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Masthead, Table of Contents & Introduction

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Introduction—Thinking With and Against Pierre Schlag

One of the many lessons Pierre Schlag has driven home through his writing over the last 40 years is that legal scholarship can do many things. So, okay, sure, legal scholarship can “produce knowledge,” whatever that might mean.¹ But it can also critique, challenge, and provoke. It might suck up attention, reinforce routine, or distract from what matters. It can even, to some people’s dismay, entertain, amuse, or delight. Perhaps least visible among the roles played by legal scholarship are, on the one hand, its capacity to inspire—the public to action, researchers to further inquiry, artists to new creation—and, on the other hand, its function as a forum to recognize and celebrate the contributions of members of the legal community, including other legal scholars.

The short reflections in this Dalhousie Law Journal symposium, “Thinking With and Against Pierre Schlag,” run in many directions. Somewhere in these pages, readers will find knowledge, provocation, distraction, and humour. Above all, though, the collection brings together five legal scholars to celebrate Pierre’s oeuvre, reflect on the ways it has inspired their own work, and examine how Pierre’s scholarship embodies the limits that it was pushing against. Pierre has graciously provided a response to round out the issue and set us all straight.

The symposium’s origins lie in a September 2019 workshop organized by Vincent Forray and Jean d’Aspremont under the banner “A Day with Pierre Schlag.” The articles gathered here go some distance toward capturing the combined curiosity and conviviality of that event—a shared willingness to ask hard questions in good faith and to be sharply critical without veering into cruelty. We owe Jean and Vincent dearly for their initiative in convening the conversation. The details of how the two of us came to edit this symposium, much like the story of why the timeline to publication spanned almost half a decade, is too protracted to recount here. Besides, as editors, it would not do to open the collection with a story that risks upstaging Pierre’s most brilliant academic parodies. So we will skip straight to the credits. We are grateful to two peer reviewers for giving their time and wisdom to the whole collection, and to the editors of the Dalhousie Law Journal for making space in these pages. This confluence of good fortune and academic generosity gave a home to essays that are more playful, informal, reflective, and perhaps provocative than one might expect in a conventional law review.

While it is conventional in an introduction to signpost cross-cutting themes, Pierre’s response has already done much of that analytic work for us.² To get a sense of the collection’s aims and the value of Pierre’s

1 Pierre Schlag, “The Knowledge Bubble—Something Amiss in Expertopia” in Justin Desautels-Stein & Chris Tomlins, eds, *Searching for Contemporary Legal Thought* (Cambridge University Press, 2017) 428.

2 Pierre Schlag, “Un Ésprit Sérieux” (2024) 47:1 Dal LJ 71.

thinking for the working legal scholar, we recommend you start at the end, with his essay.

If there is one experience that unites the contributors, it is that Pierre's work made them laugh: Pierre is "a very funny man."³ He "marries incredible insight with incredible jokes and...it can feel good, so good, to read it."⁴ Everyone seems to agree with Pierre that funny need not mean insincere or superficial.⁵ Humour is one way, perhaps in some cases the best or easiest way, to be serious (and, sadly, the inverse is often true as well). Yet embracing humour as a register of scholarship carries inherent risks: as Jack Schlegel emphasizes, a writer who uses humour walks a fine line between being dismissed as unserious, and alienating readers who, in taking the humour too seriously, fear the joke is on them.⁶ Yet there is another risk, even for readers who are in on the jokes: by joining in the laughter, we reveal more of ourselves than we might intend. As Jack puts it, Pierre's approach is "intensely personal" because it violates "the distancing mechanisms routinely instanced in proper 'academic' form."⁷ A good joke exploits a tension and, in laughing, the audience reveals not just that they see the tension, but that they feel it. Between telling a joke and laughing at it arises an intimacy between the teller and their audience. Humour is disarming.

Pierre, devoted to the role of the maverick, uses each joke and each article to chip away at the ice floe of justification on which our academic careers remain afloat. He threatens to leave us swimming, if not drowning. So why do legal academics still read him, and still laugh? The key to the allure of his work may be its ability to tap into some unmet needs for recognition and solace, needs perhaps so tender they can only be comfortably expressed through humour. Admittedly, the other expressive option is heart-stopping story-telling, but we can't all be Patricia Williams.⁸ And so, in introducing each essay in this collection, it is worth attending to how they each give voice to that academic zone of silence: the personal.

Jack's essay opens with the scene of a sour-faced colleague who simply couldn't figure out how to respond to something that was both serious and funny.⁹ While the other pieces relate to Pierre in terms of an anatomy of influence, Jack and Pierre are fellow travellers. One can almost read between the lines of the piece a defensive plea: "Pierre gets to be funny, so why can't I?" But Jack is not relitigating an old grudge with reviewer two. He's doing something more dangerous. He is asking: why are so

3 John Henry Schlegel, "Humour, A Meditation" (2024) 47:1 Dal LJ 1 at 4.

4 Genevieve Renard Painter, "The Political Economy of Laughter and Outrage" (2024) 47:1 Dal LJ 9 at 15.

5 Pierre Schlag, "Normative and Nowhere to Go" (1990) 43:1 Stan L Rev 167–191 at 187.

6 Schlegel, *supra* note 3.

7 *Ibid.*

8 Patricia J Williams, "Alchemical Notes: Reconstructing Ideals from Deconstructed Rights Minority Critiques of the Critical Legal Studies Movement" (1987) 22 Harv CR-CLL Rev 401.

9 Schlegel, *supra* note 3.

many academics so afraid of humour? His answer, in part, is that writing ironically about legal scholarship forces readers to confront whether their professional persona “has any value or has been merely a waste of time.”¹⁰ There is a deeper takeaway, however. The piece ultimately turns on an admission of how hard it is to do work that’s actually thoughtful, on “the difficulty of exercising reason with respect to the law that is embedded in, and so instantiates, social life.”¹¹ Jack is airing frustrations about “looks askance” from colleagues, but in doing so he’s expressing anxieties about doing work that draws attention to our own social context. Engaging with our fellow scholars about our work and how it might matter could evoke fear, indignation, or defensiveness that undermines the project. That is, the essay is ultimately a piece about how fraught it is to write in any way about legal scholarship. As would any true friend, Jack blames Pierre Schlag for the inevitability of this conclusion.

Thomas Schultz agrees with Jack that the chance to really exercise reason is the best purpose of legal thought.¹² But while Jack states the case in the negative (at least you won’t have wasted your time), Thomas bets the whole farm—including his complete Bruce Springsteen discography—on the idea that there is nothing more fun than the capacity to really think. Thomas draws on Thomas Kuhn and Pierre Bourdieu to reflect on the way that academic disciplines give with one hand but take with the other. They invite the scholar into a community of thought, but demand in return that the scholar adopt “their central ideas, their rules of truth, their foundational beliefs, their core values, their mode of scholarly activity—in short, their way of thinking.”¹³ Participation in a discipline seems to ask you to forsake something of yourself or, much worse, something of your humanity. In his riffs on Springsteen and *The National*, in his aspiration that we could write as our “true selves,” Thomas gestures, perhaps unwittingly, at his own hopes, that he could not only be a “punk law professor” but find belonging among “the slackers...the misfits...the rebels,” that he, that *we*, could bring something of our humanity, something of ourselves, to the task.¹⁴ Fun, for Thomas, is precisely the name for that remainder: “rock and roll...the joyful, life-affirming, hip-shaking, ass-quaking, guitar-playing, mind- and heart-changing, race-challenging, soul-lifting bliss of a freer existence.”¹⁵ His provocation is that it is only in straining for this freedom, only when a place is left for the id and the ego, that real thought is possible. If discipline is the name of routine, iterative arguments, repetitive moves, and vacuous mimesis,¹⁶ then to seek fun in legal scholarship is to yearn that things might

10 *Ibid* at 7.

11 *Ibid*.

12 Thomas Schultz, “Scholarship as Fun” (2024) 47:1 Dal LJ 17.

13 *Ibid* at 33.

14 *Ibid* at 20, 33.

15 *Ibid* at 20 quoting Bruce Springsteen, “Growin’ Up,” *Springsteen on Broadway*, 2018.

16 Jean d’Aspremont, “Law, Critique and the Believer’s Experience” (2024) 47:1 Dal LJ 43.

be thought otherwise; to have fun with legal scholarship is to do things otherwise.

The hope that scholarship might be done otherwise and thereby do something else is one thing. As Genevieve Renard Painter underlines in her essay, though, it is precisely because we all yearn for the sense of play that allows us to expose what was once hidden that it matters who can make jokes without being dismissed—who can have fun without being ridiculed or banished.¹⁷ Opening with an admission of the discomfort of an unwilling outsider, the overall register of Genevieve’s contribution is not anxiety but indignation. Drawing on her experience teaching law to undergraduates in women’s studies, she interrogates the limits of scholarship addressed to an audience who are presumed to be susceptible to the authority announced through the form of the law review article. In Genevieve’s account, Pierre exposes these bids for authority by upending the genre’s performative conventions in his own work and then expecting his readers to believe him nonetheless. Her essay makes that same move of defying certain genre conventions to challenge the power exercised through humour and citation. Genevieve’s indignation is thus not just an expression of her own unease about being an interloper—a feeling akin to being “an imitation phony second-rate him”¹⁸—but a lament, too, about how far we still have to go to make a world that doesn’t feel like an inside joke.

Though long on humour, Genevieve’s essay is not short on sincerity, but its sincerity is overshadowed by Jean d’Aspremont’s essay, which offers an unwavering tribute to Schlag’s role in guiding an intellectual journey.¹⁹ He attempts to explain scholarship such as Pierre’s not only as a reflection of beliefs and their corresponding practices, but as the product of an internal relation that scholars have to their own work and their own field. He paints Pierre’s intellectual output, in particular, as the result of a transformation akin to a religious conversion, or more precisely as its opposite, the movement from believer to critic, from disciple to heretic. Unlearning, in Jean’s view, is a precondition for scholarship that not only engages in but also provokes thought. It is not enough to be a *non*-believer. Like the heretic, a faithful critic must be a *post*-believer who maintains something of the original belief without lapsing into cynicism. The essay is nominally an attempt to make sense of one scholar’s work through this rubric of unlearning, but it ends up revealing just as much about Jean’s own conversions, losses of belief, and quests for ideas worth believing in. The challenge, as Jean explores and performs in the end of his essay, is in grasping this ideal of unlearning without lapsing into righteousness or new discipleship.

17 Renard Painter, *supra* note 4.

18 *Ibid* at 9, quoting Ursula K Le Guin, *The Wave in the Mind: Talks and Essays on the Writer, the Reader, and the Imagination* (Boulder, CO: Shambhala Publications, 2004) at 4.

19 d’Aspremont, *supra* note 16.

Liam McHugh-Russell’s essay leans on Ursula Le Guin nearly as much as Pierre in his extended meditation on what writing can do and what difference it can make.²⁰ The piece is personal in the pedestrian sense of being framed by his experiences travelling through the dark valley of finishing a dissertation and battling on the academic job market, to arrive in the kingdom accessible to the lucky few of agonizing about tenure review. Despite how common these adventures are, the odyssey can often be a lonely one, and Liam admits that engaging with Pierre’s work assuaged some of that intellectual isolation. Yet the essay is primarily about a deeper anxiety. Pierre does well in the citation count in this symposium. But Robert Cover comes in a close second, notably for repeat mentions of his line about law operating on a field of pain and death.²¹ Pierre’s simple and devastating move was to remind us we face a regrettable choice between being implicated in that violence or our work not mattering at all. There are whole shelves written about the former and what to do about it. Liam’s engagement with Pierre and Le Guin, however, is about the latter, about how writing can find the right path through an intellectual territory that is mostly a wasteland of irrelevance. Poor maps and a broken compass be damned, we still have to survive in the wilderness.

Pierre’s essay closes the special issue.²² It responds to the contributors to the symposium, dealing out praise, self-deprecation, critique, camaraderie, commiseration, gallows humour, and flat-out disagreement as deftly as a Las Vegas croupier. But while the casino breeds short-lived joy and despair, Schlag’s essay is proof of the rewards of a lifelong effort to build communities of critique. Through his sincere engagement with the symposium’s contributors, Schlag demonstrates that his work has not only found its readers, but created community—a space for people to be seen, understood, acknowledged, heard, and above all, laughed at. Or with. You be the judge.

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*In addition to our acknowledgements elsewhere in the collection, we extend our thanks to Adam Lucas for his work getting the details right.

20 Liam McHugh-Russell, “Show and Tell” (2024) 47:1 Dal LJ 57.

21 Robert M Cover, “Violence and the Word” (1985–1986) 95 Yale LJ 1601.

22 Schlag, *supra* note 2.

