

**From:** [John Flynn](#)  
**To:** [Legislation Committee](#)  
**Subject:** community services amendment bill  
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## Fr John B. Flynn, S.A.C.

5<sup>th</sup> July 2020

### The Standing Committee on Legislation

Dear members of the standing committee,

The proposed Community Services Amendment Bill, 2019, includes clauses that would oblige a priest, by law, to break the seal of confession. This obligation, to my mind, raises many problematic issues. For one thing, it seems to me that such a law would violate the right to freedom of conscience and religion as declared in the Universal Declaration of Human Rights as per Article 18:

'Everyone has the right to freedom of thought, conscience and religion; this right includes freedom to change his religion or belief, and freedom, either alone or in community with others and in public or private, to manifest his religion or belief in teaching, practice, worship and observance.'

The conscience of a priest has been well formed, not erroneously formed, and in respect to the seal of confession, it has been formed to tell him that violating the seal of confession would be a sin of such grave proportion that, should he commit such a violation, he would be ipso facto excommunicated from the Church and his priestly faculties suspended. Theologically, such a violation would be classified as a 'mortal' sin, a sin causing spiritual death in the priest. Should a priest die in such a state of grave sin, he would suffer the penalty of eternal damnation because, by his own decision to break the seal, he knowingly and willingly opted to enter a state of estrangement from God.

His keeping of the seal is a manifestation of his religion, an element in the practicing of it and an observance of it.

Clearly, what has been outlined here only makes sense to a person of faith, more specifically a person of Catholic faith. For those without any faith all this is probably considered nonsense and irrelevant. However, even those without any faith are called upon to respect the rights of those who have faith: the right to follow the conscience they have developed because of their faith, the right to practice their faith and the right to believe what their faith teaches them. In a godless totalitarian society, like a Nazi or Communist one, the promulgation of legislation forcing the breaking of the seal of confession would come as no surprise, it might even be expected, but that it is being proposed in a democratic society such as ours, is surprising indeed and something not to be expected. Does the fact that it is being proposed suggest that a godless ideology pervades the minds and hearts of our civil legislators? The legislation under discussion, should it be passed and enforced, would surely aim to violate the right to freedom of conscience of a priest, his right to live by his religious belief and his right to practice his faith fully.

Doubtless there is a secular mindset behind the proposed legislation. Should this legislation ever provoke the breaking of the seal on the part of an individual priest, the theological fact that it puts that individual priest in danger of eternal damnation would probably be quite irrelevant to and merit no consideration by the legislators. For the individual priest, however, with his right to freedom of conscience so gravely abused and his own well-informed conscience so gravely violated, the breaking of the seal of confession, apart from cutting him off from the community of the Church, would put him in a state of spiritual turmoil, cause untold personal spiritual damage, weigh him down with guilt and engender in him a constant fear of eternal damnation. Surely, even for secular legislators, this effect on a priest deserves

consideration. Would such an effect be just cause for a priest to be compensated for the damage he has endured and will perhaps endure for the rest of his life?

So, should the proposed legislation become law, a priest, who refuses to reveal such an offense as the law requires him to reveal, would be committing a crime against the State. On the other hand, he would be exercising a virtue in upholding the law of God, and as St. Peter reminds us 'Obeying the law of God takes precedence over obeying the law of man'. So, by refusing to break the seal of confession, a priest is exercising his right to follow his correctly informed conscience. In forcing him to break the seal, the State is violating his right to follow his conscience.

Legislators should also bear in mind the reply of Jesus to Pilate when Pilate, with Jesus refusing to speak to him, said "Are you refusing to speak to me? Surely you know I have power to release you and I have power to crucify you?" and Jesus said "You would have no power over me if it had not been given you from above". (Jn. 19:10-11). So, Jesus is saying that all civil power ultimately comes from above, from God, but the fact is, that such power can be and is abused by civil authorities as Pilate himself did when he handed Jesus over to be crucified. With God out of the equation we, who try and live by our Christian faith, see the abuse of power in such legislation as euthanasia, same sex marriage, abortion and in this proposed legislation to force a priest to break the seal of confession because a sin of a specific category has been confessed. The fact is, of course, that such a penitent would not confess, if he went to confession at all, to a priest by whom he is known but rather to a priest who would have no idea who the penitent was. Having heard the confession of an anonymous paedophile what subsequent action is mandated in the proposed legislation that the confessor must take?

The question may be asked "How can you claim the law of the seal of confession to be God's law?" Where is it found in the Scriptures? Well, twice in Matthew's gospel we find the words of Jesus, firstly to Peter 'Whatever you bind on earth shall be bound in heaven and whatever you loose on earth shall be loosed in heaven' (Mw 16: 19-20) and secondly to the twelve, 'I tell you solemnly, whatever you bind on earth shall be considered bound in heaven; whatever you loose on earth shall be considered loosed in heaven' (Mw 18:18). In other words, the Church, through Peter and the Apostles has the power to regulate and this regulation is approved by God and so it becomes the law of God. In another place we read: 'Whoever does not listen to the Church let him be as a heathen or publican', in other words anyone who does not listen to and put into practice the law of the Church, law which would be exclusively about faith or morals, is one who has chosen not to journey on the way to salvation.

Given the implications of this component of the proposed legislation, namely, the violation of the right to freedom of conscience of the priest, the violation of his right to practice his religion freely, the abuse and damage it would cause to the priest's spiritual and mental health, the severing of his union with the Church and his eternal salvation being jeopardised, this component should be removed from the legislation in which it is embodied.

We all acknowledge the spiritual, psychological and emotional damage that children have suffered, and some never fully recover from, as a consequence of being abused. According to the records I have read, over 2017 and 2018 there were 5995 cases of sexual abuse of minors reported in Australia and I did not read of one priest being involved in any of those abuses. Who were the abusers and what are the States doing to bring the abusers to justice and what are the States doing to try and eliminate this leprosy from the community? Can they ever eliminate it without bringing God into the equation? Making it a legal obligation for a confessor to report a penitent who confessed the sin of paedophilia will not make any impact on the level of abuse that afflicts young Australians in Australia at the present time.

Yours faithfully,

Fr, John B. Flynn, SAC Pastor Emeritus