

The road to anarchy: conservatives' retrial of Pell is dangerous beyond reasonable doubt

The refusal to accept Pell's conviction is not merely a reactionary whinge; it is dangerous.

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The essence of conservative philosophy is the preservation of things that aren't broken: the societal institutions and traditions that have endured and served, more or less, well. Of these, none is more important than the rule of law. So it comes as a surprise (not really) that, in the aftermath of the conviction of George Pell, the most dramatic consequence has been a full-scale assault on the rule of law by self-described conservatives.

Andrew Bolt was first out of the gate, declaring that Pell had been [“falsely convicted”](#); this was his “opinion, based on the overwhelming evidence”. He doubled down on Sky: “I just can't accept it”.

Miranda Devine was close behind, writing that the verdict has made [“a martyr of an innocent man”](#), who she personally doesn't “believe” could be guilty.

Out on the conservative fringes, the news broke that Pell had been blessed with a personal character reference from John Howard. Then there was Professor Greg Craven, Vice-Chancellor of Australian Catholic University, who wrote [a piece in *The Australian*](#) savaging the verdict but forgot to disclose that he had also provided Pell with a character reference. And, never one to miss an opportunity to be on the wrong side of history, Liberal backbencher Craig Kelly tweeted that there had been a “miscarriage of justice”, based solely on what Andrew Bolt said.

The death blow came from a lawyer. Father Frank Brennan AO — Jesuit priest, academic and human rights lawyer — dropped into the ABC's 7.30 to deliver a carefully calibrated effort which he backed up in an [opinion piece](#) for the Jesuit publication *Eureka Street*. After a lengthy recitation of the prosecution case, Brennan set about his task:

Richter [Pell's defence counsel] criticised inherent contradictions and improbabilities of many of the details of [the victim's] narrative ... I found many of Richter's criticisms of the narrative to be very compelling.

Brennan went on with his forensic analysis of the evidence. He found it “most unlikely” that a bishop would have left a recessional procession to “retreat to the sacristy unaccompanied”, as the victim had testified Pell had done before his first sexual assault. Further — “it was impossible to produce an erect penis through a seamless alb [the robe worn by a bishop]”. Thanks for that, Frank. Brennan was sure of his findings:

My only conclusion is that the jury must have disregarded many of the criticisms so tellingly made by Richter of the complainant's evidence ... Although the complainant got all sorts of facts wrong, the jury must have believed that Pell did something dreadful to him. The jurors must have judged the complainant to be honest and reliable even though many of the details he gave were improbable if not impossible.

Bolt and Devine had likewise discussed the evidence and their assessment of its improbability.

Not one of these judges sat through Pell's trial. Nobody — not the media, not the public — apart from the judge, jury, accused and counsel, saw or heard the evidence of the victim. Pell himself did not take the stand. So, what exactly have Brennan, Bolt and Devine been analysing? Essentially, a summary of the factual elements of the prosecution case. What they were doing was the very thing they claimed had made Pell a victim: conducting a trial by media.

It's acutely obvious that their refusal to accept the verdict of a jury is the height of screaming hypocrisy. The reasons why Pell's most ardent defenders keep going, well beyond rationality, are equally obvious: Pell was one of the demi-gods of Australia's conservative establishment; his fall is so devastating, so definitively destructive of the Catholic Church's last shreds of moral authority, that it just cannot be allowed. So, they risk their own standing by continuing to defend a convicted paedophile.

Consider the consequences for the law. The criminal justice system is a construct, built on foundations of principle. The rule of law requires our agreement to obey its strictures, respect its courts and accept its verdicts. In criminal law, principle starts with the presumption of innocence, in pursuit of which the system bends a long way in the accused's favour. Guilt can only be determined by an extreme standard: beyond reasonable doubt. Once that has been established, the verdict is beyond reproach. The right of appeal does not change that.

Lawyers are sworn to preserve and protect the rule of law. We do not — we may not — take it upon ourselves to publicly prefer our personal opinions to the verdict of a

court, whether delivered by jury or judge. If we do, we undermine public confidence in the criminal justice system.

What is so extraordinary about this moment is that this pillar of civil society is being attacked by so-called conservatives. Their refusal to accept Pell's conviction is not merely a reactionary whinge; it is dangerous. These people are pointing to a world in which the law has no entitlement to decide rights and wrongs. That's the definition of anarchy.

Pretty ironic if the people who end up burning down the temple are the high priests themselves.