second edition

amicus courier

sydney university law society

Acknowledgement of Country

We acknowledge the traditional owners of the land that the University of Sydney is built upon, the Gadigal People of the Eora Nation. We acknowledge that this was and always will be Aboriginal Land and are proud to be on the lands of one of the oldest surviving cultures in existence. We respect the knowledge that traditional elders and Aboriginal people hold and pass on from generation to generation, and acknowledge the continuous fight for constitutional reform and treaty recognition to this day. We regret that white supremacy has been used to justify Indigenous dispossession, colonial rule and violence in the past, and in particular, a legal and political system that still to this date doesn't provide Aboriginal people with justice.

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editorial

Welcome to the well-awaited and well-feted (see: The Justinian) Amicus Courier, reborn and remoulded in its second edition.

Ariana Haghighi
Publications Director;
Editor-In-Chief

There is nothing more thrilling and terrifying for a writer than an empty page. But the writers of Amicus' first edition made strides with their pens, carving legal news, opinions and satirical quips into a Rosetta Stone, translating difficult legal concepts into digestible morsels. Luckily, the tradition carried onto this edition, too.

I am eternally grateful to the writers of this edition, who put their faith yet again in a paper too humble and too embryonic to be called a rag. You aren't motivated by bylines or furnishing your CV, just a genuine love for writing, and maybe a bit of pity for me. Your articles expose truths, provoke thought and incite laughter. In a world where media primarily serves to assist the powerful, it is a welcome reprieve.

Though there is much to celebrate about the end of the semester, as we let our notes collect dust, every day is a sobering reminder that the world could not be further from justice. The Johnny Depp and Amber Heard case, a complex situation of damage and distress, has been repurposed as Tiktok content. Australian writers pen smug pieces about our superior gun control laws, despite our failure to protect First Nations or incarcerated citizens from the scourge of guns and police brutality. In this age, legal writers have an insurmountable responsibility, much like legal practitioners themselves.

I hope that readers enjoy feasting on this platter of ideas as much as they did the last. As Amicus' novelty wears off, the skill and dedication of its contributors and editors insists it endures.

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n e w s

University of Sydney fined for improperly disposing of radioactive material

***Deaundre Espejo* reports.**

The University of Sydney has been fined $61,000 for improper disposal of radioactive material.

The incident occurred in 2019 when the University dumped a medical scanner in a scrap metal yard in Chipping Norton. A sealed radioactive caesium-137 source was soon detected in the scanner after it was moved to a different facility. The EPA was alerted immediately and seized control of the radiation source.

The University did not seek authorisation from the NSW Environment and Protection Agency to dispose of the source, an offence under clause 34(1) of the Radiation Control Regulation 2013. It also hired an unlicensed company to transport the scanner, prohibited under section 6(6) of the Radiation Control Act 1990. Accordingly, the University pleaded guilty to both offences and was convicted in the NSW Land and Environment Court.

Although exposure to radiation is widespread in medical practice, the EPA regulates its use to prevent unnecessary exposure and ensure safe handling. In her judgment, Justice Pain noted that the University's failure to comply with regulations created a potential threat to public health and the environment. She stated that deterrence was an important factor in her decision.

Fortunately, no harm ensued as the source remained sealed and detected before it was crushed or smelted. There was no suggestion that the University acted intentionally, negligently or recklessly.

During proceedings, the University expressed "deep regret" in its actions, noting that it "takes its obligations under environmental legislation very seriously and is committed to ongoing environmental improvements." Since the incident, it has implemented steps to prevent future breaches, conducted an audit of radiation compliance, and hired staff with expertise in radiation safety.

On top of the fine, the Court ordered the University to pay the EPA's legal costs and the costs for lawful disposal of the source. It also ordered the University to publicise a notice about the conviction in the Sydney Morning Herald, the Quarterly Newsletter, its website, and its Facebook page.

You can view the full judgment here: https://www.caselaw.nsw.gov.au/decision/18021754e0ad0f063deeb2c2?fbclid=IwAR3OMHrHWIsbbWmBYkxiun3l2k1sLW3KeycnvzPhG7PtzbzNfmquKY8v-hI

opinion

CIVICS & CITIZENSHIP: Too Cool For School?

***Anthony-James Kanaan* makes his case.**

From the avid to the most blasé of our cohort, terms such as the 'Common Law,' 'Separation of Powers,' and even the 'Rule of Law' are quotidian echoes of elementary legal patois. As students of the ever-litigious state of New South Wales, our familiarity with these terms - not to mention their importance as the fundamentals of our legal system - makes it all the more scandalous that our state stands alone: the only state in the Commonwealth without basic legal education in junior high school.

Under the overarching curricula of the Humanities, including other subject areas such as 'History' and 'Geography,' the Victorian 'Civics and Citizenship' course develops student knowledge of 'political and legal institutions and explores the nature of citizenship in our liberal democracy' according to the Department of Education. Similar subjects appear under the same title in South Australia, Western Australia, Tasmania, the Northern Territory, and the Australian Capital Territory. In Western Australia, the subject is introduced to students as early as Year 3. Generally the course is introduced around Years 7 to 10. These courses establish concepts fundamental to an understanding of our federation: the operation of the Westminster system; the place of Aboriginal and Torres Strait Islander perspectives and customary law in our legal system; the Constitutional organisation of power amongst government branches; and the processes of representative democracy no-less. The courses highlight the role of the media, of political parties, of our inalienable civic rights and freedoms which facilitate the functioning of our society and the law-making processes which both constitute and shape it.

Depriving our NSW students of even an abridged legal education is an affront to their ability not just to participate in our democracy, but to understand the institutional operations and actors which undeniably shape their lives. Though elective legal education can be sought at the Stage 6 level through the 'Legal Studies' course, only 14.3% of the 2021 graduating year participated in the subject according to NESA enrollment numbers. These numbers do not account for students graduating through the International Baccalaureate, or students who have left school prior to the HSC and are likewise bereft of such education. Even so, the decision to undertake 'Legal Studies,' and to devote two senior years to its study is undoubtedly one undertaken by students manifesting a prior interest in the legal system. The majority who do not enrol in the subject will continue to be ignorant of the key determinants of their social lives.

As of current, the NSW Department of Education is undertaking the most significant Curriculum Reforms in over thirty years (as state results across all subject areas are in plateau: jaundiced in comparison to international standards). As subjects are being expunged and consolidated across key learning areas of the Humanities, Science, Mathematics, and English, the argument that there is no space in the junior curriculum for such a vital course lacks reality. The existence of the subject in all other six Commonwealth jurisdictions calls the absence of a 'Civics and Citizenship' course in the NSW curriculum into serious question.

As senior students graduate and come of age: as they drive, begin to pay income taxes, as they can serve in the armed forces, even marry - most importantly, as they attain the right to vote - potential socio-legal illiteracy is a challenge to democratic prosperity, if not stability. Knowledgeable constituents are the prerequisite to a functional, healthy democracy. The onus of providing such an essential education cannot be discharged onto the students themselves. It is the role of the education system, in facilitating learning, to teach and to provide access to the otherwise ostensibly mysterious and alienating concepts of the legal system. A wholly informed populace may seem an illusory ideal, but in a nation defined by mandatory voting, there is far more to be gained than lost in ensuring all students have been taught the bare-essentials of our society, taught their rights and freedoms and more importantly, taught the social responsibilities which citizens owe each other. The controls which the law imposes on our lives is the premium we pay for living as a community - the absence of such a lesson would leave a generation unable to understand and flourish in their society.

For Clarity's Sake!

Amelie Roediger writes about word over-use…

I have never been so enthused by a flow chart as when I discovered s16 of the *Bail Act 2013 No 26* (NSW).

This hallowed fragment of legislation stands boldly amidst its conventional counterparts for one reason alone: it sports not one, but two flow charts to demonstrate the procedural logic of the 'show cause requirement' and 'unacceptable risk test'. It is truly quite phenomenal.

In a discipline that so fiercely values clarity and concision, legal literature is heavily defined by lengthy text and elaborate parlance. Brunschwig describes this as the text-only approach, a blunt and practical title that implies other competing methods of legal writing. Such alternative methods are frankly few and far between. It follows that my delight in these flow charts does not derive from their academic content but from the rarity of their existence. While a thorough analysis of the law is necessary to deliver justice, the core legal principles determined by judges are delightfully succinct and easy to understand when displayed visually. Using flow charts to represent how these principles fit into the broader complexity of the law is therefore not such a bad idea.

Why, then, is there such an aversion to a 'visualisation of the law'?

Between flow charts, diagrams, and dare I suggest…pictures, the possibilities of diversifying the dissemination of legal information are endless. Comic contracts are but one example. Although perhaps this is the problem? The unspoken rationale of the text-only approach might be that it is simply easier to operate via one single style of legal writing. But if this is the default argument, the supposed intellectual might of the legal community must be a gross exaggeration.

It is pertinent to comment on the arduousness of text-only expression. Foremost, the success of such a convention is contingent on 'good legal writing'. Good legal writing in itself is a skill all law students and practitioners aspire to master. Its simplistic name truly disguises how difficult it is to achieve, and of course, it has only arisen as a revered term in the wake of poor legal writing. Naturally, acclaimed legal scholars and academics can rather effortlessly distinguish bad writing and legal argument, regardless of whether it is hidden in extensive text. Unfortunately, such skill demands time and experience, two abstractions law students have in short supply. That is why I feel that lecturers so often assume the role of translators in tutorials.

The problem with relying exclusively on text-only expression arises when one is faced with several forty-page readings. Surely not every page is relevant, and yet, we must read the entirety of each document. So, we begin, only to find that either a) there are relevant principles throughout the reading but they are deeply embedded in a sea of triviality and require hours to decode; b) there is so much waffling discussion that we turn to the intro and conclusion; or c) the language we are faced with is so flamboyant that it is far more strategic to wait for the translation in tutorials. In many cases, it would be far easier to scrutinise the relevant conclusive logic if it was represented in a diagram.

Admittedly, abstract legal thought does invite extensive, and at times philosophical, discussion but this does not excuse a quasi-boycott of visuals. One might be mistaken to assume that legal scholars revel in using the intimidatory façade of the text-only approach to bolster the apparent might of their argument. What do I mean by this? Simply that by writing extensive passages, regardless of the content of the writing, the argument appears substantial when taken at face value. A poor argument can seem more convincing behind swathes of text. In this sense, I can't shake the feeling that the rigid text-only convention of legal scholarship is doing us a disservice.

But who am I to criticize the manifestation of lauded polemics? Maybe I should just harden up and trust the process.

After all, the written word is a legendary tool.

Imposter in the Air

Janika Fernando charts colour and class in the classroom.

Looking around the seminar room on my first day of law school, I noticed a few things. First of all, there were a lot of white faces. I was close to the only person of colour in the class. Secondly, everyone seemed to already know each other. As the weeks went by, I realised that this was because they did: most of the students in the class went to the same set of Sydney private or selective schools, and many of them lived in the same areas. I came to feel in these classes a strong sense that I did not belong. Maybe it was because of the fact that I did not see any Sri Lankans, or meet anyone who came from the same school areas, nor know of anyone who has experienced this long-standing sense of exclusion experienced by people of colour.

Or perhaps the fact that there was a lingering sense of self-doubt in my mind, a suspicion that I was not good enough, that if I were to raise my hand I could not articulate my thoughts as my peers could. And this is not to say I cannot speak, but rather that I had a sense of fear and unworthiness, a feeling that I was not good enough. In the lived, day-to-day experience of imposter syndrome, I feel this angst, this anxiety, this self-doubt and stress that my skills, my capacity to succeed, are not enough.

Imposter syndrome may affect all of us at different times and in different spaces. But it is undeniable that the sense of not belonging somewhere – of being a fraud or pretender in a particular social, academic or professional context – affects people disproportionately along political and identitarian lines. Racialised, gendered or classed bodies are more likely to find themselves estranged from the kinds of traditionally white, masculine and elite spaces that our law school still typifies, however much recent efforts have been made to change this.

Indeed, being at Sydney Law school has given me ample opportunity to observe that those students who come from privileged and elite spaces were always conditioned to believe they could achieve brilliant things like Sydney Law, whereas many low-SES people, people of colour and often women, like myself, have not shared that confidence. Unfortunately, but unsurprisingly, speaking to other students at the law school has borne the truth of this out.

Nishta Gupta, a third year LLB student and the current Ethnocultural Officer at SULS, can remember walking the halls of Sydney Law School for the first time. One reason she felt incongruous here was that she had not met the required ATAR for law, something that leaves many of us with a strong feeling that we don't belong in the law school, particularly those of us – like Nishta – who did not attend a charmed city high school. She also reflected on how her position "as a woman

of colour" meant that "this institution was not built for me," resonating with my own feelings of unworthiness and unease. However, she also expressed hope, as she believed her presence at an institution like ours "meant that things were changing. I'm now progressing through my degree motivated by a vision for social justice and uplifting marginalised voices, and this is the belief that stifles my imposter syndrome. No one should ever feel like an outsider: if you are here, you belong here."

Another perspective provided by Justin Lai, a fourth year LLB student, former Publications Director and current Editor-in-Chief of MOSAIC Journal, highlights his experiences of imposter syndrome as a person of colour searching for legal jobs while studying. He explained that "it was something that I did feel, in terms of understanding and reliability in the job interviews I did… I felt much more comfortable when speaking to a person of colour." He further reflected, "talking to an old white guy (true almost all the time) was, while doable, not absolutely comfortable and probably added to the stress more than anything." His perspective resonated with mine, as there is undoubtedly a sense of connection that exists between people of colour, a connection which makes one feel more comfortable and deserving of being in a space. However, Justin also reflected that most firms offering jobs are increasingly diverse, suggesting that there is hope of overcoming this.

Both these perspectives indicate the disparity faced by racialized, classed or gendered students progressing through their law degree and trying to set a proverbial foot in the door of their legal career. Women, people of colour and students from low-SES backgrounds frequently feel as if they do not belong, that they are undeserving of a place in an institution whose history of exclusiveness and elitism apparently continues to feel all too real. The consequences of this go beyond merely the student experience – it will also limit us in the legal profession, as we feel like certain career paths or space aren't accessible to us. And yet this is not to say that Sydney Law School hasn't made progress in ameliorating the phenomenon of imposter syndrome for the student body, as the hopeful perspectives of Nishta and Justin also reflect.

The Sydney University Law Society has no doubt made significant efforts to create spaces where women and people of colour can feel genuinely at home. The Ethnocultural and Women's Portfolios, for example, have put enormous energies into creating committee positions, social events, mentoring programs and diverse publications that give women and people of colour opportunities to claim the centre in an environment where they might otherwise often feel marginal or on the sidelines. I can certainly say that my own participation in the Sydney Law School Women Project and Law in Society publication last year has made me feel that as a person of colour, I can make an impact on the community through my writing. This has motivated me to become part of the Editorial team for MOSAIC and Law in Society, and help students craft their own voice. The return to campus and the prospect of in-person mentoring and networking programs that accompanies this in the wake of the pandemic has only proven just how crucial it is to continue creating such spaces on campus, spaces where people of colour, women or students from low SES backgrounds are able to battle their feelings of isolation.

According to Mahmoud Al Rifai, a fourth year LLB student, former Ethnocultural Officer and Editor in Chief of Law in Society, the notion of comparison is “the thief of joy.” He reflects on his experiences at University, which are fuelled by the presence of medalists, future judges, academics and politicians. There is a constant need to excel. However, he suggests the constant need to excel should be in a positive light, to appreciate one’s individuality. He quotes, “I dare say very few people would trade their friends, families and loved ones for the ‘successes’ of another. So, why not pursue the spirit of success, whatever that may mean to you, in a way that honours who you are, not who you are expected to be”.

There is no doubt that studying at a highly competitive and world-ranking law school like Sydney’s can be intimidating for us all, and that all of us have at different points felt the pressure to perform, to match our peers. But while all of us at the law school feel the general stresses of a competitive and high-pressure environment, this is not the same thing as feeling, fundamentally, that one doesn’t belong there, that one is a fraud in a space that other people can occupy with ease.

It is clear to me that while I breathe the same air as my academics, peers and friends, imposter syndrome is nonetheless a dilemma which affects the student body along racial, gendered or class lines. While it is difficult to realise a shared, embodied reality where we are all equal to each other, perhaps I can look to the fact that we all literally inhabit the same physical space, and have all made it into the same classroom, and while this is a struggle, it is something that can be battled, because I know I belong here. So I guess I shouldn’t let this feeling of imposter syndrome in the air stop me, as I hope it doesn’t stop you.

analysis

The Case that Shook Hollywood

Harry Gay is still reeling.

Today we are used to multiple avenues of watching movies - whether it be streaming, torrenting, renting, buying or going to the cinema - but it's easy to forget that these modes of exhibition used to be much more centralized. In the 1940s, when watching movies was at the height of popularity, there was only one way to watch them and that was by going to the theatre.

Recognising this, production companies and movie studios had a much tighter control over the practice of exhibition, and in the process many independent theatre owners were screwed over.

Let me take you back to this era, a time of swing dancing, pin-up girls and abstract expressionism. But most importantly, a time in the US where attendance at movie theatres was unprecedented , with approximations upwards of 80 million people per week going to the ol' picture palace.

With such high demand throughout America, these new-fangled moving pictures brought a boom in the industry post-World War 2, along with a surge in silver screen productions . In 1939, 177,420 people were employed in all levels of the movie business. By 1945, 19,013 theatres had cropped up in the United States, with approximately 11 million seats between them.

At the time, Hollywood was dominated by the “Big Five”; Paramount, Warner Bros, Loews Inc., Fox (later Twentieth Century Fox) and RKO pictures. Also dominant in the industry were the “Little Three”; Columbia, Universal and United Artists. These companies constituted the “majors” and operated effectively as a cartel, controlling the industry.

The ‘Big Five’ and ‘Little Three’ operated using a model of vertical integration, wherein the process of production (making the movie), distribution (sending the film out to cinemas) and exhibition (screening the film) was all controlled by one studio. The major companies expanded greatly into buying property, so smaller independent theatres were pushed to compete against specifically branded Paramount theatres. These “majors” owned 22 percent of America’s seating capacity, showing the most recent films at the highest prices in buildings that expanded up to one thousand seats at a single venue.

Besides owning real estate, the “majors” also disrupted the exhibition of films for independent theatre owners through various shady practices. One was the release pattern for a film, with studios creating a timetabling system determined by ‘clearance systems’. Instead of a film being released ‘worldwide’ on the same day, physical reels of film had to be transported from location to location in order to be screened. The United States were divided by the majors into thirty territories, each separated into up to a dozen zones. Within these zones, theatres were designated according to the order in which it would be given access to a film. First playing in downtown movie theatres, most likely to be owned by the movie studios themselves, before expanding out further away from city centres, where independent theatre owners largely operated.

This often meant that these rural theatre owners wouldn’t receive a film until up to a year after its debut. By that point, most audiences would have already flocked to the major cities to see it.

”Block-booking” was an even more insidious deal that studios did to skimp independent theatre owners out of making a profit. Under this system, theatres were not allowed to hire individual movies, but rather, had to purchase them in blocks of several movies, sometimes up to 50. These blocks would often have a bunch of lower quality productions that the studio needed to sell, and it worked in favour of the distributors who needed to make a profit from these lower-budget movies and prevent the smaller exhibitors from only buying what would be the more popular films.

Of course,block-bookingwas not an issue for the theatres owned by the studios themselves as they could operate with extensive freedom.

This vertical integration is largely what is referred to by the “studio system”, and resulted in an oligopoly: a monopoly power exercised by a small group of individual companies.

This all changed in 1948when, according to Richard Maltby, “the US Supreme Court ruled that the majors had an illegal monopoly over the industry”, ordering production and distribution to be separated from exhibition. This decision came to be known as the Paramount Case, and spurned a process of ‘divorcement’ that changed Hollywood forever.

This had a snowball effect on the industry that resulted in a sudden economic downturn, exacerbated by the rise in television. Hollywood never recovered. Studios shifted focus from production to distribution, lending facilities to smaller independent production companies, while having to sell films on their individual merits. Block-booking was no longer viable and theatre attendance continued to decline.

Fast forward 74 years and we find ourselves returning to some of the horrors of the past. Theatre attendance has obviously been an issue since the arrival of television, but COVID has meant that studios are now working overtime to entice movie-goers.

Combining these with the rise of streaming services has dealt a near death blow to independent theatre owners. Studios no longer have to worry about the processes of distribution or exhibition in order to get their films seen. All they need is a streaming platform and people can beam it directly to their living rooms.

Streaming services, the facilitators of exhibition, have also become involved in production, with Netflix now producing multi-million dollar movies, and Apple TV+ recently becoming the first of its kind to nab Best Picture at the Oscars. This is something Amazon Prime and the aforementioned Netflix has been trying to do for years, albeit unsuccessfully. This is an unattainable goal for the local United Cinemas owner, who is

ill-equipped to fund their own multi-million dollar production. As such, they are forced to project films made by these companies who end up releasing via streaming straight to people's living rooms almost immediately after its premiere anyway. What used to arrive years or months to home format is now being exhibited sometimes even the same day as theatrical releases, with viewers often choosing home comfort over the experience of trekking it to the cinema.

Another pertinent issue in this discussion is Disney's monopoly over the industry, which is becoming a concerning echo of the majors' vertically integrated control over the industry back in the day. Disney not only produces, distributes and now exhibits their own films through Disney+, but they are also gaining control of some of these companies that have been around since the early days and nabbing up any intellectual property they can get their hands on.

In 2019, the Department of Justice sought to repeal the Paramount decree, with a motion filed for a court order made in November of that same year. In August 2020, the court granted the DOJ's motion, allowing for a sunset period of 2 years so theatres could adjust to this new change. The decision was lambasted by independent theatre owners and filmmakers, including the Independent Cinema Alliance.

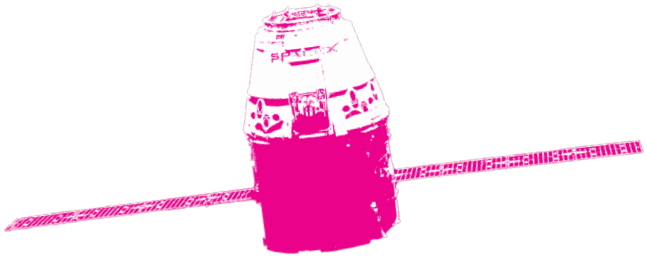
What this means now is that there is nothing stopping a resurgence of the studio system. Instead of the 'Big Five', however, we have these large conglomerates like Disney, Apple and Amazon, where moviemaking is merely yet another one of their many business ventures. Whether it be Apple and their multivariate technological empires, or Amazon and their stronghold over the postal service, or Disney and their myriad of peripheral involvements. The future is a far cry from the glitz and glamour of 1940s Hollywood.

Don’t Look Up: The Sky is Filled With Satellites and Their Droppings Are Toxic

***Faye Tang* explores the universe of environmental law.**

The relationship of human progress to nature is like that of Tom to Jerry, Batman to the Joker, or Jekyll to Hyde: despite being bent on mutual destruction, one cannot exist without the other. What arises out of this relationship is a series of compromises that we call environmental law, established to protect nature from the brunt of human invention. Up until now, environmental law has been largely terrestrial, focusing on endangered wildlife, or a problematic dam, but a recent and ongoing case casts uncertainty on the celestial. What kind of laws should rule our night sky?

In the last decade, many large space corporations have sent thousands of satellites into orbit. Sending such devices into space has hitherto been legal, as long as ‘things’ do not include weapons, and there is a steady plan to deorbit them. However, a litany of issues have been raised over SpaceX’s newest conquest: the Starlink megaconstellation. Starlink is a web of up to 42 000 satellites that will be launched into space and purports to provide “high-speed, low-latency” internet to every stretch of the world, by 2023. Counted among other currently known plans for satellite launch, including those from international space agencies, the number of satellites in orbit would soon reach 65 000. As a result, according to Professor Sam Lawler of the University of Regina, “with no regulation on light pollution, most people on Earth will see more satellites than stars” in the near future.



Issues

Naturally, this has raised concerns – for astronomers, whose access to natural constellations and activity is drastically inhibited; for peoples to whom celestial wayfinding is a cultural tradition, such as Native Hawaiian and Polynesian groups; and for the general population, whose children will grow up under metallic skies. And, upsetting as these are, a whistleblower recently imparted even more damaging information: the launch of SpaceX's satellites is likely to poison the environment. A group of environmental lawyers at the Public Employees for Environmental Responsibility ('PEER') found that every satellite was launched with between 20-100kg of propellant made from mercury, around 70% of which will fall back to Earth. Heavy, inexplosive, and cheap, mercury is an efficient propellant with a mean velocity of 15 kilometres per second, per mercury ion, as it leaves the thruster. Mercury is also, incidentally, a toxic bioaccumulative pollutant.

How is this even legal?

SpaceX, along with other US space agencies, is required to report to the Federal Communications Commission ('FCC'), the authority who approves the deployment of communications satellites and ensures that they comply with the National Environmental Policy Act 1970. However, the FCC has an Order called the Comprehensive Review of Licensing and Operating Rules for Satellite Services ('Order') in which they eliminate "any need for submission of confidential contract or design materials to the Commission." Essentially, the FCC stripped their responsibilities down to ensuring human safety from hazardous levels of radiation or high intensity lighting, thus absolving themselves of any actual responsibility for the environment. To add insult to injury, the companies being regulated are "welcome to self-certify compliance" - the effect being that their environmental impact goes unregulated. Until now, no legal action has been made to rectify this.

The State of Things

In 2018, PEER filed a complaint against the FCC's inadequacies in their review of communication satellite megaconstellations. Although nothing came of this particular complaint, it was the first public acknowledgement that companies are still sending mercury to space, a practice found to be dangerous years ago.

In 2019, Starlink launched its first 60 satellites. A line of bright, pearly light emitted by this launch was spotted over the Netherlands. This generated concerns amongst researchers in whose data satellite streaks were beginning to show; astronomers trying to capture images of the galaxy in detail; and radio astronomers, who are expecting interference from the megaconstellation.

In 2021, Viasat Inc., a Californian satellite communications company rivalling SpaceX, filed litigation against SpaceX on the grounds that the Starlink megaconstellation was environmentally dangerous, caused light pollution, emitted orbital debris, and posed a risk of collision with Viasat's own satellites. Viasat argued that the FCC's Order was "arbitrary, capricious, and an abuse of discretion…[and is] otherwise contrary to law". They tried, but failed, to attain a stay to halt the launch of Starlink. This marked the first legal regulation on communication satellites.

As of January 2022, over 1 900 Starlink satellites have been launched into space.

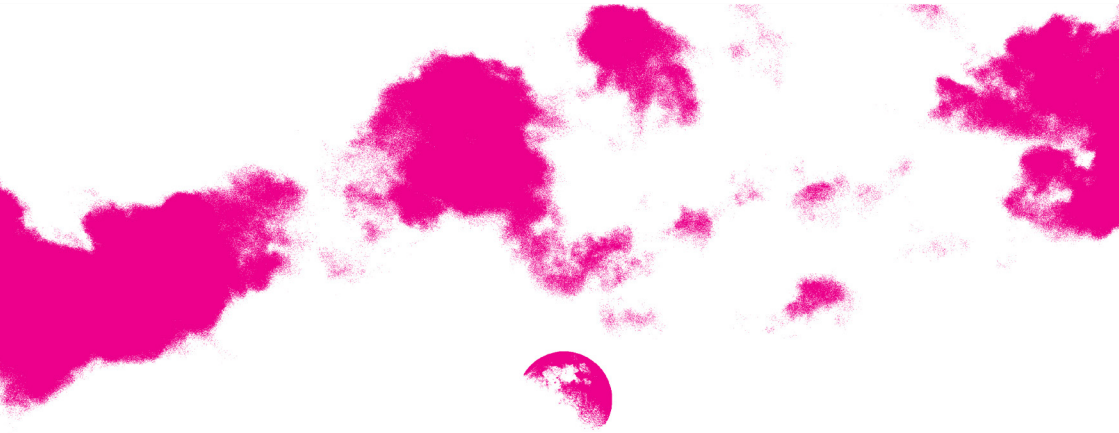
In March of 2022, at the Minamata Convention on Mercury, the United Nations adopted a new Minamata Treaty Provision to gradually ban mercury as a satellite propellant by 2025. This was possible due to the efforts of scientists, environmental lawyers, and other public interest stakeholders who have followed this issue.

But what do we really want?

Living under a sky filled with potential biotoxic pollutants is a dastardly dystopian image – like Adam McKay's Don't Look Up, except the mysterious force behind extra-terrestrial catastrophe is human hubris. But even without the mercury crisis, or even if Starlink switches to more eco-friendly materials, we still face the uncomfortable new reality of having tens of thousands of satellites in the sky. Whether or not the disadvantages of Starlink's innovation outweigh the advantages is the subject of much discussion.

Assuming it reaches international success, Starlink has the ability to globally democratise access to the internet by providing cheaper and faster internet all around the world, including in rural and developing areas. This could drastically improve the 'life quality' of billions of people. But is it worth diluting the night sky with artificial stars? On the other hand, should courts rule this constellation unlawful, fierce rhetoric about stunting human advancement would arise… in either case, this issue is an indication that upcoming technological progress will radically change the way we interact with the night sky.

Contrarily, would we stunt human advancement if we ruled this megaconstellation as unlawful?



How to legally occupy F23

Marlow Hurst is not liable if you actually try this.

In 2020, following a Quad Lawns speakout called by the NTEU, disgruntled protestors stormed the F23 building with bullish enthusiasm and commenced an occupation that lasted from roughly 2pm to 7pm. An impromptu scheme, the occupation suffered from a lack of planning and the eventual arrival of NSW Police. But if something happens once, it is sure to happen a second time. While the F23 building can no longer be occupied, the Michael Spence Building is ripe for the storming. But this time, it can be all above board. Here's how you legally occupy F23.

To begin, navigate to the University's Resource Booker platform. Now, depending on who is organizing the occupation, there are two different ways this act of protest can be penciled in. If NTEU representatives are taking the lead, they can book as University staff. If student activists are cracking the whip, then they should book as an event.

Four F23 rooms are available for reservation on Resource Booker: Auditorium 1, Auditorium 2, the Exhibition Space, and the Function Room. The Function Room is on level 5, while the other three are all on level 1, giving you a commanding presence across the all floors of the building. Together, they represent 544m2 of prime administrative real estate. That's almost 8% of the total 7,052.73m2 of usable floor space in F23. To book the rooms, one simply has to find a suitable time slot and answer a series of basic questions. For booking type, "Large Community Event" would probably be the most accurate option, but if chants and jeers are expected to feature heavily, "Performing Arts/Concert/Recital" might be the safest category (note: this should also inform your response to the question "Will the event include any noise that could impact the University community?") For event description, a list of student and staff grievances with University management should do the trick. Finally, I'd advise you overestimate rather than underestimate the "Expected Number of Attendees" - you'll have some breathing room that way. While you might not except the University to approve this booking, the "Types of events that can be held in a University venue" KnowledgeBase article makes no mention of a prohibition on prolonged occupations, but does note that memorials are only permitted on approval of the Vice-Chancellor and that "complex booking requests" should be subject to close review - good thing this one's pretty straight forward.

Now it all comes down to cost. Luckily, the University is good enough to provide a "self assessment guide" for determining whether or not an event will incur space or service charges. Going down the flow chart, the occupation will most likely not be charging attendees an entry fee (point 1 for no charge), it should be considered "relevant to a core business activity of the University" (a hesitant point 2 for no charge), I see no reason for it to require Campus Services support (point 3 for no charge), and if the 7pm finish time that we saw in 2020 can be shaved down to 6pm, then the event will be occurring within normal business hours (a triumphant point 4 for no charge). But say the University is uncharacteristically mean spirited with this request and takes issue with a number of these self-assessments and demands a space hire charge, organizers must be prepared for the worst. If the occupation wishes to take place for the full duration of USyd's normal business hours, then a 6am to 6pm sit-in is on the cards. With that time frame, at $575 per/h for all four rooms, organizers can expect a space hire charge of $6900. Luckily, a rule change in 2022 reclassified students as internal clients, whereas in previous years, students have been designated tier 1, category 2 external clients. Depending on the exact rules in 2020, activists involved in the original occupation of F23 would have been hit with a 15% surcharge on the usual space hire fee if they had decided to book their occupation in advance. So with the rule change in effect, this might be the perfect year for round 2.

All that's left is some misc admin. Catering should be organized well in advance, any IT requirements should be communicated to the venues team beforehand (with four separate room bookings, it might be a good idea to set up a video link), and the occupation organizers should ideally arrive an hour prior for bump in. If everything goes to plan, then you and a maximum of 479 associates (going off of venue capacity limits) can be the most legally authorized occupiers on campus.

Of course, none of this serves the core principle of protest, as it's not disrupting the University admin or its functions. To book an occupation sort of defeats the purpose of an occupation. But, if all you wanted to do was enjoy 12 reserved hours of uninterrupted occupation in F23, with but a few simple steps and a possible $6900 service fee, organizers and protestors can sidestep the tort of trespass to land, dodge the Inclosed Lands Protection Act 1901 (NSW), and above all, legally occupy F23. If the $6900 is too much, maybe a SSAF application can cover it.

satire

The Top 5 Best Peppercorn Contracts

Mae Milne gives her 2 cents.

"A peppercorn does not cease to be good consideration if it is established that the promisee does not like pepper and will throw away the corn" (Chappel & Co Ltd v Nestle & Co Ltd [1960] AC 87).

In the vast tapestry of the English common law, there exists a variety of legal quirks which give rise to some peculiar situations. The peppercorn contract is by far my favourite example of this.

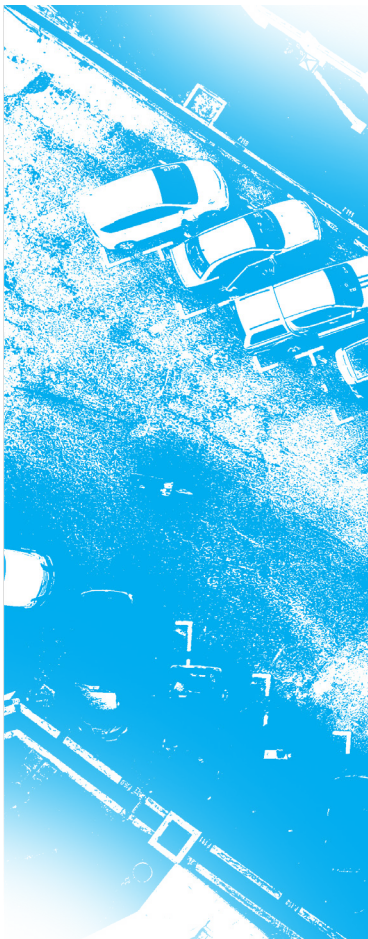
A peppercorn contract is a contract formed in consideration of a nominal amount. Consideration, something of value that flows from the promisee to the promisor, is an essential element of a legally binding contract. However, in order to be sufficient, this consideration can be "as nominal as a peppercorn". Parties have taken this ratio literally, giving rise to a collection of whimsical leases, the best of which I have compiled:

#5 - The University of Sydney and the Uniting Church

At first glance, the University of Sydney and the Uniting Church do not have much in common. However, it turns out that they share a peppercorn contract dating back to the latter half of the 19th century.

The story begins in 1878, with Thomas Holt who owned a piece of land about 30km northeast of Goulburn, called "Arthursleigh". In consideration of "one peppercorn per annum if demanded", Holt signed a 999 year lease for the establishment of Big Hill Church with the trustees of what would later become part of the Uniting Church. This lease remained undisturbed until 1979, when the land was bequeathed to the University of Sydney. This included the Big Hill Church and the terms of its lease, due to expire in August 2877.

However, it seems that following this bequeathment, the peppercorn contract has been neglected, and its existence is at best, questionable. None of the university records concerning Arthursleigh recognise this peppercorn rent, and the lease in question is no longer registered on the title to the property. Therefore, although pertinent to USYD student life, the forgotten peppercorn contract unfortunately comes in last place.



#4 - The University of Bath and the Bath and North East Somerset Council

Continuing with the university theme, next up is the peppercorn contract between the University of Bath and the Bath and North East Somerset Council, for the University's lease of its Claverton Down Main Campus. Signed in 1971, the lease allows the university to occupy the land for 999 years in exchange for one peppercorn per annum.

In 2014, the University signed yet another peppercorn lease with the Bath and North East Somerset Council. Indeed, in exchange for one peppercorn a year, the lease grants the university use of a 0.14 acre strip in the centre of Bath for the next 150 years. This area is currently being used as a carpark.

Despite recent disputes with the local council, the peppercorn tradition has persisted, and has since become somewhat of a ceremonious affair. It is delivered at the end of each year in an inscribed silver box over a formal dinner.

#3 - The National Coastwatch Station at St Albans Head and Encombe Estate

Perhaps more whimsical than the previous peppercorn contracts we've looked at is the peppercorn contract between the National Coastwatch Station and Encombe Estate. In consideration of "one crab per annum, if demanded", the contract allows the National Coastwatch to lease a station and lookout at St Albans Head. This rural piece of land features a deliciously rugged coastline and is found on the coast of Dorset, England. It is unclear how often the pincey crustacean is actually demanded.

#2 - The Old State House in St. George's, Bermuda.

Built in 1620, the Old State House in St George's Bermuda is the country's oldest surviving building in Bermuda, and was previously used as a meeting place for parliament. However, since April 1816, it has been leased to the Masonic Lodge (a freemasonry association), in consideration of the annual sum of a single peppercorn.

Although the consideration is not as novel as some of our other peppercorn contracts, the appeal rests in the fanfare of its delivery. The exchange of the peppercorn occurs annually, on the Wednesday nearest to St George's day. Members of the Masonic Lodge gather in full masonic dress, whilst the Governor arrives in a horse drawn carriage. Following a 17-gun salute, the peppercorn is presented on a velvet cushion, which rests on a silver platter. However, the procession's colonial legacy clouds this otherwise fanciful contract, with the costumes and fanfare alluding to the legacy of British imperialism.

#1 - Isles of Scilly Wildlife Trust and Duchy of Cornwall

Of the numerous peppercorn contracts in the world, my personal favourite is the lease shared by the Isles of Scilly Wildlife Trust and the Duchy of Cornwall.

Located 28 miles from Cornwall, the Isles of Scilly is a collection of 200 islands and rocks. The area is characterised by sandy coves, moorlands, a temperate climate and flower fields.

In consideration of just one daffodil per year, the Duchy of Cornwall leases out about 60% of the area of the Isles of Scilly Wildlife Trust, which looks after the 5 uninhabited islands, protecting wildlife and their habitats. This playfully idiosyncratic consideration, used ultimately for the conservation of the natural world, therefore affirms the contract's place as first.

Top 5 Places to Protest that Aren't Major Roads or Facilities

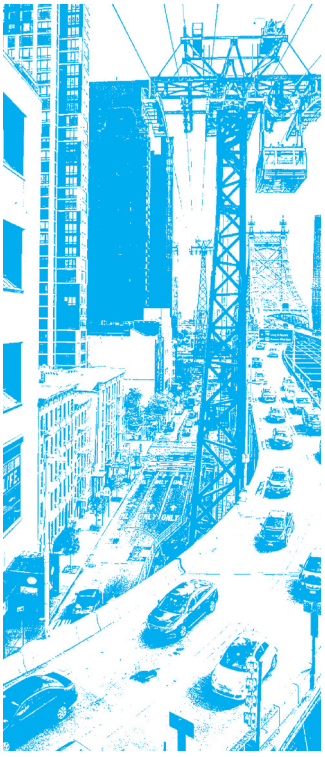
Patrick McKenzie unfurls a banner.

Protesting isn't illegal – you just need to get creative!

On April 1, the Roads and Crimes Legislation Amendment Act 2022 was passed into law by the NSW Government with bipartisan support. Possibly the worst April Fools joke of all time, the Act amends the Roads Act 1993 and Crimes Act 1900 to "create offences for certain behaviour that causes damage or disruption to major roads or major public facilities." This latest amendment follows a decade of harsher protest laws.

While the law was widely decried as an 'anti-protest' response to recent spates of actions targeting local ports and roads, for the real enterprising activists out there, this is merely a fun challenge!

To get the gears of praxis turning, here are the top five places to protest that aren't major roads or facilities!



Tennis Courts

Tennis, first known as 'lawn tennis,' has long been the fodder of the bourgeoisie – it's time to take it back.

Section 214A, subsection 7C of the amended Crimes Act defines a 'major facility' to include "an infrastructure facility, including a facility providing water, sewerage, energy or other services to the public." This means that while protesting on Rod Laver arena during the Grand Final of the Australian Open is almost certainly illegal, your local council-run tennis court is free range!

The 260.87 square metres of a tennis court is more than enough to fit 450 people or so if you're standing shoulder to shoulder. Should any nosy officers of the law or, worse yet, local council rangers, attempt to disrupt your intense rally, bring some racquets and sweatbands and make some loud grunting noises to quell any concerns!

Disused Monorail Stations

Sydney's most redundant form of public transport may have ceased operating almost a decade ago, but today, several disused stations still loom above Sydney's CBD. Chief among them is the abandoned 'Harbourside' station which overlooks Pyrmont Bridge.

As a facility no longer in use, Harbourside is firmly on the menu! Presenting not only an optimum vantage point for chanting and orating to ogling passersby below, a highline slackline could also be easily suspended from the station across Darling Harbour for maximum stunt potential.

The Back of a Moving Flatbed Truck

Key amendments to section 144G, subsection 1 of the Roads Act 1993 impose a maximum penalty of $22,000, 2 years in prison, or both, for trespassing on a major road if the conduct: "(a) causes damage to the road, or
(b) seriously disrupts or obstructs vehicles or pedestrians attempting to use the road"

This is an easy fix: simply take the protest on wheels! Companies across metropolitan Sydney offer weekday flatbed truck rentals for those looking for some rebellion on-the-go. For as little as $25 an hour, for up to two hours, you could stage the roving protest of your dreams.

Rent out a whole fleet and load your compatriots straight into the tray at the back – the protest is only illegal if it closes down the road – so just make sure to drive on the right side! Bring bike helmets!

'Minor' Roads and Facilities

This is where we enter the abstract.

The Roads Act 1993 is pretty vague on what a major road, bridge or tunnel is, with section 144G, subsection 6 stating that they are "a bridge, tunnel or road prescribed by the regulations for the purposes of this section," naming the Sydney Harbour Bridge specifically.

Further to the details above, the Crimes Act 1900 considers a major facility to be "a railway station, public transport facility, port or infrastructure facility prescribed by the regulations" and the ports of Botany Bay, Newcastle and Port Kembla specifically.

Since neither sets out what makes a road or facility not-major – aka 'minor' – it is safe to assume everywhere else is fair game.

Why not occupy a nearby cul-de-sac? The middle of a roundabout! The tunnel at Central station! The huge travelator in The Domain! Any space remotely liminal or otherwise forgettable is the perfect loophole.

The Train Platform at Macdonaldtown Station

The most minor facility in Sydney is deserving of its own section. While Macdonaldtown Station is still in operation, it really shouldn't be. The oft-forgotten train station of a non-existent suburb, Macdonaldtown is the station everyone makes fun of and no one will miss.

Pointlessly close to Erskineville and Newtown stations – and easily visible from the Eastern end of the latter – Macdonaldtown is more than suitable to be a hub of dissent. Line its platform with placards and throw tomatoes at the hundreds of trains that thunder past on the daily without stopping.

Go forth and challenge the law by operating aggressively within its bounds – the only limit is your imagination!

In search of the reasonable person

***Ariana Haghighi* goes on a CLA-guided quest.**

I'm sitting in Torts class, vexed. My inner monologue reads as circulatory as the Civil Liability Act itself.

I hear whispers of the tutor's dulcet tones, calling my name for case facts, but the sound swims around my ears. Today, my mind is impenetrable. Today, a morsel of the statute taunts and imprisons me.

The concept of the "reasonable person" – yes, we can dissect him with a litany of tests, but surely this is a whole man more than his anatomical parts? Personally I'm a lot better with faces than names. I think if I saw the reasonable person, met him, shook his hand, maybe chatted about the weather, then everything else in Torts would fall into place.

I decide that there's no point in worrying. The reasonable person cannot be that hard to find – there are little clues everywhere about where he may be hiding.

Before I set off on my journey, I take some notes about how the reasonable person may appear. If he is reasonable, he is likely average – painfully so, but also beautifully so. Research tells me that the average man will be 170cm, so I purloin some measuring tape from my mother's sewing basket. His shoes should be a size 10.5. I imagine he will wear some painfully average clothing (maybe Uniqlo?) and might engage in an averagely intelligent conversation with his conversation partner (not quite the Iran nuclear deal, but he'd probably have a hold on the federal election).

I'm still very distressed. How can we define the average race, religion, or any other demographic? There is no clear metric for reasonability, so looking for the median man is the best chance I've got. I start to worry that my search is futile, and the reasonable person is a fiction consigned to the CLA. I shake away the doubt and forge on.

The Clapham Omnibus; Lord Justice Greer gives me the strongest clue of all by suggesting the reasonable person might be here. I see no other option than flying to England, my location of choice shines like an inviting mirage. I buy an all-day ticket for the bus and slouch in the seat at the front. I can't wait to meet the reasonable person. I've heard so much about him. His amorphous figure has blended into my subconscious.

The first man to board the bus seems promisingly average and reasonable. Would my search be over so quickly? But alas – I notice a white glint of fabric couched underneath his sandal. Socks and sandals? There's no way he is reasonable.

Next, a group of teenagers burst through the door. They are saying too many slurs. The reasonable person would never be this unreasonable. They start looking at me, peering up and down and laughing. God, the world strays more and more from reason every day. I have to alight the bus for a breather, and realise the reasonable person could also be the plain old man in the street. I walk slowly, eyes alert, but no one fits the brief. One man rolls a puppy in a stroller (strange), another is yelling at his intern on the phone (anger management issues). I peer into a cafe, where a man in promisingly reasonable attire meets my gaze. Moments later, he lifts his spoon and laps up some cereal from his cup. I am on the verge of tears.

I question whether I might be the reasonable person, after all. It could explain why my search bore no fruit. After all, the law makes it seem like there can only be one. And that one must be me.

Impossible, my friends scoff upon hearing my theory. You just flew to England and missed the Torts exam. You're due in the Dean's office in an hour.

haiku caption the cartoon

Case Haikus

Anthony-James Kanaan **is this edition's bard.**

From smoke-balls arise
Duties to provide for your
World-bound promises.

Carlill v Carbolic Smoke Company
[1893] 1 QB 256.

In questioning his
Unconscionability-
Book up: held upright.

ASIC v Kobelt (2019)
267 CLR 1.

The "I don't sign deals"
Tactic: yet still is he bound
Through imputation.

Empirnall Holdings v Machon Paull
Partners (1988) 14 NSWLR 523.

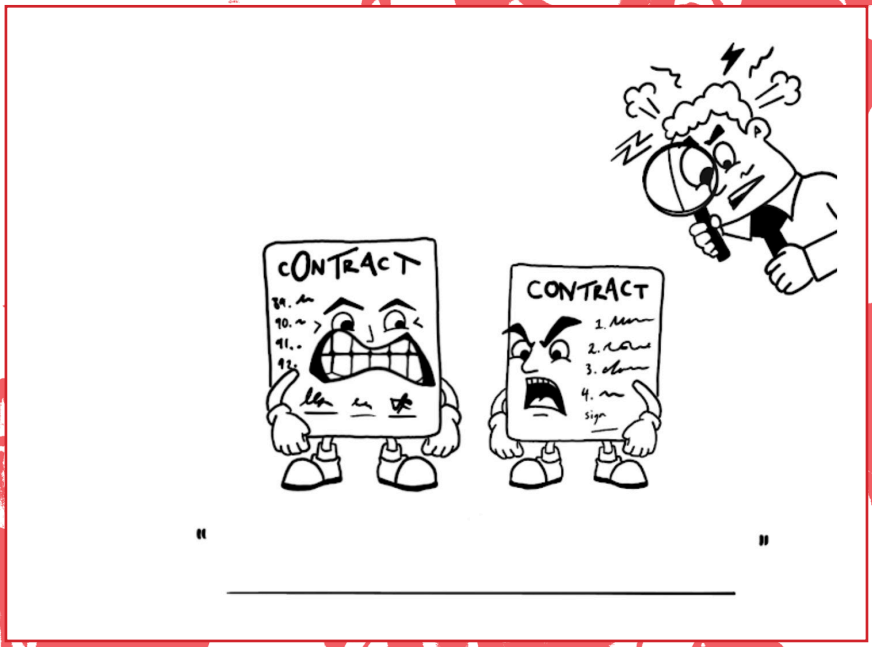
Vienna? London?
Telex prescribes acceptance
At receipt, not freight.

Brinkibon v Stahag Stahl & Stahl-
warenhandelgesellshcaft [1983] 2
AC 34.


Callings of spirit
Invite work, too. Presumptions
Suggest, not prescribe.
Ermogenous v Greek Orthodoc Community of South Australia Inc. (2002) 209 CLR 95.
Bona fide is
Four, and not three syllables.
A true compromise?
Wigan v Edwards (1973) 47 ALJR 586.
Letters of comfort
In commerce worlds are words of
Binding intentions.
Banque Brussels Lambert SA v Australian National Industries Ltd. (1989)

Caption this cartoon!

No force majeure interrupted *Amelie Roediger* from drawing.



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courier amicus