A WEEKLY COMMENTARY

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The Price of Freedom is Eternal Vigilance

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Response response response By Neville Archibald

Like the old Irish joke that ends in, 'to be sure, to be sure, to be sure'. The "Commonwealth Government COVID-19 Response Inquiry Report" goes over the same ground more than once. It's nine pillars of response and twenty-six actions are repeated throughout, with various reasoning's for them. It does not apportion blame or hold the state and territory governments to account. Rather it follows it's terms of reference very well.

At the outset of this attempt to make sense of the report, I feared I would be drowned in the words. At 358,000 odd words and some 902 pages it appeared to be a herculean task. Was I up to it?

Doubtless there will be those who will claim I missed something, or interpreted some comments wrong. When confronted by that many characters, on that many pages, indeed I will concede that I may well have done so. So instead of looking at what is in the report I began to look at what was not.

It is clearly spelt out in the terms of reference, that the report is to be a lessons learned and how to do it better next time document, "*: not to 'fix' the actions taken during the last pandemic, or deride the decisions that were made, but rather to harness the innovations that helped us and identify ways to maximise the success of our response whilst ensuring it is proportional to the threat.*" p 9.(my underline, mentioned later)

They go over much the same ground as has been included in the "Official Narrative" all through the pandemic. The most contentious of the disagreements have been largely left out. Was the World's biggest drug trial a success? What were the results of the novel new approach to "vaccine" manufacture, such that the definition of a vaccine had to be altered to include it? Does it stand up to peer reviewed scrutiny? What were the results of the double blind tests?

None of the scrutiny that was demanded on already existing drugs (to be repurposed to help), has been seen for this new technology.

The body of questions coming forward in the aftermath includes some very chilling ones and these are not even close to being resolved in the minds of more and more people (and Scientists) world-wide. We must ask why? No, the boundaries of the response do not cover this, despite the many and ever increasing studies linking questions of injury and ongoing raised excess deaths to the vaccine and booster roll-outs. It is not just "conspiracy" that is fuelling this clamour for truth, but recognition that all is still not well, coming up to four years on. See Dr John Campbell, Outrageous excess deaths.

https://www.youtube.com/watch?v=kd99uVOMWEk

Instead the report focuses on lack of trust in government and science as a priority, but does not equate this to anything other than disunity among politicians and bureaucrats. If only we had been united in our approach, had the same story to tell, people would not have gone looking elsewhere for information.

Is this the one ring to control them all? This push for a Misinformation Bill, this push for an over-riding single entity department of CDC or the like (that went well in America, under Fauci and NIAID), the "brook no response" to any story but our own, no matter who is questioning it.

The "how to do it better" approach is admirable, but if based on faulty information in the first place it can never be better! To prove a point I will mention the above "proportional to the threat" comment that appears a number of times throughout the document. Much of the data included, promotes the high risk of death from COVID, and shows, by computer modelling, how it would have been so much worse if we reacted like other countries. The threat is large, so the response should be large, even if the threat is really only a predicted one.

On page 288 under 3.3.1.Data and vaccine effectiveness. We are treated to reasons why it could have been much worse. I always enjoy that scenario, where if we hadn't done something, we project out to "this is how bad it could have been", a difficult call at the best of times given the large range of variabilities involved.

> "*Independent research shows that unvaccinated individuals aged 50 and over had 11.2 times greater mortality rate than those who were fully vaccinated with two doses and received a booster dose.*[i] *It is estimated that the vaccine rollout saved 21,250 lives in New South Wales alone. Without the vaccine rollout, six times as many people in New South Wales would have died*.[ii]"
>
> The footnotes lead to a study by: L Lin, H Demirhan, SP Johnstone-Robertson et al., 'Assessing the impact of Australia's mass vaccination campaigns over the Delta and Omicron outbreaks'

Included in the above study are the words:

"*Based on the limited data available on deaths and vaccination coverage, and using a data-driven modelling approach similar to recent studies in the literature [9–12], in this paper, we sought to answer questions evaluating the success or failure of the Australian vaccination program:*" and "*Access to full official Australian government datasets was not possible despite extensive efforts.*"

Both of these points within the above document do not inspire my confidence. I am sure the science is convincing to some, but as they used data from NSW which I remember at the time as being contested (it was said that people were being recorded as COVID deaths who were actually dying from other problems also the financial incentives that were associated with reporting COVID numbers, were inflating the real figures, to my knowledge this has never been suitably addressed or the figures reviewed). To then model from this data, can only lead to problems. Much of the debate around deaths and actual COVID infection numbers is pointing to severe inaccuracies in records the world over. Such was the clamour to scare people into accepting loss of freedoms over this period that all sorts of "incentives" were used. The original two weeks to flatten the curve, turned into overwhelmed hospitals and pictures of people struggling to breathe. The truth was often different. Not to mention the misuse of PCR testing as the primary indication of COVID numbers. The designer of this form of testing came out early in the pandemic and decried it's use in this manner. He was ignored and asymptomatic COVID became the norm, despite this being, like the vaccine, a new and novel interpretation. This primary source of information, must be accurate for any conclusions to come from it. Not raising these questions at all, goes further to create mistrust in Governing bodies. The whole Pandemic analysis grinds to a halt if the figures used in examining it are rubbery.

They then go on to compare us with Canada and suggest that this modelled data (by a different group - "Our world in Data") projects out, to show our death rate would have been up to eight times higher. ***https://ourworldindata.org/*** provided a number of statistical reports including some that showed the above, "how bad it could have been". An interesting point here is they are also mentioned in an article in the BMJ (British Medical Journal) brought up, again by Dr John Campbell, ***https://www.youtube.com/watch?v=jndykWR9O-c&t=18s***

where the following comments are made: "*Insight into excess death rates in years following WHO's pandemic declaration is crucial for government leaders and policymakers to evaluate their health crisis policies.*" "*Although COVID-19 vaccines were provided to guard civilians from suffering morbidity and mortality by the COVID-19 virus, suspected adverse events have been documented as well*" "*Excess mortality has remained high in the Western World for three consecutive years, despite the implementation of containment measures and COVID-19 vaccines. This raises serious concerns.* "

"*French studies suggest that COVID-19 mRNA vaccines are gene therapy products requiring long-term stringent adverse events monitoring*".
Do these comments not raise questions of significance regarding our future pandemic responses, more so than whether our bureaucrats can agree on a story to tell? Where is this mentioned? Did I miss it? Can these projected figures continue to justify the use of this technology, past the emergency powers use, being lifted?

There are a number of other points I would contest in some of studies used throughout the report's 4,646 footnotes. I am sure many are as sound as they can be considering the figures they have to work with. Many are from the very government departments that are a part of the inquiry or from the WHO (World Health Organisation) and comment on how bad it could have been, how do they successfully include seasonal differences between northern and southern hemispheres and differences in populations. The criteria for recorded information also varied greatly and a lot of the projected possibilities were just that, projected.

In discussing vaccine harms, the word rare and very rare are used as if they are no different to any other vaccine. In data obtained from VAERS and FAERS reporting systems, numbers of deaths needed for major recalls of a drug/vaccine are looked at. The number associated with the novel mRNA vaccines are orders of magnitude higher than ever before needed to stop or recall a drug, yet we have not seen this. They are still pushing boosters!

See Dr John Campbell Pharmaceutical product recall 9th Nov 2024.

https://journals.sagepub.com/doi/10.1177/09246479241292008

The next and most major issue I have is the willingness to roll-out another vaccine at the same speed despite the lack of trial data and it's critical examination. We must remember that this <u>was</u> an emergence use only, trial therapeutical. Issued only under emergency powers! The dust has not yet settled and we are still pushing boosters, without providing for the many questions being raised about it: it's effectiveness, it's safety, and it's long term outcomes. We are already seeing the rise of 14 – 40 year old males with heart conditions, in numbers not seen before. Turbo cancers, especially colorectal cancers, that cannot be explained as "missed screening" due to the age groups they are appearing in.

See Dr John Campbell. Turbo cancers with dr James Royle. UK surgeon.

https://www.youtube.com/watch?v=1AHJc8D-7Vg

These are presenting at stage 3 or 4 where they have metastasised in numerous places rather than just the usual one, as would normally be the case. These are not, one off, isolated cases, there are many doctors seeing abnormalities who are still afraid to speak out, such is the heavy hand of those who prevented speaking them out during the pandemic. Many more, <u>are</u> speaking out, but not being listened to. Ignoring these startling medical concerns would not normally happen. Tests would be run and a determining factor sought, not so today, post vaccine. It would be a fairly simple thing to autopsy and search for the reasons, but as with the bodies

during COVID it was not done. In another example, despite a phenomena of long calamari-like white clots in blood vessels being noted for the first time ever while embalming, there is total silence on this front too.

See New disease, Dr John Campbell. ***https://www.youtube.com/watch?v=wwdRfbPrGIY***

The report seems to be more concerned with rebuilding trust in government and ensuring a common message and response is used next time, than it is on whether the vaccine was safe and effective and worth all the injuries and deaths attributed to it. This report is, as many papers have called it, a whitewash; but then, by it's terms of reference, why am I not surprised.

Those of us who continue to question the mRNA technology and it's impacts, we are labelled as deniers, anti-vaxxers, or of a low socioeconomic, low educational standard or armchair experts. Professionals are said to be "outside their area of expertise". The general derogatory tone to anyone providing contradictory evidence or advice goes a long way to describe the intention of how they wish to rebuild trust in government. Just have a better story and keep in unity and all will be well.

As for the newspapers themselves, the numerous articles that came out on the Wednesday following it's release, very few did anything other than raise questions of the appropriateness , lock-downs and general population control. There was little mention of vaccine mandates or vaccine damage. If there was mention of the dangers of continuing on with mRNA technology, it must have been very small. I combed the papers for some real questioning but got a picture of people looking for slightly more appropriate controls, rather than the heavy handed approach we got. The two steps forward, one step back, approach of Marxism continues when the root causes are ignored.

What are the reasons behind this seeming blindness to address the new mRNA technology concerns? An article in: *The Age* dated November 13, on page 1, entitled, Probe into Coalition vaccine deal.

> "*Australia's audit office will investigate the Morrison government's $2 billion deal with US pharmaceutical giant Moderna to set up vaccine manufacturing here,*" "*MRNA vaccines came of age during the COVID-19 pandemic, when jabs manufactured by Pfizer and Moderna proved close to 95 per cent effective at preventing symptomatic infection, far better than vaccines made using traditional techniques. Scientists heralded those results as the dawn of a new age of vaccine technology, with pharma companies now racing to turn mRNA against other infectious diseases – even cancer.*"

The article goes on to question the deals made, thus the reason for an audit I guess. With many prominent political figures mentioned, who are still in politics, my concerns are what links might be found and will there be conflicts of interest discovered? The Vaccines proved to be a very financially rewarding investment for the pharmaceutical companies, is the promise of more, influencing any of our politicians involved? Is that the reason we are not seeing better investigation into

vaccine safety?

Apart from that, it scares me that the first quotes above show an acceptance of this new technology to the point where the expectation is to use it everywhere, for everything. What happened to caution? Has the "emergency use only" been conveniently forgotten? Do our reporters have such short memories as to the reasons we test drugs long term? Maybe they have just forgotten about this in their haste to be excited by a scandal or perhaps they are still just hyped up from all the pandemic stories.

I pray for the clamour of accountability to occur, for a realistic inquiry into the "vaccine" trial itself and it's outcomes, before they do it all over again. Do we want to be pincushions for those who think they have this new technology and it's profits sewn up for good – or in this case, in my opinion, for the bad! We need to get fully behind those raising these questions and urge many more to join in, why are these things not being addressed.

Russell Broadbent MP, has been trying to get some answers, as have others in Canberra. In one letter written to the prime minister he is, "*outlining the implications of DNA contamination found in Australian covid-19 vaccine vials*." This is his second letter asking for answers. "*I again urged the Prime Minister to immediately suspend the rollout pending an urgent investigation – one which allows for free and open scientific discourse to help uncover the true facts.*" we need to get behind this push. *See* Russell's letter below.
https://www.facebook.com/story.php?story_fbid=936763788259887&id=100057788240048&_rdr

Put the heat on the Prime minister for an answer, on all of your representatives, Nation wide, State wide and even follow the example of Port Hedland Council in asking for suspension of these "vaccines" until a proper and complete study is undertaken. ***https://www.porthedland.wa.gov.au/council-meetings/special-council-meetings/special-council-meeting-11-october-2024/247/documents/attachments_scm_11102024.pdf***

Until we all make enough noise and put enough pressure on them, our politicians will continue to ignore us.

(I have included links to Dr John Campbell's YouTube presentations here, not because he is the best or only one, but the fact that he provides links to all he talks about. These links are to legitimate studies and are discussed in point form usually, giving a clear picture of why he believes as he does. He also explains medical terminology as he goes so it remains easy to follow. There are many other researchers and scientists out there doing similar things. Do not allow yourself to be spoon-fed or as the government would have you, reliant on only them for your information. Science is never settled, it is an ongoing investigation into reality, as facts change so must the reasons behind them.) ***

i L Lin, H Demirhan, SP Johnstone-Robertson et al., 'Assessing the impact of Australia's mass vaccination campaigns over the Delta and Omicron outbreaks', PloS One, 2024, doi:10.1371/journal.pone.0299844. ***https://journals.plos.org/plosone/article?id=10.1371/journal.pone.0299844***

ii Lin et al., 'Assessing the impact of Australia's mass vaccination campaigns over the Delta and Omicron outbreaks'. ***https://journals.plos.org/plosone/article?id=10.1371/journal.pone.0299844***

God, Locke and Montesquieu: Some Thoughts Concerning the Religious Foundations of Modern Constitutionalism

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Abstract

Christianity has played an enormously important role in the origins and development of modern constitutionalism. Indeed, Christian principles are enshrined in the most significant documents in Western legal history, including the English *Bill of Rights* (1689) and the *American Declaration of Independence* (1776). First, this paper analyses the profound impact of Christian philosophy on the development of modern constitutionalism. Secondly, this paper discusses the ongoing marginalisation of Christianity in Western societies, explaining how the secular intolerance of our day could constitute a threat to our fundamental rights and freedoms.

I FIRST CONSIDERATIONS

> *Christianity teaches that God is both Creator and Sustainer. He rules providentially over the world. In that sense, all of life is under law and is best understood as the expression of the will of Jesus Christ, the incarnate Word or Logos, the meaning according to which the world has been created. Western constitutional law was founded upon the idea that laws regulating human society should reflect the eternal wisdom and law of God. In an earlier age people believed that if a human law departed from the divine wisdom it was running against the grain of the universe and was something less than law in its fullest sense. A deviation from law, as Augustine once suggested, is really no law at all. This proposition is fundamental to the way we understand law in the west, even today.*[1] –Professor Nicholas Aroney

According to our Western legal tradition, liberty presupposes the existence of laws serving as an effective check against arbitrary power. In the constitutional struggle of parliamentary forces against the Stuarts in seventeenth-century England, the receptive attitude towards Christianity allowed philosophers such as John Locke[2] to develop a political theory where the main justification for the state rested on the protection of our most fundamental rights to life, liberty and property.[3] In *Second Treatise on Civil Government* (1690), Locke elaborated on a "state of nature" predating the creation of the state in which people were governed not by positive laws but only by a natural law that everybody was able to recognise and uphold. "This law of nature", Locke explained,

> *stands as an eternal rule to all men, legislators as well as others. The rules that they make for other men"s actions must, as well as their own and other men"s actions, be conformable to the law of nature, i.e. to the will of God of which that is a declaration. And the fundamental law of nature being the preservation of mankind, no sanction can be good or valid against it.*[4]

Locke hereby contends that our most basic rights are independent of, and antecedent to, the state. Once it is established, the state „hath no other end but the preservation of these rights, and therefore can never have a right to destroy, enslave, or designedly to impoverish the subjects".[5] According to him, the civil ruler puts himself into a „state of war" against society every time he attempts to undermine those basic rights of the individual. Being God-given and inalienable, our basic rights to life, liberty and property *set limits* on governmental power, providing lawful justification for civil resistance against political tyranny should our basic rights be grossly violated. To the extent that the government does not recognise and protect these basic rights, it actually ceases to be a legitimate authority and can be dismissed by the people for breach of trust. As Locke puts it,

> *Whenever the legislators endeavour to take away and destroy the property of the people [i.e., their rights to life, liberty and property], or to reduce them to slavery under arbitrary power, they put themselves into a state or war with the people, who are thereupon absolved from any further obedience, and are left to the common refuge which God hath provided for all men against force and violence.* [6]

The general belief expressed in the American Declaration of Independence is that "all men are created equal and are endowed by their Creator with certain unalienable rights".

In the American colonies of the eighteenth century, Locke was, after the Bible, "the principal authority relied on by the preachers to bolster up their political teachings".[7] The colonists viewed their successful revolution as inspired and justified by these Christian principles of natural law. They further aimed to enshrine these very principles in their new system of constitutional government. That these American Founders undeniably drew from such Christian principles during the composition of their Declaration of Independence is well explained by Professor John Eidsmoe:

> *The Declaration of Independence of 1776 was drafted by a congressional committee consisting of Thomas Jefferson, Benjamin Franklin, Roger Sherman, John Adams, and Robert Livingstone. The Declaration clearly states that the united colonies are entitled to independence by the "Laws of Nature and of Nature"s God." They further declared that "all men are created equal," and that they are endowed "by their Creator" with certain inalienable rights. They closed by appealing to the "Supreme Judge of the world for the rectitude of [their] intentions," declaring their "firm reliance on the protection of Divine Providence," and pledged their lives, their fortunes, and their sacred honor. The "Creator" God they trusted was more than the impersonal and uninvolved god of the deists; the term providence implies a God who continually provides for the human race. And the*

reference to the laws of nature and of nature"s God reflects their belief in the law of nature and the revealed law described by Blackstone. [8]

Western constitutionalism is therefore founded upon the belief in laws which, according to Sir Edward Coke, "God at the time of creation of the nature of man infused into his heart for his preservation and direction".9 This amounts to saying that a legal system without God's natural law is not protective of liberty but rather of licence. Such a distinction between liberty and licence was one commonly made by natural rights theorists like Locke and Blackstone. In describing the "state of nature", or world without government, Locke contended that „though this be a *State of Liberty*, yet it is *not a State of License*".[10] On this passage, law professor Randy E. Barnett explains that "[b]y liberty is meant those freedoms which people *ought to have*. License refers to those freedoms which people *ought not to have* and thus those freedoms which are properly constrained".[11]

In his famous *Commentaries*, Sir William Blackstone asserted that "God, when he created man, endued him with freewill to conduct himself in all parts of life. He laid down certain immutable laws of human nature whereby freewill is in some degree regulated and restrained, and gave him also the faculty of reason to discover the purport of those laws".[12] This so being, Blackstone also believed that authentic liberty is defined and regulated by eternal or natural laws which everyone is able discover by "right reason". However, if there is no reference point for law, there is also no absolute basis upon which judgement can be made. The result is a noticeable lack of an objective moral standard binding on all individuals and in all circumstances. At worst, law becomes merely what a judge (or a dictator) arbitrarily says it is.[13]

In *Commentaries*, Blackstone also stated that the common law had been established according to both the natural and the revealed law of God: "On these two foundations, the law of nature and the law of revelation depends all human laws; that is to say, no human law should be suffered to contradict these".[14] The argument that the natural law is "dictated by God Himself" 15 echoed the sentiments of his English predecessors. This sentiment, reflecting the inherency of natural law in the common law, was adopted by the American Framers, with their view of common law and natural law developing to virtually echo Blackstone's works.

Blackstone's portrayal of the common law revealed the natural law foundations of American constitutionalism. Accordingly, the acceptance of natural law was faithfully mirrored in the American judiciary, with many of its court members placing their reliance on natural law when adjudicating on matters during the nineteenth century.[16] Within this juridical context, natural law was actively promoted by leading jurists such as Joseph Story, the first Dane Professor of Law at Harvard University and Associate Justice of the United States Supreme Court. Justice Story linked the natural law to the rights of conscience, which "are given by God, and cannot be encroached upon by human authority, without a criminal

disobedience of the precepts of natural, as well as revealed religion."[17]

As can be seen, Christian jurisprudence has played an enormously important role in the origin and development of modern constitutionalism. The view adopted by the American Founders is that people cannot know the natural moral order and their inalienable rights from their own reasoning unaided by God's revelation. There are, of course, those who resist the idea of a supernatural lawgiver because they fear it may lead to intolerance or even theocracy. They have it entirely wrong. For if they are really "endowed by their Creator with certain unalienable rights", they are therefore entitled to preserve these rights no matter their ideological or religious convictions. Conversely, asked Thomas Jefferson, the author of the American Declaration of Independence, rhetorically: "How can the liberties of a nation be secure when we have removed their only secure basis, a conviction in the minds of the people that these liberties are a gift of God?"[18]

II CHRISTIANISTY AND SEPARATION OF POWERS

In the eighteenth century, the scientific works of the English scientist Sir Isaac Newton, especially his discovery of the laws of gravity, were interpreted as strong evidence of the creative genius of God's handiwork in nature.[19] After all, Newton himself was the first to argue that his scientific discoveries confirmed the existence of a "Creator of the universe who certainly is not mechanical … [but] incorporeal, living, intelligent, omnipresent".[20] According to Newton, "this most beautiful system of sun, planets, and comets can only proceed from the counsel and domination of an intelligent and powerful being".[21] As a result, Newtonian science laid down the foundations for the investigation of the "nature of laws" in general.

The Frenchman Charles-Louis de Secondat, Baron de La Brède et de Montesquieu, was one those great philosophers of the eighteenth century who sought to extend Newton's scientific studies to the explanation of the nature of laws as applied to humans as physical beings and their respective societies. He spent nearly two decades writing *L'Esprit des Lois* ("The Spirit of the Laws"), which was published in 1748 and received its first English translation in 1750. The book soon became enormously popular, most notably amongst Americans during debates over the ratification of the United States Constitution. Those who supported the Constitution and those who opposed it relied heavily on his lessons for their arguments. With the exception of the Bible, Montesquieu's book was cited more than any other in American political works prior to and following the revolutionary periods of 1760–1805.[22] The first chapter of this political treatise was entirely dedicated to the following description of the nature of laws in general:

> *Laws, in their most general signification are the necessary relations arising from the nature of things. In this sense all beings have their laws… They who assert that a blind fatality produced the various effects we behold in this world talk very absurdly; for can anything be more unreasonable than to pretend that a blind fatality could be productive of intelligent beings?*

... God is related to the universe, as Creator and Preserver; the laws by which He created all things are those by which He preserves them. He acts according to these rules, because He knows them; He knows them, because He made them; and He made them, because they are in relation to His wisdom and power... Particular intelligent beings may have laws of their own making, but they have some likewise which they never made. Before there were intelligent beings, they were possible; they had therefore possible relations, and consequently possible laws. Before laws were made, there were relations of possible justice...

We must therefore acknowledge relations of justice antecedent to the positive law by which they are established: as, for instance, if human societies existed, it would be right to conform to their laws; if there were intelligent beings that had received a benefit of another being, they ought to show their gratitude; if one intelligent being had created another intelligent being, the latter ought to continue in its original state of dependence; that an intelligent being who had done harm to another, ought to suffer requital; and so on.[23]

Montesquieu saw the natural law as encompassing a superior law instructing humans to distinguish right from wrong, to form their consciences and to guide their actions according to the right path. He argued that human societies also create their own laws, averring that such laws, being the product of mere human will, can be either just or unjust. However, the abuse of positive law is essentially the abuse of authority, and so it does not negate the intrinsic goodness of the natural law. Of all existing laws, Montesquieu contended, the natural law is superior and antecedent to any other law, and the subjection to natural law does not constitute a restriction upon individuals and societies, but it is rather a prerequisite for their healthiest functioning.

Montesquieu, however, acknowledged that positive laws must vary from time to time, from place to place, according to economic, cultural and geopolitical circumstances. This observation does not make of him a legal positivist. Rather, Montesquieu was only commenting on the fact that sociological factors are important to clarify the distinct nature of societies and their particular laws. The legislator must thereby take local habits and customs into account before enacting any positive legislation. The argument that positive laws shall reflect the condition of life of those who live by them earned Montesquieu the deserved title of "father of legal sociology".

But it goes without saying that Montesquieu also believed that both the physical natural law and the moral natural law are derived from God. Although the physical world has no other choice but to obey the laws of physics and electromagnetism, humans are free to disobey even the laws created by them. Montesquieu acknowledged that, indeed, "constant experience shows us that every man invested

with power is apt to abuse it, and to carry his authority as far as it will go". To prevent this, he added, "it is necessary from the very nature of things that power should be a check to power".24 From here, it can be seen that a vital assumption upon which Montesquieu"s notion of separation of powers is based is that humans are sinful, and will inevitably contravene the laws of God. That Montesquieu believed the division of powers to be fundamental to counteract the concentration of power because he regarded people to be inherently corrupt and self-centred, is observed in the following statement:

> *Man, as a physical being, is like other bodies governed by invariable laws. As an intelligent being, he incessantly transgresses the laws established by God, and changes those of his own instituting. He is left to his private direction, though a limited being, and subject, like all finite intelligences, to ignorance and error…*[25]

Montesquieu's theory of separation of powers rested upon the religious belief that an unrestrained human heart moves towards moral and civil degradation. Therefore it was logical for him to hold that society is safe only if governmental power does not entirely rest in the same body or authority. With the power divided, if one branch were to become corrupt, the others may still be able to check its wayward influence.[26] This sinful nature of humans, prominent in the works of Montesquieu, and a central concept in Christianity, not only justifies but necessitates the separation of powers that was adopted by the American Founding Fathers. It therefore comprises a fundamental element of Western constitutionalism.[27]

III RADICAL SECULARISM AND THE DENIAL OF THE CHRISTIAN LEGAL TRADITION

Unfortunately, it appears to me that the unique contribution of Christianity to the development of Western constitutionalism has been deliberately obscured in more recent times. Despite the historical record, today's Western societies are largely viewed as "secular", and a general perception appears to suggest that Christian philosophy should have no bearing on the law. As a result, our Christian heritage is almost never mentioned, much less promoted, in the political and intellectual discourse. When it is mentioned among public figures, these principles are often the object of criticism or contempt.

This undeniable anti-religion sentiment has now evolved and is currently used to downgrade the long-established Christian background of Western constitutionalism. Many westerners are now convinced that there should be no relationship between "religious" "values and their countries" legal systems. Were this to be the case, the road would be open not just to the rejection of our Christian heritage but also to the suppression of "religious" opinion, which would be anything but authentic democracy. [28]

The idea of an entirely secular public square has achieved significant academic

support in western societies.[29] The idea is that everyone ought to support their positions about law, politics, and public policy on non-religious grounds.[30] This limitation of public debate to only "neutral" secular rationales is thought necessary to preserve civil discourse. One the most notable proponents of the secular view was the late legal-political philosopher John Rawls,[31] who advocated that religion cannot be part of the public discourse, for religion involves metaphysical beliefs and positions not capable of rational discussion. Rawls contended that we should "bypass" religion and try to dialogue on matters of "overlapping consensus."[32] The legal-political philosopher Ronald Dworkin has articulated the same philosophy when he commented that the liberal state "must be neutral on ... the question of the good life. … [P]olitical decisions must be, so far as is possible, independent of any particular conception of the good life."[33]

These proponents of the neutral public square believe that it is possible to detach citizens from their religious convictions, and that their reasoning abilities are capable of being exercised in a religiously neutral manner.[34] Behind the secularist approach and the desire for a neutral, secular public square lies the assumption that traditional religious beliefs are fundamentally subjective, divisive and irrational.[35] In large measure this is what explains the radical secularist support for an "impregnable" wall of separation between church and state.[36] Since traditional religions are deemed "divisive" and "irrational", radical secularists demand that these religions be limited exclusively to the realm of private conviction.[37] Consequently, a citizen's religious conviction should be "privatised" and excluded from public debate. Cardinal George Pell has commented that the foundations for such "secular democracy" appear to rest upon „the invention of a wholly artificial human being who has never existed, pretending that we are all instances of this species."[38]

It appears to me that the new form of secular fundamentalism that we have witnessed in more recent times constitutes a radical attempt to redefine what it really means to live in an open and democratic society. As seen above, radical secularism amounts to an unconstitutional attempt to privilege one form of religious discourse over another.[39] Although these radical secularists are intent upon eliminating Judeo-Christian traditions, their rejection of religion does not necessarily mean that they have rejected all types of faith. As Cardinal Pell commented in his 2009 inaugural term lecture at Oxford Divinity School, the limited scope that secularists are prepared to concede to traditional beliefs is actually based on their own religious assumption that human beings have created God, and not that God has created human beings.[40] Thus, even when secularists presume to have banished "religion" from the public square, they have done no more than to infuse it with their own religious worldview. In other words, they have privatised all religions except their own, which they have actually privileged above all others.

If religion is defined as that which posits a transcendent deity, secular humanism is not a religion. But if religion is defined more broadly, in a way that includes non-

theistic worldviews like Buddhism and Confucianism, then this concept certainly applies to secular humanism.[41] Indeed, for purposes of protecting the free exercise of religion, the U.S. Supreme Court has recognized as religious various belief systems that do not include the existence of God. In a famous footnote in *Torcaso v Watkins* (1961), the court listed a number of "religions ... which do not teach what would generally be considered a belief in the existence of God," including "Buddhism, Taoism, Ethical Culture, Secular Humanism, and others."[42] Similarly, the High Court of Australia has commented that the definition of religion must not be confined only to theistic religions but that such definition should also include non-theistic religions. [43]

There is nothing in the written constitutions of Western societies to justify the denial of equal rights to free speech on religious grounds. To the contrary, as mentioned before, Western constitutionalism owes much to the influence of Christianity on its development. The bottom line is that it is utterly impossible to create a religiously neutral public square unless religion is defined in such a way as to exclude certain groups. Indeed, anyone who views the moral obligation of Christians to act according to their own convictions as something that disqualifies them from political life appears to actually be promoting an intolerant form of secular fundamentalism.[44]

Alexander Hamilton, the principal architect of the American Constitution, stated in 1787: "The sacred rights of mankind are not to be rummaged for amongst old parchments or musty records. They are written, as with a sunbeam, in the whole volume of human nature by the hand of divinity itself, and can never be erased or obscured".[45] Likewise, the political institutions of Australia are built on Judeo-Christian foundations, "notwithstanding the indication of modern secularists to lay claim on them".[46] Despite assertions to the contrary, therefore, Western constitutionalism is deeply founded upon the general assumption that puts God, not the state, as the ultimate creator of our most fundamental rights. And as the late historian William Orton put it,

> *The fundamental values of the liberal tradition were in fact exemplified, formulated, and wrought into the texture of Western society by Christianity, not only as a school of thought but as a way of life and feeling: as a religion, in short. It is not safe to assume that the Christian ethos will persist while the faith and doctrine that gave birth are being deliberately abandoned. The logic of thought, the evidence of history, and the testimony of current events are all opposed to that assumption.*[47]

IV AN EXAMPLE OF HISTORICAL REVISIONISM: AUSTRALIAN HISTORY CURRICULUM

There is nonetheless a deliberate attempt on the part of some academics and politicians to undermine the values and traditions of Western civilisation. To provide a small example of this, take into account, for instance, the school curriculum that

the Australian government has just prepared.48 The curriculum covers English, maths, science and history. In history, the curriculum focuses heavily on Australian Aboriginal history and Asian ways of seeing the world while failing to recognise the impact of Western values in shaping Australia's cultural, legal, economic and political development. Rather than acknowledging that this is predominantly a Western nation, in terms of language, legal and political institutions, and history, the document defines Australia in terms of a "diversity of values and principles". There is no mention whatsoever of basic concepts such as separation of powers, the Westminster system of government, or significant events in Western history such as the Magna Carta and the English Bill of Rights.

Another incredible omission in this Australian curriculum is that concerning the Christian foundations of Western civilisation. It refers to Christianity only twice, and only in the context of studying other religions, particularly Islam. Here the document deliberately underestimates the significance of Christianity while overestimating any meaningful contribution that Islam may have made. Rather than attempting to project a moral equivalence, the curriculum should ask the students, among other things, to identify the impact of Christianity on the development of human rights and constitutionalism in the West. By way of contrast, the students should be asked to study why Islamic governments have imposed the death penalty as a mandatory punishment against adult converts from Islam.[49]

But it is not just the importance of Christianity that has been neglected. The proposed curriculum makes not a single reference to the struggles for rights and freedoms prior to the advent of the United Nations, such as that which occurred in Western societies during the 1688 Glorious Revolution in Great Britain and afterwards by American revolutionaries in the eighteenth century. In 1776, thirteen American colonies in their Declaration of Independence broke their ties with England, stating that they were assuming,

> *among the powers of the earth, the separate and equal station to which the Laws of Nature and of Nature"s God entitle them. We hold these truths to be self-evident, that all men are created equal, and that they are endowed by their Creator with certain inalienable rights, that among these are life, liberty and the pursuit of happiness. ... That wherever any form of government becomes destructive of these ends, it is the right of the people to alter or to abolish it, and to institute new government.*

For them the whole purpose of human rights was to protect individuals against excessive government power. The proposed curriculum for history completely fails to acknowledge any of these historical facts. It only asks the students to consider the role of the United Nations in promoting and protecting human rights. One doubts whether these students will learn that, ultimately, the United Nations' Universal Declaration of Human Rights (1948) relies very heavily on a Western legal tradition in which our most fundamental rights are not regarded as government-conferred,

but rather government-recognised.[50] Elaborated under the auspices of Eleanor Roosevelt and her commission, when Roosevelt, an avowed Christian, summed up the attitude of the framers of the UN Universal Declaration of Human Rights, she commented that this was "based on the *spiritual* fact that man must have freedom in which to develop his full stature and through common effort to raise the level of human dignity."[51] According to Ngaire Naffine, "the Universal Declaration reflects the natural law view that rights inhere naturally in human beings: rights are not legal constructs as the strict Legalists insist. They are not the product of law, they are not posited into being by law, but rather precede law and indwell in human beings as a natural property".[52]

V CONCLUSION

A visible fact in these days of postmodernism and multiculturalism is the gradual abandonment of Christian values, principles, and traditions.[53] As a result, the religious foundations of modern constitutionalism have been undermined. Indeed, a general belief in God-given laws appears to more authoritatively prescribe and guarantee the inalienability of our most basic rights – rights that are not conferred on us by other human beings and therefore cannot legitimately be denied to us by any human authority. This is why the late Harvard Law Professor Harold J Berman once explained that "it is a profound mistake … to consider the relation of law to religion … solely in terms of the *legal foundations of religion*. It is necessary also to consider this relation in terms of the *religious foundations of legal freedom*".[54] If this is true, it seems to me that it is quite imperative to re-discover these religious foundations that we have so much despised or taken for granted in Western societies.[55] ***

Footnotes

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1 Nicholas Aroney, 'Society's Salt' (2008) 608 *Australian Presbyterian*, 5.

2 With regard to the kind of Christianity John Locke adhered to, Victor Nuovo provides this insightful information:
Locke"s Christianity was strongly messianic, which is to say, he believed that Christian doctrine must be understood as Scripture presents it, embedded in a sacred history that runs from the creation of Adam to the Last Judgement. In this connection, Locke adhered to the doctrine of divine dispensations. The proper place in this history to treat the themes of the *Two Treatises* is prior to the Mosaic theocracy and the founding of the messianic kingdom. The nature and function of the civil state are properly considered, then, only under the general providence of God which prevailed under the Adamic and Noachic dispensations. The counterpart of the *Two Treatises* is *The Reasonableness of Christianity*, whose central theme is the founding of the transcendent Kingdom of God. The difference between the two realms and their respective authorities is a central theme of the *Epistola de tolerantia.* Victor Nuovo, „Review of Jeremy Waldron"s God, Locke and Equality" (2003) *Notre Dame Philosophical Reviews.*

3 In *God, Locke and Equality*, Jeremy Waldron argues that Locke's political writings present an idea of human equality (and dignity) that is deeply grounded in Christian theology, and that this idea is a "working premise" of his whole political theory" whose influence is observed, among other things, "in his arguments about property, family, slavery, government, politics, and toleration". – Jeremy Waldron, *God, Locke and Equality: Christian Foundations of John Locke's Political Thought* (Cambridge University Press, 2002) 151.

4 John Locke, *Second Treatise of Government* (c.1681) ch 11, sec 135.

5 Ibid.

6 Ibid ch 19, sec 222.

7 William Molyneux, *Case of Ireland's being bound by acts of parliament in England stated* (1689) 100. Quoted from JM Kelly, *A Short History of Western Legal Theory* (Oxford University Press, 1992) 219.

8 John Eidsmoe, "Operation Josiah: Rediscovering the Biblical Roots of the American Constitutional Republic", in H Waine House (ed.) *The Christian and American Law: Christianity's Impact on America's Founding Documents and Future Direction* (Kregel, 1998) 91; Blackstone's *Commentaries on the Laws of England* was a huge success in America – for many, it was their first comprehensive and clear insight into the English legal system and it was this example which many future American lawmakers modelled their laws upon.

9 Sir Edward Coke, *Calvin's Case* (1608) 7 Coke Rep 12 (a); 77 Eng rep 392.

10 Locke, above n 4, ch 2, sec 6.

11 Randy E Barnett, *The Structure of Liberty: Justice and The Rule of Law* (Oxford University Press, 1998) 2.

12 Sir William Blackstone, "Of the Nature of Laws in General", in *Commentaries on the Laws of England*, Vol. I, (Macmillan, 1979) 29-30.

13 John W Whitehead, *The Second American Revolution* (Crossway Books, 1988) 80. The relevance of God for the achievement of the Rule of Law was well explained by Locke when he contemplated the final result for society, and even more for liberal democratic society, if there was no acknowledgement of the divine law. The result would be moral anarchy: „If man were independent [of God] he could have no law but his own will, no end but himself. He would be a god to himself, and the satisfaction of his own will the sole measure and end of all his actions". –John Locke, *Ethics*, cap.28. Quoted from John Dunn, *The Political Thought of John Locke: A Historical Account of the Argument of the 'Two Treatises of Government* (Cambridge University Press, 1982) 1.

14 Eidsmoe, above n 8, 90.

15 Blackstone, above n 12, 39, 41.

16 Ibid.

17 Joseph Story, *Commentaries on the Constitution of the United States* (William, Gray, and Co, 1833) 1399.

18 Quoted from RJ Rushdoony, *The Politics of Guilt and Pity* (Thoburn Press, 1978) 135.

19 Newton also stated: "God governs the world invisibly, and he has commanded us to worship him, and no other God. … he has revived Jesus Christ our Redeemer, who has gone into the heavens to receive and prepare a place for us, and… will at length return and reign over us… till he has raised up and judged all the dead". Quoted from Alvin J Schmidt, *How Christianity Changed the World* (Zondervan, 2004) 232.

20 Quoted from Morris Kline, *Mathematics in Western Culture* (Oxford University Press, 1953) 260.

21 Richard Westfall, "Isaac Newton", in Garry Ferngren (ed.), *Science and Religion* (John Hopkins University Press, 2002) 155.

22 See Edward S Corwin, *The Higher Law Background of American Constitutional Law* (1928-1929) (Liberty Fund, 2008) 54. Indeed, as Fareed Zakaria points out: "[D]uring the founding of the American Republic "Montesquieu was an oracle". James Madison, Thomas Jefferson, John Adams, and others consciously tried to apply his principles in creating a new political system. He was quoted by them more than any modern author (only the Bible trumped him)." Fareed Zakaria*, The Future of Freedom: Illiberal Democracy at Home and Abroad* (NW Norton, 2003) 45.

23 Charles-Louis de Secondat, Baron de La Brède et de *Montesquieu*, *The Spirit of Laws* (1750), Book I, ch 1.

24 Ibid Book XI, ch V.

25 Ibid Book I, ch I.

26 See David Barton, *Original Intent* (Wallbuilders, 2005) 215.

27 That Christianity was a main source of inspiration for Montesquieu's doctrine of separation of powers is also made visible by comments such as the following: The Christian religion is a stranger to mere despotic power. The mildness so frequently recommended in the Gospel, is incompatible with despotic rage with which a prince punishes his subjects, and exercises himself in cruelty. As this religion forbids the plurality of wives, its princes are less confined, less concealed from their subjects, and consequently have more humanity: they are more disposed to be directed by laws, and more capable of perceiving that they cannot do whatever they please. While the Mahometan princes incessantly give or receive death, the religion of the Christian renders their princes less timid, and consequently less cruel. The prince confides in his subjects, and the subjects in the prince. How admirable the religion, which, while it seems only to have in view the felicity of the other life, constitutes the happiness of this! ... We owe to Christianity, in government a certain political law, and in war a certain law of nations, benefits which human nature can never sufficiently acknowledge. Book XXIV, Chap. 3. And this: From the characters of the Christian and Mahometan religions, we ought, without any further examination, to embrace the one, and reject the other: for it is much easier to prove that religion ought to humanize the manners of men, than that any particular religion is true. It is a misfortune to human nature, when religion is given by a conqueror. The Mahometan religion, which speaks only by the sword, acts still upon men with that destructive spirit with which it was founded. Book XXIV, Chap. 4.

28 See Nicholas Tonti-Fillipini, "Religion in a Secular Society" (2008) 449 *Quadrant Magazine*, 82–85.

29 Frederick Mark Gedicks, "Public Life and Hostility to Religion" (1992) 78 *Virginia Law Review* 671.

30 See Stephen L Carter, *The Culture of Disbelief* (Anchor Books, 1994) 54–55.

31 See John Rawls, *Political Liberalism* (Columbia University Press, 2nd ed, 2005).

32 Ibid 152.

33 Ronald Dworkin, "Liberalism", in Stuart Hampshire (ed) *Public and Private Morality* (Cambridge University Press, 1978) 127.

34 See Carter, above n 29, 56. In Chapter 3 of *God, Locke and Equality*, Waldron compares Locke's idea of political equality which is based on Christian philosophy with what he argues to be the inadequacy of Rawls' secular counterpart. Waldron, above n 3, 44-81.

35 Ibid 54–55; Gedicks, above n 28, 693–96. This association of religion with radicalism and bigotry tends to be reinforced by the unfair association of religion in general with the worldwide rise of radical religious nationalistic groups, particularly in the so-called third world, with the corresponding violence that has often occurred. Mark Juergensmeyer, "The New Religious State" (1995) 27 *Comparative Politics* 379.

36 David T Koyzis, *Political Visions and Illusions: A Survey & Christian Critique of Contemporary Ideologies* (InterVarsity Press, 2003) 65–68.
37 See Carter, above n 30, 54–55. See also Michael W McConnell, "Religious Freedom at a Crossroads" (1992) *University of Chicago Law Review* 115, 122-25.

38 Cardinal George Pell, "Is There Only Secular Democracy?"(2004) 412 *Quadrant Magazine* 11. Tonti-Fillipini points out: It seems… that we are witnessing in Australia… a very aggressive exclusionist form of secularism, which views religious belief and practice with arrogant intolerance and dismissiveness… Notwithstanding the legal position, many politicians and others have behaved in a way that does not respect the Australian Constitution by demanding that bishops, priests, ministers, churches, and other religious bodies stop "meddling" in politics. Such *ad hominem* attacks represent an egregious appeal to prejudice and unjust discrimination against certain people or institutions. It is also hypocritical in the strict sense because such advice is usually given by, but not expected to apply to, those whose religion is variously described as secular, humanist, atheistic, or agnostic. Tonti-Fillipini, above n 28, 82–84.

39 In an instance where "neutrality" was used to make a good point, the Supreme Court warned that "a pervasive bias or hostility to religion ... could undermine the very neutrality the Establishment Clause requires." *Rosenberger v Rector*, 515 US 819, 839–40, 845–46 (1995). See also *Lee v Weisman*, 505 US 577, 598 (1992) (an „all-pervasive attempt to exclude religion ... could itself become inconsistent with the Constitution"). See also R Albert Mohler, *Culture Shift* (Multonomah, 2008) 15-21.

40 Cardinal George Pell, "Varieties of Intolerance: Religious and Secular," *Inaugural Hilary Term Lecture*, Oxford University Newman Society, The Divinity School, Oxford University, Ma 6, 2008, 7.

41 As philosopher Roy Clouser has argued in his exhaustive study of the definition of religion. See Roy Clouser, *The Myth of Religious Neutrality* (University of Notre Dame Press/IN, 2nd ed, 2005).

42 *Torcaso v Watkins*, 367 US 488, 495 n 11 (1961); and compare *United States v Seeger*, 380 US 163 (1965) (the test for religious belief is whether the belief occupies a place „parallel" to a belief in God).

43 *Church of the New Faith v Commissioner for Payroll Tax* (1983) 154 CLR 120.

44 See Cardinal Joseph Ratzinger (Pope Benedict XVI), *Doctrinal Note on Some Questions Regarding the Participation of Catholics in Political Life*, Congregation for the Doctrine of the Faith, London, 2003, 13.

45 Quoted from James A Joyce, *The New Politics of Human Rights* (St Martin"s Press, 1978) 7.

46 Alan Anderson, "Rendering unto God: Revolutionary Secularism and the Campaign to Kick Religion out of Public Life" (2010) 62(1) *IPA Review* 15.

47 William A Orton, *The Liberal Tradition: A Study of the Social and Spiritual Conditions of Freedom* (Yale University Press, 1945) 57.

48 Australian Federal Curriculum, *History* (13 October 2010) ACARA Australian Curriculum Consultation Portal <http://www.australiancurriculum.edu.au/Documents/History curriculum.pdf>.

49 Patrick Sookhedo, *Faith, Power and Territory: A Handbook of British Islam* (Isaac Publishing, 2008) 24. Cambridge-based Muddathir 'abd Al-rahim has dismissed arguments for a rethink of the apostasy laws, noting that "all Muslim schools of thought have been in full and well-founded agreement" about this. „What

the Prophet says" about the treatment of apostates, chided this reviewer, "cannot … be simply ignored or wished away". Review of Saeed & Saeed, *Freedom of Religion, Apostasy and Islam*, by Muddathir 'abd Al-rahim, in *International Journal of Middle East Studies,* Cambridge, November 2005.

50 Of course, one doubts also whether these students will also learn that, ultimately, the United Nations is notoriously corrupt, and that it has developed a tradition of shamefully delaying to respond to human rights violations. Moreover, countries with an appalling human rights record such as China, Cuba, Saudi Arabia, Sudan and Zimbabwe are often elected and re-elected to UN agencies, with Libya, another notorious human rights abuser, even serving as Chairman of the UN Human Rights Commission in 2003.50 Surely any decent study of "the struggle for rights and freedoms" would necessarily have to address these facts. But then I have just said "decent". See Brett D Schaefer, "The United Nations Human Rights Council: Repeating Past Mistakes", *Heritage Foundation*, Lecture N.968, September 6, 2006. See also Brett D Schaefer, "The United Nations Human Rights Council: A Disastrous First Year, *Heritage Foundation*, Backgrounder No.2038, June 1, 2007. See also Freedom House, *The Worst of the Worst: The World's Most Repressive Societies* (Freedom House, 2007).

51 "Statement by Mrs Franklin D Roosevelt", Department of State Bulletin (December 1948) 751. Quoted from Ngaire Naffine, *Law's Meaning of Life: Philosophy, Religion, Darwin and the Legal Person* (Hart Publishing, 2009) 103.

52 Ibid 102.

53 See David Martin Jones, "When Ideology Displaces Reason" (2010) 470 *Quadrant Magazine,* 12.

54 Harold J Berman, *Faith and Order: the Reconciliation of Law and Religion* (William B Eerdmans, 1993) 210. (emphasis added). On the imperative of religious freedom as fundamental, not just for believers but for how much freedom there is in a free society, see Michael Casey, "Religious Freedom – The Basis of All Our Freedoms" (2010) 469 *Quadrant Magazine,* 80-83.

55 We should also take this advice by Jeffrie G Murphy into consideration: 'The rich moral doctrine of the sacredness, the preciousness, the dignity of persons cannot in fact be utterly detached from the theological context in which it arose and of which it for so long formed an essential part. Values come to us trailing their historical past; and when we attempt to cut all links to that past we risk cutting the life lines on which those values essentially depend. I think that this happens in the case of … any … attempt to retain all Christian moral values within a totally secular framework. Thus "All men are created equal and are endowed by their Creator with certain unalienable rights" may be a sentence we must accept in an all or nothing fashion – not one where we can simply carve out what we like and junk the rest". Jeffrie G Murphy, "Constitutionalism, Moral Skepticism, and Religious Belief" in Alan S Greenwood (ed), *Constitutionalism: The Philosophical Dimension* (Greenwood Press, 1988) 249.

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