

# De Minimis

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**Doug Porteous**

Andrew Bolt and  
the Racial  
Discrimination Act

**Samantha Dooley**

High fashion  
suitable for the  
High Court

**Pub Grub Review**

The Corkman

**Equity Uncle**

The Nook

**Writers Wanted**

Ask not what your  
school newspaper  
can write for you...

## Blurred lines: When 'professional' turns personal

MELISSA PEACH

Last month I attended a professional networking event held by a Melbourne think tank. Eager to get my schmooze on and charm potential employers (or people who could help me get in touch with potential employers), I brushed up on my 'conversation topics' flash cards and set out to get as many business cards from old white men as I could.

By the end of the evening, I had collected a handful of business cards and felt a sense of accomplishment. I had done everything right – wore modest, professional clothing, had engaging conversations about business and current affairs, and successfully prevented my voice from getting too breathy and high-pitched, maintaining a professional, business-woman octave. Having done all this and having the good fortune of being born with the grace of southern charm, I was confident that I'd left a good impression on those I'd met. This confidence solidified when one of my new contacts, an independent solicitor in his mid-60s, invited me out to lunch the following week. We ate at a nice restaurant on Chapel Street, and I was ready to dazzle with my business acumen and solid career pitch. However, our conversation didn't stay for too long on careers, or career-related topics. Halfway through our lunch, I got a sinking feeling that



maybe this 'professional' lunch wasn't that at all. After he quizzed me on whether or not I wanted to start a family and how many kids I might want, the sinking feeling was affirmed when my 'date' invited me to stay at his beach house on Phillip Island sometime.

"It's got four rooms," he said.

For professional women, this story is unlikely to elicit much surprise. When I recounted the event to a friend of mine, she shared a similar experience. Near the end of a networking event, a senior solicitor in his late 40s offered to walk her home. Although she declined, he insisted, and walked her to her front door.

Once there, he made a pass and attempted to kiss her. She dodged his advance just in time, wished him a very awkward good night, and barricaded herself in the safety of her home.

As law students on the bottom of the professional ladder, making connections in our field is vital and can open up a world of opportunities. But especially for younger women, it can be tricky to network with older men without getting into questionable situations. When faced with the choice of keeping a contact or moving on, knowing what exactly what you want from the

CONTINUED ON PAGE 3

# A Bolt of white lightning

DOUG PORTEOUS

Bromberg J in *Eatock v Bolt* [2011] FCA 1103 found that Andrew Bolt and the Herald and Weekly Times Pty Ltd ("HWT") had contravened s 18C of the Racial Discrimination Act 1975 (Cth) ("RDA"). In two newspaper columns and a number of blog posts, Mr Bolt argued (essentially) that fair-skinned aborigines had no legitimate claim to aboriginal identity and had merely pretended to be aboriginal to exact financial or career benefits. Following something of an outcry, the Coalition promised to repeal s 18C if elected. Last week, the Exposure Draft of the repeal legislation was released and the raucous debate returned.

The RDA in its present form recognises the blindingly obvious point that certain fundamental rights can conflict, and where that happens we need a balancing exercise. This is from the Explanatory Memorandum to the Racial Hatred Act 1995 (Cth), which introduced Part IIA of the RDA:

"There is no unrestricted right to say or publish anything regardless of the harm that can be caused. A whole range of laws protect people's rights by prohibiting some forms of publication or comment, such as child pornography and censorship laws, criminal laws about counselling others to commit a crime, and Trade Practices prohibitions on misleading and false advertising or representations."

Section 18D exists as part of that balancing exercise. Bolt and HWT relied upon 18D(c)(ii) in their defence, which allows for fair comment on matters of public interest made reasonably and in good faith.

In rejecting that defence, Bromberg J cited a few of Bolt's mishaps which indicated a lack of good faith and reasonableness (and decency), including inflammatory and provocative language, gratuitous references to colour and sexuality, and quoting people out of context.

Following the Federal Court decision, Bolt declared, "This is a terrible day for freedom of speech in this country." Was it? Did the decision have a chilling effect on the free speech of even Bolt himself? It's certainly a difficult argument to make: Bolt's articles can still be accessed on the Herald Sun's website; Bolt still has 'Australia's most read political blog' and hosts his own television program; and Bolt himself has participated in the vigorous debate about his case and the laws themselves. Put simply, it would be hard to imagine a worse example of the RDA having a chilling effect on the freedom of speech than the Bolt case.

This outcome may have been different had Bromberg J ordered that the articles be prohibited, but as His Honour noted, "in the age in which we live, any attempt made to restrict access to an internet publication is likely to be circumvented..."

The things which led to the finding against Bolt and HWT were the sort of things that would ordinarily get you pinged for defamation. Quoth His Honour at [423]:

"The intrusion into freedom of expression is of no greater magnitude than that which would have been imposed by the law of defamation if the conduct in question and its impact upon the reputations of many of the identified individuals had been tested against its compliance with that law."

So, what are we really arguing about?

There are many legitimate arguments about the possible overreach of s 18C. It's certainly arguable that the government has no role in adjudicating the "hurt feelings" of citizens. Likewise, it's arguable that no legislative provision



can have a significant impact upon the man on the Frankston omnibus. But if these were the genuine concerns behind the opposition to s 18C, then surely the appropriate response would be to redraw the balance between rights, and not to water down the provisions to the point that they provide no protection at all.

Even if the amendment is led by a genuine belief in the paramount importance of the freedom of expression, a quick perusal of the Bolt case itself demonstrates why repealing the provisions won't necessarily result in a greater protection of that right. This

CONTINUED ON PAGE 3

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# Law school couture

SAMANTHA DOOLEY

The first day of classes for the semester will have me feeling that my sartorial elegance is not only achievable every day, but mandatory. Hair is washed and straightened, make up fresh, red lips perfectly applied with none on my teeth even, my outfit clean and ironed and I'm in matching underwear top it off.

However, week four and five sneak up, and so do hoodies instead of blazers or cute jumpers, and ballet flats instead of wedges.

Week seven whizzes past, the compliments lessen and questions of if I have been to the gym increase (errr no... why would you ask that? OH, because of my leggings, runners and jumper combo? Nope, just too lazy to get dressed properly). I still strive for some sense of #fashhhun, however,

matching my runners to my singlets becomes a bit tedious and I find myself in the same oversized jumper days in a row.

Week eight marks the farewell to makeup and the greeting to my ritual of wearing caps and beanies because I just cannot be bothered brushing my hair, and since I'm wearing a jumper... it's totally okay for me to re-wear the shame shirt from yesterday, right? Right?? RIGHT??? It's not like I did any actual exercise to sweat up a storm...just sat for hours in various seats of the library.

Weeks eleven and twelve present the opportunity for me to let my inner bogan loose and my leggings are getting a bit tight anyway after a diet of vending machine & 7/11, so tracksuit pants are introduced to the light of day (having not been seen since swot vac the semester before). But, I make sure my tracksuit bottoms are a different colour to my jumper to prevent looking like a robber.

And it happens...freckety frack! It's already swot vac! I've struggled and battled against falling to these depths all semester but alas, I am waking earlier than ever and not leaving the library until I hear Bill or Leah ordering me to do so.

My Triple Grey Ensembles are presented to the world (yes, matching my grey tracksuit pants with grey t-shirt and grey hoodie ... boys, form a line!). I will be wearing a cap or beanie, not because I haven't brushed my hair, but because I haven't washed my hair that fortnight.

I will be sporting a backpack laden with text books, laptop chargers, and coins for the vending machine and parking, and when I catch sight of myself in reflection of the Level 3 sliding doors into the silent area, I will promise myself that next semester I will try harder and never leave the house looking like a walking condom again.

## Bolt

CONTINUED FROM PAGE 2

is Bromberg J at [423]:

"Additionally, I take into account that the conduct was directed at an expression of identity. An expression of identity is itself an expression that freedom of expression serves to protect. That expression also deserves to be considered and valued."

It is also instructive to consider the debate around s 18C in its broader context. For example, the Victorian Government recently passed the Summary Offences and Sentencing Amendment Act 2014 (Vic), which expands upon the police's powers to direct people to 'move on' from public places. The powers are awkwardly drafted, and appear to give police an incredibly wide discretion to order people, upon pain of 5 penalty units, to leave a public place. Is anyone really surprised that the Attorney-General hasn't defended the rights of protesters to be bigots too?

Andrew Bolt does not need to take to

the streets to have his voice heard by those in powerful positions. But perhaps the residents of Tecoma, for example, have no other avenue open to them. Likewise, one need only whisper the words 'asylum seekers' to see that whatever conception of freedom of expression is at play here, it's not in universal form.

One could be forgiven for asking, gently: whose freedom of speech?

The freedom of speech of the most widely read columnist in Australia: important. The freedom of speech of the most powerless in the community: less important. This inequality is part of the reason the RDA exists in the first place — the RDA is premised on the assumption that we aren't all on a level playing field when it comes to our ability to speak and be heard.

So it seems this isn't a debate about absolute nature of free speech itself. If that were the case, there would be much more attention to the nature of the right, and there would be bigger fish to fry than s 18C. Rather, it seems a court said to the guy with one of the biggest public voices in the country, 'What you did was naughty'. And he didn't like that. Perhaps then the

great irony of the debate is that it really started when a judge's verdict hurt the feelings of Andrew Bolt.

## Blurred lines

CONTINUED FROM PAGE 1

relationship and how much awkwardness you are willing to put up with to reach your goal, is useful. For me, my threshold for foolishness was reached upon the invitation to the beach house.

Sometimes it may be possible to maintain a professional relationship simply by consistently sticking to business topics at and, or adjusting your posture and tone. A reasonable man with any sense whatsoever would probably get the hint. In a career like law, reputation is worth its weight in gold, and if someone compromises this by hitting on you, they clearly do not take you seriously and won't be any worth to you. So, if the unwanted attention continues or you feel too uncomfortable, cut your losses and move on.



# Pub meal deal



Every week, DM will be reviewing a nearby pub meal to help you navigate the archipelago of drinking holes and student specials at your doorstep.

**The Corkman:** Unlike other pubs which cut corners by using processed chicken patties, The Corkman uses real chicken breast that is cooked to perfection. The cheese on top is golden, the sauce beneath it is hot, and the ratio of both makes the whole meal a juicy experience. Its only shortcomings are that there is a notable absence of the obligatory salad, and the chips are nothing to write home about. Parma purists should also note that the meal is ham-less.

The Corkman offers students \$15 Parma + pot, all day Mon-Thur, and until 5pm on Friday. If you mention this review when you eat there this week the friendly Irish staff will upgrade your pot to a pint for free.

## Dear Equity Uncle

*What are the limits of acceptable behaviour in the Nook? I've seen people napping, I've heard people snoring, I've even seen a couple making out in there! I'm yet to see anyone use the board games though.*

*Confused*

Dear Confused,

Equity would be surprised if there hadn't been more than a few home runs hit in the Nook. Once upon a time Equity slept in the Nook for a week. And as you know, anyone who seeks Equity must do Equity. Being Equity is exhausting.

The Nook is a place for quiet time, so really, it's a question of volume. Napping: yes. Snoring: no. Reading: yes. Board games: no. Quietly behind the couch: sure.

Equity heard that puppies were coming to the law school. Equity doesn't like puppies. Where there are puppies there are no clean hands.

*Equity Uncle*

Oi! You there!

Yeah, you!

Have you ever dreamt of writing about something that does not pertain to law? Or do you like writing about law but your lecturers keep rejecting your unsolicited papers? Do you despise seeing so much blank space on this page? Do you want to be published but dread going through the hassle of peer review? Or would you simply like insider access to our treasure trove of sudoku puzzles?

If the answer to any of these questions is a 'meh' or better, come down to the De Minimis Potential Writers' Soiree on Tuesday the 15th of April from 5:30 pm to 8 pm. Wine and nibbles will be provided.\*

Save the date, and either check our next issue for the room number, or join our Facebook page.

\*Quality of wine and nibbles may vary.

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