkward as James' tin-eared prose. The result is startling: in a narrative about getting out—far out—of one's comfort zone and a film

criticized for glamorizing domestic abuse, *Fifty Shades of Grey* is monumentally boring. It's a love story without passion, a bondage movie without perversion.

Like some mutant spawn of *The Bachelor*, *Fifty Shades of Grey* is bland, flaccid, willfully wrong-headed about sex, and crippled by its own construction. Designed neither to menace nor to offend but to cosset the fatigued imagination, destined to inspire more head-shaking than lip-biting, it has about as much steam as a day-old cup of chamomile. It's a desultory dud that swaps out the novel's prolonged and explicit intercourse for flat, vapid inserts, padded out by a perplexing relationship between a strawman and blowup maiden.

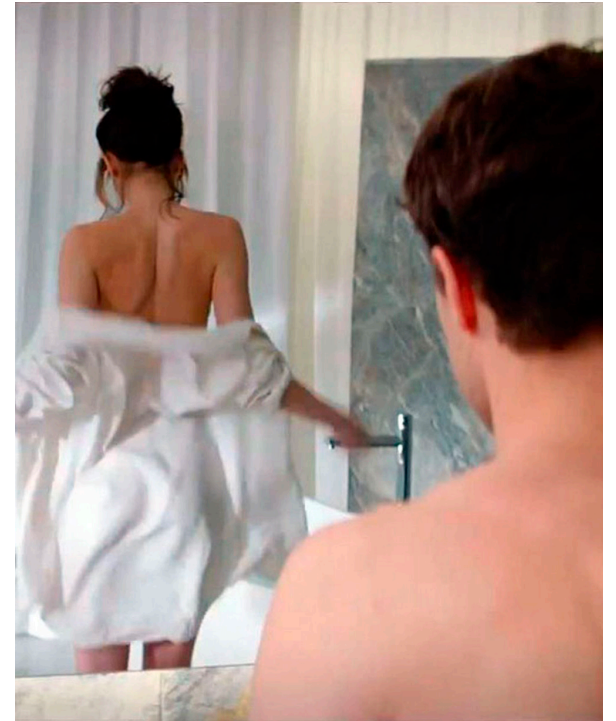
Like Ana, you'll roll your eyes many times over the course of *Fifty Shades of Grey*, but there's no need to step into the playroom: enduring the running time is punishment enough. It's worse than fifty shades of blah and better than fifty shades of dreck. And let's be honest: in today's day and age, stealing 120 minutes of an audience's time in exchange for fifty shades of beige—a guileless, sexless, and artless retread of bad source material—isn't merely a crime, it's a sin.

Still Alice (2014) 2.5/4

Raw and airbrushed, poignant and straightforward to a fault, *Still Alice* is an absorbing and affecting portrait of loss and vulnerability; a moving inquisition into the emotions, memories, and connections that make us who we are and how we cope when they're taken away. It exhibits a tough delicacy.

When Dr. Alice Howland, professor of linguistics at Columbia University, wife of John Howland (Alec Baldwin), and mother of three children—Anna (Kate Bosworth), Lydia (Kristin Stewart), and Tom—learns that she is suffering from early onset Alzheimer's disease, she takes action and begins memorizing random words. As the disease progresses, it takes a significant toll on her speech and memory, straining relations with her family and professional career.

Still Alice is the kind of movie that exists solely to facilitate a great performance in the lead role. Although the part barely scratches the surface of her ability, Julianne Moore (*Children of Men*, *The Kids Are All Right*, *Don Jon*) succeeds smashingly as Alice, delivering one of the more memorable efforts of her career. She gives a controlled portrait of emotional implosion, bringing quietly heartbreaking nuances



► Photo credit: DailyMirror.co.uk

to a calm, considered treatment of a life-shattering situation. Alive with ferocity and committed to truth, Moore shows a staggering technical proficiency while never losing a whit of emotional resonance.

Moore's formidable, much-lauded, Oscar-bound performance of a person disappearing before our eyes is heartbreaking to behold. She does her utmost to pull *Still Alice* toward the realm of meaningful social drama, and elevates *Still Alice* above its made-for-cable-television trappings, from disease-of-the-week fare to the role of a lifetime. To watch it is to observe one of the masters of the craft singlehandedly rescuing a film from being a maudlin mess into a watchable piece of cinema (a feat she's pulled off twice in 2014, the other being *Maps to the Stars*).

Still Alice relies entirely on Moore's performance to mask a multitude of shortcomings. Hampered by an unimaginative script and ordinary direction, hobbled by a naff aesthetic and a jarringly mawkish score, afflicted with glib contrivance and predictable writing, *Still Alice* cannot rise above the level of uninspired melodrama. Delivered with the expected emotional beats, *Still Alice* achieves modest goals, but one wishes it had a grander vision.

Banal in its Lifetime-movie execution and shot in the stolidly inconspicuous style of a low-rated cable drama, *Still Alice* feels a little schematic. It's a much

» see **FILM REVIEWS**, page 23

THUMBS UP



2015 Canada Reads winning-book, *Ru* by Kim Thúy.

Jurisfoodence: In Search of Toronto's Best Brunch

Food Adventure #11: Rose & Sons

KATE HENLEY & KAROLINA WISNIEWSKI ›
STAFF WRITER & EDITOR-IN-CHIEF

Rose & Sons (176 Dupont St.)

KATE: Though I have heard amazing things about Rose & Sons over the past few years, the location and rumoured wait time prevented me from trying it (remember, I used to live at Passy, where brunch is nothing but a fantasy). Having been so impressed with Big Crow, I had very high hopes for what I will call this “greasy spoon with a twist.”

KAROLINA: I feel about Rose & Sons the way I feel about *The West Wing* or Kendrick Lamar: they all come critically and popularly acclaimed, and (considering my love for greasy food, Aaron Sorkin, and hip hop) I should love them all. Alas, something just doesn't click, and despite my continued efforts to immerse myself and fully enjoy the experience, I walk away feeling a little meh. My introduction to R&S was an absolutely mind-blowing dinner. I should note that this fabled meal was one I enjoyed before I became a vegetarian; herbivores are likely to be more limited at R&S than most restaurants, so I fear I might not feel the same way if I were to return now. At any rate, since that evening, I had been to R&S for brunch once before going with Kate. Unfortunately, I was disappointed to see how mediocre the overall experience was, and how it ranked far below my dinner. But in spirit of wanting to be proven wrong, I suggested (some may even say zealously advocated) that we dedicate a Jurisfoodence adventure to R&S.

KATE: What?! I literally wrote this review while listening to the new Kendrick Lamar album. So. Good.

KAROLINA: *hangs head in shame*

Brunch Hours

Rose & Sons is open for brunch from 9 p.m.-3 p.m. on Saturdays and Sundays.

Wait Time/Service

KATE: We both assumed that R&S would require a bit of a wait—it is very small and seats maybe twenty to twenty-five people—so aimed to be there for 9:30 a.m. on a Sunday morning. However, I was pleasantly surprised: I arrived late, and Karolina already had a table when I got there—a very good start.

KAROLINA: Obviously, calling a meal that you eat at 9:30 a.m. on a Sunday “brunch” is somewhat of a misnomer. However much our outrageously early meal time probably resembles my future as a retiree, it saved us from having to spend an hour standing outside on an uncharacteristically freezing mid-March Sunday morning in order to snag a coveted table at R&S. So don't judge.

KATE: We had a few different people serve us while we were there; though one had a bit of an attitude,



▶ Sadly, the anticipated flavour of clothbound award-winning cheddar from PEI was upstaged by the dominating, and mediocre, olive oil.

our main server was very nice and polite, and even brought me a free coffee (more on that below).

KAROLINA: Agreed, our server was lovely (and not just because she never charged us for those hash browns, either!), while the table runner was unfortunately unpleasant. I suppose it shouldn't come as a surprise, though—R&S is destined to have at least one blasé American Apparel cast-off on its staff; it's basically par for the course with trendy restaurants.

Atmosphere

KATE: I like the old-school diner feel and cozy atmosphere at R&S, but the waiting area is far too small considering how popular the restaurant is; the number of people squished into the doorway at nearly all times has got to be a fire hazard... Also, though I initially really liked the booths, there was an unfortunate bro reunion happening at the table behind us; the result was loud, obnoxious, and, luckily for me, my bench was getting jostled with every movement. At one point, our server got trapped between the bros (as they welcomed more friends and switched up their seating arrangements) and the kitchen; the result was both unfortunate and hilarious.

KAROLINA: The music, which was a combination of old-school soul and funk, was awesome. The sparse and minimalist interior of R&S works, given its no-nonsense greasy spoon thing. However, given its small size, it's impossible not to be freezing all the time; wherever you sit, you are never more than a few feet away from the door. The seating arrangement is cool, though; while you might be forced to sharing a table with a group as obnoxious as the above-mentioned bros, I generally like the idea of shared tables; it's cute and adds a feeling of community.

Coffee

KATE: So there is no drip coffee here, which I think is a bit of a faux pas for a brunch place (especially when the alternative, an Americano, costs \$3.25). Further, the milk that I was given had gone bad and split once I added it to my drink; I was brought a new one by a second server, who informed me that she had checked the milk and it was fine. As someone who almost never sends things back at a restaurant, I found this infuriating; not only was the fact that it split plainly obvious, what happened to the good 'ol saying “the customer is always right”? Also, it split again in my second drink. Luckily for me, our first server mistakenly brought me a third coffee and gave it to me for free.

KAROLINA: Thankfully, the cream I added to my Americano neglected to curdle, and I was spared from verbal sparring with the table runner, unlike poor Kate. It seems as if restaurants in the R&S family have a habit of refusing to serve basic and cheap drip coffee (remember Big Crow and their cowboy coffee?). This is annoying, but the Americano was really good, and only about a dollar more than I would expect to pay for a plain-old coffee, so I'll let this one slide.

LLBO licensed

KATE: R&S has cocktails: a Caesar will cost you \$13 and, though mimosas are advertised, there is no price listed. However, after the delicious and cheap cocktails at The Bristol, I couldn't justify ordering one.

KAROLINA: I let my inner ten-year-old get the best of me, and instead of going for an alcoholic beverage,

» see JURISFOODENCE, page 22

The Definition of Insanity

The nature of sport fandom

MICHAEL SILVER › STAFF WRITER

THE MAPLE LEAFS haven't won the Stanley Cup since 1967. The Blue Jays haven't made the playoffs since 1993. Most people reading this likely don't remember the last time these teams were truly successful. So why do we care so much? Why are we fans? I asked myself these questions this past week after one of the Blue Jays' best pitchers was unexpectedly injured. He will likely miss the entire season. It was devastating, disappointing news, which made me question why this even matters to me.

Sports are filled with disappointment. They are inherently set up to produce a disappointing result for most observers. Even when fans see a positive result, the enjoyment that they receive is likely out of proportion with the amount of time and worry that they commit to following the team over the years. Between injuries, poor performance, or simply the nature of competition, most years are not going to end well for most teams. Yet fans keep coming back.

No other form of entertainment would retain support after prolonged periods of disappointment the way that sports do.

One possible explanation is that it is the competition, and not the results, that is truly appealing. Fans appreciate how committed the players are to the process, and appreciate the process, not the results. But this explanation rings hollow to me. The purpose of the competition, after all, is to determine the champion. After prolonged disappointment, I would think people would grow tired of the process.

A more compelling explanation is that sports fans feel membership in a community. The fans of a specific team develop a culture, a shared history, even a tradition. It is comforting being a member of a community and experiencing the emotional ups and downs of sport fandom with a group of people. Sports can become a vital part of civic identity and unite a broad range of cultural groups. They can distract from other social problems, and be a constant in an otherwise uncertain life. Allegiances are passed on between generations and are fiercely protected. In ancient Rome, cities fought wars; today, they match up in playoff series.

Sports fans become so enamored with their preferred teams that they feel like a part of the team. Often, they will use pronouns that include themselves and the team as a single entity. They feel a sense of ownership over the team—a sense of elation when the team succeeds and devastation when it fails. These feelings are clearly false as the players are millionaires who can easily move on from failure and the owners are usually more concerned with profits than with victory. Fans are so psychologically invested that they care more about the results than those directly involved.

Teams are well aware of the nature of sports fandom and are experts at exploiting it for profit. The Maple Leafs know that they can charge whatever they want for tickets and still be able to sell out, even with an abysmal team. They know that

they will always be one of the most profitable teams in the league. Less popular teams constantly make decisions targeted at maximizing their profits and exploiting their fans' commitment.

All teams attempt to position their merchandising, tickets, and media in ways to maximize profits, even at the expense of the fans. They are able to do so based on the unwavering allegiance of fans who have become psychologically conditioned to always love the local team. No other business is able to disregard customers to the degree that sports teams are able to. Teams remain some of the most profitable business enterprises in the world and their values are skyrocketing. The increase in value is largely because they are becoming more and more efficient at exploiting their fans. Leagues are gradually find-

ing ways to profit from fans over the internet with paid streaming services. They are earning increasingly valuable television

rights deals as television networks grow increasingly desperate for a steady stream of live content to attract viewers.

So long as fans remain irrationally enamored by their favorite teams, the teams will continue to exploit them. Perhaps that is part of the fan experience. Fans love nothing more than to complain about team ownership, even if the public outlets for complaints tend to be owned by the same corporations as the teams themselves. The only way to prevent

such exploitation would be a system in which the fans themselves owned the teams. Such arrangements are not unheard of. The Green Bay Packers are owned by residents of the small town of Green Bay, Wisconsin, and similar arrangements exist in European soccer. However, as values increase, such arrangements become less likely and corporations are more likely to be able to amass the money required to buy a team.

The reciprocation for the unwavering commitment of fandom is not limited to exploitation—it often goes to the extreme of abandonment. Sports teams, pillars of civic identity, often move to different cities where owners expect that they can be more profitable or where they are able to convince the city to finance a new stadium.

Through it all, the fans remain. We enjoy the emotional highs and lows, the process, and the disappointments. We relish the successes and quickly move on to hoping for the next one. Sports fandom is irrational, but that's what makes it enjoyable. Fans know that they're likely going to be disappointed in the end, but want to be there just in case they aren't, and they want to enjoy the competitive moments along the way.

Now, if you'll excuse me, I need to return to wondering how the Blue Jays can possibly replace Marcus Stroman's production for this season. ♦

"No other business is able to disregard customers to the degree that sports teams are able to."



► Photo credit: Maple Leafs Hotstove

The glory past of the Toronto Blue Jays

A look into the Team's ascension to greatness and its heydays

PART FOUR: PUTTING THE FINISHING TOUCH ON THE MASTERPIECE

KENNETH CHEAK KWAN LAM › STAFF WRITER

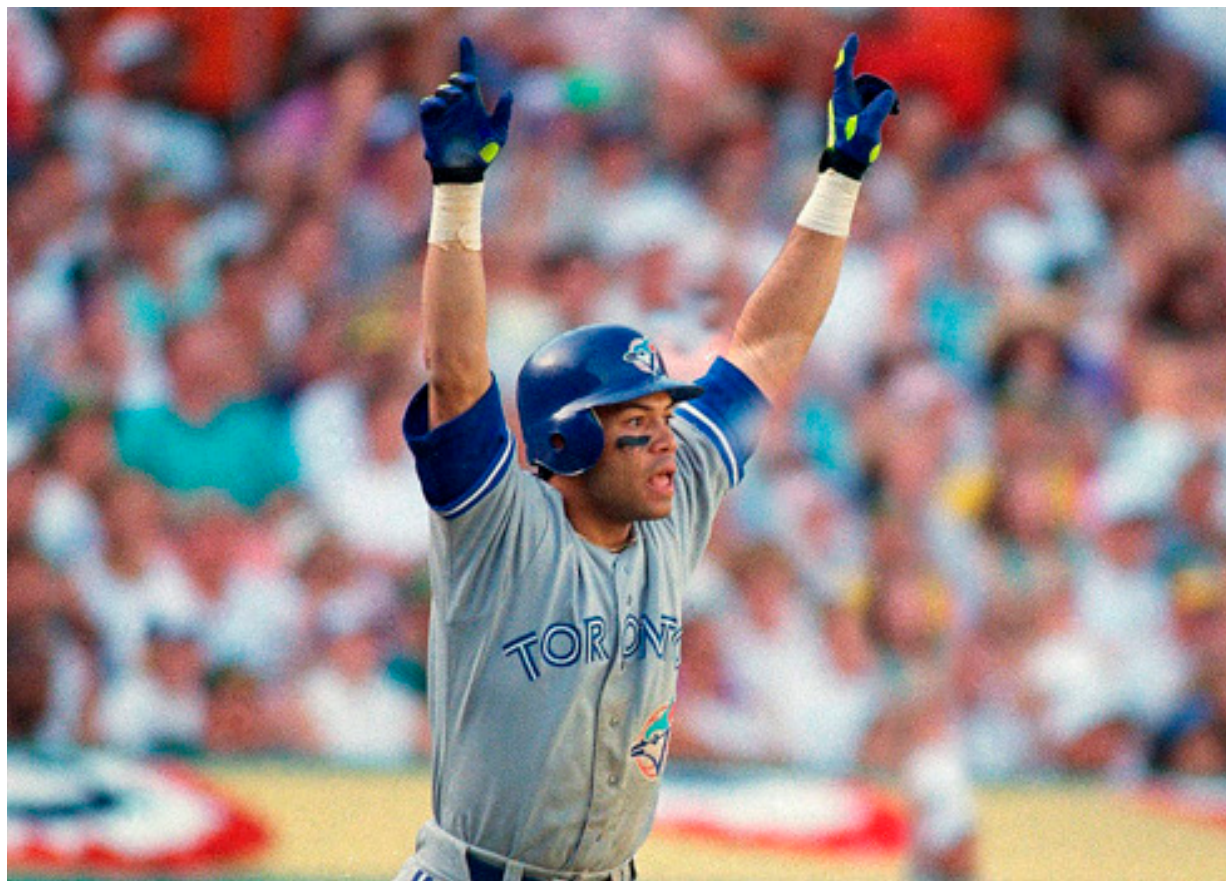
THE SIGNING of Morris and Winfield after the 1991 season was of ample significance. For the longest time, it was inconceivable to envision that elite unrestricted free agents would be willing to sign in Toronto. One reason is because in the eyes of these top-end unrestricted free agents, Toronto is a cold city located in a foreign country with ridiculously high tax rate (at least that was the perception anyway). Another factor was that playing in SkyDome for half of the season (eighty-one regular season home games) meant that there was a higher risk of sustaining hamstring injuries because the field was (and still is today) covered with artificial turf and not natural grass. Also, it was very difficult for the franchise, generally regarded as a small-market club with a modest payroll, to compete with large-market U.S.-based teams like the New York Yankees, the Boston Red Sox, and the Los Angeles Dodgers for elite unrestricted free agents because the latter American-based franchises have such deep pockets that they could offer longer-term contracts and/or higher annual salary which the Blue Jays could not match and/or counter.

With all these hurdles, why did Toronto become the landing site for premium unrestricted free agents such as Morris and Winfield? Simply put, players want to play for a winner (especially those who have had a distinguished playing career but have not hoisted the World Series trophy), and even though the Blue Jays had not yet been to the World Series, the club was seen as a very competitive one that was due for at least a World Series appearance (as was evidenced by the team's ability to win the American League East Division Title in 1985 and 1989, as well as finishing no more than two games behind the division winner on three occasions: 1987, 1988, and 1990).

A secondary factor is that the owner of the team at the time, Labatt Brewing Company, also sensed that Toronto was genuinely very close to the World Series and decided to become a big spender before the 1992 season (putting winning ahead of everything else, including profit). This means that Gillick now had just as much (if not more) financial resources to not only compete with the big boys but outbid them for one or more premium unrestricted free agents on the open market. The stage was now set for Toronto's memorable runs in 1992 and 1993.

Major free agent signings such as Morris and Winfield were not the only tricks up Gillick's sleeves. Another trademark of the future Hall-of-Famer GM which became evident during this period and ironically contradicted his earlier nickname, "Stand Pat," was his ability to make impactful mid-season trades to bolster his already powerful teams. In 1992, Gillick got former twenty-game-winner David Cone (who served as Toronto's second starter throughout the postseason) from the New York Mets for infielder Jeff Kent and a player to be named later (Ryan Thompson)

"...the club was seen as a very competitive one that was due for at least a World Series appearance..."



► Toronto Blue Jays Second baseman Roberto Alomar homers off Dennis Eckersley in Game 4 of the 1992 American League Championship Series. Photo credit: CBC.ca

on 27 August 1992. Even though he eventually turned out to be an all-star second baseman in his own right with the San Francisco Giants years later, this deal gave the already potent starting rotation additional ammo and was extremely crucial.

Indeed, I attribute this move as one of the major reasons why the 96-66 Blue Jays were finally able to advance past the American League Championship Series and win the first of their back-to-back World Series titles. This is because in the playoffs, most teams would shorten their starting rotation to a three-man rotation (unlike the regular season which is usually a five-man rotation) with the reasoning being that they want to go with their best starters. Typically, this means that even if a team were to get swept by the other one in four straight games, each team would still be able to use their ace twice. If the series were to go the full seven games, then both teams would be able to use their ace three times, and their second and third starters twice. For the most part, the teams' fourth and fifth starters during the regular season would work out of the bullpen in long-relieve situations when and if needed.

Following this pattern, Toronto used a three-man rotation of Morris, Cone, and Juan Guzman in the American League Championship Series against (ALCS) the Oakland Athletics, which the Blue won in six

games. However, Toronto actually had so much depth with its postseason starting rotation that manager Cito Gaston opted to use Key as the starting pitcher for game four in the 1992 World Series against the Atlanta Braves with the three-man rotation of Morris, Cone, and Juan Guzman pitching games one to three, and five to seven. As the old saying goes, you can never have too much pitching!

Of course, Toronto might not have been able to beat Oakland and reach the World Series if it were not for Alomar's heroics against the Athletics' excellent closer, Dennis Eckersley, in game four of the ALCS when Alomar hit a two-run homer off Eckersley in the ninth inning to tie the game at six, which the Blue Jays eventually won seven to six in eleven innings. Alomar's home run could not have been timelier as the win gave Toronto a commanding three-to-one lead over Oakland, a deficit that was too big for the Athletics to overcome. Even Gillick himself acknowledged the historical importance of Alomar's home run: "I don't think we'd have ever gone to the World Series in 92 if he didn't hit that home run." So while it may be true that "good pitching will always stop good hitting," it works both ways.

It took sixteen years, but Gillick had finally accomplished what he had set out to do in 1978: bring a World Series title to Toronto. However, his spending spree did not end with the signings of Morris and Winfield and the acquisition of Cone. To find out why, stay tuned for Part 5 of my article. ♦

Editorial

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Compounding this problem is that our decision making is affected by the amount of information available to us, or the prevalence of ambiguity. This goes hand-in-hand with a desire to maintain the status quo, especially where the alternative leads to the unknown. This isn't unique to environmentalism; for most of human history we have developed an aversion to that which is unknown. For millions of years evolution tended to favour those who were fearful of and avoided the uncertain dangers that possibly lay in the bushes of the savannah. One might argue that the inevitable consequences of the environmental issues we face are not speculative theories but rather certain outcomes informed by the research of reputable experts in the field.

I would suggest, however, that the problem lies not in a lack of information per se, but in the method by which it is communicated to the public. Information that is misunderstood is just as detrimental as its absence. Experts have a tendency to talk in scientific jargon and use acronyms that are incomprehensible to the average person. This seems to have the effect of creating a barrier to understanding that leaves many unable to truly appreciate the significance of most environmental issues. Many of the communication strategies fail to adequately tailor their messages to the intended audience. This isn't to suggest that these messages ought to be patronizingly dumbed-down to meet the lowest common denominator of society, but merely that they make an honest effort to make overly complex material comprehensible to the average person who is more used to reading the *Toronto Star* than *OECD Environmental Statistics*.

Finally, I believe that there is an argument to say that public apathy toward environmental issues can also be attributed to the social psychological phenomenon of the bystander effect. In a somewhat ironic twist, as the number of people involved in a situation increases, the likelihood of any individual taking action decreases. With respect to climate change, it might be said that the level of responsibility becomes diffused amongst the public as a whole, leaving another level of ambiguity not only as to whether action should be taken but also by whom. When warned of the ubiquitous dangers that pollution and climate change can bring about, without a concrete connection to us individually or our immediate surroundings, the message is often dismissed as inapplicable. It would appear that the significance of the threat becomes lost as the miles and number of others involved increase between ourselves and the point of impact. This is a phenomenon we see all too readily in other cases where increasing numbers promote social distance that gives rise to political apathy. Much like our system 2, the more rational and effective solutions require more effort. It is far easier to simply rely on autopilot, turn to the guy next to you, and ask "So you've got this, right?" ♦

Politics pupils

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the same types of professional opportunities they themselves have enjoyed at much less cost.

Only one member of Faculty Council took the podium to point out the incompatibility of members' personal convictions with their governance duties. The fact that he had to do so is distressing, particularly because all of these decision-makers ought to know better already. Most are well-versed in areas of law concerned with administering the care and interests of others—experts on topics like fiduciary duties, the obligations of trustees, public interest decision-making, and the best interests of the child. Common sense should have exposed other plain rationales: the reputational blow to a leading law school that failed to output graduates because of its internal political biases would be devastating in terms of future support or recruitment outreach from the legal sector, or interest from competitive applicants.

Failing to resume classes would prioritize abstract, personal political loyalties and labour-side convictions over the very real, apparent, and quantifiable threats to the institution and the wellbeing of its pupils. It would be painfully 'ivory tower' for academics who often criticize the ideological motivations of governments and sermonize access to justice and the law to contradict themselves in their own policy-making capacities. Resuming classes should never have been a decision concerned with supporting or undermining the union's right to strike—it was about standing by the best interests of students and the institution. Those best interests favour a return to classes and a timely completion of the academic year.

AWOL academics.

Further, unlike during 2008-09 strike, Osgoode faculty are now members of their own union with an active collective agreement. Accordingly, they are subject to the *Labour Relations Act*. The Act provides that where a collective agreement is in operation, no employee bound by the agreement shall strike. A strike includes a cessation of work, a refusal to work or to continue to work, or a slow-down or other concerted activity on the part of employees designed to restrict or limit output. Some have questioned whether attempts by faculty members to suspend classes (or keep classes suspended) are contrary to these rules, at least in spirit.

If not, some of the actions taken by faculty since the resumption of classes might also arguably run afoul of the Act. For instance, Osgoode's *Resumption and Remediation Plan* contemplates classroom and course technology usage on campus, yet some instructors have scaled back the quality and availability of lectures. Some have moved remaining lectures off-site. Others are only offering "virtual" formats consisting of recorded lectures and online "self-study" documents. A handful have cancelled all in-person meetings, and some continue to undermine Osgoode's decision to resume classes through various other governance bodies. They are perhaps buoyed by other York labour unions that appear to be judiciously counselling their members on means of shirking work in solidarity with CUPE.

Cancelling lectures, cutting course delivery formats, and refusing to show up at the place of employment certainly look like slow-downs, work

stoppages, and restrictions of output. More plainly: for \$23,000 per year, students should expect more than an online, self-directed legal education. Many of us hope that the Labour Relations Board agrees.

The entire strike incident has been deeply disappointing and frustrating for many Osgoode students, who feel that their future has come last in the priorities of some of their faculty mentors. The question to be asked when the dust settles is why Osgoode classes were ever suspended to begin with, when other costly professional programs, like the Schulich School of Business MBA, were not. Moreover, at what point are we uncomfortable allowing academic freedoms and insularity to hold student welfare captive? Until we have answers, applicants to Osgoode may be well advised to check the expiry dates of York's other collective agreements before enrolling. ♦

Douglas Judson is a JD/MBA student at Osgoode Hall Law School and the Schulich School of Business of York University. He was a member of CUPE 3903 in 2013-14 and 2014-15. The opinions expressed are his own.

Dean

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to meet real law students, lawyers, and legal scholars. It would be an opportunity to directly break down barriers to understanding and accessing the law. And it may begin to inspire minds, enrich conversations, and perhaps even alter public perceptions.

How would we accomplish such a feat? By doing what Osgoode is known for—working together as a community and drawing upon the enormous generosity of our students, faculty, staff, alumni, and other members of the legal profession. Student clubs can take the lead by speaking about their journeys to and through legal education. Faculty can speak to the law and its historic evolution. Staff can speak to their longitudinal perceptions of how Osgoode has and continues to change. Lawyers, paralegals, and other legal professionals can speak to the industry and how it strives to remain compassionate yet resilient.

But what about those who may not be able to attend in person? Taking a page from how the current (non-fictional) White House has adapted the concept in recent years, we would simultaneously hold our doors open to the digital world. Through use of Twitter, webcasting, and online forums, we would have a virtual open house to the rest.

Now we may not have our own Charlie Young or C.J. Cregg or Sam Seaborn or Joshua Lyman or Josiah Bartlet to pitch our idea but we do have our own cast of equally dedicated, hard-working, and caring members of the Osgoode family. A cast that I am sure would be eager to help Open Osgoode and make the law more than an abstract notion understood only by a privileged few, but instead a concept demystified and better understood by the many. ♦

Jurisfoodence

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I ordered a different kind of drink to accompany my meal: a milkshake! More like soft-serve ice cream, the thick peanut butter milkshake I ordered came with a healthy dollop of whipped cream and some nuts sprinkled on top. It was sinfully delicious; if we lived in a world where calories didn't exist, I would live off of it.

The Food

KATE: Though I was tempted to try the classic all-day breakfast at R&S, I was told by some friends that I absolutely had to get the griddled Brie cornbread. Feeling like I should branch out and try one of the unique and signature dishes R&S has to offer, I followed this advice. The cornbread arrived topped with a slab of brisket and a fried egg, and covered in maple syrup and chilli sauce. Though R&S does cornbread well, there was almost too much of it in proportion to the rest of what was on the plate. Unfortunately, the meat was also a bit chewy. Regardless, the combination of flavours was interesting and pretty tasty, though I was unable to finish it and felt like I had clogged some arteries about halfway through; this is definitely not a meal for the faint-of-heart.

KAROLINA: I ordered the Avonlea clothbound cheddar omelette, which was served with toast topped with avocado and walnuts. Google has taught me that Avonlea clothbound cheddar is an award-winning cheese from PEI with complex flavours and aromas. Unfortunately, it was virtually indiscernible in the omelette—had it not said on the menu that the omelette came with cheddar, I would never have known from just eating it. One flavour which did come through very distinctly was that of olive oil, which the omelette, toast, and nuts were swimming in. While I am an avid olive oil enthusiast, “too much of a good thing” is evidently a concept that the cooks at R&S are unfamiliar with. Thus, the meal turned into a bland palette of flavours that vaguely resembled a combination of walnuts, egg, and avocado muddled beneath the dominant flavour of mediocre olive oil (Kate and I were schooled on how to discern the difference between excellent and middling olive oil while on a wine tasting tour in Tuscany—one of the most valuable lessons I learned whilst in Italy!).

Luckily, the dish was enlivened by the homemade chilli sauce that I requested. Those who are fatigued by the ubiquitous presence of Frank's Red Hot as the only hot sauce option at virtually every non-ethnic restaurant will be happy to hear that R&S' counterpart is original and tasty.

All in all, the dish was somewhat of a miss, but was saved by the awesomeness of (a) avocados in general, and (b) R&S' chilli sauce.

KATE: Maybe it's a cheese thing at R&S: upon reflection, I don't think I tasted Brie on my cornbread either—very unfortunate. I must admit that despite the large amount of olive oil, as a former vegetarian and an avocado lover, I literally spent the entire meal eyeing Karolina's omelette enviously and vocally proclaiming how much I wish I'd ordered that.

We also decided to split a side of the schmaltz hash (grated potatoes fried in duck fat); this decision was partially based on the fact that I have yet to

experience truly delicious hash browns in Toronto and also because I wanted to see what R&S had to offer. Though I was not blown away by my main breakfast, I have to say that hash browns are not only something that R&S does right, it does them better than anywhere else I have been in Toronto.

KAROLINA: I am ashamed to say that I also partook in the hash browns, unaware that they were soaked in animal fat. Not one of my finest moments as a vegetarian, and a lesson that it's always worth double-checking that your meal is in fact veggie-friendly. Now that I know what I was eating, I have difficulty admitting this, but I enjoyed consuming them as well.

Cost:

KATE'S MEAL: Americano (\$3.25) + griddled Brie cornbread with brisket (\$15) = \$18.25 + tax and tip.

KAROLINA'S MEAL: Americano (\$3.25) + peanut butter milkshake (\$7) + cheddar omelette with avocado and walnut toast (\$15) = \$25.25 + tax and tip.

Final thoughts

KATE: Though I wouldn't mind going back and trying the avocado omelette, if I was returning to this location for brunch, I would probably just go to Big Crow: a bigger space, a better atmosphere and amazing food.

KAROLINA: For those who are interested in a meal comprised only of milkshakes and hash browns, you can't do much better than R&S. For the rest of us, it's probably a bit overrated. Nonetheless, I just can't let go of the hope that R&S will one day redeem itself and replicate the amazing first meal I had there. I'll just make sure to go back for dinner next time. ♦

FINAL SCORE

SERVICE: 3.5/5

ATMOSPHERE: 4/5

FOOD: 3/5

OVERALL:



▶ “Milkshake” or ice-cream sundae? Either way, delicious.

Burning mother

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peoples with implications for the development of government policy in matters that relate to Aboriginal interests. The ambitious argument may be made before courts that interference with environments and resources may constitute a violation of Aboriginal rights and therefore, a breach of the government's fiduciary duty. Recognition of a right to environmental protection borne out of Aboriginal constitutional and treaty rights in Canadian jurisprudence is long overdue and will be an important step in protecting the interests of these neglected communities. Indeed, the environmental rights of Aboriginal peoples have long been recognized in international human rights law. The *United Nations Declaration on the Rights of Indigenous Peoples* imposes obligations on states to protect Indigenous lands, environment and the productive capacity of their resources (Art. 29(1)). Whether the Canadian government heeds this legal precept though is an entirely different question.

As a country, we are idle on the climate and we are idle on the indignities suffered by Aboriginal people. To our great shame, the world has taken notice of these two failing grades. As Canadians, we must always be cognizant of our history—the good and especially the bad. We live on a land that is steeped in a history and a modern day reality of colonial relations, Indigenous suffering and widespread injustice. We must be respectful of Aboriginal communities' traditional ways of life and their intimate cultural connections to the land. Green activism cannot be reduced to the caricature of a nature-worshipping hippie or thrown onto a carton of juice in a pacifying business tactic. That is insufficient. Canadians must approach these issues with the utmost sincerity and seriousness, and lawyers must advocate for a more robust regime of environmental protections. As the stakes are significantly higher for one group more than others, “going green” can be neither joke nor trend—it is our moral duty to be environmentally conscious and active. ♦

Film reviews

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better movie than it ought to be, but not good enough to escape its pulpy, mendacious roots. Co-writer and co-director Richard Glatzer has cited Yasujiro Ozu as an influence, and *Still Alice* honours the Japanese master's serenity unto nothingness, but pales in comparison to the miraculous purity and magnanimity of *Tokyo Story*.

In terms of character development, *Still Alice* lacks the thickness that made us sympathize and grieve with Julie Christie's Fiona Anderson in *Away from Her* and Emmanuelle Riva's Anne Laurent in *Amour*. Writer-directors Sarah Polley and Michael Haneke know the worst, and consider it their duty to show it; Glatzer and co-director Wash Westmoreland flinch and recoil at every opportunity the worst threatens to reveal itself. The audience gets close enough to feel the pain without reliving the depths of the horror. It's Alzheimer's made digestible, and that's borderline disrespectful, if more accessible.

I wish *Still Alice* had the courage not to shy away from the uncomfortable, to shine a light into the abyss, knowing full well that down is sometimes the only way out. Instead, it merely provides a valuable lesson in empathy and understanding, a message of accepting what is lost, and celebrating what is not yet gone.

Is *Still Alice* the tearjerker of the year? No, that dubious title would likely go to *Two Days, One Night*. Yet the blemishes in *Still Alice* are generally overshadowed by sheer commitment from a fine actress. Julianne Moore's artful consideration of familial friction acerbated by disease, and vice versa, nearly saves *Still Alice*. That achievement takes remarkable talent—and a performance that most are sure to remember for a long time.

What We Do in the Shadows (2014) 3/4

Conceptually clever, consistently inventive, endearingly dorky, and exceedingly good-natured, *What We Do in the Shadows* is an affectionate, genial send-up of the vampire mythos; a respectful, delirious, surprisingly delicate farce; and a sly satire on millennial slackerdom. Darkly, edgily, riotously, murderously

funny, it's a fiendish, full-blooded delight.

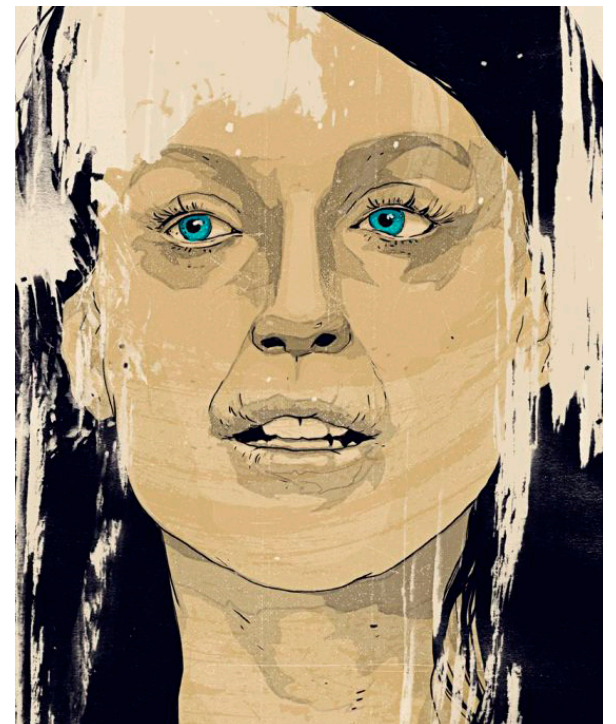
Viago, Vladislav, Deacon, and Petyr are four vampires who share a flat in the Wellington suburb of Te Aro. Viago, Vladislav, and Deacon are between two and eight centuries old and have retained human appearances; the eight thousand-year-old Petyr resembles Count Orlok. Deacon has a human servant, Jackie, who runs errands. They are invited to "The Unholy Masquerade," a ball where they run into supernatural creatures including zombies and witches, as well as Vladislav's ex-girlfriend Pauline, who he nicknames "The Beast" due to their breakup. Mostly, though, the vampires fight werewolves, grieve, reconcile, and learn to get on with life.

What follows is partly a "Big Brother"-style reality spoof, complete with stagey confrontations, domestic melodrama, and introspective talking-head interviews. But it's also one of the richest and most satisfying depictions of the vampires-in-the-modern-world conundrum ever concocted, capturing all the silliest, scariest and saddest aspects of the nocturnal bloodsucking tradition in one delicious package.

Perhaps it's the cultural exhaustion and exasperation with the undead that's the secret ingredient; it makes something hackneyed and stale newly irresistible. Playing out something like *True Blood* by way of *Waiting for Guffman*, *What We Do in the Shadows* is wonderfully irreverent, infectiously silly, and irrepressibly charming. An early montage provides historical context for how each of the four housemates ended up in New Zealand, and several of the group photos are almost worthy of their own prequels.

Loaded with inspired sight gags and memorable one-liners, *What We Do in the Shadows* filters the routines of the living through the lens of the dead, breathing fresh ideas into a genre threatened with creative exhaustion. With unflagging energy, entertaining inventiveness, and sustained ridiculousness to spare, it's almost a jocular slant on Roy Andersson's illustrious *A Pigeon Sat on a Branch Reflecting on Existence*.

If Jim Jarmusch vividly reimagined the vampire caste as aging 80s bohemians grown too cool and too



► Julianne Moore as Alice Howland, a linguistics professor diagnosed with Alzheimer's Disease. Photo credit: NewYorker.com

bored for life, these vampires are symbolic of something else: epic unkemptness. Any comparisons with *This Is Spinal Tap*, *Shaun of the Dead*, or *Only Lovers Left Alive* don't do writer-directors Taika Waititi and Jemaine Clement any favours. Yet if it's not nearly on par with the "gold" standard of inanity, *Three Amigos!*—or tries to be New Zealand's answer to Edgar Wright (*Hot Fuzz*) and doesn't get there—it's still the most newfangled horror comedy to come out of New Zealand since Peter Jackson's *Braindead*.

This mockumentary transcends its lowbrow inspirations, matching fantastic characters, sharp humour, and a well-polished story completely in tune with its source material with an undertone about life in a very remote city. Paying frank attention to the gruesome possibilities of the premise, it's a dry, cheerfully horrific affair, a sanguine comedy that feels more than a bit like a Christopher Guest farce or an elaborate *Monty Python* sketch, imprinted with Kiwi comic sensibility. It brings warmth to its silliness, underscoring the loneliness of beings doomed to watch their loved ones die.

More often amusing than gut-busting, *What We Do in the Shadows* is a risk: some in the audience will chuckle, and some will cackle throughout like a witch after sucking helium. But it's pleasingly thorough and innovative in its treatment of a well-worn subject, and quietly smart about dealing with the way things can change over a few hundred years ("yes, now Google it"), and it doesn't wear out its welcome. At a brisk eighty-six minutes, it never sags or drags. Being immortal doesn't mean your film has to stick around forever. (It can be canny, wistful, admirably executed, expertly paced, and bloody awesome.)

When there's no more room in hell, the dead will move to Wellington. And if they're anything like the quartet in *What We Do in the Shadows*, I'll be stopping by for a drink. ♦

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► Photo credit: tiff.com

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HARD

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HARD

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Jonathan Bilyk
Class of 2015



David Kim
Class of 2014



Alexandra Monkhouse
Class of 2015



Marc Pontone
Class of 2015



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