

# DE MINIMIS

5 March, 2012; Volume 1, Issue 2

## THE MIDDLE GROUND: MARKS INFLATION VS INTEGRITY

MARKS, grades, GPAs - whatever name we call them- are never far from the collective JD conscious. By their nature, law schools are competitive places filled with ambitious high achievers. That's why it's a stimulating place to be, as well as place to forge real friendships based on shared intellectual passions and respect.

I never worried much about marks until I came to Melbourne Law School. One reason for this was that, after years of professional life, I knew the importance of personal qualities in an office environment.

People know little and care less about the difference between H2B and H2A but punctuality, adaptability, emotional intelligence and trustworthiness (to name just a few) are considered indispensable. Moreover, as a serial collector of postgraduate qualifications, I knew that I love learning and thrive in a learning environment.

Then came the first semester marks, and, worse, the second semester's. I, for one, found it hard to get motivated going into a new school year with the knowledge that I would be

burning the candle at both ends just to pass my subjects. The work and the reward seemed out of sync with each other.

The experience also contrasts with what I know of graduate schools in the USA. Having earned a master's from an Ivy League school, whenever anyone at MLS has given me a compliment about the supposed difficulty of that degree, I am quick to point out: "It wasn't ~~not~~ as hard as law at Melbourne!" The unfortunate fact,

perhaps known more in the US than here, is that grade inflation is rampant in the States, linked inextricably to the [astronomical](#) cost of education.

This even applies at prestigious law schools, as I learned at Christmas, when chatting with a friend who teaches the JD at Georgetown University.

She told me that Georgetown doesn't fail anyone because they want the student's money. From her point of view, this is demoralising as it makes a travesty of higher education. If people who should fail get a C, there is an inflationary effect on every mark.

I know from my own experience at Wharton that, unless

you mess up spectacularly, you'll get an A or a B. Perhaps a B- if you're a really lousy student.

In this context, Yale Law's first year grading policy makes sense. The first semester is grade-free. Afterwards, it's 'honors' or 'pass', and theoretically 'fail' as well, though this is very rare.

One student there blogs: "[I]t allows one to ease gently into the work of the law, establish relationships with classmates and professors free from the pressure of grade-induced competition, and direct energy to projects outside the classroom.

'Each of these ... made the first few months of law school among the most engaging and enjoyable of my life (~~I hear this is not always the case~~). ...

'This lack of grades is a life-long gift. It allowed me to construct my identity in law in terms more meaningful to me than grades.'

The context in Australia is very different. Yet I can't help ~~but think there might be merit in the Yale approach~~ [pondering the pros and cons of the Yale approach](#).

*-Bronwen Ewens, 2<sup>nd</sup> Year Student*

## AND THE WINNER IS...

THE student body has spoken, and shall be justly rewarded!

After a long week of excellent suggestions the people, via the all-powerful Facebook\*, have decided that their weekly newspaper shall be called... De Minimis!

One can only presume that this name was chosen as a tribute to the newsletter that was once run by the Law Students' Society circa 1948-1976. The new De Minimis, however, will be slightly different. De Minimis jr. will be sourcing our content from the entire Law school community! All are invited to contribute; students, professors, firms... hell even passers-

by if we're feeling adventurous.

We are more than pleased to take up the De Minimis mantle. I don't listen in class much but I heard rumour that there's this strange concept called precedent and apparently it's pretty cool in Law circles. Besides, what good is a Law publication without a Latin title?

Yes yes, I hear you say, hurry up and get to the reward!

We are delighted to announce that we will be accompanying our weekly newspaper with a brand spanking new website. Rather than force the average Joe McLawStudent to sprint from their Monday class to seize a glorious copy

of the latest De Minimis, you can access all of our articles, past and present, all day, every day! In fact; with the wonders of modern technology, inexplicably undelivered by our namesake, you can even read our newsletter before that Monday class even finishes!!!\*\*

We are delighted to invite you to visit [www.mudemimimis.com](http://www.mudemimimis.com) for all your De Minimis needs.

To posterity... and beyond!

\*Join our group!

\*\*De Minimis does not condone anything short of the utmost attention in class.

*-Chris Forder*

## GETTING TO KNOW... MATTHEW ALBERT

MATTHEW Albert, Melbourne Law School alumnus, barrister, co-founder of SAIL, one of six barristers on the Malaysian Solution (the M61 and M70 cases) High Court cases with less than 72 hours to complete all the work, winner of the prestigious Tim McCoy award in 2011, authentic wunderkind.



### UNDERGRADUATE STUDIES

The majority of students will know Matthew as a PPL instructor. What most may not know is that public law, namely Constitutional Law and Admin Law, were once his most loathed law subjects in school.

“It’s ironic that my least favourite subject was Constitutional Law, and Administrative Law as well. Now I work with them all the time,” Matthew says. “Maybe I was attracted to the fact that they weren’t so easy. They were challenging and more difficult to get my mind around, but once I did, they were hugely satisfying.”

And he readily admits that his Constitutional Law instructor, Professor Simon Evans, was fantastic, so it was definitely the subject, and not the instructor that he found difficult.

### SAIL

The Sudanese Australian Integrated Learning (SAIL) Program was founded by Matthew and a friend while he was in undergrad. When discussing pro bono work, Matthew was quick to point out that if community legal centres are too busy to roster volunteer law students immediately, “just start your own”. Okay, not necessarily a community legal centre, but a pro bono initiative.

SAIL is an ongoing initiative that Matthew clearly takes great pride in running and contributing to. Most notably he stated that “all the volunteers are there for the right reasons.”

### NON-LEGAL CAREER

When asked about why he studied law, Matthew replied that, “aged about 10, I took an informal survey of my grandparents’ friends I admired and the common element was that they were all lawyers.”

However, Matthew has done work with the UN and for “about five or six years” worked for the Commonwealth Secretariat in a non-legal role, focusing on development and governance.

When compared with legal work, Matthew emphasised that he really enjoyed it as he was dealing “with a much larger picture, rather

than dealing with the specific details of a case”.

### OTHER STUFF

Matthew has a mentor, Julian Burnside, who also lends him enough art to cover all the walls in his chambers. Matthew believes that it is a fantastic thing to have a mentor. How does one meet a mentor? The answer for Matthew “We met in the lift at Melbourne Uni one day. I asked him if he needed help with anything, he said yes.” And the rest is history.

If Matthew ruled the world for a day, he would ensure that everyone had a basic legal education, to know “how and why society is governed by laws”.

Best advice ever received: “From my dad. He asked me ‘How do you eat an elephant?’ I had no idea. His answer: ‘You break it into bits and go through it chunk by chunk’.”

*-Dean Edwards, Bronwen Ewen,  
Emma Shortt*

## THIS WEEK IN LEGAL HISTORY: THE HOOP

### MARCH 5, 1963 - HULA-HOOP® PATENTED

On this day in 1963, Arthur “Spud” Melin, co-founder of Californian toy company Wham-O® Inc, finally secured the US patent for ‘Hoop Toy’ after becoming inspired by a bunch of schoolgirls during a 1948 trip to Australia.

Melin, along with co-founder Richard Knerr, noticed the girls twirling bamboo ‘exercise hoops’ around their waists during a gym class.

Upon their return, they created a plastic version and marketed the ‘Hula Hoop’ (dubbed for its ability to produce the famous dance moves required for the

Hawaiian Hula) to playgrounds all around Southern California by enthusiastic demonstration.

Melin attributed the popularity of the toy to its ‘easy mastery’ so long as the user maintained ‘suitable body gyrations’. Once the hoopla died down, Wham-O went on to produce more random stuff that defined our formative years: Silly String® and the 90s grunge favourite, the Hacky Sack®.

Keen to know more? Look up US Patent Number 3,079,728 for proper instructions and more details on how to optimise Hula-Hooping enjoyment.

*-Annie Zheng*

## INTRA-COHORT ROMANCES, DARE YOU CONSIDER ONE?

### DEAR AGONY AUNTS,

I've spotted a guy in my cohort I want to be on. Are intra-cohort romances a good idea?

*-Intra-cohort Romance.*

### DEAR INTRA-COHORT ROMANCE,

Due to lack of sufficient information, Auntie Ethel is going to have to draw some inferences here. Assuming that you are a girl, and the guy you speak of is heterosexual and single, it would be simplicity itself to "be on" him.

At an opportune moment (law camp after multiple beverages come to mind), ask him if he fancies a shag. Chances are good that he will say yes, and you can ride off into the sunset, and you can both pretend

afterwards that it never happened.

However, as Auntie Ethel suspects, what you really want is, in the immortal words of *Love Actually*, "you'd like to marry him and have lots and lots of sex and babies", you will need to take an entirely different approach.\*\* What you need to keep in mind is that the pursuit of an intra-JD (let alone intra-cohort) romance must be undertaken with great caution. Remember that not only are you spending a significant portion of your waking hours in the same building/classroom as your intended this semester, there's a chance that if the relationship implodes, you will find yourself in the same syndicate sometime in the future.

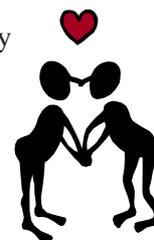
As if group work wasn't already fraught with all the dramas worthy of a daytime soap.

The only advantage that may result from a failed attempt would be many years in the future, when you face him across the table or in court, on opposite sides of a contentious case, when you can channel your years of built up venom and angst into getting him where it hurts the most... His ego.

Though there are always happy exceptions to the norm, Aunt Myrtle has reminded me that an important maxim to live life by is, don't defecate where you eat.

All the best, *Auntie Ethel*

\*\*As found in esteemed publications such as *Cosmo* and *Girlfriend*



### L IS FOR ....

#### LEGALESE.

"The Trustee is not liable for any loss the Trust Fund suffers while the Trustee is acting as Trustee in that capacity unless it is attributable either to the Trustee's dishonesty or to an act or omission by the Trustee which the Trustee knows is a breach of trust."

So many three-letter-acronyms come to mind: OMG, FML, TLA, WTF, LOL.

Why!? Why, after three months of readjusting to the English language, do my printed materials oblige me to make sense of sentence in which a fifth of the words have "trust" in them!? Linguists and my mum might berate Gen-Y for bastardising the English language, but if you ask me "OMG" is a thing of relative beauty. In three letters it conveys meaning, emotion and traverses entrenched socio-economic philological divides... and shit.

What is the purpose of legalese? It only obscures, complicates and frustrates; like a conversation with your girlfriend after you had a date planned, and she said she'd be happy to postpone because she knew you were busy with study so you took her up on that offer but then she got annoyed because you were supposed to deny her offer and go out with her anyway but you didn't because you took what she said at face value and now you haven't had sex in a week.

Maybe that's why I'm single.

And what was all that chat in Dispute Resolution\*\* about access to justice?\*\*\* It's argued that clearer law leads to greater compliance. Well put your money where your mouth is Law! Which, I guess, would be, like, the legislature, or judges maybe. I don't know what the mouthpiece of the law is; I didn't pay attention in LMR.

Legalese is actually a symptom of a greater malaise, like Kevin Rudd to anything.

Law doesn't just employ confusing terminology, it makes nonsense out of average English words: "It is probably true in the

abstract to say that the ranges of uses to which trusts may (legitimately) be put is infinitely variable."

The author's intention here: "I should say something, but don't want to say anything, so I'll use a variety of things, to say nothing."

It's observing precision on crack! (Not to be confused with observing Priscilla on crack; only do that if you're either very straight or very gay).

Which brings me back to my earlier point about sexuality: language should be like sex, it doesn't matter how you do it, or who with, just make it easy to understand.

The only rationalisation for the continued use of legalese I can fathom is that it's self-sustaining. Legalese requires people who use English properly to surrender their money to lawyers... on second thoughts, legalese is brilliant.

*Catch Charles Hopkins at his lunchtime seminar on Thursday entitled "The woes of booking rooms". Location TBA.*

\*\* don't worry, there'll be a dedicated column on this subject before the year is out.

\*\*\* don't worry, there'll be a dedicated column on this subject before the year is out.

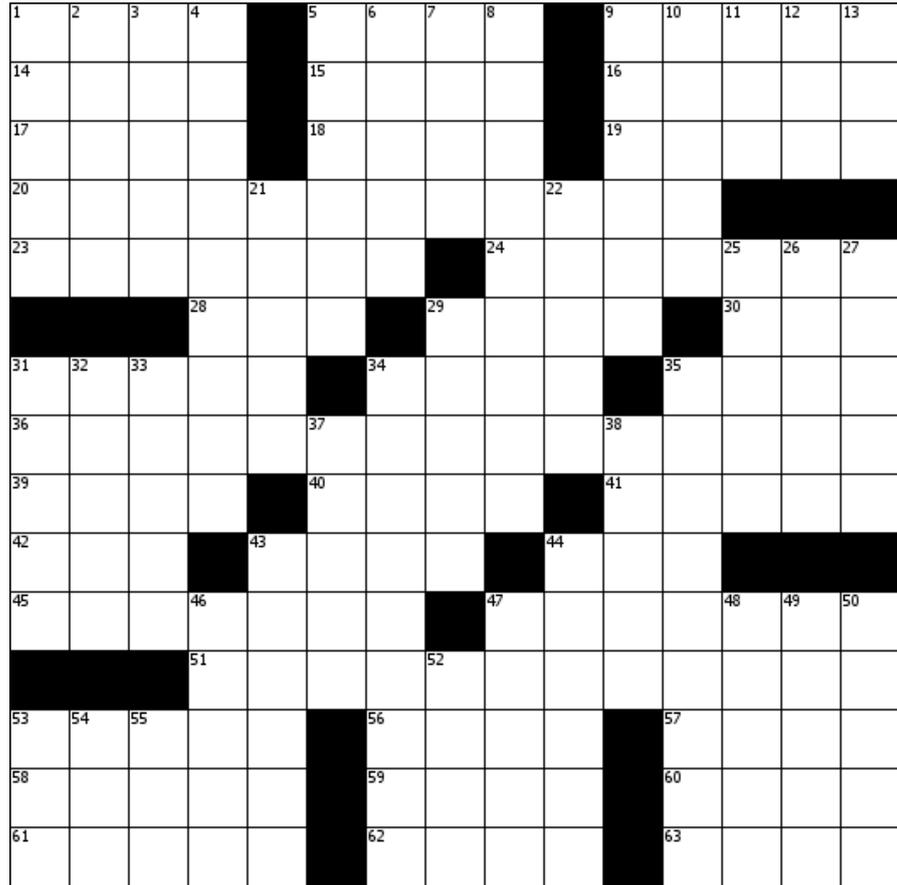
**Across**

- 1. City of Light
- 6. Cracked
- 10. Not quite all
- 14. Sharp angle
- 15. Iditarod terminus
- 16. Capri, e.g.
- 17. "On the Money" quote (Part 1)
- 19. Rate of energy flow
- 20. Female lobster
- 21. Actor Jannings
- 22. Elbow grease
- 24. Snoopy, in his fantasies
- 25. Unagi, at a sushi bar
- 26. "On the Money" quote (Part 2)
- 34. November choice
- 35. Latin I verb
- 36. Teary-eyed
- 37. Type of chamber
- 38. Alaska and Louisiana, originally (Abbr.)
- 40. Lady of Sp.
- 41. Scottish Highlanders
- 43. Course for future M.D.s
- 44. Ugandan despot
- 45. "On the Money" quote (Part 3)
- 48. Uncertain syllables
- 49. "\_\_\_ up or shut up!"
- 50. Raise to the second power
- 54. "God \_\_\_ our side"
- 56. Swinging joint?
- 59. "That hurts!"
- 60. "On the Money" quote (Part 4)
- 63. Boar or buck
- 64. Start to byte
- 65. Edmonton athlete
- 66. Cheese-producing town

- 67. Editor's "let it be"
- 68. Grammy winner Judd

**Down**

- 1. Garden walk
- 2. Workout woe
- 3. Wrack's partner
- 4. "\_\_\_ my Party"
- 5. Deepest of the Finger Lakes
- 6. Pro foe
- 7. Book before Amos
- 8. Start of Cain's query
- 9. Sow anew
- 10. Offend
- 11. 1993 peace accords city
- 12. Utter indistinctly
- 13. Written words
- 18. Western dish
- 23. Jetted
- 24. Time-honored
- 25. Antonym of release
- 26. In the neighborhood
- 27. Lucy Ricardo's pal
- 28. Pays for the meal
- 29. Is a breadwinner
- 30. Add more seasoning to
- 31. Manhattan Project notable
- 32. Kind of nerve
- 33. "Saving Private \_\_\_"
- 34. Lyra's brightest star
- 39. Tossplot's state
- 42. Fortuneteller
- 46. Goes to pieces?
- 47. Big toe woe
- 50. To a degree
- 51. College campus area
- 52. Pac-10 team
- 53. "Excuse me ..."



- 54. Twiddling one's thumbs
- 55. Dalmatian feature
- 56. Sainly symbol
- 57. Agenda unit
- 58. Prefix with scope or meter
- 61. Lousy egg?
- 62. By way of

Courtesy of:  
[http://www.onlinecrosswords.net/  
 printable-daily-crosswords-3.php](http://www.onlinecrosswords.net/printable-daily-crosswords-3.php)

6			9	5		1	3
	3		8	1			
		9	3	2		5	
9		1	2				
5						6	
			4	6	3		
1	5		6			8	
			5			1	
8							

Do you have something you want to see in this paper?

Contact us via our Facebook site:

<http://www.facebook.com/groups/jdnewspaper>

Do you want to contribute to this paper?

Follow the same steps as above