**Submission No 82**

# ANTI-DISCRIMINATION AMENDMENT (RELIGIOUS FREEDOMS AND EQUALITY) BILL 2020

**Organisation:** Religious Freedom Institute Inc.

**Date Received:** 21 August 2020


Legal Practitioners in the defence of
Religious freedom

Incorporated under the *Associations Incorporation Act 1984 NSW*
Association Registration Number: Y2474808

Your reference:
Our reference: ADRF

Joint Select Committee on the Anti-Discrimination Amendment
(Religious Freedoms and Equality) Bill 2020
Parliament of New South Wales
Macquarie Street
SYDNEY NSW 2000

21 August 2020

To the Chair,

**SUBMISSION – INQUIRY INTO THE ANTI-DISCRIMINATION AMENDMENT (RELIGIOUS FREEDOMS AND EQUALITY) BILL 2020**

We make this submission in reply to your open invitation to submissions that closes today and for inclusion in your report on 21 August 2020.

This submission is marked for public publication.

I await your acknowledgment with thanks.

Yours faithfully

[redacted]

Robert Balzola

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# SUBMISSION

IN REPLY TO THE
INQUIRY INTO THE
ANTI-DISCRIMINATION ACT
(RELIGIOUS FREEDOM AND EQUALITY) BILL 2020

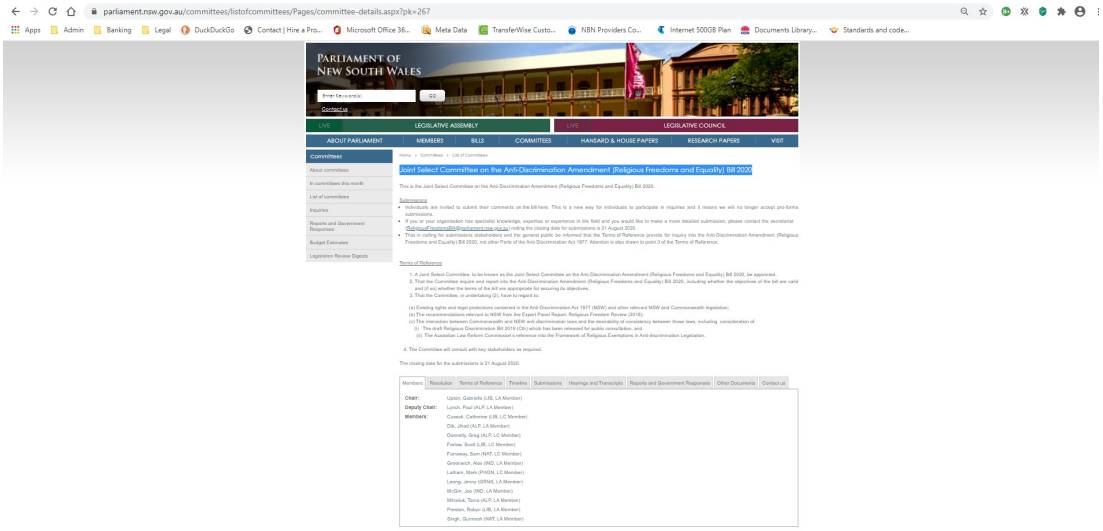
21 AUGUST 2020
ROBERT BALZOLA

*IN MEMORY OF THE LATE JOHN SWAN OF COUNSEL*
*DEDICATED DEFENDER OF RELIGIOUS FREEDOM*

## Introduction

This is a submission in reply to advertised invitation to make submission to the inquiry into the *Anti-Discrimination Amendment (Religious Freedoms and Equality) Bill 2020* found at the following link:

https://www.parliament.nsw.gov.au/committees/listofcommittees/Pages/committee-details.aspx?pk=267



# Instruction as to lodgment – Particulars

We refer to your email dated 20 August 2020 and reply:

*'When making your submission, please ensure that the following details are provided'*

| | |
|---|---|
| Title | President |
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| Requested publication status (Public/Partially Confidential/Confidential) | Public |

We note that at time of lodgment of this submission this inquiry is open to end of this day.

# Terms of Reference

1. A Joint Select Committee, to be known as the Joint Select Committee on the *Anti-Discrimination Amendment (Religious Freedoms and Equality) Bill 2020*, be appointed.

2. That the Committee inquire and report into the *Anti-Discrimination Amendment (Religious Freedoms and Equality) Bill 2020*, including whether the objectives of the bill are valid and (if so) whether the terms of the bill are appropriate for securing its objectives.

3. That the Committee, in undertaking (2), have to regard to:

   (a) Existing rights and legal protections contained in the *Anti-Discrimination Act 1977 (NSW)* and other relevant NSW and Commonwealth legislation;

   (b) The recommendations relevant to NSW from the Expert Panel Report: Religious Freedom Review (2018);

   (c) The interaction between Commonwealth and NSW anti-discrimination laws and the desirability of consistency between those laws, including consideration of

      (i) The draft *Religious Discrimination Bill 2019 (Cth)* which has been released for public consultation, and

(ii) The Australian Law Reform Commission's reference into the Framework of Religious Exemptions in Anti-discrimination Legislation.

# Replies to Terms of Reference

1. Noted.
2. Submissions as to validity below.
3. Replies:-
   (a) **Error in Terms of Reference – Too narrow against the Religious Freedom Review 2018 'The Review'**: Regard must also be had to extant laws per se including Common Law pretaining to existing Religious Freedoms currently in force in Australia. The Association declares this Terms of Reference too narrow for reasons which follow.
   (b) **Recommendations of 2018 Review**: Reference to the Review as attached. By 'Recommendations', we assume this means the 20 x Recommendations contained in the attached in the document titled *Religious Freedom Review 2018* Nos. 1 – 20 inclusive found in orange boxes headed 'Recommendation 1' etc. at pages 1 to 106 of the Review. If this is incorrect, then we await referral as to what is meant by the Review's *'Recommendations'*.
   (c) **(In)consistency of Laws**: The bald inconsistency of laws and particularly the arrogation of Inter State laws, conflicts of laws between States and Commonwealth, and conflicts of laws between Territory and State laws, will be elaborated against the existing Constitutional framework of which the Author has seven years experience in all Courts of Superior Record directly relevant to this dilatory state of Constitutional affairs and which infects this proposed Bill fundamentally.

# Background

## Australia is a Christian Nation.

Australia is *not* a Christan Nation for any of the following reasons:

- Its population is predominantly Christian; or
- Its members of Parliament are predominantly Christian; or
- It is a Confessional State.

Rather, Australia is a ***Christian Nation*** by operation of law, because of its absorbed English law upon Federation in 1901.

In the words of Sir John Downer[1] during the *Australasian Constitutional Convention*, on the question of insertion of the words in the *Commonwealth of Australia Constitution Act 1901* on debate of the insertion of the current wording in the Commonwealth Constitution's Preamble: *'...humbly relying on the blessing of Almighty God...'*

> Sir JOHN DOWNER (South Australia).-I desire to say just a few words, because I think there is a more serious question involved than the mere insertion of the words of this amendment. I am sure that we all listened with great pleasure to the speech of Mr. Higgins on the subject. He reminded us of the decision in America that the Christian religion is a portion of the American Constitution, and of the enactments that were passed in consequence. I do not know whether it has occurred to honorable members that the Christian religion is a portion of the English Constitution without any decision on the subject at all. It is part of the law of England which I should think we undoubtedly brought with us [start page 1741] when we settled in these colonies. Therefore, I think we begin at the stage at which the Americans were doubtful, without the insertion of the words at all, and I would suggest to Mr. Higgins to seriously consider whether it will not be necessary to insert words distinctly limiting the Commonwealth's powers.
>
> Mr. HIGGINS.- There are words printed in an amendment to that effect.

[1] Downer, Sir John: *Australasian Federation Conference*, Wednesday 2 March 1898, pp.1740-1741

> Sir JOHN DOWNER.- I feel more strongly than ever that that ought to be done, because I can very well understand the way in which the very persons who are presenting petitions and asking for this recognition would resent the consequences if they found that the religious control was taken away from the state and put into the Commonwealth. For my own part, I think it is of little moment whether the words are inserted or not. The piety in us must be in our hearts rather than on our lips. Whether the words are inserted or not, I think they will have no meaning, and will have no effect in extending the power of the Commonwealth; because the Commonwealth will be from its first stage a Christian Commonwealth, and, unless its powers are expressly limited, may I legislate on religious questions in a way that we now little dream of.

The Petitions presented in 1898 resulting in the successful passing of the Amendments to the proposed Commonwealth Constitution, seeking the insertion of the words *'...humbly relying on the blessing of Almighty God...'* and the debate segment attendant to it cited above, were absorbed and ultimately successful at the the Convention moved by majority vote of the Delegates. Following, the resolutions were adopted and ratified as part of the Draft Constitution for promulgation by Her Excellency Queen Victoria in her capacity as Head of State of the Colonies of Australia.

## Christian jurisprudence and positive law

The effect of this reality, that Australia is a Christian Nation by virtue of its absorbed English Constitutional jurisdiction, means that the laws remain governed by Christian jurisprudence in the making of laws, bound by Imperial, Commonwealth and State precedents, statutes and conventions. Indeed, without these recognitions, the Constitions of the Federation could not operate.

It is our submission: the legal fact that Australia is a Christian Nation is bound in statute and common law and prevails to this day and is an overriding consideration o this inquiry as examples will follow.

## Law on Religion is State Law

The implications of this resolution turned into law is:

1. Australia has from its inception absorbed the Laws of England upon its Federation.
2. There has been always clear separation of the enumerated jurisdiction of the Commonwealth against the residual POGG (Peace Order and Good Government) Provisions of the States who enjoy all residual jurisdiction not otherwise engrossed in the intrinsically limited Commonwealth jurisdiction.
3. Critically, this includes, as Sir John Downer rightly notes, *laws on religion*
4. Section 51 of the Commonwealth of Australia Constitution Act, does not include "religion" or any other power that can be directly attributed to the Commonwealth under any head of enumerated jurisdiction.
5. It is our submission that laws on religion are the exclusive residual jurisdiction of the States.
6. Even allowing for application of external affairs powers and ratification by signature of the various international instruments including the UN Declaration of Human Rights[2], the ICCPR[3] and the 1981 Declaration[4], the original jurisdiction of laws on religion remains in Australia with the States.
7. The effect of the absorbed jurisdction of the Commonwealth (and the States as made pointedly clear by Sir John Downer), is that *both* States and the Commonwealth absorb the English Constitution and its laws upon their creation as public juridic personalities.
8. Hence, the point is that it is the Commonwealth that must yield to the States powers, as the Commonwealth's Constitution never inserted the law on religion making power.
9. If the Commonwealth seeks jurisdiction to make laws on religion, it must do so by Constitutional amendment.

## Parallel considerations of Religious Freedom in State and Commonwealth legislation

We refer to this Inquiry's *Terms of Reference* at its Reference No. 2 which puts the question:

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2 *Universal Declaration of Human Rights* [United Nations] General Assembly resolution 217A, 10 December 1948.

3 *International Covenant on Civil and Political Rights* [United Nations] General Assembly resolution 2200A (XXI), 16 December 1966, entry into force 23 March 1976 in accordance with Article 49.

4 *Declaration on the Elimination of All Forms of Intolerance and of Discrimination Based on Religion or Belief* [United Nations] General Assembly resolution 36/55, November 1981

**[2] "…whether the objectives of the bill are valid…"**

It is our submission that the jurisdictional validity from the foregoing means that the objectives of the bill are valid insofar as the jurisdiction of the State of New South Wales is the proper forum in which to deliberate on the making of laws on religion.

It is a further submission that the Commonwealth does not of itself have jurisdiction to make laws on religion.

# Addressing the Terms of Reference

We now address the residue of the Terms of Reference:

## *TOR 3(a) Existing rights and legal protections*

Terms of Reference 3(a) states:

> "The Committee will have regard to… Existing rights and legal protections contained in the *Anti-Discrimination Act 1977 (NSW)* and other relevant NSW and Commonwealth legislation."

### Submissions

1. **Intrinsic flaws in ADA**: The statutory framework of the *Anti-Discrimination Act (NSW) 1977*, specifically in relation to the referral powers within the Civil and Adminstrative Tribunal of New South Wales is intrinsically flawed.
2. **No Merit Review of Referral Power**: Specifically, referral provisions for disciplinary action deny the statutory body referring a complaint of vilification or discrimination of any kind, from merit review in the exercise of the review power.
3. **Complainant is the Applicant**: In the existing statutory framework, it is the Applicant, not the statutory body, that appears before Tribunal. The statutory referring body, be it the Anti-Discrimination Board or any other statutory Local Authority, does not appear.

## Submissions as to operation of ADA Act on Standing

We refer to Clause 10, Sechedule 3 of the Civil and Administrative Tribunal Act 2013 ['CATA']:

### CIVIL AND ADMINISTRATIVE TRIBUNAL ACT 2013 - SCHEDULE 3

SCHEDULE 3 – ADMINISTRATIVE AND EQUAL OPPORTUNITY

10 PARTIES TO PROCEEDINGS RELATING TO COMPLAINT UNDER ANTI-DISCRIMINATION ACT 1977

(1) The parties to proceedings before the Tribunal relating to a complaint under the *Anti-Discrimination Act 1977* are--

(a) the complainant who, for the purposes of that Act, is taken to be the applicant, and

(b) the respondent, and

(c) any other person who has been made a party to the proceedings under this Act, and

(d) the Attorney General if the Attorney General intervenes under this Act.

(2) Without limiting section 44 of this Act, the Tribunal may substitute a complainant or respondent if the Tribunal is of the opinion that the other parties to the proceedings will not be prejudiced by the substitution.

(3) The Tribunal may remove or agree to the withdrawal of a complainant from proceedings if the Tribunal is satisfied that the complainant does not wish to proceed with the complaint.

1. The statutory framework of the CATA Act ensures that in discrimination matters referred to the NCAT for disciplinary matters, it is the *Complainant* and not the *Referring Body* that is the Applicant to these proceedings.
2. The referring body, be it the ADB, the Human Rights Commissioner or any other statutory body exercising a statutory referral power, ***is not a party to the proceedings.***
3. You are reminded that the effect of an act of discrimination or vilification can result in statutory damages of up to $100,000 per complaint[5].
4. The current statutory framework denies the respondent any merit review of the referral power that leads to the exercise of the power to refer a complaint

[5] *Anti-Discrimination Act* (1977) s.108

against the respondent upon the wrongful exercise of the statutory referral power to the NCAT.

5. In addition, the respondent is denied any merit review against any of the other statutory powers including investigation and reporting powers of the ADB or the proposed statutory stakeholder of this so-called religious freedom power.
6. The consequence is that the decision on what is a breach of this Bill will be unassailable against the current statutory framework along with all other existing discrimination and vilification powers.
7. This submission therefore calls for the repeal of the ADA Act on grounds of provisions such as Schedule 3 Clause 10 CATA as an example as the statutory override of both laws of procedural fairness and natural justice as opposed to the right of the respondent to be heard, not only on the complaint against him or her, but against the application of the statutory framework currently in place.
8. It is noted in passing that other jurisdictions conferred on the NCAT e.g. Occupational Division disciplinary matters, it is the Local Authority that is the Applicant and who appears.
9. It is an intrinsic right of the Respondent to be allowed to cross examine and test the veracity of the exercise of a statutory power of referral.
10. These suite of Common Law rights and other powerful natural justice and procedural fairness rights are taken away from respondents in the current statutory framework of so-called anti-discrimination and the legal framework of vilification law.

## *TOR 3(b) Recommendations from Expert Panel Report*

Terms of Reference 3(b) states:

> "The Committee will have regard to… The recommendations relevant to NSW from the Expert Panel Report: Religious Freedom Review (2018)."

We now address each of the Recommendations found in the Religious Freedom Review 2018.

# Recommendations – Existing Legal Framework

## *Recommendation 1*

> **"Those jurisdictions that retain exceptions or exemptions in their anti-discrimination laws for religious bodies with respect to race, disability, pregnancy or intersex status should review them, having regard to community expectations".**

1. This recommendation is vague and amorphous. It makes no direct reference to any law and impliedly omits the Constitutions of the Commonwealth and States, the operation of the Judiciary Act 1903 specifically s.39 and a host of other intrinsic limitations.
2. We submit his 'selective amnesia' of all spectrum laws in Australia including Commonwealth, States, Territories and Common Law precedents and Conventions are a major reason for the proliferation of Appeals against the fundamentally flawed statutory framework of the ADA and NCAT in combination.
3. It is clear, in the following recent decisions that the legislators and specifically the State of New South Wales, has embarrassed itself with at least eight yearse of defective and ill-conceived statutory framework, resulting in a run of litigation against the errors of poorly constructed legislation:
    a. *Burns v Corbett; Burns v Gaynor* [2017] NSWCA 3
    b. *Burns v Corbett; Burns v Gaynor* [2018] HCA 15
    c. *Meringnage v Interstate Enterprises Pty Ltd* [2020] VSCA 30 (25 February 2020)
    d. *Wilson v Chan & Naylor Parramatta Pty Ltd atf Chan & Naylor Parramatta Trust* [2020] NSWCA 62 (16 April 2020)
4. In each of these cases, the State of New South Wales has embarrassed itself by the passage of legislation that has been struck down for want of jurisdiction in the field of anti-discrimination and vilification law.
5. As the law giveth, the law taketh away. It is a mantra now given the flood of examples such as cloning, Therapeutic Goods drugs scheduling and prostitution laws and of course the very definition of marriage, that the

statutisation of a definition only means that in approximately 7 years, that statutory safeguard will be removed.

6. It is out happy intention to repeal those positive laws that seeks to usurp natural law definitions and Constitutional robust definitions by given the public false hope and security as to the protection of a statutory definition, in the demonstrated cases that such false 'protections' are only put into statute for the purpose of arrogating the presumption that the authority of a law is based solely on the statutory enactment, which has equivalence to the Nuremburg defences that assert that laws disseizing property, the enactment of laws promulgating the construction of concentration camps and gas chambers are enforceable as legitimate laws.
7. It is Nuremburg that recites the Natural Law that a law that defies the laws of nature are no law at all.
8. In the 'review' of existing 'exeptions and exemptions' we are led to believe that the only law that is relevant is so-called Public International Law, devoid of the Natural Law. It was Nuremburg that applied BOTH limbs of Public International Law as it then was, with the Law of Nature in the application setting aside the Defence that these German laws were validly enacted and promulgated by a Legislature of competent jurisdiction. That argument was defeated as it should in any law that defies the Natural Law.

We refer above to submission on TOR 3(a) which states:

> 3(a): *"The Committee will have regard to… Existing rights and legal protections contained in the Anti-Discrimination Act 1977 (NSW) and other relevant NSW and Commonwealth legislation*"

1. We have previously noted that this Term of Reference is flawed as being too restricted to the reference points of all law including Common Law of the Commonwealth of Australia and extending to the absorbed laws of England.
2. Religious Freedom Revew 2018: This defect is particularly pointed when we read the 2018 Review, which is thick with common law authority in an attempt to justify its findings.
3. Yet, when this matter comes before you, the TOR does not take you to the Common Law references that are relevant to the making of laws on religion.

Queen v L [1991] HCA 48; (1991) 174 CLR 379

> Brennan J: [4] His Lordship thought that neither of those opinions was completely accurate, holding marriage to be **"a contract according to the law of nature, antecedent to civil institution, ... a contract of the greatest importance in civil institutions, ... charged with a vast variety of obligations merely civil".** In Hyde v. Hyde and Woodmansee, (1866) LR 1 P and D 130, at p 133, Lord Penzance defined marriage as *"the voluntary union for life of one man and one woman, to the exclusion of all others"* and that definition has been followed in this country and by this Court(39) Calverley v. Green [1984] HCA 81;(1984) 155 CLR 242, at pp 259-260; Khan v. Khan [1963] VicRp 32; (1963) VR 203, at p 204. It is the definition adopted by the Family Law Act, s.43(a) of which requires a court exercising jurisdiction under that Act to have regard to *"the need to preserve and protect the institution of marriage as the union of a man and a woman to the exclusion of all others voluntarily entered into for life"*. Marriage is an institution which not only creates the status of husband and wife but also, without further or specific agreement, creates certain mutual rights and obligations owed to and by the respective spouses Eversley's Law of Domestic Relations, 6th ed. (1951), pp 2-3. It is necessary to say what is meant by a mutual right in the law of marriage.

It is the ***law of nature*** that is the foundation of the Common Law as it pertains to *Marriage* and *Religion*. It is noted and conspicuous by their absence, that the line of authority from *Hyde v Hyde & Woodmansee* (1866) LR 1 P and D 130*, The Queen v L* [1991] HCA 48 and *Khan v Khan* (1963) VR 203 etc. are not cited anywhere in the *Religious Freedom Review 2018*, along with other examples of common law conveniently forgotten and not cited, whilst other common law determinations are.

It is submitted the Review is a deliberate act of subjugation of the Common Law as it presently stands along with the Natural Law in favour of an exclusively UN based framework on the errors of an individualist paradigm founded on the three abovementioned UN instruments and the Syracuse instrument alone.

We submit this paradigm to be an offence against the Commonwealth's Constitutional framework and inconsistent with extant law and Australia's Constitutional framework.

## Financial impacts – Costs Orders flowing against the NSW Taxpayer

The direct financial impact of the current legislative framework is:

1. There are now over four Costs Orders against the State of New South Wales in this jurisdiction as a direct result of flawed statutory construction.
2. There is at least two bankruptcies resulting in this legislation, one of which is a serial complainant who has used this legislation for 10 years and is now bankrtupt as a result.
3. We question the moral reasoning of this legislation that achieves nothing more than the financial ruin of those seeking to rely on it and a regime of utter confusion as to the minimum social standards that is expected of a Citizen of the State of New South Wales.

## Arrogation

The constant theme is arrogation. That is, various States and Territories and the Commonwealth all seeking to usurp to itself Federal diversity jurisdiction that it simply have not have, or alternatively, may not delegate to a Tribunal of a State or Territory on the basis that it has not the power to do so.

It is the author's observation that the making of these laws demonstrates a severe lack of depth in the Legislator's thoroughness and preparation of policy and financial imapcts. Specifically, the Legislator has made at least two forlorne amendments in the statutory framework specifically the inclusion of section 34A and 34B of the CATA Act in a bid to 'plug' a clear statutory hole in the legislative framework as to the application of Federal Jurisdiction which we also say is flawed.

On point, we bring to the Committee's attention the fact that these current laws were made during the application the High Court of Australia by the State of New South Wales directly and by its agent the Attorney-General of New South Wales in 2017 and were roundly criticised by the Court in that this Parliament had sought to amend an extant legislation at the same time as it was moving three applications bofore the High Court of Australia incurring costs upon civil applicants as well as the taxpayers of the other States and Territories who intervened and made note of this fact.

### *Recommendation 2*

> **"Commonwealth, State and Territory governments should have regard to the *Siracusa Principles on the Limitation and Derogation Provisions in the International Covenant on Civil and Political Rights* when drafting laws that would limit the right to freedom of religion."**

Again, the Recommendation makes exclusive reference to UN instrumentation without any reference to extant Constitutional and other law of binding precedent and authroity in Australia. Recommendation 2 must be rejeted on this basis alone.

### *Recommendation 3*

> **"Commonwealth, State and Territory governments should consider the use of objects, purposes or other interpretive clauses in anti-discrimination legislation to reflect the equal status in international law of all human rights, including freedom of religion."**

Again, the implied assertion here is that the only frame of reference to 'international law of all human rights' which by implication excludes private international law, and the Australian Constitutional framework against our extant absorbed and current laws. The Report expects the Legislature to apply exclusively the referred UN instruments alone and devoid of Australia's Christian Constitutional framework and is an affront on Cultural inhereted Christian Constitutional legacy and seeks to usurp it.

## Manifestation of Religious Belief

### *Recommendation 4*

> **"The Commonwealth should amend section 11 of the *Charities Act 2013* to clarify that advocacy of a 'traditional' view of marriage would not, of itself, amount to a 'disqualifying purpose'.**

It is again submitted that the attempt to curry comfort in the protection of statutising a meaning within section 11 of the *Charities Act 2013* is demonstrably a ruse. It is

the Legislator's and movers' intent to repeal any purported protections of "traditional" marriage at a later time and strike out any remnant definition as per the current Common Law in the line of authority of *Queen v L, Hyde v Hyde & Woodmansee, Khan v Khan* etc.

We submit Recommendation 4 further shows the 'true colours' of the Review Panel and the ultimate agenda to completely ignore and erase a Christian based jurisprudence and the authority of law present in Australia by a sequence of degrees.

The submissions holds that the so-called 'traditional' definition of marriage (a non-legal concept) is embedded and inelucatble force by operation of law being pre-institutional and ordained by the law of nature per Queen v L and the line of authority. The *Marriage (Definition and Religious Freedom) Act 2017* is aberrant and defective at law and void and of no effect because it is in breach of the Commonwealth Constitution and the law of nature in combination.

## *Recommendation 5*

> **"The Commonwealth should amend the *Sex Discrimination Act 1984* to provide that religious schools can discriminate in relation to the employment of staff, and the engagement of contractors, on the basis of sexual orientation, gender identity or relationship status provided that:**
>
> **(a) the discrimination is founded in the precepts of the religion**
>
> **(b) the school has a publicly available policy outlining its position in relation to the matter and explaining how the policy will be enforced, and**
>
> **the school provides a copy of the policy in writing to employees and contractors and prospective employees and contractors.**

The common applied ruse, in the making of an apparent protection, only so that that protection can, at a later time, be taken away, is present here. Further, yet again, the Review panel of 2018 and those detractors responsible for this Review, deny any recognition of the application of the Common Law and Australia's Constitutional framework as it is does not exist. Recommendation 5 will only ensure that this apparent protection will be removed at a later time.

## *Recommendation 6*

> **"Jurisdictions should abolish any exceptions to anti-discrimination laws that provide for discrimination by religious schools in employment on the basis of race, disability, pregnancy or intersex status. Further, jurisdictions should ensure that any exceptions for religious schools do not permit discrimination against an existing employee solely on the basis that the employee has entered into a marriage."**

Recommendation 6 only validates the acknowledgment that it is the Panel's clear intent to remove extant protections current afforded to religious schools that were supposed to be "chiselled in stone". Yet, here is Recommendation 6, we clearly see that it is the recommendation of the Panel to REMOVE those very protections. This point entire corroborates our submission that this Review and the Bill only ensures the demise of a religion's evangelical, pastoral and Apostolic missions or otherwise its Covenental missions as a Church or Religion.

The purpose of this Recommendation is to clinically divide "religious freedom" from broader cultural and covenental lifestyle with separation of other cultural domains principally marriage from prevailing in these communities.

## *Recommendation 7*

> **"The Commonwealth should amend the Sex Discrimination Act to provide that religious schools may discriminate in relation to students on the basis of sexual orientation, gender identity or relationship status provided that:**
>
> (a) **the discrimination is founded in the precepts of the religion**
>
> (b) **the school has a publicly available policy outlining its position in relation to the matter**
>
> (c) **the school provides a copy of the policy in writing to prospective students and their parents at the time of enrolment and to existing students and their parents at any time the policy is updated, and**
>
> **the school has regard to the best interests of the child as the primary consideration in its conduct."**

Recommendation 7 pertains to Commonwealth law and is not a matter in issue for the State of New South Wales.

## *Recommendation 8*

> **"Jurisdictions should abolish any exceptions to anti-discrimination laws that provide for discrimination by religious schools with respect to students on the basis of race, disability, pregnancy or intersex status".**

Recommendation 8 is but a broader express of Recommendation 6 which specifies employment law. Our submission on [6] is equivocal to [8].

## *Recommendation 9*

> **State and Territory education departments should maintain clear policies as to when and how a parent or guardian may request that a child be removed from a class that contains instruction on religious or moral matters and ensure that these policies are applied consistently. These policies should:**
>
> (a) **include a requirement to provide sufficient, relevant information about such classes to enable parents or guardians to consider whether their content may be inconsistent with the parents' or guardians' religious beliefs, and**
>
> (b) **give due consideration to the rights of the child, including to receive information about sexual health, and their progressive capacity to make decisions for themselves.**

It is submitted that (b) trumps (a). What appears in (a) to be an expression of *In Loco Parentis* or otherwise expression of natural parental procreative right, is annihilated by (b) which subjects (a) to the likes of Safe School Programmes and extant policies that will deny parental rigths against existing so-called education law.

## *Recommendation 10*

> The Commonwealth Attorney-General should consider the guidance material on the Attorney-General's Department's website relating to authorised celebrants to ensure that it uses plain English to explain clearly and precisely the operation of the *Marriage Act 1961*. The updated guidance should include:
>
> (a) a clear description of the religious protections available to different classes of authorised celebrants, an
>
> (b) advice that the term 'minister of religion' is used to cover authorised celebrants from religious bodies which would not ordinarily use the term 'minister', including non-Christian religions

1. This recommendation again reveals the colours of the Panel and its publisher, by juxtaposition against and exclusively Christian terminological framework.

2. The Explanatory Memorandum at its Clause 22K defines "Religious Belief" to include '[s.22K(1) (a) having a religious conviction, belief, opinion or affiliation; and (b) NOT having any religious conviction, belief, opinion or affiliation".
3. Religion within the Constitutional Framework, despite the best efforts of the Panel in its 2018 Review from paragraphs [1.81] on meaning of the word 'religion', denies the attributes of 'religion' being by its definition, meaning a virtue *Religare* meaning 'to bind'.
4. The virtue is an expression of binding *to God*.
5. The attempt to define 'religious belief' to "not" having a religious belief, conviction, opinion or affiliation' is nonsensical and self contradictory.
6. The purpose of this Bill is therefore to bind any ideology, religious or otherwise to this legislation.
7. The Bill is therefore approbate against the meaning of Religious Belief and the meaning of the word Religion and is approbate against the virtuous and natural meaning of the word 'Religion'.
8. The legal authorities referred again deny the concomitant authorities including Queen v L and the denial of the long line of authorities dealing with the application of natural law in the long founded philosophical and jurisprudential meanings of words of pre-institutional meaning such as 'marriage', 'family', 'husband', 'wife', 'religion' etc. by redefining these words to non-sensical and approbate discombobulations in the tradition of 'newspeak'.

## *Recommendation 11*

The Commonwealth Attorney-General should consider whether the Code of Practice set out in Schedule 2 of the *Marriage Regulations 2017* is appropriately adapted to the needs of smaller and emerging religious bodies.

## *Recommendation 12*

This recommendation against legislates purported protections that are already afforded under common law and other laws but will be taken away at a future appointed time and is opposed.

## *Recommendation 13*

The recommendation to abolish the common law of blasphemy is a clear indication of the attempted de-Christianisation of the absorbed Common Law jurisdiction.

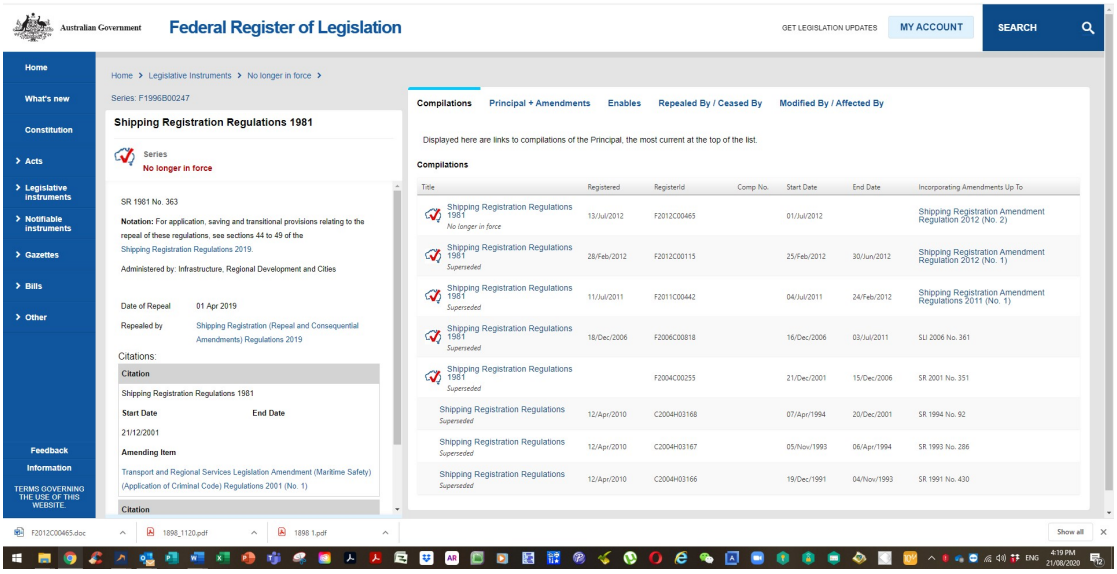
Other equally offensive matters of divination, Satan worship and other practices both Demonic and approbate against the Christian Constitutional Framework are expressly protected in this Bill.

For this reason, the Bill approbate against the framework of Right Reason and Natural law.

## *Recommendation 14*

> **References to blasphemy in the *Shipping Registration Regulations 1981*, and in State and Territory primary and secondary legislation, should be repealed or replaced with terms applicable not only to religion.**

1. It is extraordinary to see what lengths this Panel in the Religious Freedom Review 2018 is going to, to erase all mention of 'Blasphemy' from enactments, in force or otherwise.
2. The *Shipping Registration Regulations 1981* are no longer in force.
3. The Panel's Recommendation to 'repeal' or 'replace' 'references to blasphemy' in this Commonwealth Regulation, is nonsensical because the Regulation is at time of publication not in force.
4. We attach screen capture from the Commonwealth Federal Register of Legislation that clearly marks this Regulation SR 1981 No. 363 as 'No Longer In Force' and 'Repealed' on 1 April 2019.




Further, the Panel makes great play of any number of reported decisions such as *Piss Christ*, but fails to mention other decisions of equal or greater importance such as the *Hail Mary* decision in *Ogle and O'Neill v Chief Censor of the Censorship Board and Ors* [1987] FCA 36.

It is glaring omissions in references to the number of cases readily to mind that demonstrate and reveal the bias in the Religious Freedom Review.

## *Recommendation 15*

It is submitted that the wrongful application of religious freedom under racial discrimination law was always a ruse until the purported time to show the legislator's true colours would make a time that was 'the right time' to move such an audacious Act.

The creation of a Religious Freedom Commissioner will usher in a new era of suppression of freedom which is precisely what the Vatican's observer and spokesperson Monsignor Migliore warned in making this enabling legislation a further act of suppression of belief and further arrogation of control by the State. This Bill accomplishes this and is opposed.

## *Recommendation 16*

The recommendation for New South Wales to *"amend their anti-Discrimination laws to render it unlawful to discriminate on the basis of a person's 'religious belief or activity",* must be read contextually to the new definition of 'religious belief' prescribed in s.22K to include 'non-religious belief' and 'religious belief' that includes Satanic worship.

It is preposterous to consider how this regime could work and is opposed.

## *Recommendation 17*

Qualitative and quantitative information – No submission.

## *Recommendation 18*

The proposal for a 'religious engagement and public education program' is again contextual against the framework, which is clearly solely centric upon extant UN instrumentation and devoid of any extant Constitutional framework and is therefore approbate against Australia's Commonwealth and States' Constitutional Framework and extant laws.

## *Recommendation 19*

The notion that the Australian Human Rights Commission 'taking a leading role in the protection of freedom of religion' etc. is a clear manifesto of that Commission arrogating to itself power which it is intrinsically incompetent to exercise.

This submission opposes any further release of powers to that body and calls for its disbandment as an agency of the United Nations and de facto control and subjugation of Australia's sovereignty.

### *Recommendation 20*

The leadership to be taken here is to:

1. Repeal the Marriage (Definition and Religious Freedom) Act 2017
2. Repeal through Commonwealth Legislation the Human Rights Act ACT
3. Repeal the Anti-Discrimination Act (NSW) 1977 and revert all jurisdiction of acts of discrimination and vilification to acts of general criminality before a Criminal Court Judge.

## Conclusion

This Submission opposes this Bill.

Yours faithfully,

Robert Balzola