AUSTRALIAN COUNCIL FOR THE DEFENCE OF GOVERNMENT

SCHOOLS

PRESS RELEASE 769

RELIGIOUS FREEDOM AND PRIVATE PRIVILEGE TO DISCRIMINATE:

WEALTHY SYDNEY ANGLICAN SCHOOLS WANT TO KEEP THEIR CAKE AND EAT IT.

The federal government has responded favourably to demands from 34 principals of Anglican schools in Sydney to retain anti-discrimination laws which permit them to exclude LGBT teachers. And then, when there was an adverse reaction some of them broke ranks.

In an open letter, the group of Anglican schools wrote to MPs claiming the shift would undermine their faith's core values. "Until such time as religious freedom is codified in legislation, the exemptions should remain," their open letter states.

Among those who signed the letter are the principals of King's School at Parramatta, Barker College and Abbotsleigh in the northern suburbs, Shore at North Sydney and Trinity Grammar School in the inner west.

These wealthy schools which take large sums of taxpayer dollars, have a very chequered history when it comes to 'core values'. Yet

Dan Tehan says government will get balance right in protecting freedom of religion and preventing teachers from being discriminated against. The Coalition – and the Labor Party talk about 'competing' rights.

DOGS would remind the principals of these schools that religious freedom is already codified in a potentially strong Bill of Rights Clause in our Australian Constitution. Section 116, which is based upon the First Amendment of the American Constitution states:

The Commonwealth shall not make any law for establishing any religion, or for imposing any religious observance, or for prohibiting the free exercise of any religion, and no religious test shall be required as a qualification for any office or public trust under the Commonwealth.:

The private schools of Australia spent 26 days in the High Court of Australia in 1979 proving that they were not 'religious' institutions, and the majority of the High Court (Justice Lionel Murphy in dissent) held that 'any' religion meant' a

particular religion'. This rendered the meaning of the religious liberty clause of our Constitution meaningless. In the years 1979-1981 the religious schools of Australia valued filthy lucre more than any principles of religious liberty. See http://www.adogs.info/high-court-case .

If religious schools are now demanding 'religious liberty' they should be demanding that the High Court follow the Lionel Murphy dissent.

Or perhaps those who are being asked to suffer discrimination practiced by these privileged religious schools in Australia should follow American precedent and take a test case to the High Court.

This week, in Portland, Maine – Americans United for Separation of Church and State, and the American Civil Liberties Union and ACLU of Maine have filed a motion to intervene in a Maine case regarding the use of taxpayer funds to pay tuition at schools that indoctrinate children in religion.

"*It is a fundamental violation of religious freedom to force Maine taxpayers to support education in religious beliefs which they do not hold," said Alex J. Luchenitser, Americans United's associate legal director. "And taxpayers should never be compelled to support discrimination, which some private religious schools practice*."

The case, *Carson et al. v. Hasson*, was filed by the Institute for Justice and the First Liberty Institute, who demand that Maine's taxpayer-funded tuition program pay for religious instruction at Bangor Christian Schools in Bangor and Temple Academy in Waterville. Both schools would use the taxpayer-funded tuition to teach students religious doctrine and train them in religious rites and observances.

The ACLU and AU filed the motion to intervene as defendants in the case on behalf of several taxpayers residing in communities served by the affected school district, Regional School Unit 12, who are opposed to their tax dollars being used for explicitly religious activity. They would join the office of the Maine Attorney General, which represents current defendant Dr. Robert Hasson Jr., commissioner of the Maine Department of Education.

The ACLU and AU oppose the use of taxpayer-funded tuition programs at schools that would use public funds for religious activities and purposes. The groups will argue that states have longstanding, traditional interests in not funding religious training, and that it is a perversion of the U.S. Constitution to force states to fund religious education.

"Maine's state and federal courts have consistently held that Maine's law is constitutional because taxpayers cannot be required to pay to teach children how to pray," said Zachary Heiden, legal director at the ACLU of Maine. "We've helped defend this law four times already, and we hope to do so again."

The ACLU and AU further oppose the use of taxpayer funds to support discrimination based on religious beliefs.

According to a 2009 article in the *Bangor Daily News* about Maine's marriage equality law, the Rev. Jerry Mick of Bangor Baptist Church, which oversees Bangor Christian Schools,

said educators there teach students that marriage for same-sex couples and homosexuality are wrong. Mick told the paper, “We teach abstinence and that sex comes after marriage, not before. We teach moral values. We believe homosexuality is a perverse lifestyle. Our curriculum, even in science and math, is Christ-centered.”

The Maine law prohibiting the use of public tuition funds at schools that teach religious doctrine has been challenged on four previous occasions, in both state and federal court. It was upheld as constitutional all four times.

Carson et al. v. Hasson was filed on Aug. 21, 2018, in the U.S. District Court for the District of Maine.

The motion to intervene filed by AU and the ACLU can be found here.

Americans United is a religious liberty watchdog group based in Washington, D.C. Founded in 1947, the organization educates Americans about the importance of church-state separation in safeguarding religious freedom.