

# DE MINIMIS

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## South Africa's Famous Freedoms Under Threat

The post-Apartheid Constitution of South Africa, promulgated by then-President Nelson Mandela in 1996, is widely considered the most progressive in the world for its emphasis on human rights. It draws praise from the constitutional law teachers at Melbourne Law School as well as United States Supreme Court Justice Ruth Bader Ginsburg (as well as opprobrium for former US presidential candidate Rick Santorum).

Now, however, section 16 of the country's Constitution, which guarantees freedom of speech and of the press, is under threat from the Protection of State Information Bill. This bill was passed in the National Assembly last November despite eighteen months of public protest against it by journalists and organisations of civil society. The protests against the Secrecy Bill, as it is known, will continue during this year. Civil society organizations, the media—and significantly, the Congress of South African Trade Unions (COSATU)—plan to jointly convene a summit meeting against it. COSATU's director of alternative information and development said that the government's response to "deepening poverty and inequality, faltering social cohesion".

The Secrecy Bill specifies prison sentences for whistle-blowers who expose the rampant corruption by individuals in government, industry, and finance.

South African Nobel prize-winning author Nadine Gordimer has condemned the bill, which she said was taking the country back to the years of white minority rule. The advocate George Bizos, who defended Nelson Mandela during his apartheid treason trial in 1963, predicted that "if this bill is passed in its present form there will be a long queue of advocates to take the president and minister of state security to court. ...it will be a

never-ending queue."

Nobel Peace laureate Archbishop Desmond Tutu called it "insulting" and warned it could be used to outlaw "whistle-blowing and investigative journalism".

So why does the ANC, the party of Nelson Mandela - the liberator of South Africa from the repressive apartheid laws, want to undo the good work and human rights-orientation that have earned the world's praise?

One possible reason is because of an arms deal probe. President Jacob Zuma recently established a commission of inquiry into the dealings of the controversial multi-billion dollar procurement in 1999 of fighter jets, submarines and other armaments to beef up the country's defences. One of his former associates was convicted for corruption in his role in the arms deal.

There is therefore a belief that the contentious bill will assist the state by allowing it to classify some of the information a secret, making it difficult to be disclosed publicly.

Nelson Mandela once said that press freedom would never suffer in South Africa "as long as the ANC is the majority party". Yet the capacity of power to corrupt now threatens South Africa's much-admired constitutional freedoms, the very rights for which Mandela and countless others were ready to sacrifice their lives.

*Bronwen Ewens*

## De Minimis Celebrates 12-Week Revival Anniversary

### Letter from the editor

Congratulations to all on surviving the semester so far!

I wanted to take the time to thank you all for your readership this semester, and for your ongoing interest in *De Minimis*.

Also, thank you to the LSS for their initial funding of *De Minimis*, without their financial support this publication would not have gotten off the ground.

*De Minimis* is taking a hiatus for the exam period and the winter break, but will return for semester 2.

Best of luck on exams!

*Emma Shortt*

**YOU WILL FAIL ADMIN IF YOU DON'T DO  
THE READINGS**



**CHALLENGE ACCEPTED**

## ALUMNI INTERVIEW: JAMES RANKIN

James graduated Arts-Law in 2009 and started at Corrs Chambers Westgarth. He now works-in house at Australian Unity advising on health insurance law, contract negotiation, corporate governance, ASX Listing rule compliance and trade practices law.

At the start of the degree James was originally interested in labour law but as he progressed through his degree he enjoyed private law and commercially-orientated subjects such as Contracts, Torts, Property, Competition law and Corporations.

After graduation James started at Corrs. He enjoyed working in the Corporate Advisory team at Corrs because the work was intellectually stimulating and practical.

“It was always a thrill to be working on a file, be it a technical problem in an advice or assisting in a large project team on a deal, and then see your work impact on a business.”

It was this thrill of having an impact on a business that led him to work in-house. “In an in-house team, you work directly with the staff of a business to manage the legal affairs of a business. You are involved in the day-to-day of the business. There is also a lot of risk management involved. The work is a lot more varied, faster paced, sometimes less technical and a lot more practical.”

Has working in law met the expectations he had at law school?

“I had expectations that the hours would be long and the work would be challenging. Those expectations were met...What did surprise me, however, is that there was a lot of give and take regarding hours. There was always downtime after a big deal and no busy period lasted forever. You also didn’t notice the time going by, however, as the work was really stimulating.”

James says this isn’t limited to the top tier firms. “Despite common perceptions, however, work-life balance is by no means better at mid-tiers. The work and industries mid-tiers deal with is just different.”

Advice to law students? “If you have good interpersonal skills, strong written and verbal communication skills, good organisational skills, can learn quickly and think carefully, you will go far... I had worked part-time and had participated in extra-curricular activities consistently throughout my time at university. This showed I could work in a team, keep myself organised and could jump out of my comfort zone if required.”

The thing he most enjoys about law is “the constant challenge, the constant learning and the constant possibilities”.

## STAFF INTERVIEWS: GETTING TO KNOW JEREMY GANS

A big fan of *De Minimis*, Associate Professor Jeremy Gans, who teaches Criminal Law and Procedure, and Evidence and Proof in the Melbourne JD, readily agreed to an interview in his light-filled office.

Jeremy was first drawn to the law by television. “As a kid, I loved *Rumpole of the Bailey*. In high school, I was keen on debating and that seemed to have a natural connection to the law,” explains Jeremy. “When I did my LLB, which I combined with a BSc in theoretical physics at the ANU, my favourite subject was Constitutional Law. The lecturer, Gary Rumble, really inspired me. He set high standards and was suitably cynical about judges’ motivations. Ultimately though, criminal law seemed more relevant to real life.” His least favourite subject was defamation, which in those days was “boring, old-fashioned and immune to policy issues.”

Jeremy went on to do a Master’s degree in Criminology at the University of Toronto, and a PhD at UNSW, where his thesis concerned child sexual abuse. With this abundance of qualifications, it would not seem surprising that Jeremy now teaches law, but “I got into academia by a process of elimination,” he claims.

“The clerkships I undertook did not dispose me in favour of corporate life, and working in government I encountered a lot of red tape and inertia. Consulting for the government is fun, though”. He currently is a Human Rights Adviser for the Victorian Parliament.

“I love my job and I couldn’t imagine doing anything else. The only downside is that people are too reverential towards lawyers. I have never encountered the dim view that people are alleged to take of us. If anything, they should be more cynical than they are!”

“The challenge with teaching is to keep it fresh. Using

new cases helps with this.” Jeremy receives a number of phone calls every week from journalists who want to understand criminal law for cases they’re reporting on. “Sometimes I can’t comment, but more often, I advise them off the record.”

Though his work is also his hobby, Jeremy also enjoys cooking and eating. “I used to whip up some pretty good curries and risottos, but having little kids has lessened my creativity a bit. They like simple food but we enjoy watching *Master Chef* together.”

His other favourite TV shows include *Survivor* and *The Apprentice*. “I love reality TV! I think it’s the human element. I would love to work on the contracts the participants have to sign.”

Jeremy also enjoys reading sci-fi, playing computer games and having fun with Angry Birds on his phone. His favourite film is *Being John Malkovich*, in which an unemployed puppeteer finds a portal behind a filing cabinet which allows him to enter and control the actor’s mind.

Jeremy’s advice for JDs: “If you’re not enjoying it, quit now, while you’re ahead. Don’t wait 10 years, during which the law is unlikely to grow on you, and then make a wrenching career change. I am lucky in that I love my job. For other lawyers, the problem is a being in a job they don’t love and that takes up all their time so that there’s no room for anything else.”



Bronwen Ewens

Picture of curry  
(Source: Pelican, Flickr)

## A WHOLE PAGE DEDICATED TO CHARLES HOPKINS (AKA THE EGOMANIAC)



### L IS FOR...

#### Losing it

I spoke to a friend recently and he told me about his new study technique. He's created an mp3 file that he's put on his iPhone, whereby for 25 minutes, nothing but a ticking noise sounds, and then at the 25<sup>th</sup> minute a piercing alarm bell rings. At this point he takes a five minute break, and then recommences the 25 minute cycle. That's where his anecdote ended, but I imagine that after doing this for a period of some hours, he retreats to somewhere private to kick puppies.

This is not normal behaviour! I blame it on week 12. In the final week of semester, the cohort loses it.

I have a test to evaluate whether a colleague of yours is in fact crazy. First, ask them this question: "why did the cow get the job?" They then respond "why?" To which you deliver the punchline: "because she was outstanding in her field." If the person laughs for more than 4 seconds, he or she is clinically insane.

Exams seem to be the primary cause. The closer we get to final assessment, the more unhinged the student body becomes. It's like Gotham City when the Joker pushes the citizenry to their limit, except we don't have a Batman! Unless Arlen Duke is actually a crime-fighting billionaire... That would explain why he's so awesome...

But I think the reason the sense of madness is so pronounced is that each cohort is grappling with profound issues

issues other than exams; we're trying to figure out if Kristin Stewart can effectively navigate her way from *Twilight* fame to celebrity legitimacy.

Then you've got first years especially rattled with their first law exams; which they should be because the exams will be f\*\*\*ed. Second years are stressing about clerkships: either not getting them, or if they're not applying, they're stressing about not applying. And third years are awaiting job offers.

Imagine if you didn't get one; I would probably kill myself.

On second thoughts: everyone should be freaking out!

Here's what I advise. First years: buy Ritalin. Second years: screen grab Facebook photos of your competitors and make RSVP profiles of them wanting strange things, like a partner who likes hairless cats and weird sex things... like... I don't know... sex standing up. And third years: you should start an illicit affair with senior employees at your work of choice, so if you get declined, you can blackmail them.

Please note I don't know if these things are moral or not because I haven't taken *Legal Ethics* yet.

By the way, I acknowledge that I've one-eightied this week; I'm saying that 'losing it' is an appropriate course of action. Perhaps that's evidence that I'm also losing it? Or perhaps Charles only wrote the first half this article, but now Eddie, his evil imaginary twin has metaphorically killed him and written the second half? Hahahahahaahahaha that's ridiculous! I'm Charles! I'M CHARLES!

*Charles Hopkins may or may not return to write for De Minimis next semester; it will depend if Larundel Mental Hospital has internet access.*

*Charles Hopkins and the Law Revue kids from last year have some comedy on the way... Visit and 'like' <http://www.facebook.com/welikerobproductions> to find out more!*

## PROCRASTINATION STATION

### Quiz: test your knowledge!

1. Which two counties are separated by the tallest mountain in the world?
2. Which fictional city is Family Guy set in?
3. Which novel closes with the line: 'He loved Big Brother'?
4. Which major document relating to rights and authority was first issued in England in 1215?
5. What is the state religion of Australia?
6. Who engineered Paris's tallest building?
7. What was Napoleon's greatest legacy to the law?
8. Where is the High Court's jurisdiction to hear and determine appeals found?
9. Who is credited with inventing the modern (safety) elevator?
10. What does USB stand for?

### Sudoku

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

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1. Nepal and Tibet/China, by Mount Everest; 2. Quahog; 3. 1984; 4. The Magna Carta; 5. There isn't one; 6. Gustave Eiffel, the Eiffel Tower; 7. Le Code Civil, 1805; 8. s 73 of the Constitution; 9. Elisha Otis; 10. Universal Serious Bus

## THIS WEEK IN LEGAL HISTORY

### May 21, 2009 – South Korea Upholds Right to Die

On this day in 2009, the South Korean Supreme Court upheld a decision to allow a brain-damaged patient the right to die. The 76 year old woman had been comatose for over a year and unable to survive without a respirator machine. The hospital repeatedly denied requests from her family to take her off life support, arguing that the patient was still able to respond to external stimuli.

The Court held that continuing life support would impinge on the dignity

of her life, given that there was no chance for revival. Chief Justice Lee Yong-hoon held that doctors should 'make efforts to confirm patients' wishes to die with dignity', and to respect those wishes once patients entered into the 'irrevocable death stage'. The Court also stated that express confirmation is not necessary, as a wish to die could be imputed or inferred from a number of factors, including drawing a presumption of the patient's wishes from the patient's relationship with family and friends.

The ruling was criticised by the Minister for Health, who felt that

legalisation of 'dying with dignity' should be put to public opinion hearings, rather than decided by the courts. Conversely, the Korean Medical Association supported the decision, adding further that they would like to see uniform legislation introduced and guidelines put in place for doctors.

The landmark decision departed from previous law which criminalised attempts to help end the life of terminally ill patients. In 2007, a father was given a four-year suspended sentence for removing a respirator from his brain-dead son.

*Annie Zheng*

## ASK AGONY AUNT

*Dear Agony Aunts*

I loved the petting zoo so much I took one of the chicks home in my jackets pocket, but my housemates say I can't keep it. What should I do?

Sincerely,

*Future chicken farmer*

*Dear future chicken farmer,*

I'm glad you're embracing a career outside

of law, as explaining dishonest behaviour to the admissions board will be awkward to do on the grounds of cuteness. You would have to take a lot of pictures of LOLcats with you to support that argument.

Aside from the theft element, a share-house is really no place for a baby animal. Even adults struggle to make it through the week in a share-house without getting drunk, riding down the stairs on a sleigh made out of cardboard, eating only mi goreng noodles and staying up until 5am downloading the latest Game of Thrones. Give the chick the stability it needs, and let

go of your future of free eggs.

The lead up to exams is stressful for everyone, so I would emphasise the effect this had on your reasoning, and maybe up the waterworks when returning the chick to its rightful owner.

If you happen to be studying crim this year, I wish you all the luck in the world.

Sincerely,

*Aunt Myrtle*