

DE MINIMIS

MONDAY, MARCH 12, 2012

Re-established 2012

VOLUME 1, ISSUE 3

Women in Law

In 1903, Grata Flos Matilda Greig graduated — ranked second on the honours list — from the University of Melbourne, becoming the first woman in Victoria, and second in Australia,* to attain a law degree. However, the legislation at the time of her graduation did not allow women to practice law.

Following the enactment of the *Women's Disabilities Removal Act 1903* (Vic), passed with the help of MP John Mackey (one of Greig's lecturers), Flos Greig became the first woman in Australia admitted to legal practice in 1905, and joined Cornwall Stodart as a solicitor. Nicknamed the "Flos Greig Enabling Act", s 5 stated: "No person shall, by reason of sex be deemed to be under any disability for admission to practise as a barrister and solicitor of the Supreme Court of Victoria any



From left to right: Women's Officers Helen Santamaria and Clare Moss at the IWD "Cupcakes and Champagne" Event

law or usage to the contrary notwithstanding."

In an article entitled 'The Law as a Profession for Women', written by Greig for the *Commonwealth Law Review* in 1909, she opined that '[t]he first women lawyers are hardly likely to make fortunes. The pioneer never does ... Nevertheless the legal profession is likely to prove of increasing interest to women'. Greig also thought that while a barrister's work is more interesting, and women are more than capable of meeting its demands, 'there will require to be several women well established in practice as solicitors, before one is likely to succeed as a barrister'. The most recent statistics from the Legal Services Board of Victoria show the accuracy of Greig's predictions.

continued on page 4

Judgment Watch

Kill, pitbull, and homosexual relationships

***Perez v Fernandez* [2012] FMCA 2** – moral integrity and rapper's rights.

The Federal Court recognised a moral right to integrity, ruling a DJ who remixed song 'Bon Bon' by artist Pitbull had subjected him to 'derogatory treatment'.

Fernandez downloaded the song without permission and edited it to include his name. Driver FM found what was required to establish a finding of derogatory treatment was anything 'prejudicial to the author's honour or reputation' and that a listener might think that Fernandez's version was the original. He awarded Pitbull \$10,000 for 'distress caused by the infringement of moral rights'.

The 'Bon Bon' song isn't an of Pitbull's but a combination of samples he raps over. Lyrics include

'When it comes with women I don't taste them, I replace them' and 'You must know that a fat ass I lust for'. I'm delighted Pitbull's moral right to remarkable poetic introspection conveying modern struggles with lust and ladies are being protected by our courts.

***Estrella v McDonald* [2012] VSC 62** – trusts, shame and the dearly departed

A Victorian man has been awarded \$300,000 from the estate of his deceased partner, with whom he lived in a homosexual relationship.

The plaintiff was left out of his partner's will and sought maintenance per s 91 of the *Administration and Probate Act 1958* (Vic). Lansdowne J interpreted the Act as not requiring a relationship of any particular character. His honour followed *Forsyth v Sinclair* [2010] VSCA

147, finding a partnership of 'shared significant moments' and 'deep and intimate affections'.

The dispute centred around whether a relationship existed at all. The deceased's family insisted the plaintiff lived with him as a lodger for fifteen years and emphatically denied he was gay. They testified that the frequent trips the plaintiff and deceased shared were platonic, the gay porn found in his room was irrelevant and his ex-wife said "having younger men around was a normal part of his life. He enjoyed their company. I think it kept him young".

Evidence showed the deceased was deeply ashamed of his sexual orientation. The statutes may be interpreted tolerably but prejudice is still in court.

continued on page 3

Getting to know Gerry Simpson

Having taught, and been educated, on three continents, Gerry (pronounced with a hard G”) Simpson



– who teaches Public International Law – is ideally placed to give an insider’s account of law schools globally and what makes Melbourne Law School unique.

Community Engagement and NGOs

“Melbourne law students are very informed and intelligent and they often display a keen social conscience”, says Gerry. “What sets Melbourne Law School apart in my field is the astounding intellectual quality and ambition of my friends and colleagues on Faculty. The students, too, are terrific. I am glad to say, the culture of “networking” and thrusting self-promotion found in some US law schools hasn’t arrived here yet”.

Many Melbourne students are eager to pursue public interest work. Gerry has worked for many NGOs, including Interrights, and UNPO. His advice to prospective public interest lawyers: “Focus narrowly. Think hard about your

ideals and goals. Never stop asking what you want and believe in, and keep your actions in line with your beliefs. Most of all, be brave and kind”.

The Melbourne Model

Gerry says there are significant benefits in studying law at the graduate level. “JD students should bear in mind that their undergraduate studies will enrich and inform their learning. Literature, for example, teaches us that life can be viewed from a myriad of perspectives. This contrasts with the law, which can seem imperious”, says Gerry, adding that every law student could benefit from studying the humanities.

Wars, Cars and Values

Gerry has written several books. The most recent, *Law, War and Crime*, was published in 2008. One book that has had a profound influence on him is Hannah Arendt’s *Eichmann in Jerusalem*. “The great ethical and moral dilemmas explored in Arendt’s book are timeless. I find myself returning to it again and again, finding more and more to agree and disagree with.”.

Gerry is, however, sceptical about the use of armed intervention as a means of promoting social justice and human rights. He has

appeared on the BBC explaining the illegality of the Iraq invasion and questions the motives behind resource wars.

Inspiration and Changing the World

Although hesitant to identify any specific advice that has influenced him, Gerry noted the power of inspiring teachers – in his case, John Rankin, who taught him at the University of Aberdeen and is now the British High Commissioner to Sri Lanka. He also has drawn inspiration from literature and poetry. His current recommendations for JD students are *The Great Gatsby* and *The Line of Beauty*.

He is forthcoming about how we could all play a role in making the world a better place. When asked for a concrete policy prescription he said: “After tripling the mining tax, if I could change one thing in Australia it would be our dependence on cars. I’d tax them at an exorbitant rate and get cars off the streets and children back on to them. The captured revenue would then be used to finance job mobility in the car industry and free public transport for low income earners. After that I’d move on to the global maldistribution of wealth!”

-Dean Edwards, Bronwen Ewens

THIS WEEK IN LEGAL HISTORY

March 15, 1985 - First .com Domain Name Registered

This Thursday will be the 27th anniversary of the first registered domain on the Internet, symbolics.com.

The domain belonged to a Massachusetts computer manufacturing company, which was established out of the then infamous MIT hacker community. The term ‘.com’ had intended to reflect its

registration by commercial organisations, although this was eventually made redundant upon the arrival of ‘.org’ and ‘.net’ domains for unrestricted registrations.

Legal disputes in this area usually arise in the context of cybersquatting, where someone with no legitimate claim or interest in a trademarked name pre-emptively registers it in bad faith with the intention to either sell the name, prevent the trademark holder

from accessing it, or direct web traffic away from it.

The power of the .com should not be underestimated - Sex.com is the most expensive domain name ever created, currently valued at \$13 million. As of 2012, more than 95.5 million registered domains exist (including <http://mudeminimis.com/>)

For more compelling facts on the world’s oldest .com, visit <http://symbolics.com/>.

-Annie Zheng



L IS FOR...

Latin. The week before last, the name of the newspaper was decided by popular vote: *De Minimis*.

Should this have surprised me? The only faculty in the university to have their own newspaper (I assume – I have no evidence to substantiate this claim) and we pick a Latin title.

The pretentiousness of this newspaper-initiative is reaching critical mass. All we need now is to hire Monash students to hand-make the paper on which *De Minimis* is printed, and the ostentation would open the gates of pretentious-hell; out would spurt organic fruiterers, 60 year-old Brighton women driving Porsche Cayennes, and anyone who buys aloe vera tissues. Just buy normal tissues! They're only at your nose for like, half a second before you're blowing air out of your nostrils! By that stage you can't smell anything!

I mean Latin? Really? Who uses it now apart from opportunistic private-school kids and wankers? Or to rephrase that question: who uses

Judgment Watch (continued from page 1) by Claire Marshall

Western Australia v Kuzimski [2012] WASC 67 – death, juries and bad ink
A man accused of murdering two women disputed the use of a photograph of a tattoo in the bundle of evidence provided to jurors. Jenkins J considered the effect of the photo on the jury's decision in the context of his duty to ensure a fair trial, and gave them a 'firm direction' to not let it factor in their verdict. Nevertheless, they found him guilty. A note to aspiring defendants: if you're contemplating murder, don't get 'KILL' inked to your knuckles.

it now apart from wankers?

The JD student who proposed the Latin name did so because he's "a huge fan of revivalism". You know who else are fans of revivalism? Misogynists and racists.**

De Minimis mark one was first released in 1948; and I'm not criticizing the namers of that publication because maybe it was cool back then, like Andy Warhol and smoking; but times have changed. That stuff isn't cool anymore. Latin is dead, like journalism and the written word.

I think the real problem in arriving at the name was the democratic approach. What has democracy provided us with? Xenophobic immigration laws, marriage inequality and Guy Sebastian.

The translation doesn't even justify its usage; it stands for "as the

law does not concern itself with little things, it is the function of this magazine so to do." Firstly, I'm suspicious of any language that can say that much stuff in one-and-a-half-words. Secondly, I find it patently incorrect; in my experience that's all the law concerns itself with (cue two hour lecture on the meaning of "interview"). And thirdly, this publication *does* concern itself with the big issues! Have you not read my last two articles?

The only recourse now is to ditch the name and run with something less pretentious. Any of the following satisfy this criteria: 'The JD Times', 'Only pick this up if you regularly eat wagu' or 'JDs be better than all you bitchez'.

Charles Hopkins has just started a music blog. He only distributes the URL to those trendy enough to already know it.

****Nick Baum is neither of those things, and ladies: he's single.**

ASK AGONY AUNT



Dear Agony Aunts

I've been so excited about starting uni, and have signed up for every activity I can find, but after only two weeks, I am already falling behind with readings. How do I keep up?

- *In Need of Sleep*

Dear In Need of Sleep

Aunt Myrtle has seen her fair share of enthusiastic young whipper-snappers in her time. Used properly, enthusiasm can help you make the

most of your time at uni, and gain fantastic experiences and opportunities. Sadly, the flip side is that you could take on too much and burn out, inevitably leading to you dropping out, getting a job at Wendy's, and serving their delicious milkshakes until your bunions and bitterness force you into an early retirement.

Being the grand old dame of research that she is, Aunt Myrtle has discovered that 'enthusiasm' comes from the Greek word *entheos*, meaning 'possessed by a God'. This being the case, use your divine

motivation, and try a few of the activities on offer. Let go of the ones that are less interesting to you, so that you can enjoy the little things like sleep and a social life. This will also help you dedicate your enthusiasm to the ones you do take on.

If in doubt, just look at The Shining for further reinforcement, and see what happens to Johnny when he takes on too much. All work and no play makes Jack a dull boy, and clinically insane.

*All the best,
Auntie Myrtle*

Women in Law continued from page 1

As at 31 January 2012

Registered Practitioners by Age and Gender (Vic)

	Age in Years						Total
	20–30	31–40	41–50	51–60	61–70	>70	
Male	1,356	2,213	1,957	2,224	1,346	296	9,392
Female	2,276	2,706	1,421	796	203	28	7,430
Total	3,632	4,919	3,378	3,020	1,549	324	16,822

Registered Solicitors and Barristers (Vic)

	Type		
	Solicitors	Barristers	Total
Male	7,966	1,426	9,392
Female	6,952	478	7,430
Total	14,918	1,904	16,822

Women make up 44% of the overall number of registered practitioners, and the chart shows a steady increase over the last 50 years, from 8.6% to 63% over the last 50 years. However, there is still a marked imbalance between solicitors and barristers, with women only constituting 25% of the barristers, in comparison to 87% of the solicitors. This is similar to the proportion of female judges, which is 32% across all jurisdictions.

There is also a significant disparity at the partner level, women making up only 16% of partners, and 2.6% of the managing partners in Australia as at December 2008 (Australian Legal Business Week). The long hours, and the difficulty of balancing this with family commitments has been cited as one

of the principal reason for this, along with lack of mentoring and role models. Many firms now seem to recognise the need for, and have put in place initiatives to facilitate women reaching the partnership level. Last year, 33% of the new appointees were female, *The Australian* reports.

This unfortunate disparity between men and women, in law and otherwise, is one of the focuses of International Women's Day. IWD is celebrated annually on 8 March. With more than a century's worth of celebration, IWD has fulfilled a role of honouring women's advancement while maintaining a banner of the need for continued vigilance and action to ensure that women's equality is gained and maintained in all aspects of life.

The MLS celebrated IWD with the annual 'Champagne and Cupcakes' event hosted by the LSS Women's Officers, Clare Moss and Helen Santamaria. The women's portfolio seeks to address many of the inequalities women still face in law. Some of the events for the coming year include 'Afternoon Tea with Women in Law' and guest speaker presentations on a variety of issues.

-Haram Kwon, Emma Shortt

**Though Ada Emily Smith was the first woman in Australia to complete a law degree in 1902, NSW did not enact legislation allowing women to become legal practitioners until 1918.*

Hi Readers,

Do you want to see the crossword brought back? If so, let us know on Facebook, or send us an email at jdnewspaper@groups.facebook.com.

We're looking for submissions for "Overheard at Melbourne Law School". Did you hear something funny this week that you just need to share with someone? Maybe something so outrageous you can't believe someone had the audacity to say it aloud? Share it with us and we'll share it with others.

Agony Aunt: if you have a question, query or concern about your time at MLS, send it over to those advice giving Aunts, at jdnewspaper@groups.facebook.com with "Agony Aunt" in the subject.

If you have something you want to write about, please send an outline of the idea to Emma Shortt at eshortt@student.unimelb.edu.au. It can be about pretty much anything and everything, something about your summer, a complaint about the law school, something you want to see changed, something you're looking forward to, your law camp experience from last year. If you want to contribute in other ways, artistically, editorially or otherwise, please send an email expressing your interest.

I hope you're enjoying the content in this publication so far. If there's something you think it could use, let us know.

Happy 3rd week of the semester (in 5 days, you'll be 25% of the way through semester one).

		5		7	9		
1	4			2			3 7
		2	4	8	7	5	9
8	1	7	2				
					1	7	
		8	3	1			6
9	2						
					8		