

## A NOTE ON BISHOP FRAME'S *CHURCH AND STATE*

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Recently the Federal Government gave \$20M to the Catholic Church for the Pope's visit to Sydney for World Youth Day in 2008. In the US one could argue that is an 'establishment' of religion. In Australia, no legal argument can be mounted by secularists because 'establishment' has been defined by the High Court to mean nothing more than the setting up of a religion that identifies with the Federal government, not a government action that assists a religion.

So church-state separation evaporates and the taxes of secular taxpayers are used to fund churches through governments that willingly surrender their neutrality. This is where Bishop Frame, and others, have completely missed the point about church-state separation. He says:

Given the extent of litigation in the United States involving the provisions of the First Amendment over the past 200 years, it is perhaps surprising there have been very few cases before the High Court of Australia relating to alleged contraventions of section 116.<sup>1</sup>

What he does not seem to realise is that the 1981 Defence of Government Schools (DOGS) case eliminated constitutional separation of church and state in Australia as I have explained in the *Australian Humanist* before. The determination in that case has effectively prevented anyone, if they could get legal standing, from bringing a case to contest government funding of religion. It is not surprising at all, therefore, that since 1981 especially, there have been no cases: there cannot be any cases.

This is a very serious omission in Bishop Frame's book and cuts the ground from beneath his argument.

Also, he fails to mention that what didn't arise in the DOGS case was the fact that in 37 of the 50 US states the governments are constitutionally, in principle, prohibited from giving financial aid to religious schools. Guess what? The sky has not fallen in for those states. But in Australia, scores of billions of dollars have been spent on private, religious schools as a direct result of the DOGS decision.

Twenty five years down the track the public school system is in serious trouble while the private, religious schools are flourishing. Teachers in public schools with large class sizes are battling students more hostile than ever; thousands of teachers leave every year for overseas posts because, if you have two parallel systems of education in a country the size of Australia's relatively small population, you can't afford to pay teachers well. Their wages, which were once at the level of other professions, have declined dramatically. Except, of course, private, religious schools. So it becomes a self-fulfilling prophecy.

Parents are presented with a 'choice': pay fees on top of the funding the private schools already receive from all citizens so your son or daughter can get an education that gives them an opportunity in a well resourced system, or take your chances in the public system. It then becomes a game of finding a public school that still gives students a reasonable education at a fraction of the price of the public schools.<sup>2</sup> Public schools with good reputations are driving up property prices in

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<sup>1</sup> At p.53.

<sup>2</sup> I. Davidoff & A. Leigh, 'There goes the neighbourhood', *The Australian*, 24 August 2006.

their catchment area. If you can afford this Plan B, your children might have a chance. But if you can't, your children are on the outer.

The damage that has been done to mainly working class and lower-middle class Australian children through lack of fair school funding is unquantifiable. None of the above is mentioned in Bishop Frame's book. Instead, he talks about 'shared values and common aspirations'.

Bishop Frame also misreads of the French system of '*laïcité*', or secular government. Professor Sadurski has neatly encapsulated the French position on separation:

The only plausible interpretation of [state] neutrality is along non-interventionist lines: the state has to remain aloof from religious activities (just as it should not get involved in *anti-religious*, as opposed to non-religious, activities and beliefs.)<sup>3</sup>

Religionists seem to have trouble getting their mind around this. If they are constitutional monarchists they simplistically read government neutrality as a form of atheist government, rather than, as I have argued above, as a more balanced approach to the use of all citizens' taxes.

Bishop Frame, like many religionists, equates French government *neutrality* towards religion and non-religion with *hostility*. He is completely off the pace with French secular criticism of French Government policy where critics argue the government is backsliding from government neutrality.<sup>4</sup>

Bishop Frame says Australia is a 'religiously pluri-form' nation characterised by an 'imaginary wall' of separation. I say, as a constitutional monarchy with a flag flying atop the Parliament with Christian crosses in it, and with Christian prayers in Parliament, it is a multiple-church-recognition soft theocracy characterised by undemocratic tax privileges for conservative, religious elites. Take your pick.

In its simplest form, separation of church and state can be reduced to the basic solicitor's question: *where is the money?* In the *ancien régime* the monarch and the churches took their ten per cent as direct taxation from the people.<sup>5</sup> Now they take an amount up to that figure indirectly through exemptions and other tax privileges. When you look at constitutional monarchies or other countries with state churches, with or without monarchs, the monarchs and/or churches are usually extremely wealthy. The structural exemption of all the monarchs' billions of dollars of assets from government ownership, their cash flows and their tax privileges are an affront to democracy.

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<sup>3</sup> W. Sadurski, 'Neutrality of law towards religion', *Sydney Law Review*, Vol. 12, March 1990, p.454.

<sup>4</sup> C. Eyschen 'How the 1905 law has been subverted: from the Vichy regime to the Vth Republic', [www.iheu.org](http://www.iheu.org) 13 March 2006. There was a demonstration on 7 October 2006 against the naming of the square outside Notre Dame Cathedral in Paris as the Jean Paul II Square.

<sup>5</sup> J-M. Schiappa, *La révolution française, 1789-1799*, Librio, Paris, 2005