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Pell's threat to sue Twitter highlights law's use-by date

Julie Power, Louise Hall May 9, 2012

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Melbourne writer Catherine Deveny.

A THREAT by Sydney's Catholic Archbishop Cardinal George Pell to sue Twitter for defamation over an offensive tweet by the Melbourne blogger Catherine Deveny has revealed the increasing threat social media poses to the reputations of public figures.

While Cardinal Pell last night dropped his threat to sue over the tweet - which falsely suggested he condoned the sexual abuse of young boys - there was a call for the nation's defamation laws to be updated to reflect the new influence of social media.

On Monday, Deveny posted a lengthy apology and retraction on her website after receiving an email from Twitter's legal department, alerting her to the threat.

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month, Cardinal Pell paused after saying: "We were preparing young English boys ... " before adding "for Holy Communion".

The studio audience erupted in laughter at the unfortunate pause and the comment went viral on Twitter. Minutes later, Deveny retweeted a Twitpic poster, which she said her 16,326 followers would "love". It showed Pell's face on a mock flag saying, "We were preparing young English boys", and omitting the clarifying words, "for Holy Communion".

Following the legal threat, Deveny, who has more than 16,000 Twitter followers, issued an apology on her blog for any hurt Cardinal Pell may have suffered, insisting she never intended to suggest he was a paedophile.

"Clearly it was significant enough hurt and embarrassment caused for him to lawyer up and spend the Catholic Church's money to pursue defamation action against Twitter and me," she wrote.

"There must have been deep deliberation over the decision to spend thousands of dollars of parishioners' money on legal fees.

"Spending money that could have been spent feeding the poor, sheltering the homeless or alleviating suffering, instead of on defamation litigation, clearly illustrates how serious the breach I allegedly committed was in the eyes of Cardinal Pell."

Deveny noted many other Twitter users had distributed the image and called on Cardinal Pell to "forgive" her.

Pete Black, a lecturer in internet law at the Queensland University of Technology said if Twitter was held liable for everything said on its site, it and other social media sites such as Facebook and YouTube would have to "reconsider whether they even wished to operate in Australia".

Mr Black said Australia's defamation law was badly out of date because it was written before social media was created.

"I think Australian law needs to be amended because we shouldn't be holding Twitter, Facebook and other social media sites liable for the comments of its users," he said.

In a separate action, the Liberal Party pollsters Lynton Crosby and Mark Textor are suing federal Labor MP Mike Kelly for defamation over a tweet in which he accused their campaign consulting firm of push polling.

Dr Kelly, a parliamentary secretary, admitted in a defence filed



Pause for thought ... Cardinal George Pell.

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MP Mike Kelly ... accused Lynton Crosby and Mark Textor's campaign consultation firm of push polling in a tweet.

with the Federal Court last week that he "wrote and distributed a message" on Twitter but does not admit "that those words were published to any person".

On October 1 last year, Dr Kelly posted: "Always grate (sic) to hear moralising from Crosby, Textor, Steal & Gnash. The mob who introduced push polling to Aus" under the @MikeKellyMP handle.

Mr Crosby and Mr Textor say Dr Kelly had about 1250 followers at the time and the tweet was false and greatly injured their credit and reputation.

Dr Kelly claims his tweet is not defamatory towards Mr Textor as it's "true" that Mr Textor "was responsible for the first recorded example of push polling in Australia" in the mid-1990s, a claim Mr Textor rejects.

Further, he says he had fewer than 200 followers at the time he posted the tweet.

Mr Textor said he was accused of push polling 16 years ago in the ACT but maintains he did not use the tactic at that time and has not since.

Dr Kelly's lawyers have indicated they will force the pollsters to prove the tweet was "published", that is, it was read by at least one person who knew push polling was considered a negative and unethical political tactic to skew voters' views rather than measure them.

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