Access Osgoode
OUR NEW STRATEGIC PLAN
RENEWS COMMITMENTS TO ACCESSIBILITY, COMMUNITY ENGAGEMENT, EXPERIENTIAL EDUCATION, RECONCILIATION AND RESEARCH. PAGE 2
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Osgoode Professional Development has a wide range of programs tailored for the life of a busy professional. Located in downtown Toronto, it’s easy to join us in person, or to take advantage of our online and distance-learning options. Ask us about our alumni discount for CPD programs.

Learn more at osgoopedp.ca/continuum
Why focus on access?
Accessibility may be seen through many lenses. For many, it evokes Osgoode’s priority on financial accessibility in the face of rising tuition and high debt for our students, as we look to grow our Income Contingent Loan Pilot Program and Wendy Babcock Graduation Bursaries, among other initiatives. For others, accessibility reflects our unwavering commitment to inclusion among Osgoode’s diverse student body. Osgoode’s goal is not just to accommodate student needs in the fullest way we can, but also to incorporate “universal design” principles wherever possible into the student experience at Osgoode (so that the academic program and services are designed from the outset to be accessible to all).

Accessibility may also be seen through the lens of how we make research available through the open-access Osgoode Digital Commons, enhancing the impact of Osgoode’s thought-leadership across many areas of law. The Digital Commons crossed the 1 million mark in downloads in November!

Accessibility also captures our aspiration for Osgoode’s buildings and IT infrastructure to be barrier-free spaces welcoming of community members of varying needs and abilities.

The other new and cross-cutting theme of the Access Osgoode Plan relates to Indigenization. Osgoode held a faculty retreat in the Spring of 2016 on the issue of responding to the Truth and Reconciliation Commission Call to Action for law schools and the goal of deepening Osgoode’s commitment to Indigenous communities. We have been fortunate to learn from a range of knowledge keepers including Missing and Murdered Indigenous Women and Girls Inquiry Commissioner Marilyn Poitras, Ontario Court of Appeal Justice Harry LaForme and MP Romeo Saganash as we take to heart the Anishinaabe idea of “Nandagikend,” or what it means to “seek to learn.” Osgoode will seek out and support ways to deepen our commitment to Reconciliation and to Indigenous engagement in a way that is reflected in the Law School curriculum and research strategies (explored elsewhere in the Plan) but also in Law School spaces and community life – including Osgoode’s support for the renovated and re-imagined Hart House as a new home for Indigenous life at Osgoode and York University.

In addition to renewed commitments to accessibility and Indigenization, Osgoode will continue to prioritize experiential education, research intensification and community engagement. As we invite prospective students, our amazing alumni and the whole Osgoode community to “make history with us,” I am more convinced than ever that Osgoode’s best days lie ahead!

LORNE SOSSIN ’92
Dean

Message from the Dean

This Fall, we were busy finalizing our next Strategic Plan, to be known as “Access Osgoode.”
Asked to describe who you are as an artist, what would you say about yourself?

I am a visual artist whose work examines, reimagines and exists in the public landscape. I often work on commissioned projects, but I prefer uncommissioned ones for the freedom and the thrill of working in unpredictable public spaces. It’s not street art if it’s legal. I also like to stir the pot and create work that provokes conversation. I am just as happy if people take issue with what I have created and disagree with the ideas presented as I am with discovering that my art has given people joy. Art, especially art in public spaces, should engage with the location and the people using the location in a way that explores the history, current uses and social meaning of the site. If this is done well, there will be some people who don’t like what you have done, and that’s fine because it’s been noticed and garnered a reaction, which then can lead to a sharing of ideas and, perhaps, a transformation of that place.

You’ve been working non-stop as an artist since graduating from Carleton University in 2000. You’ve had a large number of exhibitions and commissions, and received numerous grants and awards. To what do you attribute your professional growth and creative success?

My Dad was someone I looked up to as a kid and from whom I learned that you have to work hard to make something of yourself. Without putting your nose to the grindstone, you won’t be prepared when the lucky breaks and opportunities are presented to you. I also had some great advice from good friends when I was first starting out and exploring what it was to be an artist. What has stuck with me from these early conversations are two things: stick with what interests you, no matter what other people are doing. And, the road is long and bumpy so hold on and enjoy the ride and learn from the mistakes as much as you relish in the successes.

What motivates you as an artist and how is that reflected in your work?

I am interested in exploring spaces that are often ignored or not thought of as canvases for art. This can be through using unconventional materials, reclaiming public architecture and infrastructure or documenting individuals and groups of people who are falling under the radar and not being given a chance to share their unique voices.

What will you be doing during your residency at Osgoode?

I will be working on a project titled 1 in 4. The project will examine the illegal practice of police carding in Toronto and the GTA region from the perspective of young black men who have been victim to this unconstitutional and systematically racist practice.

How do you plan to involve the Osgoode community in your project?

I will be working with a number of students through the research phase of the project to help me identify subjects and cull research about carding through journals and popular media.

What’s in the knapsack that you carry with you at the Law School?

Three apples – two Golden Delicious and one MacBook Pro – a turkey sandwich, a Klean Kanteen for water, a moleskin, a Uni-ball V7 black pen, my car and house keys, and sunglasses.

Q & A WITH DAN BERGERON, 2016-17 OSGOODE ARTIST IN RESIDENCE

“I am a visual artist whose work examines, re-imagines and exists in the public landscape.”
The Equality Effect—a non-profit organization founded in 2010 by Osgoode alumni Fiona Sampson ‘05 (DJur), pictured above, Elizabeth Archampong ‘06 (PhD) and Winifred Kamau ‘07 (PhD) that uses human rights law to help combat child rape in Kenya—continues to rack up victories for the advancement of girls and women in East Africa.

Their latest breakthrough came in November 2016 when a Kenyan policeman was jailed for 20 years for raping a 13-year-old girl he claimed was his wife. “The jailing proves that nobody is above the law including the police,” said Sampson, Executive Director of The Equality Effect, who was appointed a Member of the Order of Canada in 2015 for her commitment to human rights.

The Equality Effect is busy implementing the 160 Girls decision. It has rolled out a new free android phone app in four of Kenya’s 47 counties. The app outlines the steps the police should take when investigating rape and enables victims’ families to report cases where officers fail to act.

According to government data, one in three Kenyan girls experiences sexual violence before the age of 18 by family members and men in their communities. Most incidents are never reported, however, due to stigma and lack of faith in the police and the criminal justice system.

On September 23, 2016, the National Judicial Institute (NJI) partnered with Osgoode on a symposium in honour of the late Marc Rosenberg ’74, a judge of the Court of Appeal for Ontario who died in August 2015 at the age of 65. The symposium was an enormous success. It was evident from the welcome reception through to the diverse and engaging panels and speakers just how much of a force Rosenberg was in the legal community and his tremendous influence as a lawyer, jurist and educator.

His legacy will continue with the Justice Marc Rosenberg ’74 Bursary, which was created through the generosity of his family, friends and colleagues as a tribute to his career, humanity and passion for justice. It will be given annually to up to two students in the JD program who have financial need and have demonstrated a commitment to social justice.

Dean Lorne Sossin said, “We are so grateful to the donors and incredibly proud that Marc will continue to inspire generations of students.”
Honouring a Best Friend and Accomplished Lawyer

William (Bill) Sobel first met Kevin Dunsmuir when their mothers put them in the same baby carriage and from then on they were lifelong friends. They attended the same schools from kindergarten all the way through to law school. It was only after they graduated from Osgoode in 1982 that their paths parted. Sobel went on to practise entertainment law in Los Angeles (Edelstein, Laird & Sobel LLP), while Dunsmuir moved to Newmarket where he opened his own practice and did significant work in family mediation.

Tragically, on March 29, 2013, Dunsmuir, his wife Jennifer, and their two sons, Cameron and Robert, were killed in a house fire.

“Kevin was charming, witty, smart and caring,” Sobel remembers. “He was the glue in every situation, whether it involved his family or friends. Growing up, Kevin used his strong physical stature and his moral compass to protect me in many adolescent situations – he was never one to shy away from helping anyone.”

Sobel wanted to do something to honour Dunsmuir’s memory and the friendship that was so central in his life. In November, he made a gift to the Law School to endow the Kevin Dunsmuir Memorial Prize in the Area of Family Law, which he hopes will be an example to future students of the kindness and loyalty that were Dunsmuir’s hallmarks. The prize will be awarded annually to a student in a course or seminar in the Family Law area.

“Kevin knew from the age of 16 that he wanted to go to Osgoode. It was the one and only law school that he ever contemplated attending and it meant a great deal to him,” said Sobel, adding that Dunsmuir became “an accomplished lawyer who was known as a tenacious, caring and professional advocate.”

OSGOODE’S Indigenous Journey

The Law School’s commitment to Reconciliation and Indigenous engagement continues to deepen.

By Barb Nahwegahbow

IN BRIEF

OSGOOODE’S Indigenous Journey

The Law School’s commitment to Reconciliation and Indigenous engagement continues to deepen.

By Barb Nahwegahbow

JUDGES, LAWYERS AND SCHOLARS FROM CANADA AND ISRAEL EXPLORED THE ROLE OF THE JUDICIARY IN THE 21ST CENTURY AT A SYMPOSIUM IN TORONTO in September hosted by Osgoode and York’s Centre for Public Policy and Law in honour of Dr. Asher D. Grunis, LL.D., former President (Chief Justice) of the Supreme Court of Israel.

Pictured, from left, are: Aharon Barak, former President of the Israeli Supreme Court, Supreme Court of Canada Justice Rosalie Silberman Abella, Dr. Asher D. Grunis, Osgoode PhD student and conference organizer Aviv Gaon, and Dean Lorne Sossin.
Osgoode Hall Law School’s Indigenous journey took a major step forward when it established the Intensive Program in Aboriginal Lands, Resources and Governments in 1994. The program exposes students to legal issues relating to Indigenous people and Indigenous rights and combines classroom training followed by a seven-week national or international placement.

“The Law School's always been very strong on Aboriginal law,” says Professor Shin Imai, a former Director of the Aboriginal Intensive who has been with Osgoode for 20 years. “The Aboriginal Intensive was created in response to demand from Indigenous students and it created a space for other initiatives around Indigenous issues to be considered. Osgoode has been fertile ground for ideas to bring in the Indigenous perspective and it continues to evolve.”

“We’re focused on a holistic approach to Reconciliation,” says Dean Lorne Sossin. “We are not just looking at our initiatives on Indigenization as a response to the Truth and Reconciliation Commission. We’re also building on the important work that Osgoode has been doing for a long time. We’re approaching this as something that will show up in increasing ways in what we teach and how we teach it, in our recruitment of Indigenous students, how we express our research commitments and community partnerships.”

Deborah McGregor, a member of Whitefish River First Nation, is bringing a community-based approach to her research on what environmental justice means to Indigenous people. Associate Professor and Canada Research Chair in Indigenous Environmental Justice, she joined the Osgoode faculty in 2015 (with a cross-appointment with York University’s Faculty of Environmental Studies).

“My research program is a grassroots level, community-based approach,” McGregor says. “We’re trying to embed it within Anishinaabe knowledge systems and within Anishinaabe law; in the way Indigenous people think and the way they understand the world. It’s different from the way academic research is usually done.”

Building Relationships

Indigenization is about building relationships, says Osgoode Professor André Boisselle who started the Anishinaabe Law Camp with John Borrows four years ago. John Borrows is the Canada Research Chair in Indigenous Law in the Faculty of Law at the University of Victoria and a member of Chippewas of Nawash First Nation.

The four-day camp for Osgoode students and faculty takes place at Nawash First Nation and includes about 35 Indigenous and non-Indigenous students, faculty members, judges and other special guests. Students are exposed to Indigenous legal norms as another legal order that is part of our Canadian legal system, says Professor Lisa Philips who helped organize the Fall 2016 camp. Teaching about Anishinaabe law is provided by elders and traditional knowledge keepers who are members of Nawash.

Students build relationships with the community and with knowledge keepers. “Just as important, she says, are the relationships formed between Indigenous and non-Indigenous students. “There’s more solidarity to support conversations in class about Indigenous issues when misunderstandings or stereotypes come up,” says Philips.

Some of the students have deepened their relationship with the community by accepting invitations from the elders to return and learn more on their own time. “That was one of our hopes as well,” says Boisselle.

“We need guidance from the community when it comes to Indigenous legal tradition,” says JD student Daniel McCoy, Co-President of the Osgoode Indigenous Students’ Association (OISA). When OISA was invited by a first-year criminal law professor to hold a joint session on Indigenous legal perspectives as it relates to criminal justice, “we arranged for an elder to give a teaching on traditional criminal justice to 300 first-year students,” McCoy says. “It went very well and we’re already planning the next one.” He says, “This kind of session enriches the academic experience.”
Organizing Retreats
Signa Daum Shanks ’99, who is Métis, says her job “as the very first Director of Indigenous Outreach is a real blessing. My top priority is connecting with the students and supporting them. Equally important is to be supportive of others when they want to learn and finding a way to tell them it’s alright to make mistakes.” In addition to her outreach responsibilities, Daum Shanks is an Assistant Professor.

Daum Shanks organized two retreats in March and April 2016 attended by faculty and staff to share cultural knowledge and strengthen relationships as a foundation for Reconciliation. Marilyn Poitras of the University of Saskatchewan facilitated the March retreat. The second retreat included knowledge keepers Ontario Court of Appeal Justice Harry LaForme, Cynthia Wesley-Esquimau of Lakehead University, and MP Romeo Saganash. The knowledge keepers in both retreats shared teachings and stories as a way of helping people reflect on their own lives, both personal and professional. “It strengthened our circle,” says Daum Shanks, “and this is one of the ways that people can shift and feel more comfortable with the concept of Indigenousization.”

Jeffery Hewitt (Cree), an Assistant Professor at the University of Windsor Faculty of Law, attended the April retreat and says, “the faculty turnout was tremendous. They were engaged and there was a lot of listening happening. The active listening part isn’t very visible, but it’s highly valuable and it’s happening at Osgoode. That’s one of the things the TRC Commissioners talked about. Learn to listen to what Indigenous people are actually saying instead of just rushing to act.” Hewitt is a former Visiting Scholar and McMurtry Fellow at Osgoode.

Co-President of OISA, Brittany Hazel feels Osgoode works hard to create a safe and supportive environment for Indigenous students. “The Director of Indigenous Outreach is always there for us,” she says, “and they also make sure that students who’ve self-identified as Indigenous are put in the same section. They provide financial assistance to allow us to attend the Indigenous Bar Conference every year so we can connect with other students, practitioners and academics. But the really big thing is support from our School to allow us to bring in elders for students, staff and faculty. The Dean said they would help us with an honourarium, a gift, parking, whatever was needed.”

Osgoode currently has about 30 Indigenous students (the most in its history). A few years ago, at the recommendation of a student researcher, Osgoode developed a brochure aimed at recruiting Indigenous students. One of the things the Law School encourages successful applicants to do is to complete the Program of Legal Studies for Native People at the University of Saskatchewan to increase their chances of success in law school. “It’s a good opportunity for students to connect, form friendships and get used to what to expect in law school,” Cooper says.

Orange Shirt Day
Recently elected President of the National Indigenous Law Students’ Association, JD student Sabrina Molinari says, “I feel constantly inspired with the way the School is trying to bring out my culture and making it something that’s not questioned. When we’re talking about wampum belts, that’s the law. It’s not a craft project. It’s not a piece of jewellery. It’s the law.”

Two years ago, Molinari suggested having an Orange Shirt Day to honour residential school survivors. In particular, she wanted to honour her elder, Cliff Standingready. “Dean Sossin made a commitment that from that year on, it would be a requirement at Osgoode to have it every year. This year, Elder Standingready came in to discuss his residential school experience with the Osgoode community,” she says. “Once the School is presented with an idea, they’re totally open to it and all I can say is, I feel very lucky to come here.”

Osgoode also knows the importance of creating a physical environment that is inclusive, welcoming to Indigenous students and reflects their commitment to Indigenousization. In 2015, Osgoode commissioned world-renowned master carver, Ya’Yu Hett (Gitsxan Nation) to create an art work for their building. The pair of cedar carvings, named The Black Hawk and The Red Eagle, tower above Gowlings Hall. Unveiled in October 2015 as part of Osgoode’s 125th anniversary celebration, the carvings represent the connection between Osgoode, its physical location on First Nations land and the power of Reconciliation and healing.

“A holistic approach really does mean in every area of our Law School,” says Sossin. “We see an impact for Indigenousization and shared values as trying to be a force for improving society, for contributing to Reconciliation as a key mandate of the Law School. Reconciliation is an absolutely vital challenge confronting all of Canadian society.”

Barb Nahwegahbow is Anishinabek, Wolf Clan and a citizen of Whitefish River First Nation in northern Ontario. She has been based in Toronto for more than 30 years and has worked as a community organizer and cultural activist. She is a photojournalist and writes for Anishinabek News and Windspeaker.
Heather Donkers was only 14 when she landed her first job, but she already knew exactly what she was going to do with her earnings. The Newmarket, Ontario native had her heart set on becoming the first in her family to go to university. “I started working early to pay for undergrad,” she says. “My parents did what they could to support me, but they could only do so much. It was clear I was on my own for post-secondary.”

A steady string of summer and part-time jobs followed and, in 2016, Donkers graduated with a degree in global development, $30,000 in Ontario Student Assistance Program (OSAP) debt — and a deep-seated desire to go to law school. Focused initially on international development work, her life plans were turned upside-down in her third year of university after she was sexually assaulted and spent two emotionally-charged years in the legal system. “I’d always been an advocate for human rights, but my experience made me realize that social injustices often start and end with the law,” she says. “I realized I had an opportunity to use my experience to turn that around and accomplish through litigation what I always wanted to do in development work.”

In that moment, Donkers vowed to do whatever it would take to become a litigator — even draining the savings from her bank account. “I spent every cent I owned trying to get in to law school.” But, then, when she received the admission offer she wanted from Osgoode, reality hit. “The fact is there was no possible way I could afford it and there was also the back-end consideration. Even if I could get another loan, paying back what I already owed was more than I was going to be able.”

Making law school accessible
Donkers was caught between a rock and a hard place, and she isn’t alone. In 2015-16, Osgoode awarded $4.7 million in financial aid to students, including close to $3.5 million in bursaries based solely on financial need. It’s just one way the Law School is making legal education accessible to those from a diversity of backgrounds, explains Dean Lorne Sossin. Earlier this year, Sossin led the development of a new three-year strategic plan built on the principle of accessibility in all its definitions. Called Access Osgoode, the plan sets out goals and objectives related to financial accessibility in the face of rising tuition and student debt; physical accessibility for students with disabilities; accessibility for students from equity-seeking groups or living with barriers to participation in the full life of the School, such as a mental illness; even accessibility in terms of how students obtain their legal education, using digital tools or flex-time options.

“Osgoode has great research, courses and experiential learning opportunities, but it’s also our responsibility to make sure that those who are qualified have the opportunity to benefit from all that we offer,” Sossin says. In addition to a growing number of bursaries, Osgoode offers a free Law School Admissions Test (LSAT) preparation course called ALL: Access to Law and Learning, along with LSAT and admission application fee waivers to help address financial barriers to law school application and study. There are also graduating funds — the Wendy Bubcock Social Justice Award and the Osgoode@125 Fund established through a student-led fundraising initiative, among them — to help graduating students with significant debt pursue careers in the public interest.

“The ICLP was quite literally my last chance.”

By Christine Ward

A Rock and a Hard Place
When “sticker shock” and looming debt prevent talented students from attending or even applying to law school, something has to change. Osgoode’s new Income Contingent Loan Program is one ground-breaking solution.
Five-year pilot project

Until recently, though, Osgoode didn’t have anything to help students like Donkers cope with the twin challenges of “sticker shock” and graduation debt.

In 2014, at the same time Osgoode students were spearheading the Osgoode@125 Fund, Sossin was exploring something no other law school had dared to take on — income-contingent loans. He invited the Osgoode@125 student leaders to come together with faculty members on an ad hoc committee charged with mapping out all aspects of the proposed program — from the contract participating students would sign with the university, to repayment schedules and the income threshold at which the loan could become forgivable. The committee even fielded calls from unexpected sources: OSAP representatives offered their buy-in to ensure the tuition loan wouldn’t be treated as income for students applying for provincial aid.

One year later, in 2015, the first five students were admitted to Osgoode’s JD program as part of the new Income Contingent Loan Program (ICLP), a five-year pilot project that allows five qualified Osgoode students a year to study tuition-free with the help of a university loan and a $10,000 annual bursary. Each student signs a contract that allows five qualified Osgoode students a year to study tuition-free with the help of a university loan and a $10,000 annual bursary. Each student signs a contract with the university, to repayment schedules and the income threshold at which the loan could become forgivable. The committee even fielded calls from unexpected sources: OSAP representatives offered their buy-in to ensure the tuition loan wouldn’t be treated as income for students applying for provincial aid.

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Donkers didn’t commit to Osgoode until she received news of her ICLP acceptance in early March. “I cried a lot and accepted Osgoode’s offer the next day,” she remembers. “It was such a blessing because Osgoode was my dream school and the only one offering anything like this.”

Blazing a trail

Osgoode is the first and only Canadian university faculty or school to offer a loan program structured in this way. While there are some programs designed to assist with back-end debt relief, none involve the university as a lender. “We’re blazing a trail,” admits Sossin.

The funds to support the loan portion of the ICLP come direct from Osgoode’s surplus and are based on what Sossin calls “conservative” repayment projections. Back-end debt relief is also a priority of Osgoode’s Annual Fund supported by alumni and the student-initiated Osgoode@125 Fund. At the same time, the School continues to explore alternatives to tuition increases.

Adds Sossin: “We can’t wait for the government to fix this. We have to take ownership and find new ways of meeting students’ needs in a way that, ultimately, we hope and expect will attract donor dollars and government support.”

Even just two years into its five-year mandate, the ICLP is generating strong support — from student leaders, who have made it a priority and from Osgoode’s staff, who are fielding the growing number of applications and inquiries from students. The number of students who can attend Osgoode because of the ICLP and the diversity of the School’s classes are both important measures of the program’s success. The real test, though, will be how many students pay back the loan, something Osgoode won’t know for several years. Still, Sossin is setting his sights on not only continuing the program beyond the initial pilot term, but expanding it. “By 2020,” he says, “we’re looking to double the program to 10 students a year, which means 100 students at any one time will experience a legal education that might not otherwise have been possible.”

For their part, Donkers and McKenzie are thrilled that the program was there when they needed it and not just to help make ends meet. They credit Osgoode and the ICLP with helping to bust some persistent myths about law school and financial need:

“Programs like this get people here who can’t afford it, but do deserve it,” says McKenzie. “Some people think students apply for financial support because they don’t want to pay their own ticket,” adds Donkers. “More often, they’re like me — people who are brave and smart and working their butts off, but unable to realize their dream because they can’t afford to.”

“It turned out well,” she wants everyone to know, “because here I am now!”
Three new accessible offerings

“Opening the classroom 24/7 so legal professionals can learn when they want, what they want and where they want,” is the rationale spurring the development of exciting new online programming,” says Heather Gore Liddell, Senior Program Lawyer, Online Content, OsgoodePD. “Our goal is to combine high-quality content with delivery methods readily able to accommodate professionals’ busy schedules.”

OsgoodePD has a solid reputation for producing high quality in-person classes and attracting equally prominent instructors. According to Bernard Sandler, Program Developer, “we’re producing content now in ways that we never would have before. Not only can students access existing classroom information online, we’re also developing content designed, using the latest pedagogical standards, to be consumed specifically in an online environment.”

In the past year, OsgoodePD has rolled out three new online offerings:

REDe Passport

This subscription-based offering provides on-demand access to all of Osgoode PD’s archived content from January 2015 up until the end of December 2016. Featuring over 1,800 hours of current, relevant CPD programming from over 18 practice areas, it offers 24/7 access in an easy-to-search format, with precedents, templates and checklists available for download as well.

Flipped Classroom

The flipped classroom does a 180 on traditional classroom learning for some Professional LLM classes. This mixed format makes all lectures available pre-recorded and online, so that classroom time (either in person or video conferencing) is spent on discussion and problem-solving. A few sessions have an in-person attendance requirement, so students get the best of both worlds, with the flexibility of self-directed learning along with personal interaction with other students and instructors. Currently there are two courses in Administrative Law and Criminal Law with this format, with more in development.

Simulation-Based Online Learning

Demonstrating its ongoing commitment to accessible, next generation programming, an online CPD course in Due Diligence - an adaptation of an existing Due Diligence program already very successful in the classroom – is now available online as a self-directed course. Participants are taken through a simulated low firm environment where they’re presented with a due diligence transaction, and given real world exercises to perform to stick handle that transaction successfully.

Heather Gore Liddell can be contacted for more information on online learning and professional development at hgoreliddell@osgoode.yorku.ca

Bev Cline is a freelance writer, editor and book author who lives in Toronto.
By Philip Girard

How to select the Top 10 cases in the first 150 years of Confederation? Everyone will have his or her own list, but I think many of the following would be on the list of anyone trying to pick those cases that had the most impact in shaping Canadian law and life. Sometimes that impact was indirect: two cases in my list reflected discriminatory attitudes that led to reform. Unsurprisingly, most are constitutional cases: the constitution is, as Canadian poet, intellectual and constitutional expert Frank Scott used to say, “the law for making laws.” And most are from the Supreme Court of Canada, but as it was Canada’s highest court for less than half the period from 1867 to 2017, inevitably a couple are from the Judicial Committee of the Privy Council.

So here are my Top 10, but please note they are in chronological order, not order of importance, given the difficulty of comparing cases on such widely varying topics.
The time Edwards v Canada was decided. All the Privy Council decided was that the word "persons" in the section of the Constitution Act 1867 dealing with Senate appointments included women as well as men—contrary to the decision of the Supreme Court of Canada, which said "persons" had to be given the meaning it had in 1867, meaning "male persons." But the case was widely, and justifiably, interpreted as affirming gender equality more generally in the eyes of the law. In addition, Viscount Sankey's description of the constitution as an organic "living tree" became (albeit much later) the most common way of interpreting our constitution, in opposition to US originalism.

Only the second private law decision in my Top 10, along with Christie v York, the influence of Murdoch on modern Canadian family law has been profound. Alberta rancher Irene Murdoch had worked alongside her husband for many years in their farming enterprise. On divorce, however, the Supreme Court decided that she had no claim on the properties they had acquired, which were solely in her husband's name. Not only did this decision spawn a number of negotiations, gaining the support of all provinces except Quebec for the final package passed by the United Kingdom parliament. The failure of later attempts to strike a new deal with which Quebec could agree led to the near break up of the country in the 1995 referendum. But failure to pursue another round of negotiations might have led to an even more chaotic situation.

The "Persons" case is much misunderstood. Both civil law and common law had recognized the legal personhood of women for centuries, and most of the legal disabilities of married women had been removed by the time Edwards v Canada was decided. All the Privy Council decided was that the word "persons" in the section of the Constitution Act 1867 dealing with Senate appointments included women as well as men—contrary to the decision of the Supreme Court of Canada, which said "persons" had to be given the meaning it had in 1867, meaning "male persons." But the case was widely, and justifiably, interpreted as affirming gender equality more generally in the eyes of the law. In addition, Viscount Sankey's description of the constitution as an organic "living tree" became (albeit much later) the most common way of interpreting our constitution, in opposition to US originalism.

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Heidi Matthews started at Osgoode in January as an Assistant Professor. Matthews’ research theorizes contemporary shifts in the practice and discourse of the global legal regulation of war, with particular attention to history, gender and political theory. Matthews earned an SJD from Harvard Law School in 2014. Her doctoral dissertation, “From Aggression to Atrocity: Interrogating the Jus in Bello Turn in International Criminal Law” was awarded Harvard’s Laylin Prize in International Law. She has held numerous distinguished fellowships, including a British Academy Newton Fellowship. Previously, Matthews served as a law clerk to the judges of the Appeals Chamber at the Special Court for Sierra Leone, and interned at the Immediate Office of the Prosecutor at the Special Tribunal for Lebanon. Originally from Newfoundland and Labrador, Matthews holds an LLB/BCL from McGill Faculty of Law, and a BA from Mount Allison University. In addition, she has taught in a range of departments in Berlin, London and at Harvard.

Palma Paciocco joined Osgoode last July as an Assistant Professor. Her teaching and research interests are in the areas of criminal law and theory, criminal procedure, evidence, sentencing, and professional ethics. Her scholarship has examined a wide variety of criminal justice issues, including the privacy interests of criminal suspects, the mental states that ought to attract criminal liability, and the role of prosecutors in determining sentencing outcomes. She received her SJD degree from Harvard in November. Before beginning her doctoral studies, Paciocco completed Harvard’s LLM program as a Thomas Shearer Stewart Travelling Fellow and a London H. Gammon Fellow, but waived the LLM degree to enroll in the SJD program. She also has a BCL/LLB degree from McGill Faculty of Law, where she was awarded the Gold Medal, and a BA in philosophy and history from McGill Faculty of Arts. Paciocco served as a law clerk to the Honourable Justice Louise Charron of the Supreme Court of Canada. She is called to the bars of Ontario and New York.

Osgoode recently wished Happy Retirement to five of its finest researchers and educators — Professors Shelley Gavigan, Douglas Hay, Tom Johnson, Kent McNeil and Liora Salter. All of them made enormous contributions to their fields of study — publishing, lecturing and mentoring extensively.

Over the past 30 years, Shelley Gavigan contributed immeasurably to every aspect of the Law School, from her feminist and legal historical scholarship to her involvement with our clinical education program, and most particularly Parkdale Community Legal Services. Gavigan also played an integral role in Osgoode’s governance and administration, serving as Associate Dean twice and Director of Clinical Education a number of times. She was cross-appointed to York’s Graduate Programs in Socio-Legal Studies and Gender, Feminist and Women’s Studies. Gavigan is co-teaching Law & Poverty this term, plans to continue with her research and writing, learn Italian, and “figure out how to rescue my sensible Canadian daughter from the throes of Donald Trump’s America.”

Douglas Hay had been cross-appointed to Osgoode and York’s Department of History since 1981, teaching the comparative history of criminal procedure, punishment, and crime, and the history of private law in the common law world. He was elected an Honorary Fellow of the American Society for Legal History in 2013 and a Fellow of the Royal Society of Canada (RSC) in 2016. Tom Johnson joined Osgoode in 1987 and played an integral role in many parts of the Law School over the years. Among his many contributions, he served as the Co-Director of the Schulich and Osgoode joint JD/MBA Program, Director of Osgoode’s Intensive Program in Business Law, Director of the Osgoode Business Clinic, and Co-Director of Osgoode’s LLM Program in Bankruptcy and Insolvency.

Kent McNeil taught property law, First Nations and the law, and trusts and had been an Osgoode faculty member since 1987. McNeil, who is also an RSC Fellow, was awarded a prestigious Killam Fellowship in 2006 to pursue research on the legality of European assertions of sovereignty in North America. He plans to remain active, pursuing his research and writing and continuing to advocate for justice for Indigenous peoples.

Liora Salter, who joined York in 1990, was cross-appointed with the Faculty of Environmental Studies and Osgoode. Her prolific writing in both the academic and governmental spheres made her a well-known expert in the areas of communication and interdisciplinary research. She was a consultant to eight Royal Commissions, and in 1992 her professional contributions were recognized with an appointment as an RSC Fellow. Salter continues to supervise her Osgoode graduate students, and otherwise is working at plainspeak.ca and as a professional artist.
Professor receives two major awards

Professor Poonam Puri has a couple more irons in the fire these days, thanks to the Pierre Elliott Trudeau Foundation and the Law Foundation of Ontario.

In September, the Trudeau Foundation announced that Puri is one of five scholars from across Canada to be awarded prestigious research fellowships in 2016. The fellowships will be awarded prestigious research scholars from across Canada to announce that Puri is one of five fellows.

Professor Poonam Puri, who has been appointed a Member of the Order of Canada (C.M.) for her contributions to law and letters in Ontario, will receive a total of $225,000 for her commitment to seeking innovative solutions to major issues facing Canada and the world.

Puri, who is Emeritus Professor of Intellectual Property & Information Technology Law in the University of Auckland (1972-78), rejoined Osgoode (1985-98), UBC (1978-85), and the Faculty of Law at Osgoode (1998-2009). He has served as a consultant to the Department of Finance, the Canada Revenue Agency, the Australian Treasury Department, New Zealand Inland Revenue (Policy Advice Division), the OECD and the IMF. He authored The Income Tax Treatment of Financial Instruments: Theory and Practice, which was published in 1991.

Vaver's coinage of the phrase “user rights” in his book Copyright Law (Irwin Law, 2000) has transformed the international language and perspective of balance in copyright, where users enjoy rights alongside copyright's traditional stakeholders of owners and authors. He is also the author of Intellectual Property Law: Copyright, Patents, Trade-marks (And ed. 2011), and (As co-editor) Competition Policy and Intellectual Property Law (2009), both published by Irwin Law. In addition, he has edited a five-volume compilation, Intellectual Property Rights: Critical Concepts in Law (Routledge, 2006).

His influence on the academy led to scholars from around the world honouring him with their own contributions in a Festschrift in 2010, The Common Law of Intellectual Property: Essays in Honour of Professor David Vaver. In 2013, he was awarded the Patricia and Don stares (LLM), '76 (DJur), both of whom passed away this past fall after long illnesses.

Professor Emerita Sharon Williams and Professor Tim Edgar

The Law School community mourns the loss of Professor Emerita Sharon Williams, ‘74 (LLM), ‘76 (DJur), and Professor Tim Edgar, ‘88 (LLM), both of whom passed away this past fall after long illnesses.

“Sharon forged many strong relationships with faculty and staff during her years at Osgoode, and made many positive and enduring contributions to the Law School. She will be missed by our community in many ways,” said Dean Larne Sossin.

“Tim was an exceptional tax scholar, a wonderful colleague, and a dedicated teacher. Colleagues will remember Tim as a careful, thoughtful, and engaged person and for his many contributions during his time at the Law School.”

Professor Emerita Sharon Williams was recognized by the award of the David Mundell Medal for her contribution to law and letters in Ontario (1991), and her induction as a Fellow of the Royal Society of Canada (1993). Her international stature was reflected by her appointment to the Permanent Court of Arbitration at The Hague (1991-97), and her appointment as a Judge ad litem in The Prosecutor v. Simic et al at the International Criminal Tribunal for the former Yugoslavia in The Hague (2000-2003).

Before joining the Osgoode faculty in 2011, Edgar was a member of the faculty of law at the University of Western Ontario (now called Western University) where he taught tax law and policy for 21 years. He published articles on taxation in the Canadian Tax Journal, New Zealand Journal of Taxation Law and Policy, and Virginia Tax Review, SMU Law Review and other periodicals.

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Remembering...

Remembering Professor Emerita Sharon Williams and Professor Tim Edgar

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Alumni Moves

Check out the latest achievements and the comings and goings of fellow alumni.

1950s
John Ground ’59 was appointed to Ontario’s new Business Law Advisory Council.

1960s
Mary Dingle ’61 received the Law Society of Upper Canada’s 2016 Lincoln Alexander Award.
Barry Kirshin ’62 retired at the age of 80; not without regrets.

1970s
George Adams ’70 received the degree of Doctor of Laws, honoris causa (LLD) from the Law Society of Upper Canada.

1980s
John Hodgson ’84 was appointed to the Order of Canada.

2010s
Carol Hansall ’86 was appointed Chair of Ontario’s new Business Law Advisory Council.

Submit your own class note
osgoode.yorku.ca/alumni

SUBMIT
Alumni Moves

Check out the latest achievements and the comings and goings of fellow alumni.

Denise Smith ’89
started practising criminal law as a Crown Attorney in 1990, was appointed Chief Crown Attorney for Halifax Region in 2008 and then was appointed Deputy Director of Public Prosecutions in March 2014. Denise would like to say hello to her fellow 1989 Criminal Clinic alumni.

Frances Woo ’91
spent a few years in private practice in Toronto and moved to Hong Kong in 1994 to join the offshore law firm, Appleby. She was appointed as managing partner in 2000 and heads up the Private Client and Trusts Practice Group. She also headed up the Corporate Practice Group until 2013 for the Asia region and served as Group Chairman between 2012 and 2015. Frances is married with two teenage sons.

Dan Gardner ’92
joined the Prime Minister’s Office as a senior adviser in 2014. Denise would like to say hello to her fellow 1989 Criminal Clinic alumni.

Mark Persaud ’91, ’01 (LLM)
received an Honorary LLD from the Law Society of Upper Canada.

Gary Trotter ’90 (LLM)
was appointed a judge of the Court of Appeal for Canada.

Stephan Wood ’92
was appointed York Research Chair in Environmental Justice and Sustainability.

Adam Carr ’93
was named President and Chief Executive Officer of Emerson Ecologics.

Frances Voices ’94
received the 2016 Spirit of Barbra Schiller Award for her work in advocating with and for those who are most marginalized in our justice system.

Kimberly Murray ’94
was appointed York Research Chair in Environmental Justice and Sustainability.

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1990s

Tracy Engekling ’90
was appointed a judge of the Superior Court of Justice and a member of the Court in Halifax.

Ann Smith ’90
was appointed a judge of the Supreme Court of Nova Scotia in Halifax.

2000s

Gary Trotter ’90 (LLM)
was appointed a judge of the Court of Appeal for Ontario.

2010s

Erin Finlay ’12 (LLM)
was appointed Chief Legal Officer of the Canadian Media Producers Association.

Ghuma Bkulw ’15 (LLM)
was awarded the 2016 John Peters Humphrey Fellowship in International Human Rights from the Canadian Council on International Law.

Peter Spiro ’15
received the 2016 Canadian Tax Foundation’s Douglas J. Sherbanik Distinguished Writing Award for his article, Challenges in Shifting Canadian Taxation Toward Consumption.

Busayo Adair ’15
married Busayo Adair on July 29, 2016. The couple got engaged on the evening of the Class of 2015 year-end formal, There’s No Place Like Oz.

Andrew Harms ’16
was awarded First Place in the 2016 Insolvency Institute of Canada Law Student Writing Awards Program for his paper entitled Standing up for Shareholders: Treatment of Shareholders and Equity Claims in Canadian Corporate Insolvency Proceedings.

2012 and 2015. Frances was appointed a judge of the Superior Court of Justice in Brampton. Carrie Evans ’97 joined Health Care for the Homeless where she heads the organization’s advocacy and policy work at the state and local level.

Jennifer Pfoh ’93
was appointed to the Manitoba Court of Appeal in June 2015.

Norie Campbell ’95, ’03 (LLM)
was awarded the Leading World Honor for General Counsel for her personal accomplishments in her career and her leadership in the profession.

Fern Glowinsky ’95
was named Chief Executive Officer of Cliffside Capital Ltd.

Nadia Lassman ’95
had her landscape paintings featured at the Aura Gallery’s exhibition Figuratively Speaking.

Kate Broer ’96
was awarded the 2016 Lexipart Zenith Award for contributions to diversity and inclusion.

Alex Brainsis ’99, ’07 (LLM)
was appointed a partner in the Investment Funds group in Appleby’s Cayman Islands office.

Geoffrey Kott ’01
was appointed Senior Vice-President, Head of Capital Markets and Corporate Strategy at Cross River Bank.

Lana Madsen ’02, ’12 (LLM)
was appointed a judge of the Superior Court of Justice and a member of the Family Court in Hamilton.

Joseph Di Luca ’03 (LLM)
was appointed a judge of the Superior Court of Justice.

Maryse Saint-Laurent ’03 (LLM)
was appointed to the Alberta Securities Commission for a three-year term.

Amelia Daurio ’04
left the Children’s Aid Society after 11 years of service to join the team at Russell Alexander Lawyers as an associate lawyer.

Andrea Burne ’05
was appointed Judge of the Superior Court of Justice and a member of the Family Court.

Jennifer Pfuetzner ’93
was appointed York Research Chair in Environmental Justice and Sustainability.

Kimberley Brooks ’00 (LLM)
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Nicole Phillips ’00
was promoted to counsel at Skadden, Arps, Slate, Meagher & Flom LLP.

Tanya Walker ’05
was named York Research Chair in Environmental Justice and Sustainability.

Antonio Di Domenico ’05 (LLM)
was appointed to the Alberta Securities Commission for a three-year term.

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IN MEMORIAM
January 1, 2016 to December 31, 2016

Osgoode Hall
Law School Alumni Association

ANNUAL GENERAL MEETING NOTICE

Alumni are invited to attend the Annual General Meeting on:
Wednesday, May 17, 2017
5:30 pm to 6:00 pm
Portrait Room of Osgoode Hall
130 Queen Street West, Toronto, Ontario

Please contact the Osgoode Alumni Office at 416-736-5638 or alumni@osgoode.yorku.ca to obtain a copy of the agenda.

Positive RSVPS Appreciated

Dean’s Alumni Reception
Join fellow alumni, faculty and friends in honouring our alumni for their contributions to the profession, Law School and legal community.

May 17, 2017
Convocation Hall, Osgoode Hall
130 Queen Street West, Toronto
6:00pm - 7:30pm
Free

Please RSVP online by May 12, 2017:
www.osgoode.yorku.ca/events
Immigration Act of 1923, the only Chinese exclusion law in effect in North America at that time. Lincoln Alexander ’53, became Canada’s first black Member of Parliament and the first black person to serve in a viceregal position when he was appointed as Lieutenant Governor of Ontario in 1985.

Shaping the future of legal education since 1889.

At Osgoode Hall Law School, we develop tomorrow’s lawyers and thought leaders — like Lincoln Alexander ’53 — through a commitment to new ideas and the very best of experiential education. Find out more about our programs, our people and our passion for legal education.

osgoode.yorku.ca/makehistory