

10 May 2019

The Hon Bill Shorten
PO Box 214
Moonee Ponds, VIC, 3039

Email: Bill.Shorten.MP@aph.gov.au

Dear Mr Shorten

Re: Open Letter Concerning Religious Freedoms

In recent years the protections to be accorded to religious freedom, and the related freedoms of conscience, speech and association, have come under increasing focus within Australia.

The Labor Party's National Platform states 'Labor supports the appropriate protection of the religious freedom of all people'. This commitment leaves wide scope for interpretation, and much will turn on what is considered 'appropriate' in the eyes of a legislator.

For this reason we write to invite you to provide further clarification on a range of your public election commitments. We write as we are concerned that these commitments lack sufficient particularity on key issues that are important to the preservation of the freedoms of religion, conscience, speech and association in our country. We have today also written to the Prime Minister to seek his views on the protections to be given to these freedoms.

While our concerns are held in relation to a range of matters, the following specific matters have recently garnered significant attention:

- a. Protection of Religious Belief — The Labor Party National Platform states that Labor will 'harmonise antidiscrimination laws and procedures'. When the Labor Party last held government it proposed the harmonisation of Commonwealth anti-discrimination laws through a consolidated *Human Rights and Anti-Discrimination Bill*. Though not ultimately legislated, that Bill included religion as a protected attribute alongside a range of other protected attributes. However, unlike most of the other attributes that received protection in matters pertaining to the widely defined notion of 'public life', Labor offered protection to religious belief only in the employment field. Will you commit to protecting religion in antidiscrimination law across all areas of life in a way that is equivalent to the protections offered to the other protected attributes and which also protects religious believers in their associational forms from discrimination?
- b. Free Speech — The Labor Party National Platform makes various commitments that have the potential to impact upon the free expression of traditional views of sexuality and marriage. Many mainstream Australian religious communities hold the belief that, according to their religious tenets, sexual relations are to be entered into only within the context of heterosexual marriage. Under a Labor Government will religious institutions continue to be able to hold out to their members that conformity with this belief is a requirement for the faithful? Further, will religious persons and institutions be able to state and defend this belief within the public square?
- c. Faith-based charities - The Labor Party National Platform states: "Labor will review anti-discrimination laws to ensure that exemptions do not apply to employment in,

access to and the delivery of essential social services". The right of religious institutions to establish and maintain faith-based charities in accordance with their religious convictions is protected in international law. Could you please clarify the "essential services" from which faith-based charities will lose the ability to maintain their religious identity?

- d. Faith-based charities - Subsequent to the foregoing commitment, you have also stated that the religious freedom protections granted to faith-based charities in antidiscrimination law will be removed where they receive government funding. Can you confirm that Labor will allow faith-based charities to continue to act authentically in accordance with their beliefs, including in the practices they undertake and also by exercising discretion in whom they choose to employ?
- e. Parental Rights — The Labor Party National Platform states 'Labor will ensure sex education includes all sexualities and gender identities.' Will you commit to respecting the international human right of parents to ensure the religious and moral education of their children, including through the implementation of Commonwealth Model Guidelines recognising the right of parents to excuse their children from teaching they consider conflicts with their religious and moral convictions?
- f. Employment in Faith-based Schools - In their February 2019 dissenting report on the *Sex Discrimination Amendment (Removing Discrimination Against Students) Bill 2018*, Labor Senators stated 'Labor affirms its commitment to legislating to remove exemptions from the SDA not only for students but also for teachers and other staff. Labor upholds the right of schools to ensure the fidelity of teachers to their school in their conduct within the school.' Many faith-based schools seek to employ persons who not only can act consistently with the school's ethos, but who actually hold the beliefs of the school. For such schools, the ability to employ such persons is considered to be critical to their ability to offer an authentic model of belief to students and the community, across the school's entire staffing complement, not just its teachers. Will Labor commit to maintaining the positive ability of these schools to act with such authenticity?
- g. Teaching and Conduct in Faith-based Schools - During the recent Parliamentary debate on religious schools Labor declined to support amendments that would have clarified that schools may continue to teach their religious beliefs in matters such as marriage. Labor also declined to support an amendment that clarified that schools may set standards of conduct consistent with their religious ethos. Can you provide certainty that as a result of any reform you introduce, schools will continue to be able to teach in accordance with their doctrines and ensure the maintenance of their religious ethos within the school community?
- h. Marriage and Use of Facilities - The 2017 changes to the *Marriage Act 1961* did not protect the right of religious institutions to ensure that their facilities are used in accordance with their beliefs where chapels, halls or similar facilities are located within religious schools or hospitals. Should a Labor Government be formed after the coming election, do you commit to protecting the ability of such institutions to use these facilities in a manner that is consistent with their religious beliefs?
- i. Charity Tax Exemption and Government Funding - The Ruddock Expert Panel concluded, citing the earlier recommendation of the Australian Charities and Not-for-profits Commission, that amendments should be made to the *Charities Act 2013* to

clarify that faith-based and religious charities will not lose their tax exemption where they hold or express a traditional view of marriage. Should a Labor Government be formed after the coming election, do you commit to legislating such a protection? Do you also commit to ensuring that faith-based and religious charities will not lose government funding on the basis that they hold or express a traditional view of marriage?

- j. Expert Panel on Religious Freedom — Should a Labor Government be formed after the coming election, will your Government commit to implementing recommendations 2 to 4 and 9 to 20 of the Expert Panel on Religious Freedom (noting that the remaining recommendations of the Expert Panel have been referred to the Australian Law Reform Commission for further consideration)?
- k. Australian Law Reform Commission — The Government has referred various of the above matters to the Australian Law Reform Commission. Should the Labor Party form Government, will you commit to awaiting the recommendations of the ALRC prior to embarking on any reform process that is relevant to the matters under its consideration?

Yours sincerely,

Bruce Meller
Assembly Clerk
Presbyterian Church of
Australia



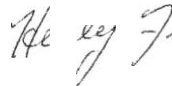
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