THE PRACTICAL 'LAWFARE' APPROACH TO THE DEFENCE OF RELIGIOUS FREEDOM

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I. FIRST CONSIDERATIONS

On 14-15 June 2019 the Board of *Sheridan College Perth* in conjunction with the *Western Australian Legal Theory Association* ('WALTA'), The *Australian Christian Lobby* ('ACL'), the *Human Rights Law Alliance*, *Barnabas Fund* and the *National Civic Council* ('NCC'), hosted a Conference titled *Religious Freedom at the Crossroads – The Rise of Anti-Christian Sentiment in the West*, held at Sheridan College, Perth. The author of this article, Robert Balzola, was one of 17 presenters at this Conference.

A *Synopsis*

This article follows the author's presentation and it examines the advent of applied revolution properly understood in the Aristotlean tradition against order per se. The term "lawfare" is applied to mean the use of administrative and positive law to achieve revolution through positive legal means, whilst offending the natural, moral and divine laws. The article relies on the text of Plinio Corrêa de Oliveira's *Revolution and Counter Revolution*[1] and the various Catholic Church encyclical and other texts to define and understand the *ideas* of *revolution* and *counter-revolution*, again properly understood.

The purpose of this article is to identify the concept Professor Oliveira summarises in his text as slow persistent revolution, as distinguished from the mental imagery of short, acute revolutionary paroxysm. The article then looks into the recent modern history of post-World

* Solicitor practising in New South Wales. This article is written in response from the Conference organisers to all presenters to submit a formal paper of academic and legal merit following their respective presentations. The author thanks the Board of Sheridan College for their initiative at this conference and the opportunity to present this Journal text on point.

[1] Plinio Corrêa de Oliveira, *Revolution and Counter Revolution* (3rd ed., The American TFP, 2008).

War II international reconstruction, particularly the advent of United Nations ('UN'), the UN Declaration of Human Rights and the International Covenant of Civil and Political Rights ('ICCPR') and their profound philosophical errors following the NAZI collaborators' trials known as the *Nuremberg Trials* and the 'death' of natural law as a jurisprudential precept to the making of human law. It relies on the terminology of what the author coins the Triple-A ('AAA') 'rating' of philosophy, that is the philosophical scientific method in the tradition of Aristotle→Augustine→Aquinas ('AAA').

This AAA philosophical discipline, reaching its synthesis in Saint Thomas Aquinas' Treatise of Law found in his *Summa Theologica* will be the terms of jurisprudence used in this journal: particularly the terms *human law, natural law, moral law* and *divine law* and the word *law* aspiring towards the good end of *justice.*

B *Terminological exactitude – Orwellian newspeak*

There are other terms that must also be applied with accuracy. These terms include *religion, freedom, positive law, individual(ism) and person(alism).* The article attacks the consistent attack of choice by those usurpers of order, justice and reason, in the domination and discombobulation of terminology, redefining and usurping the natural and correct meaning of words, confusing and confounding the reader and those who are led to believe they are thinking with an air of intellectual sophistication.

George Orwell (real name Eric Blair)'s political science fiction *1984*[2] coins the term 'Newspeak' to be a device by the *Ministry of Truth* to reduce the capacity of the *proles* (the Proletariat) from being able to communicate with each other effectively (insensibility). Words would become super-concatenated and enforced, so that the *ideas* within those words are lost and, with the loss of ideas, there is also a loss of meaning and capacity to communicate.

C *The era of Oxymoron and Non-sensical words*

This article commences with the proposition that the "Era of the Modern" (i.e. from the end of World War II n 1945) can be characterised as the era of oxymoron and non-sensical words. It is true that oxymorons and non-sensical words have always existed from ancient

[2] George Orwell, *1984* (Arcturus Publishing Ltd., 2013) first published, 1956.

Greco-Roman times and beyond. However, since the "revolutionary counter attack" from the Renaissance and the rediscovery of the Classical sciences of philosophy and theology, the combined effect resulted in the swathe of hubris that flooded the eighteenth and nineteenth centuries particularly in Western Europe, as a deliberated and systematic attack on Christendom. This point leads to the descriptor of the Sheridan Conference itself: 'the rise of Anti-Christian Sentiment in the West'.

D *On the Rise of Anti-Christian Sentiment everywhere, not only 'the West'*

But where is 'the West'? The author has never understood what *'The West'* is geographically or politically. Where is *'the East'*? Why don't we speak in terms of *'the East'* but only *'the West'*? Is the Russian Federation and former Soviet republics part of 'the West'? Is Khazakstan part of the West or East? What of Turkey, which is partly in Europe and Asia?

E *Anti-Christian Sentiment is as old as time*

The phenomena of Anti-Christian Sentiment is neither new nor sudden. The modern rise of Anti-Christian Sentiment occurred from at least the 1750s from the fomenting of Aristotlean proletarian adversarial sentiment against the excesses of the French monarchy, culminating in the French Revolution of 1789 and publication of the infamous *Declaration of the Rights of Man and the Citizen* – a list of 17 seductive *'sola rights'* (rights alone) without corresponding duties and obligations in the Christian paradigm.

The tactic of seduction and appeal to an ignorant population is a tactic employed by every Statist ideology to incite revolution. Every revolution has appealed to the ignorance of the masses to the present day: *American* (1765) *French* (1789), the *Revolutions of 1848* (Europe), *Filipino* (1899), *Russian* (1917) and the flood of South American and African revolutionary movements. All apply the Aristotelian *Politics* principle of "proletarian incitement" against the established order by use of seductive, easy to digest but deceitful argument and themes. At a minimum, the American, French, European 1848 and Filipino revolutions are all inextricably mixed with Freemasonic political activism. They were not accident and were systematically organised and conceived as are the current destructions of Order and Civilisation in a Christocentric world. It is this sort of political activism that is still alive and working assiduously and unceasingly against Order and the annihilation of civilisation towards chaos and entropy.

F *Humanum Genus – Pope Leo XIII 1884*

Hence it is no surprise that on 20 April, 1884, the Church issues the Encyclical *Humanum Genus*[3] of Pope Leo XIII, condemning Freemasonry and which stands with approval in Church teaching to this day. *Humanun Genus* is affirmed with approval of the various Councils and Synods of Bishops to this day around the world. But most have never heard of it.

The simple reality is that all matters of interest to Conference attendees, whether it be freedom of speech, freedom of assembly, life issues, freedom of publication, etc., all inextricably come down to the deliberated attempt to silence all free thinkers but particularly Christians from applying practically their lives to the threefold Canonical obligations, either personally or institutionally as part of their Church, thus rendering ineffective their:

(1) ***Apostolic*** Mission
(2) ***Evangelical*** Mission
(3) ***Pastoral*** Mission

The entire assault on 'religious freedom' (a term requiring further definition below) is the denial of a person to exercise their Apostolic, Proselytic (Evangelical) and Pastoral Missions in their Church as established by Christ.

G *Denial of Syncretism*

The current assault on fundamental freedoms per se is not peculiar to Christianity. Other religions as well are denied, but the particular importance against the *Christian Deposit of Faith and Truth* is founded on the fact that Christianity holds the *greater* Deposit of Faith and Truth per se, denying nothing of other religions also holding deposits of Truth and worthy of participation in the *Great Conversations* of *Ideas*. For Truth is abhorrent to Satan, who is also called the *Prince of Lies* and the *Great Deceiver.*

H *The 'dark horse' of Liberalism*

The real agenda is denial of syncretic analysis through the two main sources: (1) Ecumenical dialogue (Intra-Christian dialogue) and Inter-Faith dialogue (dialogue between all religions). The New World Order is about the elimination of critical thought, truth and reason in

[3] '*Humanum Genus*: On Freemasonry' [1884] – *Encyclical Letter of Pope Leo XIII* (Angelus Press, 1998).

substitution of its own paradigm. That is the 'dark horse' the subject of this Conference. The elimination of reason and objective truth is the grave matter the subject of this Conference.

I *The Relativist Error*

Keynote Conference speaker Justice and Emeritus Professor William Wagner's address on Friday, 14 June 2019 raised the oft-quoted self-contradictory proposition of the advocate who asserts: *"there is no right or wrong, only different",* only to realise that in order for that statement to be made, it must be right. Otherwise, that proposition also fails on its own demerit because it, too, is neither right nor wrong.

J *Pursuit of Objective Truth*

The recent historical rise of Anti-Christian Sentiment is the attack on Truth objectively understood. It is also the attack of speech for Truth. It is the denial of Truth, Justice, Natural Law and Right Reason. It is this assault that must be offensively attacked and repaired with the restoration of "Right Reason" through the vehicle of appropriate rights and duties to preserve the scientific pursuit of objective reason and discovery of further speculative truths in philosophy and theodicy.

K *Omnipresent Anti-Christian Sentiment*

Anti-Christian sentiment is the predictable trademark of Satan. Anything that is inimical to the Word of Christ is by definition not of God and hence of the Devil – *'let anathema sit'*. As Mary, the Mother of God is the beginning of both *Time* and *Pilgrimage*, Satan has attempted absolutely everything, before, during and after the Beginning of Time (i.e. the time of the *Birth of Christ*) to deny the moment of Birth, as well as deny the Death and Resurrection from happening – the ultimate victory over Death by Christ's *Birth*, *Death* and *Resurrection*.

Since at least the French /American revolutions in modern history, the usurpers of Christendom have systematically sought to confound and confuse the human mind. This is accomplished by subtle terms of art which are entirely false and known by the use of *suggestio falsi* ('the false premise'). A common *suggestio falsi* is the use of pseudo-intellectual *ideas* that are in fact oxymoronic in the use of bald lies or non-sensical words which appear to the untrained and undereducated to be sensible, sophisticated words,

however wrong. Marxism, Kantianism and all revolutionary philosophies fall into this category.

L *Examples of non-sensical words and oxymorons*

Coming to the Sheridan College conference, we are immediately confronted with the array of speakers who, unconsciously or not, often use the language and terminology of the enemy. Recent examples abound since the *French Revolution* and the notion of *Christian Socialism* is a paradigmatic example: as if a person can be both a Christian and a Socialist simultaneously! Any person holding out to be both a Socialist and a Christian is hopelessly confused and self-contradictory. This is just one of a large body of terms that form the basis of error, and ultimately lands the person's confused state of mind in schism, apostasy and heresy.

In more recent times, the following terms have been absorbed and used by those professing to be Christian and used routinely in their language as if authoritative and valid terminologies:

- Voluntary euthanasia
- People smuggling
- Economic rationalism
- Climate change
- Global warming
- Same sex marriage

Speakers at the conference and other purportedly Christian advocates all fall in with the common parlance ***same-sex marriage***. It is profoundly wrong and must never be used.

M *Euthanasia No! Campaign of 2007*

The author commenced the *Euthanasia No!* campaign in 2007 which was spectacularly successful. The reason it was successful is because it did what all campaigns must do:

1. Seize the language
2. Define with clarity and accuracy
3. Dispel the oxymorons, nonsensical terms and suggestio falsi
4. Deconstruct the deceit and treachery
5. Lobby and market the Truth relentlessly

These few examples demonstrate the immersion of the modern into the *psyche* of our Church adherents – minds entirely absent of intellectual philosophical and theological training, who cannot at once see the absurdity of such terms that are either oxymorons and/or non-sensical terms.

N *(In) "Voluntary" Euthanasia?*

Euthanasia must be voluntary in the mind of the patient or it is automatically not euthanasia: it is either murder or other category of assault occasioning death. Without voluntariness in the mind of the patient the action of deliberately killing a person by lethal injection or other means becomes assisted suicide, suicide or murder. What is *'involuntary euthanasia'*? Can such a thing actually exist? No. If there is such a thing as *voluntary euthanasia*, then there must be an *involuntary euthanasia*. Yet, to this day, Christians and non-Christians alike use the term voluntary euthanasia as if it were a defined, rational, coherent, philosophically accurate term of art.

O *"People Smuggling"*

You cannot smuggle a person. Despite the term finding its expression in Part 2, Division 12, Subdivision A of the *Migration Act 1958*, s*muggling* means 'any importation, introduction or exportation or attempted importation, introduction or exportation of goods with intent to defraud the revenue'.[4] Whatever the act of unlawful arrival into the Australian migration zone of a person assisted by another person, it is not smuggling because a person is not a commodity that can have a tariff impost upon him or her upon which the Commonwealth is defrauded of its revenue.

P *"Same Sex" Marriage*

This is contextual and relevant to more recent abominations against correct terminological exactitude in the marriage debate, and specifically the three key legal terms: *Institution of Marriage, Husband* and *Wife*. The Parliament and those social commentators contributing to the 2017 *Marriage (Definition and Religious Freedom) Act 2017 (Cth)* also discombobulate terms to lend authority from the word *'marriage'* to give *'same sex'* relations an authority and status greater than that which it is capable of having in both

[4] *Customs Act 1901* (Cth), s 4.

meaning or practice. In short, the term *marriage* and more properly, *"Institution of Marriage"*, can never mean a same sex relationship. It is impossible. Equally, two men in a same sex relationship can never be defined as *'husbands'* and two women in a same sex relationship can never be defined as *'wives'* to each other.

To put this marriage terminological obfuscation to rest, the line of authority is left to the reader to review the legal precedent history of:

- *Hyde v Hyde and Woodmansee* (1866) LR 1 P and D 130 at 133 per Penzance L;
- *Khan v Khan* [1963] VicRep 32;
- *Calverley v Green* [1984] 155 CLR 242 at pp.259-260 and
- *Queen v L* [1991] HCA 48 & (1991) CLR 379 per Brennan J.

This line of authority has been ignored by the Commonwealth Parliament, in favour of its new, flawed matrix. The conduct of the Commonwealth Parliament is unlawful on many grounds and must be corrected and Constitutional order restored.

The 2017 Act has defied and contradicted the absorbed jurisdiction of England (being the jurisdiction upon Federation in 1900), and proceeded along the erroneous belief that it can define any word it wishes within its enumerated or other jurisdictions conferred upon it under s.51 of the *Commonwealth of Australia Constitution Act* and live out its Orwellian newspeak paradigm.

Q *A more sophisticate, strategic approach required*

On 22 July 2004, the author then the Chief of Staff of a sitting Federal Member of Parliament, drafted a speech to for the Hon John Murphy MP (Former Parliamentary Secretary for Trade) in a presentation to attendees at the *Catholic Adult Education Centre* on 22 July 2004. The key point was this:

> As tonight's topic is titled Marriage and the Future, it is relevant to question how wise is it to reduce the definition of marriage to statute, thus denying its higher authority found in the natural and moral law.

R *Human law based on International public law – the erasure of Natural Law jurisprudence*

The suggestion at Lidcombe to NOT legislate was based on the Author's presentation demonstrating the use of Commonwealth and State legislation to make a "black letter law" only to take that purported "protection" away within a period of 7 to 10 years. Examples presented at the Conference include:

- Postinor-2
- RU-486
- Chimeric research
- Embryonic stem cell research
- Legalisation of brothels and prostitution
- Corporal discipline codes in schools
- Marriage – s.43 Family Law Act 1975

These are just some examples where legislation purported to protect and galvanise a legal position, but in fact they ended up achieving the opposite effect in the not so long term.

S *The Common Law and absorbed jurisdiction is your only Christian protection*

It is the author's point that Defence of the Commonwealth and State Constitutions, properly understood and applied, and their precedent laws, are the only safeguard of Australia's rights and duties in a Christian paradigm. Anything else, including the current direction, is that of surrender of Commonwealth and State sovereignty to an Internationalist agenda where public international instruments prevails over national law and, ultimately, over our national sovereignty.

T *Nuremberg & Eichmann – Denial of Natural Law*

Despite all the horrors of Nazi Germany, a 'smoke screen' was used to deny the application of natural law-based jurisprudence in the decisions of the Nuremberg Trials. A positivist approach to Public International Law dominated the ratio in these decisions. Missing was the application of traditional principles of natural law. Eichmann's Court of Jerusalem decision did make the valid point regarding the use of natural law, as a 1950 enactment used to prosecute a person who committed acts prior to that enactment.

U *Statism – Ultimate authority in the making of any human law is not the U.N. or the Legislatures but the Law of Nature*

At the beginning of this article, it was argued that terminological exactitude is required if we are to participate in the Great Conversations on religion, freedom and religious freedom. Relevant encyclicals presented at Conference include the encyclical *Mater Et Magistra*[5] of Pope John XXIII (1961), which asserts the **Capacity to be Free** and the inalienability (Imago Dei) of right to private ownership of goods, land and other title.

The encyclical *Dignitatis Humanae*[6] of Pope Paul VI (1965) speaks of [1] **Immunity from Coercion**: 'Religious Freedom, in turn, which men demand as necessary to fulfill their duty to worship God, has to do with immunity from coercion in civil society'; and [2] **Immunity from Duress**: 'The human person has a right to religious freedom. This freedom means that all men are to be immune from coercion on the part of individuals or of social groups and of any human power, in such wise that no one is to be forced to act in a manner contrary to his own beliefs, whether privately or publicly, whether alone or in association with others, within due limits.'

The point of raising these authorities, is that the contemporary paradigm is that there is a belief saturated in our minds by the powers of the day, that the ultimate and only legitimate source of power is the United Nations and the legislatures of the jurisdictions within which we reside.

This is a manifestly false assertion. Authority of all law is the human law conformity to the Natural, Moral and Divine Law as the late jurist Heinrich Rommen noted following St Thomas Aquinas at *Summa Theologica*, Question 90:

> [The Positive Legal Act] loses all obligatory power if it violates the generally recognised principles of international law or the natural law, or if the contradiction between positive law and justice reaches such an intolerable degree that the law must give way to justice.[7]

[5] *Mater et Magistra*, Encyclical of Pope John XXIII on Christianity and Social Progress, 15 May 1961, <http://w2.vatican.va/content/john-xxiii/en/encyclicals/documents/hf_j-xxiii_enc_15051961_mater.html>

[6] *Dignitatis Humanae*, Encyclical of Pope Paul VI on the Right of the Person and of Communities to Social and Civil Freedom in Matters Religious, 1 December 1965, <http://www.vatican.va/archive/hist_councils/ii_vatican_council/documents/vat-ii_decl_19651207_dignitatis-humanae_en.html>

[7] Heinrich Rommen, 'Natural Law in Decisions of the Federal Supreme Court and the Constitutional Courts of Germany', *in* Charles Rice, *50 Questions on the Natural Law* (Ignatius Press 1999).

The current practice imbued in our minds is that the only authority of law is that of the Legislature and the making of positive law. The Austinian principle that the authority of the law derives from the positive act of making the law is false.

V *The Real Source of authority in the meaning of "Marriage": Queen v L [1991] HCA 48 & (1991) CLR 379 per Brennan J*

It is insightful and of critical importance on the question of marriage to be argued in the High Court of Australia, that the High Court as late as 1991 affirms the source and authority of marriage per Brennan J citing Lord Penzance with approval in *Hyde v Hyde and Woodmansee* (1866):

> His Lordship thought that neither of those opinions (origin of law from Ecclesiastical Courts and being solely a 'sacred, religious and spiritual contract') 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 to civil institutions…[8]

There is the express reference in *Hyde v Hyde* and thence L's case, invoking the natural law as the ultimate source of the 'contract of marriage' to the 'law of nature'. We are indebted to Justice Brennan for identifying Lord Penzance's ratio in finding, rightly, that the *Institution of Marriage* is not solely a 'spiritual contract' or a creation of the Ecclesiastical Courts of England, but an Institution that is *'antecedent to any civil institution'*.

It is not for any institution to devise and usurp for itself a power which it does not have nor can never have. The institution of marriage is found in the law of nature and is standing on higher ground than any positive law. All the positive law and the legislator can do is affirm the natural law. No legislature can usurp the natural law or it is anathema, being a lawless law that must yield to the natural law.

The practice of terminological obfuscation, embedding of *suggestio falsi* by use of nonsensical terminology and oxymoron is the conduct that must be stopped in order for Right Reason and justice to prevail. If this is not done, the ultimate casualty is justice against the erroneous human laws that do not conform to the natural law, moral law and Divine law.

[8] *Hyde v Hyde and Woodmansee* (1866) LR 1 P and D 130.

W *Tying the tongue of God*

The ancient parable of Satan obtaining the agreement from God to tie his tongue so he could not speak is the analogy of the modern era. The whole aim of the Revolutionaries from the French and American Revolutions and other revolutions is to *'tie the tongue of God'*. God allows Lucifer to tie his tongue who is delighted by his accomplishment. God raises his finger to request he only speak one word. Lucifer permits this. God's only word is ***'Jesus'***. The moral of this story is the Word of God is the primary target, specifically the Word of the Gospel and the Word of Christ. The end game is the totality of silencing of the Word of God.

X *Revolution and Counter-Revolution*

The author's presentation makes reference to Aristotle and his text *Politics*.[9] The principle in *Politics* is simply stated: If administrators defy justice, there will be disorder as resentment grows amongst the populace. Economics is the core of freedom leading to disrespect of laws and governance by the people, says Aristotle. Therefore, Aristotle advocates the vigilance of the State even in minor transgressions for the upholding of moral order in society.

Y *The Prole's current reaction – We are all publishers*

A main theme in the Conference, though not expressly stated as such, is in the technological domain. Alvin Toffler's text *Third Wave* (1980)[10], first published in 1980 and sequel to Toffler's text *Future Shock*[11], was written precisely at the point in time on the advent of Internet and the capacity of every person becoming easily and ubiquitously a 'publisher'. Now, with the advent of social media, everyone can *upload* and *download* publications on the Internet. More grievously and dangerously, everyone can read what you publish. Everyone can download your publication, be offended by it, record it, store it and take legal action upon it.

Z *The flaw in so-called 'Anti-Discrimination Law' and remedy*

Much of the Conference concerns itself with the notorious Section 18C of the *Racial Discrimination Act 1975* (Cth). However, not enough attention is paid to the stealth by which

[9] See: Aristotle, *Politics* (Dover Publications, 2000).
[10] See: Alvin Toffler, *Third Wave* (William Morrow & Co., 1980).
[11] See: Alvin Toffler, *Future Shock* (Bantam Books, 1970).

this legislation was enacted. The slow running persistent revolution to destroy the Commonwealth Federal jurisdictional structure can be seen in the ***diversity jurisdiction*** found in two principal Commonwealth Acts, namely (1) the *Commonwealth of Australia Constitution Act* (1900) particularly sections 74 to 77 and 109, and (2) the *Judiciary Act* (1903) at s 39 as to the exercise of Federal jurisdiction of a Court of a State in matters in which the High Court of Australia does not have exclusive jurisdiction. As indicated below, it is the line of authority and decisions in which the author has worked since 2014 in the matters of Corbett and Gaynor, in which the Federal diversity jurisdiction is paramount and the protection of the Commonwealth Constitutional Framework is now rearing its head.

AA *Commonwealth of Australia Constitution Act – Preamble*

Thanks to the petitioners and the advocacy of The Hon Sir John Downer and his South Australian co-advocate Patrick Glynn, the Preamble to the *Commonwealth of Australia Constitution Act* presently provides:

> WHEREAS the people of New South Wales, Victoria, South Australia, Queensland, and Tasmania, **humbly relying on the blessing of Almighty God**, have agreed to unite in one indissoluble Federal Commonwealth under the Crown of the United Kingdom of Great Britain and Ireland, and under the Constitution hereby established:…

The words 'humbly relying on the blessing of Almighty God' were inserted by petitioners moving that there be discrete recognition of God in the Constitution. The petitions and motion was successful 21 votes (For) to 19 votes (against).

I cite from the *Constitutional Convention* of 2 March 1898 commencing at page 1,740:

> **"Sir JOHN DOWNER** (South Australia)
>
> **[Page 1,740]**. 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 honourable 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.

> **"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 it legislate on religious questions in a way that we now little dream of**."

BB *Internationalism*

The importance of the Constitutional error of the Commonwealth making laws on religion is the very point Sir John Downer makes: that laws on religion is a ***State*** power, not a ***Commonwealth*** power. Further, Downer argues, I say rightly, that the Commonwealth should be limited in assuming any power over religion, given that its real authority derives from its absorbed Christian English jurisdiction but limited by its own statutory framework; i.e. limited by its enumerated jurisdiction in s 51, but not the current argument that source of authority is founded and substituted by U.N.-based international instrument.

In doing so, the Orwellian "Ministry of Truth" plays its hand in usurping by selective erasure of the clear Commonwealth Constitutional Convention, the enactment of provisions by the Executive Order of Queen Victoria in proclaiming the Commonwealth of Australia Constitution Act, inclusive of the (amended) Preamble and limiting the power of the Commonwealth to expressly exclude the Religion Power from the Commonwealth.

CC *Racial vs Religious Discrimination*

To date, law on religion in Australian has been wrongly categorised and discombobulated with ***'racial'*** discrimination law, which is absurd.

Religion and *Race* are two entirely different jurisdictions and legal concepts. The act of engrossing religious discrimination and rebadging and categorising it as *racial* discrimination has been a legal absurdity for 30 years. It is the Commonwealth who has done this, in order to usurp the power of the States in respect of the legislation of religious freedom. This obfuscation was no accident.

We saw this conduct in the Bendigo Mosque matter in which the author appeared in the Supreme Court of Victoria Court of Appeal in 2015 in *Hoskin & Anor v Victorian Civil and*

Administrative Tribunal & Ors[12]. In that decision, the Full Bench of the Supreme Court of Victoria Court of Appeal overrode Victorian State legislation as to the application of social impact assessment found in the Victorian *Planning and Environment Act* at section 60, finding that the consent authority applied the "wrong test", but then overriding Victorian State legislation in favour of public international law as to affording the applicants a place of worship even if the wrong environmental tests were applied. Had this development application been any other development application, the matter would been remitted and the matter compelled for reconsideration. The Bendigo Mosque issue serves as a good example of the Judicature overriding State laws in favour of public international instruments even when the State law has been wrongly applied.

DD *Law of Religion is State jurisdiction*

The making of a religion commissioner as anticipated in the *Australian Human Rights Commission* is a further corrosion of State powers based on their statutory POGG (Peace, Order and Good Governance) powers (being the widest expression of power available at law) given to the States respectively that are not so limited as the Commonwealth is by its own delimiting Constitutional statutory framework:

Section 5 of the Constitution Act (NSW) 1902 serves as a perfect example of POGG:

> "5 GENERAL LEGISLATIVE POWERS
>
> "The Legislature shall, subject to the provisions of the Commonwealth of Australia Constitution Act, have power to make laws for the **peace, welfare, and good government** of New South Wales in all cases whatsoever:"
> *(A)*

In short, the States are POGG, the Commonwealth's jurisdiction is intrinsically limited, and it does not have the power to legislate on matters of religion.

EE *Backdoor legislation*

The often used term "backdoor legislation" by use of external affairs powers in ratifying international instruments to undermine State powers is again at play in so-called *religious freedom legislation*, in this case the undermining of the religion power by the States in which

[12] [2015] VSCA 270 (29 September 2015).

the Commonwealth has no statutory authority within its enumerated jurisdiction to legislate at s 51 or elsewhere in the Constitution.

In short, we see the ongoing usurpation of State powers at the hands of the Commonwealth Legislature. Again, this phenomena of usurping Commonwealth Federalism in favour of the Internationalist paradigm is no accident, but part of a slow running persistent revolution against the order of the Christian Commonwealth as a specifically designed Christian Commonwealth Jurisdiction.

FF *Other Anti-Discrimination Laws of the States*

It is therefore a begging question as to the existence of State provisions on 'Racial discrimination' such as section 20C of the *Anti-Discrimination Act* (NSW) 1975 ('the ADB Act') being an offence of racial discrimination. The agenda was always to surrender the religion power away from the States and place it in the hands of the Commonwealth and Internationalists. This point is further amplified by the existence of State Relationship Registers. If same sex relationships are the domain of the Commonwealth, why is it the registration of such relationships is the purview of the State Registries? The residue of State jurisdiction is an embarrassment to those who assert that the right to make laws on religion is a Commonwealth power: it is not.

Despite this, major ethnic groups such as the Australian Jewish Community have attempted in vain to bring actions against various alleged offenders only to be turned away, the allegation that the law was too vague. However, in the large run of cases under ss 49ZS and 49ZT of the *Anti-Discrimination Act* (NSW) on homosexual vilification, the ADB has run amok with literally hundreds of cases being routinely referred to the New South Wales Civil and Administrative Tribunal ('NCAT'), without any investigation or reporting prior to referral. This point now takes us to the main body of the author's litigation history.

GG *Sunol, Gaynor, Corbett, Folau, McKee etc. line of authority*

The author has been acting for John Sunol, Major Bernard Gaynor, Therese (Tess) Corbett, Geoffrey McKee and others since 2014. These matters have progressed in the NCAT, the Supreme Court of New South Wales, the Supreme Court of New South Wales Court of Appeal and the High Court of Australia. In total, there are approximately 130 complaint matters over the entire period.

The long list of cited authorities in the author's presentation are without exception, litigation commenced by an offended party against the online publications of the author's clients. In the case of Therese (Tess) Corbett, an Independent candidate in a Federal Election, the matter began with an interview by the Hamilton Courier. Had it stopped there, there is little likelihood that the matter would have progressed further without the advent of the Internet. The real "damage" occurred with republication within the Sydney Morning Herald and ultimately online publication of same.

The Toffler point that technology makes us all publishers has taken a sinister turn. Reported judgements in the Courts and Tribunals have led to the absurd making of precedents that a person is responsible for a publication on your own website, even if that publication is linked to your publication site without your knowledge or permission, thus making you're the owner, publisher, responsible party, the one with effective control and ultimately liable for any vilification or offence. Refer *Burns v Sunol (No.2)* [2012] NSWADT 247 and subsequent string of cases in the *Civil and Administrative Tribunal of New South Wales* ('NCAT') for further detail.

Further, according to the Attorney-General for New South Wales, you can publish in one State but be punished in New South Wales. This point is pressed to this day by enactment of the NSW amendments to the CATA Act at Sections 34A and 34B giving that State's Local and District Courts jurisdiction notwithstanding the five High Court wins in *Burns v Corbett; Burns v Gaynor* [2018] HCA 15 in which the author appeared.

HH *Jurisdictional creep*

The statistics are staggering. John Sunol has been subjected to 70 complaints by a single complainant to the Anti-Discrimination Board of New South Wales ('ADB'). Major Bernard Gaynor, over 40 complaints. All complaints are liable to referral to the NCAT and subject to maximum statutory damages of $100,000 for each complaint. The conduct of the ADB is an appalling high watermark of abuse of process in need of immediate intervention and remedy for its imperious conduct over a 30 year period.

II *Religion power now (wrongly) a Commonwealth Power*

The agenda has been to expand the use of the Commonwealth's jurisdiction and bring law on religion into the purview of public international instruments such as the U.N. *Declaration*

of Human Rights and *ICCPR*. The U.N. becomes the ultimate arbiter of religion in Australia, with the completion of the Human Rights Commission appointment of a *Religion Commissioner* as indicated in the *Australian Human Rights Commission* 2017-*2018 Annual Report*, at page 3.

JJ *The Arrogance of* the *Modern*

The "arrogance of the modern" is a term used by David W Hall in his text *The Arrogance of the Modern – Historical Theology Held in Contempt* (1997)[13] to describe the Orwellian historical revisionism at play over the polity.

The purpose is to erase minds. Like Orwell's Hate Week, the purpose is toe distract the polity of the slow running persistent revolution and onto endless perennial spot fires of distractions. The polity, distracted by these spot issues, whether Folau, Christchurch, Martin Place, Parramatta shooting or whatever, prevents the polity from systemic counter revolution and counter strategy by a sequence of distractions.

Participation in all issues is to participate in the Great Conversation in the Ideas that scope the issues around us. It is incumbent upon laity, those who are sensitive to the political, lawfare and populist upheavals of the day, to formulate and strategize on a strategic level.

KK *Statism*

I conclude on the advent of Statism. It is mantra of Statists to assert that the ultimate authority of all law is the State. The corollary is that there is no higher law than the State, dovetailing into the earlier Freemasonic inspired usurping of philosophical and theological precepts that there exist higher laws than the human law and the AAA dissertation that any human law that defies or contradicts the natural, moral and divine laws are no law at all. The conduct of an Australian legislature bowing to the UN public international instruments, denying its operation of its own statutory framework including State laws as in the case of Bendigo, the Commonwealth Constitutional and State Constitutional frameworks, all auger for the coming of a One World State.

[13] David W. Hall, *The Arrogance of the Modern – Historical Theology Held in Contempt* (Covenant Foundation Press, 1997).

The remedy to be fought and won for, is to reassert the natural, moral and divine laws, the Commonwealth and State Constitutional framework, replete with its proper Federal structure, giving full weight to its absorbed Christian Laws of England jurisprudential foundations and full weight to its heritage and extant law. The usurping of these laws including that of Charters and Bills of Rights Acts such as the ACT and Victoria laws, the *suggestio falsi* that Australia has not a Charter or Bill of Rights, essentially denying recognition of 2,000 years of legal history, is a bald lie that must and will be challenged in Courts of Law, Parliaments and the public arena to the point of absolute victory against these usurpers of the Public Good.

LL *Law of Nations v Law of Nature*

We end at the beginning. The title of this presentation is the *Law of Nations v Law of Nature*. It is indeed the perennial tectonic friction between human law and God's law of nature. The apparent choice is illusory. In reality, we have no choice whether to conform to the law of nature or not. You cannot defy the natural, moral and divine laws any more than you can defy the law of gravity. However, like any other moral decision, which includes the act of making laws in Parliaments, in Administrations and in the Courts, the procreative function of participating in God's justice is an apparent choice where in fact there is no choice to be made. God's laws are immediate and inalienable. It is for us to discover them and apply them.

St Ignatius Loyola in his *Spiritual Exercises*[14] spells this point out. We must choose whether to stand beneath the banner of Christ or Satan. The text says that whilst this choice appears to be a 'no brainer', it is breathtaking how many choose the latter. Even if we do choose the latter, that does not free us from the obligatory and ineluctable force of God's laws. The natural, moral and divine laws exist whether we believe in them or not, or whether we attempt to strike them out or not. Absurd extant laws such as s 501 of the *Migration Act 1958* (Cth) on the 'character test' provides 'that to the extent of this provision the rules of natural justice shall not apply'. Where can a human legislator strike out the rules of natural justice in its entirety? This is what Hall describes as the *Arrogance of the Modern*. Like other Statist regimes, the Legislators make preposterous human laws that defy the natural, moral

[14] See: Luis J. Puhl, S.J., *The Spiritual Exercises of St. Ignatius* (Loyola Press, 1952).

and divine laws, so that they fail to 'yield to justice' as Rommen notes and are a 'lawless law' and must 'yield to justice'.

Our task is to revert these laws on any topic to the natural law. Recently Mike Pompeo initiated a Natural Law Commission.[15] It is for us to follow suit. Pompeo is a thinking man. So too should we be doing the same here to bring right reason back into legislative and judicial law making in the tradition of Justice Brennan in L's case.[16]

[15] U.S. Secretary of State Mike Pompeo argues that since the end of the Cold War a proliferation of loose advocacy about "human rights" has compromised the traditional understanding of human rights, which is based on the idea of natural law and natural or inalienable rights of the human person. The Secretary stated that by getting back to basics a serious of positive developments could take place, including the reorienting of 'international institutions specifically tasked to protect human rights, like the United Nations, back to their original missions.' – Aaron Rhodes, 'Pompeo Tries to Rescue the Idea of Human Rights', *Wall Street Journal*, June 10, 2019, at https://www.wsj.com/articles/pompeo-tries-to-rescue-the-idea-of-human-rights-11560207792

[16] *Queen v L* [1991] HCA 48; (1991) 174 CLR 379 (3 December 1991)