

DE MINIMIS

MONDAY, MAY 14, 2012

Established 1948; Revived 2012

VOLUME 1, ISSUE 11

Obama, Hollande and Key say 'oui' to gay marriage; Gillard unmoved

One of the first things students at MLS learn is that Australia is the only OECD country without a Bill of Rights. Related to this inglorious distinction is our increasing marginalisation of the rights of same-sex couples to marry.

US President Obama made international headlines this week by stating his personal support of same-sex marriage. President Obama's public announcement was all the more principled and brave in that it came just one day after a referendum in North Carolina, a swing state, approved a ban on same-sex unions of any kind in the state's constitution. As *De Minimis* readers are aware, the president is up for re-election less than six months from now, with the Republican Party sure to use his statement as ammunition in the culture wars that dominate the American political scene.

The legalisation of gay marriage was a plank in the winning electoral platform of French President-elect François Hollande and the necessary legislation should go through within 12 months.

On the other side of the world, New Zealand's prime minister, John Key, of the centre-right National Party, piped up that he was not opposed to same-sex marriage.

And in Australia, Julia Gillard announced that she was opposed, always had been and always would be.

Among UK political figures, David Cameron and Tony Blair support gay marriage, in Cameron's case, 'because I'm a Conservative'. They live on a continent where the issue is no longer particularly controversial. The Netherlands was the first jurisdiction to legalise same-sex marriage, in 2001. It was swiftly followed by Belgium, Spain, Norway, Sweden, Portugal and Iceland.

In North America, Canada legalised gay marriage in 2005. Six U.S. states and the District of Columbia allow it. In Mexico, gay marriage is recognised nationally, though weddings are only performed in Mexico City.

In the Southern hemisphere, Argentina and South Africa allow gay marriage, as does one Brazilian state, Alagoas. Civil unions conferring exactly the same rights as marriage are legal for same-sex couples throughout Brazil.

The prospects in Australia are grim. Gillard might be on her ninth political life, but possibly the only political figure more opposed to gay marriage is the one poised to become PM, Tony Abbott. With such reactionary views on the part of its political leadership, Australia might get around to legalising gay marriage some time in the next century, long after it has been endorsed by the Holy See, Saudi Arabia, and Swaziland.

Bronwen Ewens

The Socialist President: Is it All Over for France?

No. It isn't. But what does it mean for France to elect a socialist President?

François Hollande's election continues a trend of anti-austerity elections across the European Union, and the President-elect has set a renegotiation of the EU fiscal pact – to reduce spending cuts and focus on 'growth' – as one of his first challenges.

True to form, Britain is opposed to the proposal. Angela Merkel's response was blunt enough – "I expect France to implement the fiscal pact unchanged."

But it appears there might be room for slight compromise around the edges, with European Commission President José Barroso suggesting an 11 per cent increase on EU spending by 2020.

Suffice to say, I don't expect Hollande to single-handedly break the European Union before this goes to print. (Although in love, war, and Europe's economy, anything can happen.)

Amongst other policies, Hollande is expected to reform abortion funding and the prohibition on euthanasia, to legislate for gay marriage and adoption, and to legalise embryonic stem cell research. For

those radicals amongst us who believe in a woman's right to choose, equality regardless of sexual preference and the importance of reasonably unfettered scientific endeavour, this is progress. But this puts him in Joe Biden [and Obama] territory, not Trotsky-land.

The most "socialist" policy Hollande touts is a reported 75% tax rate for incomes over a million euros, although the substance is much less drastic than much of the commentary has suggested. The 75% bracket applies only to income earned over one million euros, with lower rates applying for the first million of that income. On Hollande's proposed system, a successful worker (most likely a pastry chef) on two million euros will pay an effective tax rate of around 59%; high, yes, but something short of revolutionary.

I lived in the north of France for a few months following Sarkozy's 2007 election, and remember clearly the hard-line, Kevin-Andrews-with-even-less-tact approach he took towards minorities – Islam, in particular. I don't mean to suggest that France didn't, and doesn't still, have significant social issues to deal with, or that Sarkozy is the worst offender; but there are appropriate ways of discussing multiculturalism, and 'with a demagogic

cricket bat' is not one of them.

Sarkozy is the sort of man who has both the audacity to be seen wearing a €55,000 Patek Philippe wristwatch whilst promoting austerity measures, and the political incompetence to be seen removing it before immersing himself amongst his own supporters. Lest you feel bad for him, I'd suggest only that a man who goes home to Carla at the end of the day has scarce to complain about.

It's doubtful that some 51.7% of voters supported Hollande thinking that he would mount a revolution against the bourgeoisie, destroy their control over the means of production, and sit back idly as the state withered and people learned to love each other. The "socialism" Hollande espouses appears no more radical than free-market social democracy.

Orwell wrote in 1946 that the word 'socialism' had divergent, irreconcilable meanings. Seventy years (and Michelle Bachmann) later, that clarity has hardly improved. Whatever one means by it, one conclusion flows from the recent French election: either Hollande is not a socialist, or we all are.

Doug Porteous

ALUMNI INTERVIEW: ATHOL BIRTLEY

Athol Birtley graduated from Melbourne in 2007 with Bachelors in Computer Science and Law. He started as a grad at Allens but decided law wasn't for him. He quit and is now working part time as a hotel porter and spending his spare time writing movies and TV shows. De Minimis reporter Emma Henderson asks him why he left the law.

For Athol working in law wasn't all bad. "I met a lot of interesting people, made a lot of good friends, and visited places I never thought I'd visit, like Beijing, and Brisbane."

But he decided it wasn't for him. "I wanted to entertain, make people laugh – and you can only fail hilariously in court so many times before they take away your practising certificate."

Athol thinks his law degree is less versatile than law schools would have you to believe. He has yet to find a use for his legal skills in his new career. "But ask me again once I've negotiated my first sale and you might get a different answer."

At law school Athol did a fair bit of negotiation on the basis that you didn't need to prepare. "I have since been told that

the key to a successful negotiation is preparation, which might explain why we never made it to the final."

"I tried to avoid anything that sounded like it would "look good on a resumé."

How you might wonder did he land a graduate position at Allens? "Some people would say it was my marks, but in my interview at Allens they commented on my experience as a paperboy during primary school, so maybe it was that?"

Where does he see himself in five years? "In the credits of that movie you just watched and really enjoyed."

For advice Athol wishes he received earlier have a read of this article:

Patrick J Schiltz, 'On Being a Happy Healthy and Ethical Member of an Unhappy Unhealthy and Unethical Profession' (1999) 52 Vanderbilt Law Review 871.

(http://www.vallexfund.com/download/Being_Happy_Healthy_Ethical_Member.pdf)

STAFF INTERVIEWS: GETTING TO KNOW JASON BOSLAND

Jason Bosland's sunny personality and warm smile are known to his many MLS students – he teaches, or has taught, Property to JDs, and both Trademark Law and Media Law to JDs and LLBs.

Jason's LLB and LLM are both from Melbourne, as is his BA in Cultural Studies. He also holds an LLM from The London School of Economics and Political Science. In his post-graduate degrees, he specialised in, respectively, Intellectual Property and Media Law.

'Intellectual Property appealed to me from the beginning', he explains. 'I enjoyed it, the most of the LLB subjects. I think there's a connection with my interest in language, which I studied in depth in my Arts degree. Trademark Law, especially, is closely linked to linguistics. In terms of Media Law, I am passionate about such subjects as freedom of speech and how competing interests, and freedoms, play out'.

His least favourite subject was Criminal Law, which never really resonated with him.

In addition to his enthusiasm for his subjects, Jason enjoys the scope for interaction with students and other faculty that an academic career allows. The opportunity to explore ideas and to exchange them with others makes academia a fulfilling career. 'I even enjoy it when people disagree strongly with me, and take issue with something I've said', he says.

Outside the "Law World"

If he wasn't a law academic, Jason would be an English or Legal Studies teacher, 'or a landscape designer. That also offers scope for self-expression and creativity, as well as the chance to connect with nature. For now, gardening is my hobby'.

Jason enjoys home and family life. He and his partner, Luke, dote on their two dogs, Lucy and Stanley.

He also likes travelling and his favourite destination is Italy, especially Naples and the Amalfi Coast. In addition to the cultural and scenic attractions there, visiting provides a chance to catch up with Luke's family.

Instead of naming anything he dislikes about being a lawyer, Jason focuses on types of behaviour or personality, not unknown in legal circles, which he finds off-putting. 'Competitiveness, egomania, one-upmanship, self-importance – they aren't my style at all. This is not to say that achievement and excellence shouldn't be celebrated. They should – but they ought not to come at the expense of other people.'

Jason is not one to proselytise, but if he could change one thing in today's world, it would be the amount of meat people consume. 'I became a pescatarian five years ago, out of concern for the environment and also for animal rights, and I haven't looked back since.'

Some Friendly Advice



Enjoy your time at law school. Don't become tunnel-visioned, focusing on marks to the detriment of engaging with fellow students and faculty. Don't let stress cloud your experience - that can actually get in the way of learning. I didn't undertake articles and it worked out fine for me, as it did for everyone else I

know who went on to a range of different careers after a law degree. Relax a bit and enjoy!

Bronwen Ewens



L IS FOR...

L is for loaded questions

By week 11 lecturers have returned results for mid-semester. You'd think the results themselves would be the most anxiety-inducing element of that process; not so! I keep having this recurring dream that I am the secret ingredient in a *Masterchef* challenge and as I approach Matt Preston's mouth I wake up in a cold sweat.

But the results aren't even the second-most nauseating experience! The loaded questions are.

"Have you picked up your assignment yet?" equals "Tell me your results". "Were you happy?" equals "I'm trying to be somewhat subtle but I want numbers." "I was so relieved, how did you feel?" equals "I f***ing nailed it and my appetite for self-validation and domineering sex is insatiable."

The other approach I've encountered is where people tell you their marks and expect an accurate response, which always gets awkward. Once someone said to me "I'll show you mine if you show me yours" but I didn't want to show the person mine, and there was an uncomfortable silence because we were each wondering about the other person's... marks.

The intent behind these attempted facile queries is patent self-motivated inquisitiveness (thank you thesaurus.com).

But that motive is only half the problem. What is most frustrating is the notion that the questioned is oblivious to said

motive, and yet the questioned never responds with "mind your own business"; it's always something equally as dressed up in civility. This ritual tango is like a friendly greeting between Kevin Rudd and Julia Gillard, Peter Costello and John Howard, or Simon Breheny and Antony Freeman.

This masquerading is the smoke of a more profound fire – Western society privileges decorum over sincerity. But why?!

What society labels "bitchy" I think of as "refreshingly candid", "in-your-face" as "keen to engage", and "Franc" as "a currency which Europe is wishing the French hadn't abandoned". In the vein of being upfront, I don't know if that last word-play even makes sense.

If you want to know my marks just ask me! I'll still refuse but I'll respect your balls, or... vagina? No, that can't be the equivalent. What produces oestrogen? Is that even relevant? Probably should've paid more attention in Sex-Ed, or bothered to Wikipedia this when writing.

Maybe a solution is for faculty to release averages because that always appeases and pleases everyone. Not! God I love sarcasm because it's always really funny!

Or maybe we should take a leaf out of the Gillard Government's book and respect everyone's privacy.

I guess the other solution is that, from here on in, I tell everyone my average and thereby remove the basis of the questions. So here goes: for LMR I got 'satisfactory', for Torts I got- (due to printing costs the entirety of this article could not be printed).

Charles Hopkins is not the subject of any Fair Work investigations because the shady stuff he does he bills to his personal credit cards.

PROCRASTINATION STATION

Use the space below to have a **written** conversation with your neighbour. Take the opportunity to **ask loaded questions** you don't feel comfortable asking in person.



THIS WEEK IN LEGAL HISTORY

May 16th, 1975 – Nurse Charged with Murder and Theft of Unborn Baby

On May 16th, 1975, Californian hospital nurse Norma Jean Armistead was charged with murder of pregnant woman Kathryn Viramontes and theft of patient another patient's, Mary Childs', unborn baby.

Armistead was an obstetrics nurse who craved a baby of her own. Her husband Charles had undergone a **vasectomy** and could not provide the 44 year old Armistead with any children. She befriended Kathryn Viramontes at a hotel in Beverley Hills in late 1974, which seemed to have triggered the disturbing chain of events that followed.

In October 1974, Armistead used her position as a nurse to change her own medical records to create a report of her own pregnancy. Other nurses had thought

it was a typing error because they didn't believe she could be pregnant at her age. Around the same time, Childs was admitted into hospital preparing to give birth. Armistead, experienced in delivering babies without a doctor present, took this opportunity to heavily sedate Childs with drugs. When Childs woke up the next day, she was told by doctors that Armistead had delivered a stillborn due to the significant amount of narcotics in her body. Childs vehemently denied that she had ever taken drugs, but doctors brushed it off as it was apparently common for drug users to deny using.

In May 1975, Armistead went to Viramontes' apartment and stabbed her to death, cutting out the unborn baby from her womb. She checked herself into hospital and tried to pass off the baby as her own, stating that she had a home birth. Doctors became suspicious because there were no

physical signs of recent childbirth. They immediately alerted authorities.

Eventually it was revealed that Armistead not only killed Viramontes and stole her baby, but she had replaced Childs' baby with a stillborn stolen from the hospital morgue. She had taken Childs' baby and raised her as her own. It would be 8 months before Mary Childs was reunited with her baby. Childs also sued the hospital.

At trial, Armistead tried to plead insanity. She was convicted of murder, theft, and kidnapping, and sentenced to life in prison.

The strange and disturbing circumstances surrounding the gruesome case led eventually to a TV Movie being made called 'Empty Cradle'.

Annie Zheng

ASK AGONY AUNT

Dear Agony Aunts,

My non-law friends are starting to get annoyed when I say no to catch up plans. They refuse to understand that it's too close to exams and every time I try to explain my workload I feel like banging my head against the wall. What do I do?

Frustrated

Dear Frustrated,

On the up side, banging your head against a wall for an hour burns 150 calories*, which can help balance your vast junk-food

intake during exam time. On the other hand, to avoid the potential head-trauma, there are some things you could try:

1. Instead of just saying no, suggest an alternate date, when you are available. Even if that's in a month's time, it will make your friends feel like you are looking forward to seeing them (which hopefully you are).

2. Suggest a breakfast catch up. Breakfasts are short because people have to get to class/work/etc, and as an added bonus, it will weed out the friends who are more interested in whining about you being a bad friend from the ones who genuinely

want to see you. Before you say you don't have time for breakfast, remember that it's the most important meal of the day, and if you can't spare 30-45 minutes one morning from your studies, you are probably working yourself too hard.

3. Stop trying to make them understand. If they are good friends, they will be around to celebrate the end of exams with you in 4 weeks despite their complaints.

Auntie Ethel

* true according to reputable internet sources**

** may not actually be reputable