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BEYOND FERGUSON THE HUMAN COST OF RACIAL PROFILING



► A scene from Ferguson, Missouri that could just as easily have been from the G20 Summit in Toronto.

ANDREA ANDERSON › CONTRIBUTOR

ON AUGUST 9 an unarmed young, black male was shot at least six times - twice in the head - by a white police officer. For hours, the body was left in the street, uncovered and uncared for. The days following the shooting were marked with an explosion of moral outrage and public anguish. Widespread suspension of dissent and democratic rights through criminal sanctions would ensue. The police's paramilitary mindset and tactics combined with the slow, selective, and confusing release of information surrounding the events leading up to and after the shooting only served to enflame the situation.

Today, for the most part, the public protesting has stopped. The images of tear gas, riot gear, and the reports of use of rubber bullets, suppression of information, and the arresting of civilians and journalists is, somewhat, a distant memory. America's

public dialogue surrounding the events in Ferguson, Missouri continues however. Allegations of a history of racial profiling and discussions around the culture of policing, the use of force, and the implications on equality have emerged. On one hand is the debate on whether the militarization of the police was an appropriate response to contain civil unrest. Others focus on the issue of economics, namely, that the protest was borne out of anger over the racial disparities in income. And still, there are those in the middle, who claim that there is "no racial divide" in Ferguson at all. In any case, it is almost understood that the death of Michael Brown, at the very least, required a real conversation about the state of race relations in the United States.

To the Canadian public, in general, the discourse in

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Start-up Summer

How I turned an idea, a passion, and four months of free time into a business

THIS SUMMER, I decided to dedicate my time to building a legal information website. I made this decision without any particular affinity for web development, or any real business or legal experience to guide me. The decision had something to do with the weak job market, my lack of confidence in my professional abilities, and my fondness for working in sweatpants at 2am, but those weren't decisive factors either.

In fact, there really wasn't any single motivation or goal driving me; just a collection of ideas, plans, and doubts that ended up working out okay. Fortunately, as I look back on how far things have come, and start planning for the future, I am coming to realize that the slow grind of determination may, in fact, be worth more than the lofty pursuit of perfection. And so here I am, writing about the many failures and missteps, out of which the Legal Information Network of Canada (canadalegalhelp.com) was born, in the hopes of showing that sometimes you don't need to follow the script to get a pretty good story.

It's one thing to have an idea, but as I found out, a whole other deal to act on it. My idea came while I was working for JusticeNet last year, helping refer low-income individuals to lawyers who would work pro bono. Many callers were asking us for basic legal information, unsure of whether to get a lawyer, and there was no real service in place to help them. I figured there should be some sort of simple website where individuals can submit a question and receive some basic information and resources.

A ton of legal information is online but it's widely dispersed and can be time consuming and difficult to navigate. Individuals are generally left to either find free legal information options themselves or go to a lawyer. In my mind, it stands to reason that individuals looking for a specific piece of legal information should have a service available to help them get the help they need. Having worked at JusticeNet, I had a first-hand look at the breadth of the access to justice crisis, and I knew how badly individuals going through difficult and distressing legal situations needed help. With an idea in mind, and a passion to help fill this void in our legal system, I began planning for the summer.

When I speak to people about my website now, I am often fielding questions about how I managed to turn my idea into something tangible. When I started planning my summer, I was faced with the same



► The *Obiter's* Managing Editor shares how easy it is to turn a passionate idea into a successful business. Image from www.canadalegalhelp.com. Photo credit: Sarah Stein

question, and it is the answer I reached which has largely inspired this editorial.

I found that there is no magic formula to building a business. There's no road you have to travel or route you have to take. With an idea in mind, and a passion for the work and the field, all it really took for me was determination, a short memory, and lots of trial and error.

Once I started working, I learnt pretty quickly that turning an idea into a business is actually not nearly the mythical task I had once assumed. I started the business without any fanfare or celebration. I didn't get anyone's permission or sign up for anything, and I didn't even really tell anyone that my decision had been made. I simply took a few guesses at what the first steps for building a business might be, and when I launched into those steps, to my surprise I found it worked out.

This great divide between idea and action is what I hope this editorial will inspire others to conquer, because the truth is, the divide seems much greater than it actually is. When I started, I guessed that the first steps I should take would be to write a business plan, speak to all the advisors I know, and research the market. With the tasks written out I became

determined to see them through, and actually found all the work surprisingly approachable. I quickly realized that further progress was possible, and could be done by building off of the foundational blocks I had set with my work so far.

A couple weeks in, I realized my business plan made no sense, I had asked advisors all the wrong questions, and I had about a month more research to do than I'd initially planned. This is when I started to really appreciate how important determination was, but also when I realized how badly I needed to develop a second skill: a short memory. With my emerging failures at the front of my mind, all the determination in the world wasn't going to be enough without the ability to remain inspired and motivated.

Slow progress can be extremely disheartening, and for the first while, slow progress was all I had. At first, I hated seeing so few results for my work, but once I really started approaching each day with a short memory for the last, I found even the worst moments far more tolerable. With an idea in place, a determined approach, and a plan to move on quickly from

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ObiterDicta

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"Judges are not like pigs, hunting for truffles in buried briefs."
JUSTICE POSNER

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Submissions for the October 14 issue are due at 5pm on October 4, and should be submitted to: obiterdicta@osgoode.yorku.ca

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Anishinaabe Law Camp

Student reflections on Osgoode's inaugural Indigenous law camp

SERENA DYKSTRA, ZACHARY D'ONOFRIO, & JASLEEN JOHAL › CONTRIBUTORS

PII DASH SHKAKIMI-KWE *giigidid aabdeg gbizindawaamin*: When the Earth speaks, we will listen. This was a guiding theme posited by elders of the Chippewas of Nawash for Osgoode's inaugural Anishinaabe Law Camp: *Anishinaabe Naakinigewin Gabeshawin*.

On the weekend of September 11 to 14, approximately 40 law students and Osgoode faculty members travelled to Neyaashiinigmiing (Cape Croker) to attend the camp, organized by Professor Andrée Boisselle in collaboration with John Borrows and his daughter Lindsay, their family and community, the Chippewas of Nawash. For those unaware, John Borrows is a world-renowned scholar in Indigenous Legal Traditions and Aboriginal Rights, and currently Canada Research Chair in Indigenous Law at the University of Victoria Law School. He is also a former Osgoode professor and founding director of the Aboriginal Intensive.

The camp allowed students the opportunity to engage with Anishinaabe legal traditions and community-based learning. We were taken on the land in Neyaashiinigmiing to learn about Indigenous law through experiential learning and discussion with legal scholars, elders and other community members. We also had opportunities to develop more meaningful relationships with each other: from sleeping side-by-side on the floor of a community centre to sharing laughs over mealtimes, there were plenty of opportunities to get to know each other or to deepen already-formed friendships. Below, three students share some experiences of the first Anishinaabe Law Camp.

Serena Dykstra

The most profound thing about the law camp was how my relationships with other students deepened. I have been in law school with some of these students for two years, and yet knew very little about their personal lives. At the camp we were able to be vulnerable with each other through sharing circles, singing around the fire, and midnight strolls along the shores of Georgian Bay. I am grateful I was able to attend the camp. I learned so much about Anishinaabe law and was reminded that there are more important things than grades or job interviews. Attend the camp if you can. If nothing else you will be left with lasting friendships and memories.

Zachary D'Onofrio

As a JD/MES student, one highlight of the camp for me was the opportunity to discuss local environmental concerns with members of the Neyaashiinigmiing community. One specific discussion that stood out for me was with Paul, a member of the local Band Council. We talked about the fact that, on the surface, the waters of Georgian Bay look perfectly healthy. Paul pointed out, however, that the bay faces numerous environmental challenges, from invasive species to chemical imbalances. These issues are only visible if you take the time to get to know the water at more



► Students create new friendships with each other at the Anishinaabe Law Camp.

than just a cursory level.

This lesson reminded me of the relationship that I had with Neyaashiinigmiing before attending this camp. I had passed by Cape Croker multiple times en route from Owen Sound to Tobermory without ever becoming acquainted with the Neyaashiinigmiing; I had never taken the time to learn about the community at more than a cursory level, and therefore could not appreciate the many environmental and legal issues that it faces. Similarly, I lacked an understanding of Anishinaabe legal traditions, and the potential that they have to influence the Canadian legal landscape. Although there is still much to learn, this experience opened my eyes to important issues that had always been right in front me, but that I was unaware of until now.

Jasleen Johal

Hunting plums in the dark—The students slept in the community centre gymnasium that also served as a dining hall and congregation space for the duration of our visit to Neyaashiinigmiing. The centrality of this space allowed many of the day's lessons and discussion to carry on seamlessly into the late hours; the community centre, true to its name, became a place of familiarity, where the pauses between moments were as poignant as the moments themselves. Following the feast on the last night of our stay, Jasmine, a young community member, asked some of us if we wanted to go out and look for plums. None of us spoke, but plates were set aside and coats were abandoned in the enthusiasm to follow her, past the scent of firewood and into the nearby wood.

I call it "hunting" because I have never known a person who has picked fruit past midnight; it is an exercise in patience, of wide eyes and open ears as a

cluster of furtive bodies scrambles from tree to tree in a thicket of bush and net fences, silhouettes illuminated by cellphone flashlights amidst the rustle of leaves, waiting for the sound of contact as the first fruit begin to drop. There were giggles and whoops as we cheered Jasmine on, the twelve year-old who fearlessly clambered up countless trees and gave each one a powerful shake in an effort to dislodge the sweet reward. But as we headed back, in high spirits but with little to show for our efforts, it occurred to me how the same passion that characterized the discourse of law by daylight now possessed us in this small but earnest pursuit of something sweet but elusive, a satisfaction that hid amidst a woody thicket of ambiguous shapes and voices. We came back empty handed, but the night was hardly fruitless—in fact, the next morning, as we were packing up, a beaming Jasmine produced a handful of dewy plums for our trip back.

To Conclude

As we go forward in our careers, we will remember the teachings learned at Neyaashiinigmiing and the glimpse we received into the Anishinaabe world. Indigenous law should not be learned in a vacuum. We cannot understand Canadian law without an appreciation of the Indigenous shoulders upon which it is built.

Thank you to everyone who contributed to making this camp a success. Miigwetch Andrée Boisselle and to the other Osgoode professors who attended. Miigwetch to John and Lindsay Burrows and the Chippewas of Nawash. Miigwetch. Miigwetch. Miigwetch. "When the Earth speaks we will [continue to] listen." Chi-Miigwetch. ♦

Defining Access to Justice

What does access to justice mean to everyday Canadians?

HANNAH DE JONG ›
COMMUNICATIONS ASSISTANT, CFCJ

WHAT DOES THE public think about the justice system? What does justice mean to everyday Canadians? We interviewed 99 Canadians in the Greater Toronto Area and have captured their responses in our colourful new infographic “What is Access to Justice?” You can see the infographic at: www.cfcj-fcjc.org/infographics/what-is-a2j

The infographic is based on the “What is Access to Justice” project conducted by CFCJ Chair Trevor Farrow. As part of the project, CFCJ members interviewed people in Toronto on justice-related questions and issues. By conducting these interviews, the project has framed the access to justice debate in client-centered, problem-based and democratic terms. Some of the questions asked were, “How do you define justice?”, “Have you ever faced access to justice barriers?” and “Do you think that everyone is equally vulnerable to access to justice barriers?” The responses gathered were as insightful as they were varied. Overall, people thought justice was a fundamental issue to Canadians, and people should have a right to justice. But perhaps the most interesting recurring theme was that justice means more to people than a fair trial and equitable access to courts. Justice, at its root, is all about the good life. Respondents described justice as accessing equality, understanding, education and happiness, as well as basic needs such as food, housing, and security.



So what does that tell us? Well, for starters, justice system workers need to listen to the voice of everyday Canadians when making policy decisions concerning justice reform. But this responsibility goes both ways — citizens may also have a duty to engage meaningfully in access to justice discussion and debate. And as this project shows, many people are more than willing to think critically about the justice system and how it

could be improved — all you have to do is ask.

In addition to an infographic and video series, an in-depth discussion of findings from this project will be presented in Trevor Farrow’s forthcoming paper for the Osgoode Hall Law Journal. ♦

Tales of the new “WestlawNext Canada”

What’s the Dealio?

CHRISTIAN FERRARO & MAI NGUYEN ›
CONTRIBUTORS

AS OF SEPTEMBER 1, students have been officially able to access the new WestlawNext Platform through WestlawNextCanada.com/students. This website can operate as a homepage for law students, as it includes a lot of helpful and interesting information. For example, under “Insight” students can find legal news and all kinds of helpful research tips. Clicking the box labelled “To Sign on to WestlawNext Canada” will take you to the sign-on page. If you are a 2L or 3L, simply continue to use your old password. If you are a 1L, you will be receiving your password in class.

Once signed in to WestlawNext, students will immediately notice the new and improved all-in-one search bar. You can search using everyday plain language, case citations, Boolean terms, and connectors. The search will give you all applicable results broken into categories that you can discard or keep to narrow down. The eyeglasses are a handy new visual aid that appears over a result once you have read it. This helps you keep track of where you are.

One of the most highly anticipated new features is “Folders.” Students can now organize and store their

research in their own custom labelled folders. This research will never be discarded, meaning students don’t have to download cases to organize and store them. Students can also share specific folders with other students. Folders may become quite useful in the law firm to keep research separate based on projects or lawyers.

Another great new feature is highlighting. The new platform allows you to highlight sections of a case and to save these highlights. Another point that may be of interest is the option to save favourites on your WestlawNext main page. For example, if you know you will be using a particular statute a lot because of a particular course or assignment, you can leave these statutes conveniently in your “Favourites.” Another great perk is the inclusion of the 8th edition of the McGill Guide for free. To really get a feel for all that the new platform offers you are encouraged to get online and explore. Check out “Words and Phrases,” for example, which allows you to search a legal term and find all of the snippets of cases where it is defined.

For additional questions, feel free to reach out to one of the students reps: Mai Nguyen (

christianferraro1@gmail.com) or Christian Ferraro (christianferraro1@gmail.com). For any problems, you can get 24/7 technical support at 1-800-387-5164. Want to learn more about WestlawNext or get a refresher on researching through it? There will be a session on Monday, October 6 from 12:30 to 1:30 in Room 2011. Email library@osgoode.yorku.ca to RSVP. Expect some treats and giveaways. ♦

A Tale of two Referenda

Uncovering the parallels of the Scottish vote with our own, somewhat besmirched history of secession

NICHOLAS BANERD › CONTRIBUTOR

LAST WEEK, Scottish leaders followed in Quebec's footsteps and held that nation's first popular vote on secession from the United Kingdom. Sovereignty referenda are all too familiar to Canadians. Twice, in 1980 and again in 1995, the Parti Québécois sought secession from Canada; the latter vote coming alarmingly close to a dreaded 'Yes' victory. In their defeat, the PQ focused on other matters, including leader Pauline Marois' *Charter of Values*. Even while in power, the party carefully kept its *raison d'être* on the backburner.

Last April, the Quebec Liberals seized a majority government, and the sovereignty question seemed to be buried for a long while. But for resilient *Péquistes*, hope was emerging from abroad as some flew to Edinburgh to revel in the excitement that was building among independence-minded Scots. It seemed as if Scotland and Quebec had a similar, if not common, foe: an Anglo-Saxon majority that was seen as historically oppressive, governing them from afar.

In Scotland, the increased powers devolved to Holyrood from Westminster did little to quell the nationalist fervor as kilt-wearing, bagpipe-playing Scots jammed city streets at pro-independence rallies. The similarities to 1995 are striking: a complacent federalist, or Unionist, campaign caught off guard as impassioned nationalist leaders catalyzed a surge of popularity for secession.

Many were perplexed in the '95 campaign, given that Canada's top job had been frequently occupied by Quebecers: Pierre Trudeau, Brian Mulroney, and Jean Chrétien. Trudeau is often vilified as orchestrating egregious policies that ostracized his own province, opting for a strong, centralized and bilingual country. A few years later, Mulroney twice failed to pass subsequent constitutional reforms at Meech Lake and Charlottetown. Despite having their own in the highest corridors of power, Quebecers were in full revolt against Ottawa.

To some, the Scottish referendum was even more puzzling. There seemed to be little impetus for the vote; indeed, Scotsman Gordon Brown had been Prime Minister for three years, and remains popular. Even present Tory PM David Cameron has Scottish



▶ SO MUCH BRITAIN!! I need some tea now.

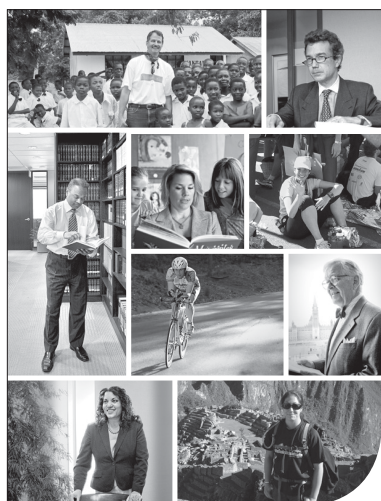
ancestry. Scottish qualms centered around a collective nationalism, epitomized by the Mel Gibson blockbuster *Braveheart*. While William Wallace lived in the 13th century, some nationalists seemed to have forgotten, or ignored, their more recent history with England. In 1603 Queen Elizabeth I died and the two kingdoms unified under a Scottish monarch—James VI—whose Stuart dynasty ruled all of Britain for a century. While the union suffered setbacks, it endured in relative comfort until 1982. It is historical coincidence that this year marked the height of peaceful coexistence in Britain after its victory in the Falklands war, while Canada was mired in constitutional treachery. The *Constitution Act, 1982* was never signed by Quebec City.

As in Quebec, Scottish popular sentiment toward the union declined rapidly thereafter. Mrs. Thatcher, the Tory reformer whose military triumph gave her a second, resounding majority in Westminster, began

her crusade to cripple the country's powerful trade unions, and privatize state-owned industry; much of which was inefficient, overburdened, and bankrupt. The free-market reforms proved deeply unpopular in industrial Scotland, which suffered as its coal, steel, and shipbuilding industries were devastated. Layoffs at British Steel, British Telecom, and other state-owned enterprises not only bit hard, but the privatizations in themselves set the stage for increasing nationalism. These newly unemployed Scots were no longer dependent on British state industry for their paychecks, and their bond with England was never reforged, even when unemployment improved.

Then there was Mrs. Thatcher herself. Ironically, many of her policies were embraced north of the border; more Scots lived in state-owned council

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Back to the Factory, with a Vengeance

How an injury at work got me thinking about the law

PARMBIR SINGH GILL › CONTRIBUTOR

AFTER GETTING MY admission to Osgoode Hall earlier this year, I began thinking a bit about what area of law to go into.

Then, strapped for cash, I took a job at an automobile assembly plant over the summer. The factory was sprawling, about the size of York's Keele Campus, and inside was a winding assembly line, which was several kilometers in length. When the line ran smoothly, which it did on most days, the plant could churn out one car every forty-eight seconds, or roughly 450 cars over an eight-hour shift. These are what the management referred to as "good days," and on good days, the supervisors could be seen smiling.

But sometimes the line would malfunction, halting production for several minutes at a time, and turning the supervisors' smiles into frowns. These are what the workers called "good days," and on the whole, you could tell for whom a day was good based on how well the assembly line ran. This is part of what Marx had in mind when he wrote about the contradiction between capital and labour.

Anyway, one of my jobs at this plant was to unload large bins off of tractor-trailers and deliver them to various points along the line. From there, other workers could reach inside them for the parts they needed to build the cars.

Now, the bins were supposed to be made of hard plastic, but because hard plastic was expensive and cardboard slightly less so, the company decided to behave like a company and made the substitution. The only difference, other than cost, was that these cardboard bins couldn't be opened without cutting them, and, as you might have guessed, I was told it was now part of my job to do that as well.

Fair enough, I said to my supervisor, but could I get a knife?

"Oh yeah, the knife. Yeah, yeah. I'll get you one in a minute."

Forty-five of those intervals later, I remained knife-less and grew uneasy. The cardboard boxes I had been delivering in the meantime were fully sealed, which bothered the workers on the line because it now fell on them to hack through the industrial-grade cardboard, no easy task, while keeping up with the rest of their work. Their frustration sounded something like this:

"Cut the fucking cardboard already, kid."

"Ah shit, sorry. I asked for a knife...Uh, it's coming. Give me some time."

"Hurry the fuck up."

(These are good people, I insist.)

When I found my supervisor, idle yet feigning the opposite, I reminded her of the knife.

"I told you I'd get you one, relax!"

Relax? Relax. Right. Will do.

Five minutes later I was bestowed with a knife, blunt-edged and encased in flimsy plastic, with a blade that looked a quarter-inch shorter than the thickness of the cardboard I had to cut through.

I hesitated before accepting it, but that hesitation was trumped by a more acute sense of the perils that would surely greet a request for something better.

So off I went to the line, poorly equipped, with looks of exasperation greeting me at every turn. I tugged and tore through this box, then another, then the next. By the time I hacked through a dozen, with another dozen to go, I realized I was falling behind on the unloading part of my job. A faster pace demanded itself: this box, that box, the one beside it, the one a few feet down, then the next one, then...shit!

My thumb.

The gash went right to the bone, about an inch long, and it was leaking profusely; I bled all the way to the medical office. When I saw my supervisor along the way, she motioned for me to stop, glanced at the

red mess on my hand, did some inferring, grimaced, suppressed her grimace, and then asked with genuine concern:

"What job were you on?"

"19A" was my reflex, not even a reply.

And then, as I stood bleeding at attention, she spoke into her walkie-talkie:

"Victor, come in Victor. Yeah, we need Mike on 19A, Mike on 19A. No, no, Tom's already covering somebody. Mike knows the job, he can do it. I don't know where the fuck he is. Maybe the cafeteria? You figure it out, I gotta go." Then to me: "Ugh, gross, go see the nurse right away. What are you waiting for? Go!"

I stared at her blankly, knowing we were of different classes but wondering if we shared a common genus. Undecided, I began walking again, and arrived a short while later at a hostile-looking door marked MEDICAL.

The company nurse and company doctor on the other side were affable, competent and

efficient. They washed off the blood, put three stitches into my thumb, bantered and made light jokes, wrote up a report, told me if the cut had been a half-inch lower I would've lost the ability to bend my thumb for good, chuckled at my good fortune, and then sent me back to the shop floor in under an hour.

My supervisor, having already received news of the prompt repair, was waiting nearby, and as I drew closer she let out an exaggerated breath of air.

Then, "Victor, come in Victor. Yeah, tell Mike he can go back to wherever you found him, the kid's fine."

And then to me, "You're good, right? Yeah, happens all the time. Shrug it off, you'll be fine, yeah." I did, but I wasn't.

It was only when the union intervened later that day that I learned about the multiple violations committed by the company the whole way through. Cardboard boxes are banned in that part of the plant; no one without knife training, that's me, is allowed to wield a knife; anyone who wields a knife must receive Kevlar gloves; additional tasks can't be added to a job without a commensurate reduction; an injured worker is not to be sent back to the floor without speaking to their union rep. The list goes on a little longer, all of it explicitly laid out in the much more obtusely-worded Collective Agreement.

So, it was in a single eight-hour shift that the company broke a legally binding contract in half a dozen ways, injuring at least one worker in the process, almost permanently.

It also produced 450 cars and at least seven figures in future profit for the owners and shareholders. That's what really matters, and it happens every day of the work week.

I think I want to go into labour law. ♦

"I bled all the way to the medical office."



► Thumbs up for workplaces under worker control.

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R v Spencer

On the Internet, User Anonymity Remains Supreme

MICHAEL CAPITANO › NEWS EDITOR

THE INTERNET is our generation's playground, our social hub. We go there to play and chat, learn and explore. We often assume that we're safe there, that we can do what we want without consequence, that our activities are not being monitored. We rarely take time to consider the digital trail we leave behind. Even if internet companies collect our data for all sorts of reasons (or even generate their own through secret experiments), we assume that our data stops there and is identity-free. We believe that the internet is a bastion of privacy. Thankfully, the Supreme Court of Canada agrees.

On June 13, 2014, the Court released their decision in *R v Spencer*, upholding the general right to privacy on the internet. The case turned on whether a request by a police officer to an ISP for internet subscriber data constituted an unreasonable search, violating

the defendant's constitutional rights under section eight of the *Charter*. In the case, the police obtained the IP address of a computer that had been used to commit crimes. They then requested that the linked ISP provide them with the internet subscriber data in order to identify the owner. The police relied on the *Personal Information Protection and Electronic Documents Act (PIPEDA)* as grounds for having lawful authority for such requests and disclosure. Based on that information, they obtained a warrant to search the defendant's home and seize his computer, on which incriminating evidence was found.

The defence argued that such evidence should be excluded at trial because the internet subscriber data was obtained by an unlawful search. The Court agreed. Justice Cromwell, author of the unanimous opinion, made clear the importance of informational privacy, and how the privacy interests of secrecy, control, and anonymity justify constitutional protection, regardless of whether it shelters legal or illegal activity. He writes:

In my view, in the totality of the circumstances of this case, there is a reasonable expectation of privacy in the subscriber information. The disclosure of this information will often amount to the identification of a user with intimate or sensitive activities being carried out online, usually on the understanding that these activities would be anonymous. A request by a police officer that an

ISP voluntarily disclose such information amounts to a search. (para 66)

Based on the Court's reading of *PIPEDA*, the police lacked lawful authority to conduct such a search. Without exigent circumstances or a reasonable law, the searches and subsequent seizure of the defendant's property were ruled unlawful. For more details, many great summaries, and the case itself, look online.

In general, the decision leaves us with the understanding that internet users can reasonably expect that their anonymously undertaken internet activities will remain confidential, and that their information will not be disclosed to police without a warrant.

It is important to note, however, that this reasonable expectation of privacy depends on the contractual agreement between Internet users and their

ISPs, and the statutory framework of *PIPEDA*. Changes in privacy policy could

see that expectation disappear. Due to consumer pressure, that is unlikely to happen. In fact, companies entrusted with our private data are increasing user security and privacy. For example, Apple's latest operating system, iOS 8, has received a change in encryption that will keep Apple and the police from using your data—even if Apple receives a warrant, it will be unable to comply since the company itself is denied special access. It's a service that other companies like Google and Facebook, reliant on our data for advertising revenue, cannot provide.

Perhaps ISPs, who (as far as we know) don't make any special uses of our data, might follow suit. No doubt police demand for our data is there. Rogers, in its transparency report released this summer, stated that it received 174,917 requests in 2013 for customer information from government and law enforcement agencies. While 74,000 of these requests were court orders, approximately 100,000 did not include warrants. Rogers (predictably) failed to note how many of those warrantless requests it granted.

The Court's decision does not rule potential collaboration between data-collecting third parties and legal authorities. ISPs and other internet companies may have a legitimate interest in preventing crimes and may disclose information to police on their own motion, but only if consistent with their disclosure procedures and the reasonable expectations of their users.

There are conceivable occasions in which protection could trump privacy when it comes to police access to information. ISPs, search engines, and social media may be able to alert relevant authorities when a crime is going to be committed or if someone is in danger. Algorithms are already being developed and employed to detect the possibility of suicide. On the other hand, the trove of information generated by internet users is valuable not just for money-making, but for predictive policing. How tempting is it to be able to engage in real time data collection and map probable criminal hotspots or monitor search terms to gauge if a murder is about to occur? If the laws were changed to explore this possibility, who's to say the Supreme Court of Canada wouldn't agree? ♦

“No doubt police demand for our data is there.”

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Is Facebook Friendship an Invitation to Creep?

A Confession Followed by Poorly Researched Musings

ERIN GARBETT › CONTRIBUTOR

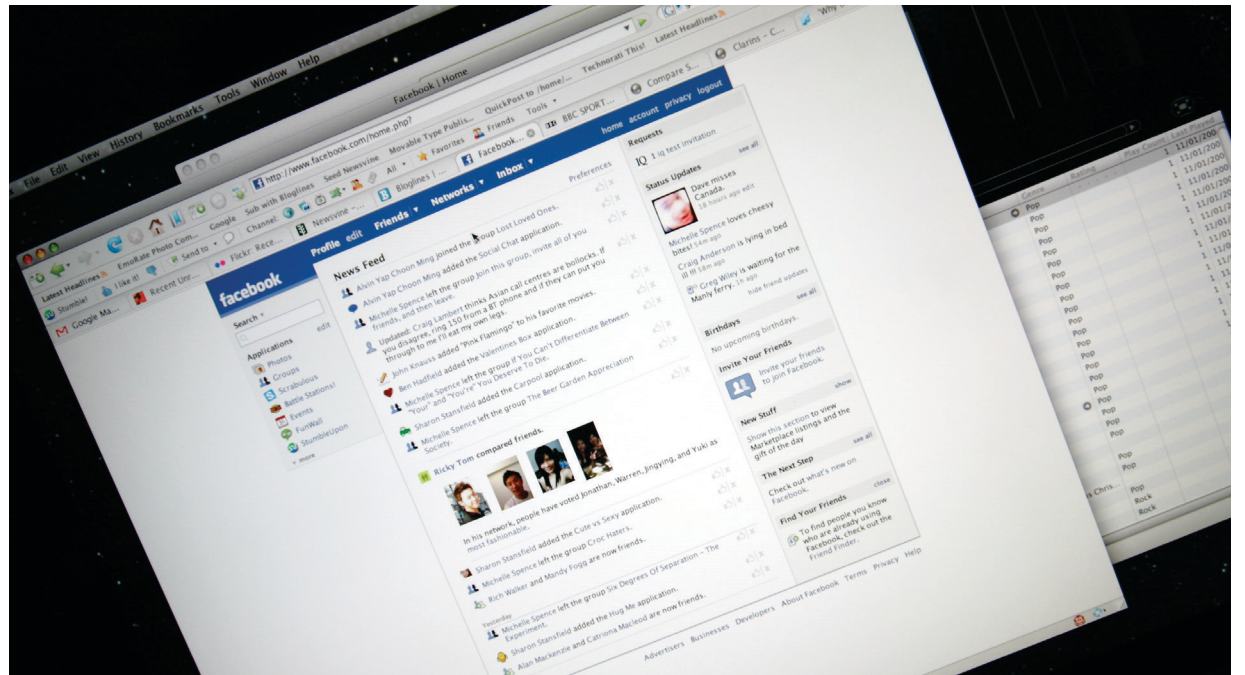
AFTER FINDING OUT about the passing of a high school friend's partner and responding to an invitation to her memorial over Facebook, I spent the better part of an hour browsing through their pictures. This got me thinking about my less savoury Facebook activities. Then I did a little research and decided to confess to Osgoode that I can be one heck of a Facebook creep - not necessarily in that order.

I am guilty of Facebook creeping. I'd like to think I don't do it as much as when I was a teenager but it still happens. I browse the travel pictures of a girl I might have said five to ten words to in high school. I look at family photos of the woman I worked with 3 years ago. I critique the wedding choices of the couple I knew in the first year of my undergrad. And it gets worse. Often when I meet up with long-term friends, we discuss the happenings of others without once having spoken to them. I will reveal that I "only found out from Facebook" but, admittedly, only if it comes up. I'm not proud of these actions and they make up a very small percentage of the time I spend on Facebook. That being said, when I objectively look at this behaviour, it's unsettling.

Although I suspect that I am the rule rather than the exception, brief research didn't turn up much information on creeping/lurking (called passive following by more reputable writers). In a 2009 TED talk, Stephana Broadbent quoted a statistic that the average person has 150 Facebook friends but only communicates with four to six of them on a regular basis. According to Broadbent, this statistic comes from Carmen Marlow, the self-proclaimed "In-House Sociologist" of Facebook. However, I could not find a print source for Marlow's claim. Moreover, this data is 5 years old and potentially irrelevant. What I did find is that the average Facebook user gives less than what she or he receives. According to a 2012 Pew Research publication, Facebook users receive more friend requests than they initiate, like fewer posts than the number of likes on their own posts, and get more messages than they send. Does this give any real credence to my theory of rampant hordes of Facebook lurkers? Unfortunately, no. So for now, I'm merely speculating about its prevalence.

Moving on to the real question- are my actions right, wrong or are they of no moral consequence? If I'm Facebook friends with someone, is it ok for me to relentlessly delve into their lives, even if I would only say a quick "hi" if I passed them on the streets? Am I invading the privacy of these individuals?

"Facebook users receive more friend requests than they initiate."



► Friends don't let friends drink and Facebook creep.

Let me make it clear. I'm not discussing a potential employer, a not-so-happy ex, a stranger or anyone else outside your friend list trying to look at your profile. Nor am I talking about the many people who are not your Facebook friends that you can access through actual friends. Those are both Pandora's boxes that must remain closed. I'm talking about the people who have accepted your request or whose request you've accepted (aside: the language of Facebook can be unbelievably clunky). One might say that by friending someone, we're consenting to revealing everything on our profile, and realistically, that is exactly what we're doing. It's completely clear that when you accept/send a friend request, you're permitting that person to see every Halloween costume, misguided clicktivism, vacation photo and interest you've cared about enough to like. Maybe we don't think about this when we click that button, but we know that's the deal. (I recognize that you can change privacy settings for friends. Roll with me here and assume that you haven't.) That's all well and good, no misconceptions there. And one could argue that if you didn't want someone looking through your profile, you would either delete the content or the friend. But as I click my way through picture after picture, post after post, it seems wrong.

Regardless of the morality of these activities, in all reality, being a passive follower could cause you to be less happy. A 2013 German study found that the more passively an individual uses Facebook, the more likely they are to be envious of others and suffer from lower life satisfaction. This envy can also lead to negative outcomes like depression, isolation and social tension. While I've felt the odd twinge of envy while romping through the profiles of near-strangers, I've never felt a more severe negative emotion such as the German study claims. In a 2012 article, the Huffington Post described a Facebook lurk as someone who engages in far more insidious activities than the offences I've committed. The article

describes a lurk as someone who pretends not to be online often—even going so far as to be annoyed with or mock others for being active on Facebook—all the while passively following them. So perhaps I'm not the monster I thought I was a few paragraphs ago. That being said, the study conducted in Germany also found that being an active follower on Facebook leads to a stronger support system and higher life satisfaction, and those outcomes are much more appealing. At the end of the day, it's likely in my best interest to move on from my small bursts of lurking and limit my Facebook time to active-use only, especially considering the unlikelihood of anyone wanting to add me after this. ♦

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CHECK OUT NEXT WEEK'S SPECIAL REPORT:
'CONFLICT OF LAWS'

TIFF Highlights

The 'People's' Festival Strikes Again

KENDALL GRANT › CONTRIBUTOR

THE 2014 Toronto International Film Festival (TIFF) was another hectic ten days in a long line of new beginnings over the last thirty-nine years. It was the first time that King Street was closed to traffic for the opening weekend, and the first time that TIFF took a firm stance regarding Telluride premieres, resulting in the loss of Alejandro González Iñárritu's *Birdman*, among others. It was also unusual that a film didn't come out screaming as the People's Choice Award and Oscar frontrunner, although *The Imitation Game* ended up being a rather predictable choice anyway. (Last year, that could have been predicted for *12 Years a Slave* on the third day of the Festival, and in 2012 and 2010, *Silver Linings Playbook* and *The King's Speech* steamrolled their competition handily.)

However, TIFF followed a different trajectory towards showcasing a dozen or more films in smaller ways. I was fortunate enough to see twenty-one films over the course of the Festival, of which I especially enjoyed six. This issue of *Obiter Dicta* contains capsule reviews for most of them. The full reviews will be published on *Absurdity & Serenity* in the upcoming months.

Grade Breakdown

THE TOP 6

- 1 *Leviathan* (3.5/4)
- 2 *Winter Sleep* (3.5/4)
- 3 *Whiplash* (3.5/4)
- 4 *Phoenix* (3.5/4)
- 5 *The Look of Silence* (3.5/4)
- 6 *A Pigeon Sat on a Branch Reflecting on Existence* (3/4)

THE INSANE CHILLERS

- Nightcrawler* (3/4)
- Goodnight Mommy* (3/4)
- Tusk* (2/4)

THE OSCAR CONTENDERS

- Mr. Turner* (3/4)
- Foxcatcher* (3/4)
- A Theory of Everything* (2.5/4)
- The Imitation Game* (2.5/4)

THE NEWCOMERS

- Girlhood* (3/4)
- Pride* (3/4)
- Love & Mercy* (3/4)
- Before We Go* (1.5/4)

THE DISAPPOINTMENTS

- While We're Young* (2.5/4)
- The Riot Club* (2.5/4)

THE BURNOUTS

- An Eye for Beauty* (1.5/4)
- The Cobbler* (1/4)



▶ Steve Carrell. Photo credit: Peter Kudlacz

Awards

BEST DIRECTOR

Christian Petzold, *Phoenix*
(runner-up: Roy Andersson, *A Pigeon Sat on a Branch Reflecting on Existence*)

BEST PERFORMANCE

Nina Hoss, *Phoenix*
(runner-up: Timothy Spall, *Mr. Turner*)

BEST SUPPORTING PERFORMANCE

JK Simmons, *Whiplash*
(runner-up: Felicity Jones, *The Theory of Everything*)

BEST SCREENPLAY

Nuri Bilge Ceylan and Ebru Ceylan, *Winter Sleep*
(runner-up: Andrey Zvyaginstev and Oleg Negin, *Leviathan*)

BEST CINEMATOGRAPHY

Gökhan Tiryaki, *Winter Sleep*
(runner-up: Mikhail Krichman, *Leviathan*)

MOST ANTICIPATED TIFF FILMS STILL UNSCREENED

Mommy, *Force Majeure*, *Two Days, One Night*, *The Tribe*

Capsule Reviews

Before We Go (2014) 1.5/4
The Bottom Line: *Once* + *Before Sunset*

In Grand Central Station, Nick (Chris Evans), a busking jazz musician, sees Brooke (Alice Eve) drop her cell phone. The two strangers engage in a brief nighttime odyssey: strolling New York City after her purse is stolen, crashing wedding receptions, performing impromptu songs, and killing time before her six am train. Contrived, wispy, and transparently

phony, Chris Evans' directorial debut steals shamelessly from *Lost in Translation* and its two precursors above. It's not obnoxiously bad; it's just a strained, hollow romance that's totally forgettable. The characters are thinly conceived (Nick is basically the Captain America of chivalry), the soundtrack is full of outdated or overused emotional shorthands, and the script, an eighty-nine-minute walk-a-thon credited to four different writers, is leaden, clumsy, and full of holes (why didn't Eve go to the police to report the crime?). The lesson is simple: making something even breezily worthwhile requires more than aping the structure and superficial qualities of better films.

The Cobbler (2014) 1/4
The Bottom Line: *Being John Malkovich* + *Grown Ups*

An Eye for Beauty (2014) 2/4
The Bottom Line: *Saved!* + *Unfaithful*

Foxcatcher (2014) 3/4
The Bottom Line: *The Wrestler* + *The Social Network*

Girlhood (2014) 3/4
The Bottom Line: *Pariah* + *An Education* + *Thirteen*

Goodnight Mommy (2014) 3/4
The Bottom Line: *Dogtooth* + *Funny Games* + *The Orphanage*

When their mother (Suzanne Wuest) returns from the hospital after extensive facial surgery, a pair of troubled twins (Lukas and Elias Schwartz, channeling the unsettling ghost girls in *The Shining*) are convinced that she is someone else. Menacing, revolting, and psychologically damning, *Goodnight Mommy* ("Ich Seh Ich Seh") is squirm-inducing stuff, an insidious chiller full of foreboding and malevolent twists with cult potential stamped all over it. First-time Austrian writer-directors Veronika Franz and Severin Fiala repeatedly show their hand, so that the belated reveal

feels anticlimactic. Familiar horror tropes abound, from a tomb visit and telling nods to Catholicism, to jolting displays of Cronenbergian body horror, and a standard childhood science experiment that becomes a torture method. No matter, the film is pure nightmare fuel; its uneasy opening scenes building to a closing gauntlet of terror. I can't blame the multiple viewers who sprinted for the exit; for fans of extreme cinema, *Mommy* is a must-see.

The Imitation Game (2014) 2.5/4

The Bottom Line: *A Beautiful Mind* + *Tinker Tailor Soldier Spy*

Alan Turing (Benedict Cumberbatch), British mathematician, cryptanalyst, logician, pioneering computer scientist, isolated genius, is hired and brought to Bletchley Park to crack Nazi Germany's Enigma code during World War II. Director Morten Tyldum (*Headhunters*) streamlines a fascinating true story into functional prestige filmmaking, serving up Oscar bait in code. It's too efficient, too calculated to take its audience beyond Turing's life as conveyor belt, and the script by Graham Moore is bludgeoningly repetitive. Cumberbatch bristles with brilliance in a storming, sure-to-be-Oscar-nominated performance, a portrayal of a tortured man and a beautiful mind. Stirring, old-fashioned, and triumphantly tragic, *The Imitation Game* lacks nerve, diminishes historical events, and fumbles in the dark, but Cumberbatch's Sherlockian talent dominates among the indecent conservatism. Turing's bright light may have burned out too soon, but you'll be deciphering Cumberbatch's work long after you've left the theater.

Leviathan (2014) 3.5/4

The Bottom Line: *House of Sand and Fog* + *Revanche*

Not to be confused with the acclaimed 2012 whaling documentary, although likewise dealing with submerged monsters, *Leviathan* gathers like cautionary thunder about the dangers of fighting city hall



► Brit Marling. Photo credit: Gordon Correll

corruption. Loosely inspired by the *Book of Job* and set against the Barents Sea, the grim Russian satire is the story of Kolya (Aleksy Serebryakov), a man striving to protect his home from a behemoth: the belligerent town mayor, who swills vodka like water and swaggers like a despot. Acted and directed by Andrei Zvyagintsev (*The Return*, *Elena*) with cynicism, religious fervour, and an unflinching ambition, the incendiary and bone-rattling *Leviathan* is a trenchant and tough-minded tragedy, a black social comedy, and a thinly-veiled political parable drenched in bitter irony. Zvyagintsev credits Thomas Hobbes' 1651 tome of the same name for inspiring its outlook on governmental control; its novelistic heft, astonishing cinematography, and commanding performances make for a giant of a film. The shortness of life compensates for its brutish and nasty tendencies, and only the stillness of nature can provide a semblance of peace.

The Look of Silence (2014) 3.5/4

The Bottom Line: *The Act of Killing* + *Life Itself*

In 2012, writer-director Joshua Oppenheimer's *The Act of Killing* provided startling insight into the banality of evil and the collision of history, film, and narrative while exploring the slaughter of a million people in Indonesia. *The Look of Silence*, part sequel, part prequel, and a companion piece to the original, plays a crucial role in expanding that canvas. It sees Adi, a traveling optician and the brother of one victim, quietly confronting some members of his community that participated in the death of his family member. These conversations are intercut with his doting mother caring for his infirm father. Gut-wrenching and blood-curdling, although subtler and more subdued, *The Look of Silence* represents a fight for history; but, watching these films, one feels that the hatred and the violence may not yet be history after all. Victim and victimizer have become intimately and inexorably linked, forming a bond that is both insular and unfathomable. While the somber *Silence* should not be seen as a standalone work but understood in conjunction with the enraging *Killing*, its value as a piece of documentary cinema is beyond question.

Love & Mercy (2014) 3/4

The Bottom Line: *A Hard Day's Night* + *Control*

Mr. Turner (2014) 3/4

The Bottom Line: *Andrei Rublev* + *Amadeus*

Keen observer Mike Leigh (*Another Year*) brings his hawk's eye to a rendering of JMW Turner, the celebrated British "painter of light," played to perfection by longtime Leigh collaborator Timothy Spall, who won Best Actor earlier this year at Cannes. Strange, thoughtful, and exciting, *Mr. Turner*, like many of its strongest TIFF counterparts, addresses big questions with small moments. Turner is a grunting vulgarian and complex visionary, and Spall is as majestic as one of Turner's swirling sunsets. Indeed, Leigh has carefully incorporated actual Turner paintings into the film's immaculate visuals, making the experience a lot like living inside a masterpiece. Less an explication of the man's genius than an immersion into its essence, *Mr. Turner* has a mysterious quality



► Jeremy Strong. Photo credit: Gordon Correll

that perfumes every scene. Bold, beautiful, and cantankerous, just like the man, *Mr. Turner* is a rambling character study and a slow-going showcase for Leigh's and Spall's talents; not to everyone's tastes, but music to the ears of those on its astute and fascinating wavelength.

Nightcrawler (2014) 3/4

The Bottom Line: *Taxi Driver* + *Network*

Lou Bloom (Jake Gyllenhaal), an unemployed nocturnal scavenger, has found his calling: capturing the most gruesome mayhem on LA's graveyard streets through freelance videography, sold to the highest bidder. His tenacity and manufactured poise catches the eye of Nina (Rene Russo), a past-her-prime news shark anxious for improved ratings, forming a poisonous relationship. Electrically overblown and wickedly funny, *Nightcrawler* has a pungent premise and a potent performance from Gyllenhaal powering it up. Dropping twenty pounds to play the ambulance-chasing hack, Gyllenhaal completes his career rejuvenation in *Nightcrawler*. Bug-eyed and manically vulnerable, unhinged but precisely pitched, Lou is a magpie, a neon-lit survivalist mauling his way across LA, like a Wes Anderson character whose ambition has warped into a realm of violent sociopathy. Some clunky exposition and on-the-nose thematic monologues result in a rocky start, but Robert Elswit's vehicular lunacy is a versatile secret weapon, and the last act is deliriously thrilling. *Nightcrawler* is a tribute to the vile, a morbidly macabre carnival, a ghoulish satire on journalism, the job market, and self-help culture. It's delectable.

Phoenix (2014) 3.5/4

The Bottom Line: *Vertigo* + *The Lives of Others*

Nelly (Nina Hoss) is a disfigured Holocaust survivor who returns to Berlin after plastic surgery to find

The *Obiter* goes abroad

No. 1 – Anthea Chan in Hong Kong

MARIE PARK › ARTS & CULTURE EDITOR

GREETINGS FROM TOKYO! Your correspondent has now landed in Japan for an exchange semester at Waseda Law School. As introduced before, this semester the *Obiter Dicta* will bring you a special series covering the amazing experiences of fellow Osgoode students who are spending a semester abroad at one of Osgoode's partner schools worldwide. As for myself, I will be presenting a little slice of the Japanese experience throughout the issues, highlighting many of my wonderful Tokyo wanderings. Keep your eyes open, as TOGA has now launched!

In this first issue, I would like to introduce Anthea Chan. I first met her in 1L through a Pro Bono Students Canada project. She stood out to me as an individual who was very sure of herself, a confident woman who knew what she wanted, and what to do to get there. Now an Articling student at Bogoroch & Associates LLP, she has left a definite mark at Osgoode through the people she touched and her many accomplishments.

Among her many notable experiences as an Osgoode student, she went on an exchange semester to Hong Kong. I am excited to share with you her responses about her time at the University of Hong Kong last year.

"It was definitely a great learning experience," she says, "Hong Kong is any city person's dream, with all the shopping, great food and cheap booze your budget can handle. Hong Kong is very tourist friendly and a great hub for travelling around Asia."

The reasons students wish to go on exchange are diverse, of course. Some go out of wanderlust, some for the international networking opportunities. Others seek to gain a broader world view, or wish to rediscover their heritage. For Anthea, her reasons included all of the above.

"I wanted to go on exchange because I know I will never have another chance to spend four months abroad. I went on exchange to the Netherlands in my undergrad and had a memorable experience," she comments. The semester was also a way for her to connect to her personal identity. "I was also born in Hong Kong and have never been back. It was an opportunity to visit my birth place. I anticipated returning to my birth town and seeing some relatives for the first time. Throughout my childhood, I've heard great things about the city and had high hopes when I arrived."

Other notable reasons? The cost of living, for one, is much lower in Hong Kong. Ease of getting around was another big one. Plus, the University of Hong Kong is high up there in global rankings, including the strong English language programs which are open to international students as well. Another bonus was the chance to practice Chinese for four months, being immersed in the culture and lifestyle of a modern Chinese mega-city.

"I highly recommend Alternative Dispute Resolution - the head of the ADR program is an Osgoode alum," Anthea notes. "The course is relevant to Canadian and North American ADR practices."

Academia aside, Hong Kong is a fascinating place

"Hong Kong was an unforgettable experience as a law student."



► Eat Pray Love, the Anthea Chan version.

to visit. "Despite being a hustling bustling cosmopolitan, I'd say the top 3 sites to visit in Hong Kong are - Victoria Peak, Saigon, and Cheung Chau."

"Cheung Chau has the most delicious seafood I've ever had; a real treat away from the city," she recommends. Obviously, food is an important part of any trip to a foreign land; she adds, "my most memorable would probably be 3:00 am dim sum right by the HKU campus in Kennedy Town."

For Anthea, as well as for the many other Osgoode students who have participated in this program, Hong Kong was an unforgettable experience as a law student. She definitely recommends that students go on an exchange at some point in law school - "the world can teach you so, so much in even just

a few weeks about different cultures and histories. And it really trains you to be independent. This is one of the few opportunities you get in life to experience another culture for four months."

To all students who aspire to go somewhere in the near future, to the University of Hong Kong, or just about anywhere else, she gives a few of her own tips that come from experience, and it is that "exchange does not have to cost a fortune, and travel does not have to be glamorous." Travelling is not necessarily expensive, especially with adequate research and keeping an open mind. The world is a big place, and if there is the will to travel, there will always be a way. ♦

Jurisfoodence: In Search of Toronto's Best Brunch

Food Adventure #2 – Aunties and Uncles

KATE HENLEY › STAFF WRITER

Aunties and Uncles

74 Lippincott St.

FOR MY BRUNCH adventure this week I, thankfully, wasn't hung-over and decided that it was time to see what all the fuss was about at Aunties and Uncles. I had been hearing about this place since moving to Toronto, but living in Passy meant taking an hour-long transit ride downtown, followed by what I had heard was an extremely long wait prior to getting seated. Essentially, I would have had to eat breakfast before heading out to brunch, and I was not interested. However, when I set out this week I had very high hopes, as many have heralded Aunties and Uncles as "the best" brunch spot in Toronto. Unfortunately, my brunch bubble was burst when my experience did not live up to the hype. Let's break it down:

Brunch Hours

Aunties and Uncles specializes in brunch/lunch and is open seven days a week from 9:00-3:00. Despite what I wrote above, even the most hung-over souls from Passy should be able to stumble their way downtown before it closes.

Wait Time/Service

I had heard that Aunties and Uncles gets insanely busy on the weekend, so I chose to go at 12:30 on a Friday afternoon. Though it wasn't too busy, my breakfast companion (BC) and I had to wait a while for a table and I was honestly very confused about their wait system. When I tried to put my name on a list, I was given a judgmental look and told to sit in a line of chairs outside; clearly, I was not hip enough to dine here. Nothing pisses me off more than a lack of organization, and I imagine that on very busy days and in the wintertime this system just does not work very well, but maybe I'm wrong. Regardless, we were eventually called forward and taken to our table.

My biggest issue with Aunties and Uncles was the poor service. After seating us, our server wandered around the restaurant aimlessly while singing along to the music for ten minutes before he bothered to take our order. We then waited roughly twenty-five minutes for our food and were not given any drink refills in the meantime – but more on this below.

Atmosphere

Despite the poor service, I really like the atmosphere at Aunties and Uncles: located in an old house, it is decorated with old signs and kitschy wallpaper, and reminded me of the type of place you find in a beach community. While we were there, the speakers were pumping out music from The Beatles and The Boss (or "Brucey" as one of the servers exclaimed), but not too loudly to interfere with conversation. This is definitely a spot where you can talk freely about last night with your friends, but not necessarily a place I would take my parents (they aren't aging hipsters, but if yours are, they might like it). Unfortunately, my BC and I were stuck at an awkwardly placed table next to



▶ The food looks as good as the service.

the cash register, meaning we couldn't privately discuss our server's complacent attitude, as he was sipping his coffee a mere two feet away.

Coffee

The coffee wasn't great, but wasn't terrible. What WAS terrible was that we finished our first cups within five minutes of sitting down and our server didn't come by to ask if we wanted more. To refresh your memory, I hardly function prior to getting at least three cups of coffee in me, so I grew increasingly irritable the longer we waited. Once we got our food, we still weren't offered more coffee and it wasn't until I called him over that our server finally refilled our mugs.

LLBO licensed

While I definitely could have used a drink to go with the shade I was being served, Aunties and Uncles doesn't serve alcohol so I was shit out of luck.

The Food

The menu was more lunch than brunch, made up of a few traditional breakfast choices and a number of sandwiches. My BC was disappointed that, though Aunties and Uncles has a standard breakfast – eggs with your choice of any three of ten options including toast, bacon, fruit, and home fries – you can only

TV Shows – Which one is out there for you

Watching too much TV, is there such a thing?

GLEB MATUSHANSKY › STAFF WRITER

I HAVE BEEN told that I watch too much TV, but I disagree – I think I watch just enough. From drama to comedy, mystery to horror, I watch shows across different networks. And, to draw the ire of the intellectual property crowd, I watch them whenever it is convenient for me.

I think TV shows speak volumes about our society, morals, interests, and priorities. And there is much to learn, as we can look objectively at our life from a distance – the unpredictability of life (through *Lost*), the way our society has progressed toward equal treatment of women and minorities (through *Mad Men*), and the way in which we attempt to dismiss what we consider odd or immoral while trying to hinder progress (through *Masters of Sex*). Without these shows encapsulating the struggles of generations past, how can we truly appreciate all that we have accomplished? Is it not awe-inspiring to watch Nucky Thompson struggle to build and maintain an empire in the age of prohibition, or watching Dennis Quaid in Vegas? These shows lend context to our society, make us confront some deep-seated realizations (would you become The Governor if all hell broke loose? Or Walter White?), and in the meanwhile, provide us with entertainment and a chance to escape our often monotone lives. Why read about the PPSA when you could be watching Franklin & Bash go at it in court (however unbelievably), or critique the realism of Harvey and Mike's partnership?

Now that I have dealt with the artistic and philosophical undercurrents of shows, it is time to stop over-analyzing and just spit out my favorites. While I attempt to stay current with all the new shows out there, and keep up with all the ones that I've been watching (I have approximately 55 shows at the moment on which I'm fairly current), I haven't watched everything. I only dabbled briefly in *Lost* because it was too unbelievable. *Orange is the New Black* didn't appeal to me either – maybe it's because all I can think of while watching it is *American Pie*. And I need to delve into some oldies like *Law & Order*. But as TV turned from a way to bond with my family over the critique of various shows, to a way to relax and kick back after a hard day/week (when I'm not binge-watching in place of doing my readings that is), my tastes have also changed. I started with the goodies – *Fresh Prince*, *Saved by the Bell* – but now...

Favorite TV Show of All Time

It's hard for me to rank my top ten shows, because there are so many. But my number one, indisputably favorite TV show of all time, is *The Wire*. The talent that went into writing the show is mind-blowing. I enjoy character development and realism, and this show provides both in spades. From the futility of drug law enforcement to the way that children in ghettos are indoctrinated, (for lack of a better term), to a cross-section of a modern city's main governance mechanisms, it is a masterpiece.

"These shows lend context to our society..."



► Sophie's Choice. Photo credit: Lubs Mary

Favorite TV Show that is Currently Running

This is a tough one, because there are so many good ones, and so much variety. *Graceland* is amazing, and the LA scenes are great – who wouldn't want a house on the beach, and a group of attractive compatriots

with whom they go on crazy missions? And, does *House of Cards*, the epitome of great acting,

count? *Downton Abbey* lets us harken to a time long ago. *Chicago PD* and *Chicago Fire* are raw, and *Blacklist* lets us imagine what's behind the scenes of our daily lives. *Sons of Anarchy* makes us all want to ride a motorcycle and wear leather jackets, and *Grey's Anatomy* makes one wish that he doesn't end up in a hospital when one of the doctors is preoccupied with their emotional rollercoaster of the day. But I think one of the best, if underrated shows, on TV right now is *Ray Donovan*. The cast is amazing, the story is compelling; it is inventive and truly a masterpiece.

Favorite Mini-series

Sherlock. Just watch it. I am a fan of the original books by Sir Arthur Conan Doyle, but these bring the books to life. It is also much better than the Lucy Liu version.

Favorite Comedy

It's Always Sunny in Philadelphia has to get a nod – as does *Workaholics*, for their depraved humor. So do *Modern Family*, *Dads*, and *Community*. But my two favorite comedies are *New Girl* and *Brooklyn Nine-Nine*. If you haven't seen these, you should definitely check them out – there's nothing like a quick twenty-minute episode to pick up your spirits and put a smile on your face.

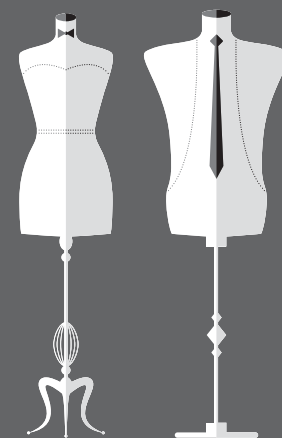
Just don't blame me if you end up getting addicted as well. ♦

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What Roger Goodell can learn from Adam Silver

Lessons in public relations

EVAN IVKOVIC › SPORTS EDITOR

BOTH ROGER GOODELL and Adam Silver have recently had to deal with public relations disasters. Former NBA owner Donald Sterling's phone conversation with his then-"friend" V. Stiviano revealed him to be a racist. A particular hot button issue bothering Sterling was Stiviano having taken a photo with former Laker Magic Johnson and posting the photo on Instagram. Sterling was apparently outraged that she was "taking pictures with a minority" (never mind that Stiviano herself is a visible minority). This phone conversation was especially troubling given that the NBA is largely composed of African-American players. The NBA quickly acknowledged the existence of the phone conversation, and said that it would do a full investigation of the matter. Shortly thereafter, Silver announced that Sterling would be ousted as an owner and that he would be fined \$2.5 million. The team Sterling owned, the L.A. Clippers, was eventually bought by former Microsoft CEO Steve Ballmer for a purported \$2 billion. Sterling sued the NBA, but thus far has been unsuccessful in preventing the sale.

As for Goodell? A tape was leaked by TMZ to the general public showing NFL player Ray Rice knocking out his wife (then-fiancée) Janay Rice in the elevator of a casino, and then dragging her unconscious body out of the elevator. The initial penalty by the league was to suspend Rice for two games. In response to public outrage over the lenient punishment, the NFL decided to suspend Rice indefinitely. Rice is, however, appealing this decision as he is alleging that he is being punished for the same incident twice, which is against league rules according to the Collective Bargaining Agreement. Further, it has also been revealed that the NFL had access to the tape months before the TMZ leak, despite assertions that this is not true. Goodell even went so far as to say that legally the league could not obtain the tape from the casino, which is not true and especially hard to believe given that the NFL is a massive, multi-billion dollar corporation with a powerful legal team at its disposal. Goodell revealed himself to be clueless with regards to PR matters and perhaps even worse, with regards to the CBA of his own league. Regardless of one's view about whether or not the NFL should take disciplinary action of its own against its players for domestic assault, it is patently clear that Goodell severely mishandled the Rice situation and thus failed in an important respect as commissioner of a sports league: he failed to protect the league's image. Silver did not make the same mistake, as he took swift and bold action.

But do not mistake Silver as a paragon of moral virtue. Sterling has had a long history with discrimination, and Silver was almost definitely aware of this. Yet, Silver only took action against Sterling when he was posing a threat to the league's image and likely its profitability as well. For example, in February 2003, the Housing Rights Centre of Los Angeles filed a housing discrimination order against Sterling, where it was alleged that Sterling said that

"The initial penalty by the league was to suspend Rice for two games."



► #Shame.

"black people smell and attract vermin". The case was settled out of court, though the precise terms of the settlement are not known. In 2006, the U.S. Department of Justice sued Sterling for using race as a factor in determining who could be a tenant in one of his apartment buildings, with Sterling agreeing to pay \$2.7 million in fines. Sterling has also been involved in an employee discrimination suit with Elgin Baylor and sexual harassment suits as well. This was all public knowledge, but only the TMZ leak of the phone conversation became a PR problem for the league as it was more compelling news fodder than drawn out litigation and fines. Only when it became widely known that Sterling was racist did Silver ban him as an NBA owner for being a racist. Nevertheless, Silver's job as commissioner is to protect the owners, the league's image and the league's

profitability. He did just that by taking swift action and turned what could have been a PR nightmare into a PR boost. This is precisely what Goodell failed to do by giving Rice a mere two game ban, by being caught lying about having the tape of Ray Rice hitting his wife, and by being generally clueless. The Adrian Peterson child abuse situation has served

to compound the NFL's recent image problems, but much of that damage could have been mitigated by properly handling the Rice situation. Goodell has failed a critically important part of his job, to protect his owners and protect the league's image. He's still making the owners a lot of money, though. ♦

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Ferguson

» continued from **COVER**

Ferguson is a reminder that we continue to be worlds apart from our American counterparts. Their statistics are troubling: a black individual is shot and killed by a police officer every two weeks in the United States. For many, what occurred in Ferguson, and in many other places in the United States, is simply not happening in Canada. As Toronto lawyer David Butt noted in the *Globe and Mail*, “the sad events in the St. Louis suburb give us the opportunity to ponder how we do things differently and to realize how comparatively well things work here.” It might be comforting to think that the shooting of Brown, and the protest that followed, are distinctly American phenomena. The history of racial tension, trigger happy police officers, and the disproportionate criminalization of racialized people have long plagued the United States.

But wait a second...

The Toronto police shootings of Michael Wade Lawson, Lester Donaldson, Sophia Cook, Raymond Lawrence, Jeffrey Reodica, and Always Al Nadhir (to name a few) illustrate that the shooting of Brown is neither an anomaly nor solely an American lived experience.

As author Steve Mertl notes, the situation in Ferguson, like other clashes, is rooted in racial and cultural divisions in society that Canada has not been immune from. It may be what Constance Backhouse calls “historical amnesia” or our views on multiculturalism that allowed the chaos that surrounded Brown’s death to give many Canadians a “temporary diversion” from our own events. Whatever the reason, the images that emerged out of Ferguson of police officers in full riot gear against protestors looked similar to the photos from the G20 summit in Toronto in 2010. The historical complaints of racial profiling by Ferguson police mirror those of racialized communities in Toronto. The fatal shooting of Brown in some ways echoes the killing of Sammy Yatim who was shot repeatedly on empty Toronto streetcar.

The dumping of Indigenous people by Saskatoon police officers outskirts of the city left to freeze to death is another reminder of the conditions that exist which make it possible for such senseless acts of police violence. Author Tomas Borsa’s “While Ferguson Morns” illustrates that it was only ten days after Brown’s death that the body of Tina Fontaine was pulled from the Red River just outside of Winnipeg. The strained relationship between Indigenous people and Canada’s police forces is only reinforced by the view that the police have been disinterested in thoroughly investigating missing and murdered Aboriginal women. When these types of police abuses are committed through a lens of racism they are shrouded in darkness only to be discounted and ignored.

It might be cliché in a wake of a major racial eruption to say that the public needs to have a national conversation on race. What is happening from the Trayvon Martins to the Eric Garners strengthens the need to have this difficult discussion on the social and human cost of racial profiling. Brown’s shooting is a microcosm of where we are as a society. The events highlighted a real problem. It is a problem that not only affects basic human rights, but a national failure to recognize police violence against racialized people as a larger cultural phenomenon that views black and brown bodies as criminalized. As the public, we need to challenge our understanding of the problems that



► Tensions soar in Ferguson as police face off against voices demanding change.

have helped create the environment that guides a police officer to shoot an unarmed teen six times. ♦

Cited Sources

Steve Mertl, “Ferguson: Lessons for Canada from a police debacle” *Daily Drew* (22 August 2014).

Tomas Borsa, “While Ferguson mourns Michael Brown, Canada shrugs off Tina Fontaine’s Death” *Canada.com* (25 August 2014)

Wyndham Bettencourt-McCarthy, and Zakaria Abdulle, “What Toronto Can Learn From the Police Shooting of Michael Brown” *Torontoist* (20 August 2014)

Editorial

» continued from **PAGE 2**

mistakes, I finally found myself making real strides with the business.

After about a month of work, it became clear to me that the biggest strides were always thanks to trial and error, which is why I wanted to end this piece speaking about this over-used and unappreciated phrase. I found that trying, failing, having a short memory, and being determined to try again was all I needed to actually build a business. I rewrote my business plan, sought out more advisors, and finished my research. I got a web developer, a manager, and researchers to help me, and I turned my idea into a real, working web service. One step at a time, I managed to secure funding, advertising, and eventually clients by taking simple, manageable steps, and remaining determined.

This piece was written to show that the gap between an idea and a business may seem large, but the bridge across it is far sturdier than one may imagine. Taking determined steps, where each failure does nothing but set the groundwork for a future attempt, can result in significant progress. For me, being passionate about an idea and its potential to help others, and having a short memory to help keep me motivated and driven, proved more than enough to take on what at first seemed an enormous task. I hope this editorial will encourage others to do the same. ♦

Jurisfoodence

» continued from **PAGE 13**

get your eggs scrambled. Eventually, he settled on the Cinnamon French Toast, and I got the Omelette of the Day.

Despite all my other complaints, I thought the food was great. My omelette – comprised of zucchini, eggplant, roasted red peppers and provolone – was delicious. It came with challah bread and home fries, the latter of which were pretty decent. My BC was satisfied with his French Toast, but noted that the only thing that distinguished it from other places was that it came with real maple syrup.

Cost

Omelette (\$8.75) and coffee (\$2.25) = \$11 plus tax.

Thankfully, Aunties and Uncles is a place where you can get brunch for under \$10; however, if my review hasn’t deterred you, beware that this is a CASH ONLY establishment. ♦

FINAL SCORE

SERVICE: 1/5

ATMOSPHERE: 3/5

FOOD: 4/5

OVERALL:



Referenda

» continued from PAGE 5

homes than Englishmen, and many seized the opportunity to become homeowners. The ensuing “Scottish miracle” in banking and oil production brought unprecedented wealth. However, Mrs. Thatcher was incessantly vilified, and never accorded credit for any good brought about by her reforms. One of her colleagues noted that “Maggie” was not only a woman, but an Englishwoman, and a bossy Englishwoman; as such, she was simply unpalatable to many Scots. With every election, the Conservatives lost more seats in Scotland, uncovering a schism between Scottish and English voters. It is said that many Scots shuddered at the sound of her voice, and would turn off the radio in disgust. It is also said that Thatcher never understood her unpopularity there, as she revered the Scottish innovative spirit and many of its ideologues. “David Hume and Adam Smith were dead,” quipped a Thatcher colleague. “They didn’t get a vote.” Her domineering approach to politics and her radical capitalist mentality prevented her from ever swaying the Scottish electorate.

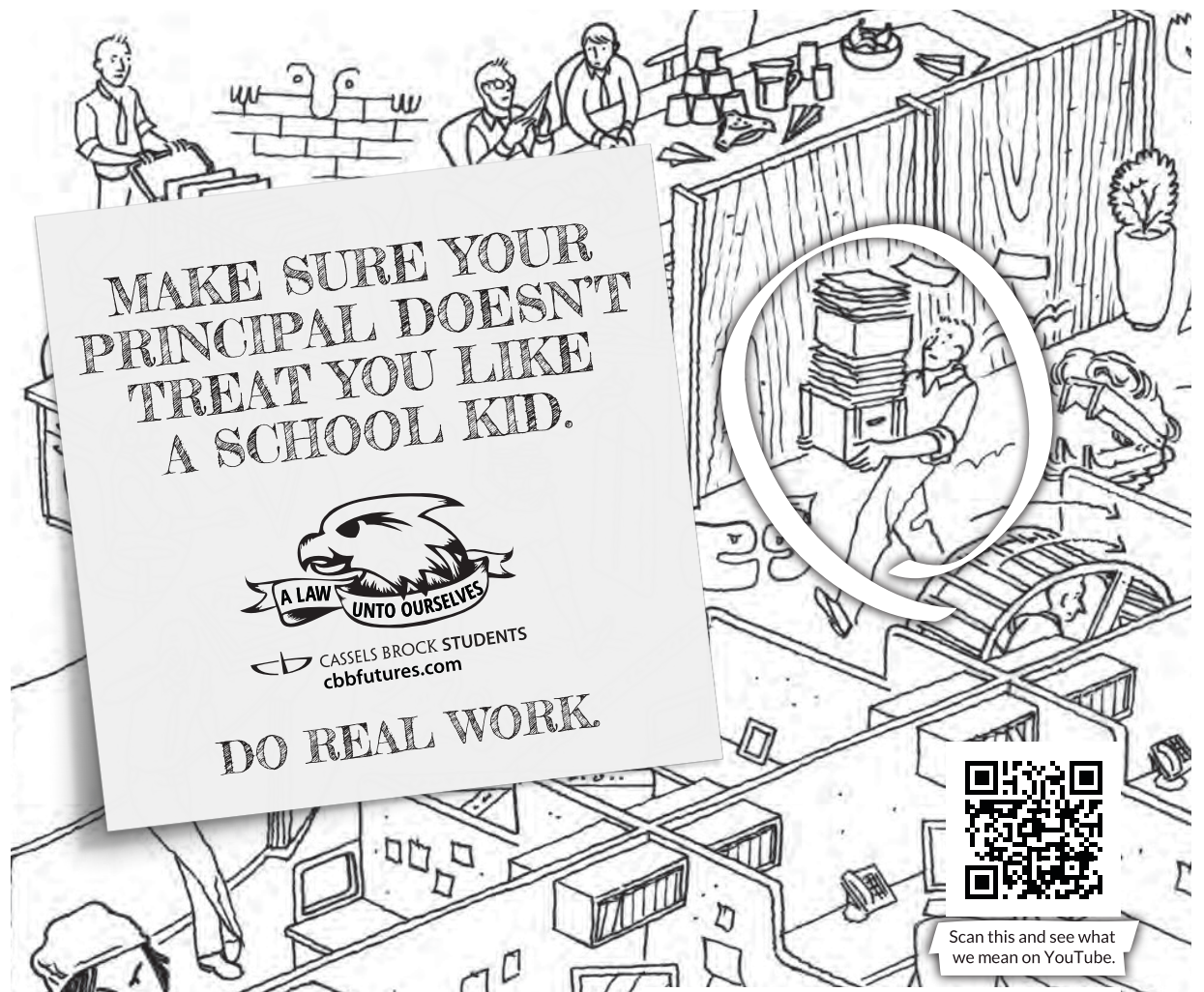
Last week’s 55 per cent ‘No’ result will be seen as a pyrrhic victory for the Unionists. Glasgow, Scotland’s largest city, voted for secession; an unthinkable result thirty years back. As the polls were tightening, the panic-struck Cameron government promised further devolution to Holyrood, as well as to regional assemblies in Northern Ireland, Wales, and, perhaps too, powers for England. It was Cameron who agreed to the Scottish referendum, and has reaffirmed his intent to further devolve power to the regions; an act that would have been high treason under Thatcher’s regime. Like Trudeau, Thatcher championed the United Kingdom as a single entity, and sought to mute regional differences. As political realities have changed, Westminster now seems willing to make a significant move towards decentralization, and perhaps ultimately a British version of federalism.

Thus far, the Scottish story has lacked certain elements that characterized our own struggle in Quebec. While tensions were high on both sides, there was no meandering ballot question, no constitutional backstabbing, no international posturing, no *Clarity Act*, and apparently no nefarious deception on the part of politicians; Chretien bluffed that a ‘Yes’ majority would affect separation, while he had no intention of recognizing such a result.

Interestingly, and uncharacteristically, this tale of two referenda seems to paint the Canadian version as much more, in a word, *dirty*. As Jacques Parizeau blighted the sovereigntist cause for years by blaming his defeat on “money and the ethnic vote,” the British seem to have undertaken a candid and respectful debate.

With its history of Royal infighting, intrigue, and treachery, and its jaded history of oppressive imperialist rule, could it be that Britons have surpassed us in terms of civility? At least in terms of secession referenda, the mythology of the polite, deferential, laid-back Canadian seems to evaporate as quickly as maple syrup in a frying pan.

Perhaps we could take a page from the recipe book of our paternal neighbors across the pond. So long as Haggis is left off the menu. ♦



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TIFF

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her husband, Johnny (Ronald Zehrfeld) doesn't recognize her. Standing to inherit a large fortune in a Swiss bank, she gets roped into a scheme to impersonate herself so that Johnny can collect the money. Ingeniously plotted and downright heartbreaking, *Phoenix* is a Hitchcockian tale of mistaken identity, a powerful allegory for post-war regeneration, and a high-concept premise executed as a character piece. Writer-director Christian Petzold relies on a few set pieces to convey Germany's destitution and underplays the pulpiness of his premise, instead focusing on its complex psychological and emotional undercurrents. Hoss communicates through painstaking gestures like a deer caught in the headlights again and again, transforming into the woman who existed prior to the concentration camps. The explosive final scene is as perfect as they come, as if Petzold had built the film around one moment. This quietly devastating work, veiled in vibrant, cohesive, sensitively stimulating power, deserves to be seen by the widest art-house audience possible.

A Pigeon Sat on a Branch Reflecting on Existence (2014) 3/4

The Bottom Line: *L'Age d'Or* + 8 1/2

Like Don Quixote and Sancho Panza, two travelling salesmen peddling vampire fangs and rubber masks shuffle through a kaleidoscope of human destinies, while Charles XII, Sweden's most bellicose king, reappears in the present to continue his series of disastrous defeats. Artfully funny, beautifully filmed, and oddly poignant, *A Pigeon Sat on a Branch Reflecting on Existence* is a master class in comic timing, employing pacing and repetition with the skill of a concert pianist. For good reason, Roy Andersson (*Songs from the Second Floor*, *You the Living*) has been compared to Fellini and called a slapstick Bergman or the heir of Luis Buñuel: he's bold, beguiling, and unclassifiable. His static, meticulously arranged long takes, shot in deep focus to use background and foreground space, is jarringly unique, and each scene is somewhere between a contemporary art installation and

a *Far Side* cartoon. A deadpan deadlock, a muse on man's perpetual inhumanity to man, a cat's cradle of mysteries, and a glorious metaphysical burlesque, it abounds in the kind of sardonic humour intrinsic to life's absurdities. Shifting between fantasy, reverie, and an impromptu musical number, *Pigeon* culminates with a blistering indictment of our lack of empathy that audiences won't soon forget.

Pride (2014) 3/4

The Bottom Line: *Milk* + *The Full Monty*

The Riot Club (2014) 2.5/4

The Bottom Line: *The Wolf of Wall Street* + *Tyrannosaur*

Two first-year students at Oxford join the infamous Riot Club, a drunken bunch of well-off, hell-raising undergraduates destined for Establishment greatness, who smash, dash, and ruin lives, convinced that money is the answer to all problems. Adapted by Laura Hade from her own play and directed by Lone Scherfig, *The Riot Club* is a glimpse into the dark side of privilege; a salacious bashing with a thunderous message. It's well-played by Douglas Booth, Sam Claflin, and especially Max Irons, who wobbles between being seduced and horrified. Cynical, unflattering, and colossally enraging, it lacks any sense of subtlety, and watching entitled teenage boys carouse, devour pheasant, and summon prostitutes is not everyone's cup o' tea. Worse, its tone varies wildly as it struggles to make the transition from nonchalant hazing to depravity, and there are editing missteps near the end that jolt the audience out of the film entirely. A letdown from *An Education*, Scherfig's *Riot* is a shrewdly observed satirical cartoon with a bitter sting in the tail; I suspect a director like Lars von Trier or Thomas Vinterberg would have made it a hard-core nightmare.

The Theory of Everything (2014) 2.5/4

The Bottom Line: *The Diving Bell and the Butterfly* + *A Beautiful Mind*



► Adam Driver. Photo credit: www.modaprahamem.com

While at Cambridge in the 1960s, Stephen Hawking (Eddie Redmayne), a brilliant physicist, falls in love with Jane Wilde (Felicity Jones), a literature student, before a diagnosis of motor neuron disease puts his life in jeopardy. Absorbingly lovely and genuinely moving, *The Theory of Everything* is elegant and sophisticated, featuring fierce performances and stunning cinematography from Benoit Delhomme. Adapted from Jane's memoir by Anthony McCarten and directed by documentarian James Marsh (*Man on Wire*), the boilerplate biopic steps into Hallmark territory on a number of occasions, succumbs to the stultifying gravity of convention, and amounts to a sanded-down and embossed vision of Hawking and Wilde's thirty-year marriage (miraculously, Jones barely ages despite the passage of many years). In addition, the story shows clear signs of genteel narrative airbrushing and clips Hawking's achievements to an overview. Nevertheless, Jones is remarkable, and she and Redmayne have an easy, enchanting chemistry, developing a sonorous dynamic that inhabits qualities of affection and sadness. It will melt most of your reservations away.

Tusk (2014) 2/4

The Bottom Line: *The Fly* + *The Human Centipede*

In the first of Kevin Smith's "Canadian horror trilogy," which is planned to culminate with a moose-themed twist on *Jaws*, Justin Long plays Wallace Bryton, an abrasive LA podcaster who travels to rural Manitoba in search of a man with tales to tell. What he finds is Howard Howe, a psychotic seafarer (Michael Parks) so obsessed with a long-lost walrus that he abducts young men and surgically converts them into lumbering, flippered monstrosities. Gleeful, self-deprecating, and ridiculously ludicrous, *Tusk* is off-its-rocker midnight madness, shooting for



► The Devah Quartet. Photo credit: Peter Kudlacz

deranged entertainment and landing as an incomprehensible oddity. It's fun and sick at times, but Smith fails to rein in Johnny Depp's shtick, and the screenplay feels like a series of tweets. Earning points for sheer audacity (and for getting hilarious debuts from Smith's and Depp's daughters), *Tusk*'s tonal mish-mash is otherwise a misfire of gross proportions, amusing, appalling, and ambitiously shaggy. It's preaching exclusively to the converted.

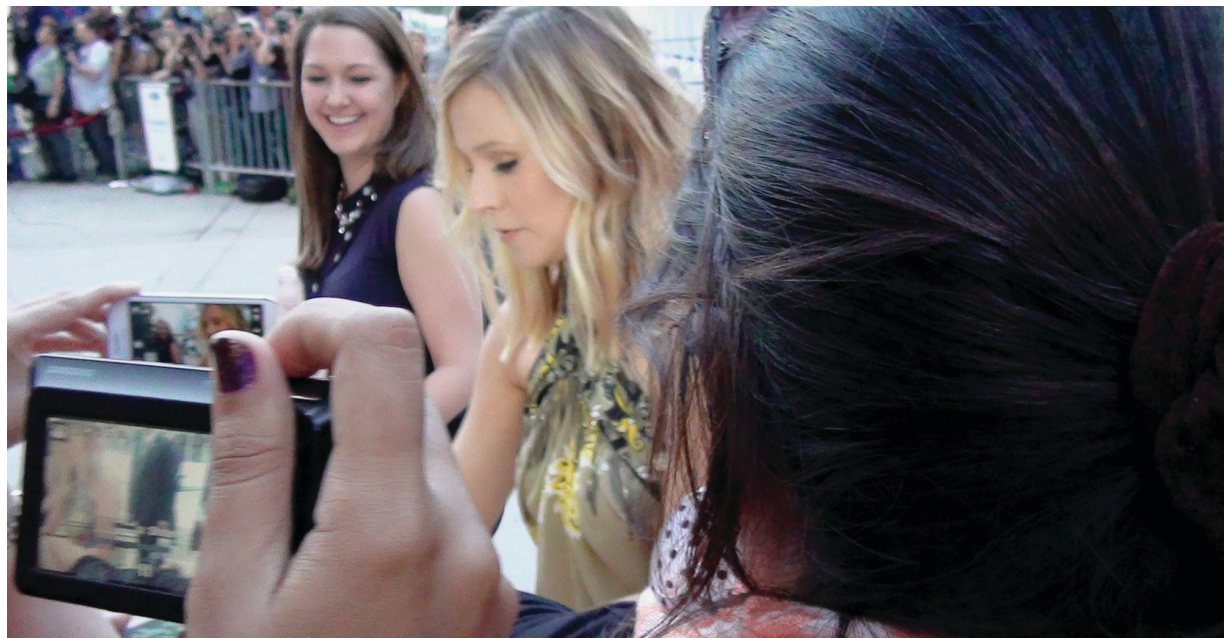
While We're Young (2014) 2.5/4
The Bottom Line: *Friends* + *Margot at the Wedding*

Whiplash (2014) 3.5/4
The Bottom Line: *Black Swan* + *Full Metal Jacket*

Andrew Neyman (Miles Teller) has high aspirations: to catch the attention of Terence Fletcher (JK Simmons), his upscale conservatory's legendarily fearsome jazz chair, and to become a hall-of-fame drummer no matter the cost, even if it means flaming out and dying young. Relying on emotional brutality rather than pedagogical instruction, Fletcher is despotic and insulting, spewing vulgar epithets, hammering home the notion that "if it's not flawless, it's worthless." Writer-director Damien Chazelle, with this expansion of his Sundance-winning short, has a similar message: you can be a world-class musician, or you can be a well-adjusted member of society, but you can't be both. Unromantic and unapologetic, *Whiplash* is an accomplished work of kinetic cinema, delivering a sharp and gripping rhythm and an energy you're unlikely to see again this year. The film's closing sequence is some of the best drumming you've ever seen; by the credits, Chazelle has demolished the clichés of the musical-prodigy genre, and Neyman and Fletcher have worked out the theory that pressure turns coal into a diamond. It's virtually guaranteed to send you out of the theater on an adrenaline high.

Winter Sleep (2014) 3.5/4
The Bottom Line: *Scenes from a Marriage* + *The Shining*

Turkish hotel owner Aydin (Haluk Bilginer) has a feud with one of his tenants, a fight with his wife, and his sister over the course of a long winter in the Anatolian steppes. Benevolent, selfish, and judgmental, he experiences a slow-dawning realization that his chest-thumping view of himself as an alpha male has deprived him of love and affection. Rabidly engrossing, ravishingly beautiful, and rich in details, a rock breaks a window, a child kisses a hand, a horse is dragged from a stream, *Winter Sleep* is the epic Palme d'Or-winner from Nuri Bilge Ceylan (*Once Upon a Time in Anatolia*). Ceylan spins gold in thought and image with this morality tale of a wealthy man who sins by omission: it's a rigorous, robust, challenging experience that he's been building toward with his previous features, as well as an adventurous step above them. The plot grows steadily over many extensive conversations, and the hotel's inhabitants are ensconced in their own isolation. This is not an easy watch, but it is lyrical and full of unpalatable truths. At the very least, it qualifies as the least boring 196-minute film ever made; at most, it's a near masterpiece. ♦



► Above: Kirsten Bell. Below: Vanessa Redgrave. Photo credit: Peter Kudlacz



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- FOOLISH GAMES
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