

# De Minimis

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## ON LEAVING LAW SCHOOL

**Joseph Moore**

Towards the start of this year, I made the decision to depart from Pelham Street. My destination was around the corner, at the Melbourne Graduate School of Education. The decision has been a grand one thus far – I have always been drawn more to enthusing people about the pursuit of knowledge and challenging them to develop their thinking than engaging in crisp rules and argumentation.

So why given my longstanding love for the communication of obscure historical knowledge did I embark upon a JD? This is the real question, not why did I drop out. I do not intend this confessional to slander a fine institution with first-rate teachers. The culture of complaint and self-flagellation is strong enough at Pelham Street, without a bitter ex-student further fanning the flames.

However it wouldn't be a *De Minimis* article without a bit of a carp. The 'back to high school' mentality that the course structure encouraged is an odd one for a cohort pushing 25 who have already experienced the anonymity of mass undergraduate degrees. Say what you will about collegiality, I found the locker rooms, netball comps and 'LMR groups' to be pleasant but claustrophobic and infantilising. The three or four day a week program of unrecorded seminars is a far cry from the adult experience of the Monash and RMIT JD, forcing us to be in and around the law school, buying overpriced coffee and chatting about Netflix in every ten minute break like American undergraduates.

All this may have been fine if I had been interested in the law, or genuinely desired to make a career of it out of a lust for Collins street glamour. As it is I did not. It seems I had fallen for the old lie that teaching is a sell out for the intelligent and talented.

I had also allowed myself to be tricked by the more pervasive myth that law is the correlative of the humanities. A lot of late high schoolers with an interest in literature, history, even politics, are told by parents, teachers and career advisers that they would have not only aptitude but enthusiasm for the law if they went on to study it.

The part about the aptitude may be partially true, the part about enthusiasm verges on utter bollocks. The relations between the law and the humanities are more superficial than substantive, shared subject matter rather than shared methods of reasoning or concerns.

I found that the style of law itself, the rigorous application to rules as its highest virtue, has more in common with accounting or medicine. In Australia, unlike many other legal cultures, the common 'arts law' degree has created an indelible association in the minds of many, and one which I think is responsible for a good many law school dropouts. It is an association that many prospective law students would do well to interrogate. I learned that, though I may be interested in politics, this is very different to being interested in the law. Indeed I found the private law subjects to my surprise to be far more interesting than the more legislation driven public law ones.

My final reason returns me to waving something of a finger at the law school. Despite the disinterest outlined above, I entered law school sustained by the maxim that one 'doesn't need to be a lawyer' upon finishing the course, that MLS' graduates go to a variety of professions, only one of which is a solicitor.

With the greatest respect, this is tosh. Of course you could do many things after finishing law school and you will not be looked on the poorer. That would be sound advice for an eighteen year old embarking upon a double degree at significantly less financial outlay. However to begin a significantly more expensive degree in one's early to mid twenties, with all the opportunity cost of exercising these 'non legal' skills and passions over those three years, seems a dreadful waste if you are not interested in the craft you are learning. It was an extraordinary marketing coup that I could be led to believe that a three year professional masters degree for a career I didn't wish to pursue was a good way to 'find myself' and work out what I really wanted to do.

To pretend that law is a new generalist degree, good to have up your sleeve, is a clever if irresponsible way of getting young people to prodigally throw their time and money at an institution, whilst acknowledging the poor job prospects that mean they will likely not have the opportunity to use that craft knowledge. Unlike medicine, work placements are not par for the course and so the cost of increasing places in a law degree is far smaller compared to what students bring in – it is in the university's interests to peddle this line.

My confessional account has little to do with law school itself, and more to do with the myths that encourage people to do law for the wrong reasons, or no reason at all. If you want to pursue passions other than the law,

I would advise you to spend these three precious years doing so. A passion for reading and a way with words are not automatic signs that you will flourish and be nourished by the law school. And if the culture irks you and you find yourself constantly whining then, unless you are an incorrigible humbug, the problem may lie more with your decision to study a body of knowledge in which you are uninterested, and not with the institution you are finding yourself at war with.

*Joseph left MLS before starting second year*

## COMING FACE TO FACE WITH MR ADLER

**Anonymous**

The oft-repeated phrase law students are all too familiar with: "you need experience to get experience". And you need experience to get a job, as a general rule. As the months pass and the end of my degree starts to creep up on me all too quickly, I figured I'd better get my butt into gear and get some of that experience. What kind of experience or for how long, I didn't know and frankly didn't care – I just wanted something.

I'll be entirely honest – I don't even remember applying for this job, but when Fred\* called offering an interview for a legal internship I jumped at the opportunity.

I hung up the phone but couldn't recall

this guy telling me the name of the firm he worked at. I couldn't find a lot online about him. I told myself I'd just forgotten these details as I'd been busy when he'd called. Give him the benefit of the doubt, maybe he's just a vague kinda guy.

I rock up to the interview (in an office, but not his own) and am trying to keep an open mind. He's chatty and friendly enough, and explains his situation to me and what the internship is for (in the vaguest of terms).

He had his own law firm and ran it his own way. There are some baseless allegations against him that he wants to fight in court...

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...this is what you'd be doing, lodging court/tribunal documents and helping build a case. There was something in there about a practising certificate too.

He asks when can I start? I'm hesitant but think what the hell, if it turns to shit I can always bail (the position is unpaid and I made sure not to sign anything).

I started on Monday. I left on Monday, shortly after lunch. I rock up Monday morning at 9am, as we agreed. Another girl, Wilma\*, rocks up at 5 past looking for Fred, who hasn't arrived yet. We get chatting. She's a first year arts student studying humanities. I wonder what she's doing a "legal" internship for, but figure she's just a keen bean.

This guy rocks up at 9.30am sans phone and sans excuse for his lateness. She and I aren't that impressed. We have a meeting where he pretty much sits on his computer scrolling through things for minutes on end (good to see you're prepared, Fred), and gives us access to an online drive. He's going to be in and out of the office – you two do some reading, get up to speed, and we'll have a meeting at 2pm to discuss our direction. We have some court deadlines coming up, so we'll discuss those too.

Fred leaves. Wilma and I get to our digging.

The drive is full of stuff – reports, correspondence, scans of documents e.t.c. Each takes a decent chunk of time to get through, so neither of us really notice how much time is going by. As I read I take some notes, mostly because I want to be able to ask some questions in the meeting.

The more I read, the worse the picture became. This guy's textbook baddy director, ASIC v Adler style, and my list gets longer and longer. A certain legal authority got word of what was going on in Fred's firm, so started doing some research; they put their findings in a report.

It turns out there are a plethora of allegations against Fred and serious problems with his practise as a legal practitioner. These include asking a client to deposit a decent sum of money into his personal bank account, drawing from company funds for personal payments, several open unfair dismissal/discrimination cases, being an aloof manager of a team of unpaid, untrained interns/junior lawyers, extremely poor filing which resulted in delayed money coming back into the firm, oh and insolvent trading.

This is crazy?! What am I doing?! I need a breather, and another person's perspective. I go to lunch and call my friend Barney\* who's a lawyer, and ask him what to do.

He says get out. Go back to the office, grab your stuff, and hightail it out of there.

# A History of the Split Profession

**Kai Liu**

The development of the split profession is largely something of a historical accident.<sup>1</sup> The distant ancestor to the modern barrister, the 'Serjeants-at-law', were an import of the Norman Conquest of the 11th Century. As an aside, this is also why so many older English precedents are peppered with French. From at least 1216, English courts were beginning to limit the rights of audience to 'regular' advocates'.

## The Initial Split

Under King Edward I, the two separate branches were beginning to emerge. A pleading system was established, whereby specially trained serjeants would conduct legal arguments, while an Ordinance of the King placed legal representatives under judicial control, ending the clergy as lawyers in the Court.<sup>2</sup>

## Solicitors

Originally, Courts would require litigants to show up, plead their case, and receive judgement<sup>3</sup> However, over time, courts relaxed these rules, and allowed litigants to appoint agents to appear and speak on their behalf. Obviously, lawyers did not appear out of nowhere as a profession, and these agents were not initially professionals.<sup>4</sup> The right to an 'attorney' was declared by Parliament in the 15th Century. As the number of cases and the amount of litigation increased in the 16th Century, the number of terrible, unscrupulous and immoral solicitors increased at the same time. Therefore, in 1605, Parliament enacted the first of what we now would consider to be the solicitor's standards and practices, requiring written statements for fees, and requiring written accounting for disbursements made on the client's behalf.<sup>5</sup>

## Barristers

In England and Wales, barristers operate out of Inns of Court: The Honourable Society of Lincoln's Inn, the Honourable Society of

Gray's Inn, the Honourable Society of the Middle Temple, and the Honourable Society of the Inner Temple. These trace their origins to the late 13th Century, where legal professionals would live, learn, work and socialise together. These societies were the ancestors to the 'Bar'. Beneath the serjeants were the 'apprentices-at-law' and 'utter barristers',<sup>6</sup> who were recognised in 1532 as men 'learned in the law', and in 1590 required a 'call to the bar of an Inn of Court' as the minimum qualification for rights of audience before a higher common-law court. In 1596, the QC or KC (also known as a 'silk') rank of barrister was established, and by the 19th Century, no more serjeants were appointed. Barristers and 'silks' now comprised the entirety of the Bar.

## The Formalised Split

However, from the 16th Century onwards, the Privy Council, the Judiciary, and the Inns of Court themselves began excluding attorneys and solicitors from membership of the higher prestige inns.<sup>7</sup> Because of the way the judiciary works, only those who are 'called to the bar' are entitled to appear before the Court to argue cases. By excluding solicitors from membership of the Inns of Court, it essentially made it impossible for them to be called to the Bar, and so restricted the right of appearance to those barristers who were members of the Inns of Court.

## Conclusion

It's really this exclusion of solicitors and attorneys (who have since been combined) that solidified the split profession. Although we can see that the profession had been split to some extent from 1216 onwards, it wasn't made explicitly formalised until the Inns began excluding solicitors, preventing them from being called to the Bar, and removing their rights to appear before a higher Common-Law Court.

**Kai Liu is A Third Year JD Student**

By this time it's about 1:45pm (our meeting is in 15 minutes). I rush back to the office, look down at Wilma while shoving my stuff in my bag, and tell her what I'm doing; I feel a bit guilty to be bailing on her. She looks up at me, smiles, and says she's going to do the exact same thing.

We headed to the elevator and my heart was thumping in my chest. What if he was in the elevator on his way up? What if we saw him in the lobby? I was frantically planning excuses in my mind as the elevator door opened, but to my relief Fred was nowhere to be seen.

Wilma and I wished each other all the best and parted ways. I jumped on my bike

and headed over to Barney's office to fully catch him up on my mad Monday.

I arrived at Barney's office, Fred texts me (it's after 2pm now) asking to delay the meeting to 2:30pm. I say I'm not coming back. I don't wish him good luck or say goodbye.

As shitty (and stupid on my part) as this experience was, I found it strangely invigorating. If anything, it shows that I payed (some) attention in Corporations Law and have a moral compass – I know that Fred is not the sort of lawyer I want to be. It also makes for a good story, I guess.

**\*names have been changed to protect identities**



# STUFF WE APPLIED FOR - AND DID NOT GET

**Loraine MacDonald, Sophie Kaiko and Madeleine Lloyd**

It's almost that time of year again. There are networking events all over the joint (oh hai free alcohol just lying around!), and daily pangs of anxiety from seeing everyone else in a suit and wondering which memo you've missed this time. The spectre of clerkship/summer vac applications looms over the entire law building, whether you're applying for them or not. Knowing that there are a smaller number of clerkships/ other vacation work opportunities than there are students in this building unfortunately makes application season a competitive time that can lead even us to compare ourselves to our peers and feel as though we've come up short.

By way of procrastination on a fine sunny day, your correspondents found themselves on the grass discussing jobs/scholarships/ etc. we were applying for, and then sharing the even larger number of things we had applied for in the past and been rejected from. Turns out, while we knew all about each other's achievements, we had no idea that everyone had had so many rejections and disappointments. Even from a sample size of 3 (we'll leave those with science backgrounds to work out the statistical significance), hearing that others had experienced an equally large number of failures in their time at MLS made each of us realise that our experiences were not unique, and we all agreed that our past disappointments would not have made us feel so inadequate at the time had we known how common they were.

So, in the spirit of opening up more of these conversations, we have gone through our hard drives, found all (or most of) our applications, and compiled the following list of times we've experienced that sweet sting of rejection in the last 2.5 years. The purpose of highlighting these failures is not to complain (those who did get these opportunities undoubtedly deserved them!), but rather to acknowledge that failure is a huge part of the experience at law school, and that when we publicise our successes and hide our failures we create a culture of unrealistic expectations.

## Sophie's List

### Work things

- ▶ 5 paralegal positions that I never heard back from at all;
- ▶ Research assistant for a lawyer in the city who I knew lots about and really liked (didn't even get an interview);
- ▶ Volunteering position at 2 local Community Legal Centres that I never heard back from;
- ▶ Advertised paralegal positions for 1 sole practitioner, 2 barristers, and 1 boutique firm (interviewed for, but did not get);
- ▶ 1 international summer work

scheme which I was rejected from after the final interview.

### Law School things:

- ▶ Postgraduate tutor and editing position with vague law connection;
- ▶ Global Lawyer and International Institutions subjects 2015;
- ▶ STS tutoring position 2017

## Madeleine's List

### Work Things:

- ▶ A three-month internship in a Victorian government department;
- ▶ Cold-call applications to about 8 employment law firms in Melbourne (no response from any);
- ▶ 5/10 public service graduate positions applied for to date (mostly through being knocked out at the online testing stage);
- ▶ Advertised legal assistant position for employment law barrister (no response);
- ▶ 2 advertised paralegal positions working for work-from-home vaguely commercial sounding firm (no response);
- ▶ Advertised call centre job at large national law firm (no interview);
- ▶ All commercial summer clerkships I applied for (which included two top-tier firms, one mid-tier firm, one rather large lefty firm, and one government organization)

### Law School things:

- ▶ a CSP place at MLS (omfg someone said that out loud?);

## Loraine's List:

### Work things:

- ▶ Overseas summer vacation program (knocked out at the online testing phase);
- ▶ Summer vacation position at a financial service firm (got all the way through to final partner interview, then got rejected);
- ▶ At least 15-20 (this is not an exaggeration I swear, there are

around this many cover letters saved in my computer, and there were a bunch of others that only required a CV so I have no record of them) applications for jobs advertised on the careers website;

- ▶ One paralegal job that I actually got an interview for, and then was unsuccessful;
- ▶ Job at the law school that I interviewed for and then was unsuccessful;
- ▶ At least 6 applications (again, this is how many cover letters I could find in my computer) for legal volunteer positions that I never received responses from;
- ▶ Volunteer consultant role at a student run organisation.

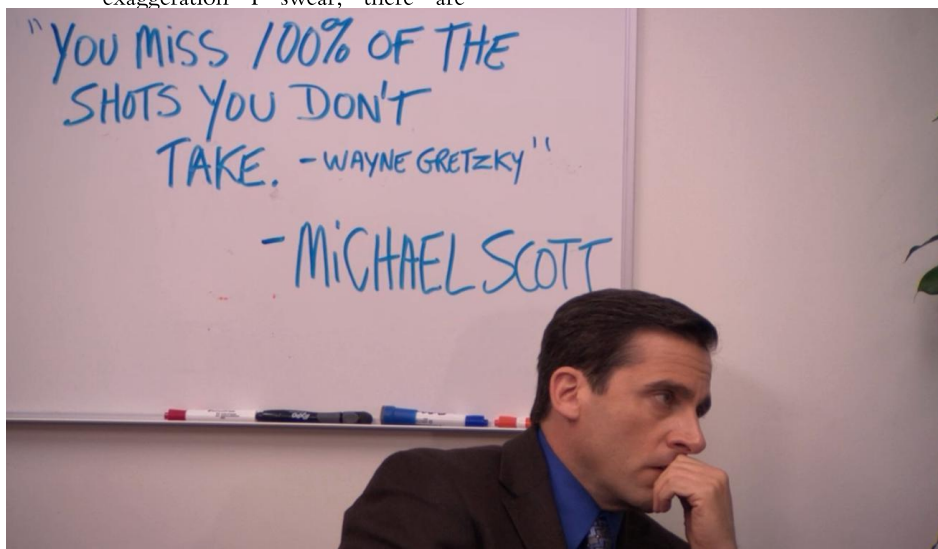
### Law school things:

- ▶ Admin assistant at MULR (sorry MJIL, I swear this was before we were exclusive!);
- ▶ LSS co-op position (2016);
- ▶ STS tutor 2016 and 2017;
- ▶ Facilitated study group leader 2016.

BUT, as much as some of these rejections really got us down at the time, we have also had some really fun and exciting experiences at law school! Even though there is probably a hit rate of one success to every 10 rejections, the successes have absolutely made it all worth it.

This building is full of highly competent and driven people all applying for a very small number of opportunities – we can't all succeed all of the time. Hopefully what we can do, however, is be a little more open about those things that we didn't succeed in so that we don't have to feel alone in our failures. So please don't feel alone when you get those rejections. We have literally all been there. So many times. Have a cry to your friends/ mum/ dog, pick yourself up, and move on to the next thing. Because, statistically speaking, the next success is likely to be only another 10 rejections away!

**Loraine MacDonald, Sophie Kaiko and Madeleine Lloyd are Third Year JD Students**



# How To Win Clerkships and Alienate Failure

Nicholas Parry-Jones

I'm a smidge older than the majority of my cohort. While that age grants me no authority, it does beget me having more experience. Job wise, I've been around the block a few times: I've worked in start ups; for up starts, in hollywood films; in tech; as a referee; as a competitor; for an illegal call centre; for a legal call centre; for international media companies; for local blogs. I've been a bartender, a rule bender and a Russian language comprehender. I've worked in security, as security and around security. I've worked with the homeless; with kids; with refugees (while homeless). I've been in lawyer's offices, courtrooms and prisons, sometimes even of my own free will.

Basically, I've attended a lot of interviews in my time, so here are my top tips on landing the top job (which will invariably be entry level).

## 1 Know Your Audience

As anyone experienced with stagecraft or adept with Tinder will tell you, the key to getting the job you want is to know what kind of person the other party is looking for. This means LinkedIn stalking the hell out of them. Remember: set your LinkedIn privacy settings to invisible to not look like a creeper and don't worry, if you really needed to see who visited your profile, you wouldn't have read this far. Might as well have a simultaneous stalk tab up open on facebook too; in for a penny, in for a pound.

Once you know what they want, edit your resume and personality accordingly. Don't worry if you've already been invited to an interview so they have your resume. By handing them a new one as you walk in you show that you're dynamic and think on your feet. Employers love that.

## 2 Appearance

Men: dress professionally. Don't go double breasted, nothing too fancy on the suit. A pocket square shows that you're daring. How's that working out for you? Exactly. If you're in good shape, don't be afraid to show it off, wear a shirt that is a little tight, and flash the interviewer your abs on the way out.

Women: It's a double edged sword here, because while men can do better showing their body, women can be seen as unprofessional for wearing anything slightly flattering, yet attractive women are given jobs at a higher rate than unattractive women. You could ask yourself: am I attractive? But that's too hard and subjective. I suggest getting some bonding tape and



attending the interview as a man just to be safe. In short my advice is the same for both genders: don't go double breasted.

## 3 Personality

A lot of businesses are conservative, but there are a fair few on the left wing of the political spectrum. It can be hard to tell from the outset, and even harder to remember when you've spammed every seek.com and my.careers link in your vague criteria. It's best to deflect any questions about your own values and instead focus them on the enemies of each creed. For the right: oppressive fiscal policy; for the left: oppressive social policy. Sound confusing? It is. A nice coverall is to say that you're "angry at what the country is becoming." This seems to elicit nods of approval from both sides of the floor.

## 4 In the Interview

When at the interview stage, they're already impressed with your work history, so now you just have to show them you're a confident go getter! Nepotism is a problem in many industries, particularly the shrinking legal market. You can lean into this opportunity by looking at your most senior interviewer and saying "...D-dad?" with a quiver in your voice. Often, in my experience, this is met with confusion, particularly from females. In order to appear confident, sit with a straight back and speak clearly and loudly. Don't be afraid to lie, in fact I encourage it. Nothing says confidence like lying about your physical abilities in a face to face interview. When they know it's a lie they'll respect your commitment even more.

It's a good idea to bring head shots into every interview. In case they didn't like who they saw, maybe they'd like them better as

Morning Mist or Winter cruelty. A lot of businesses want to appear tech savvy to "innovate" and "pivot" despite never daring to change practices or culture and never even attempting to play basketball. You can use this to your advantage by peppering your sentences with the word "blockchain". Just slip it in there every once and a blockchain while. If there's ever a lull in conversation, steer the conversation back to blockchain, it will pay dividends.

## 5 After the Interview

So you've waited three days and she hasn't called. Worse, the job you interviewed for hasn't contacted you for two weeks. It's over. The best thing you can do is call yourself and ask for areas you can improve. But that doesn't sound very confident does it? An even better idea is to snub them at any and all future events. Yeah, that'll show them.

*Nicholas Parry-Jones is a Third Year JD student and serial interviewee.*

