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Religion is not a state obligation

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SHOULD the federal government be funding school chaplains in state schools?

IT is assumed a liberal democracy must erect a "wall of separation between church and state". The phrase comes from an 1802 speech by Thomas Jefferson in which he explained the Establishment Clause in the First Amendment to the US Constitution.

According to the First Amendment, the legislature shall "make no law respecting an establishing of religion, or prohibiting the free exercise thereof". The reason, Jefferson said, was that religion and conscience shouldn't be matters that are accountable to the state. It is a sound principle, encapsulated by a fine-sounding maxim.

The Australian Constitution contains an analogous clause to the First Amendment. Section 116 states: "The commonwealth shall not make any law 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."

This clause is at present the subject of the High Court's deliberation. Last week the court reserved its judgment on a constitutional challenge to the federal government's National School Chaplaincy Program by Queenslander Ron Williams. The program, introduced by the Howard government and continued by Labor, has introduced about 2500 chaplains into state schools.

The chaplains are banned from preaching to students. But some parents, such as Williams, have objected that it involves the introduction of religion into state schools by stealth. The line between pastoral care and proselytisation, they say, isn't clear.

Legal observers indicate it is unlikely Williams will succeed in proving school chaplains hold an office under the commonwealth. (The more contentious constitutional issue appears to concern the use of commonwealth executive power to establish the NSCP.) In philosophical terms, though, the case raises a valid question about state funding of chaplains.

There is reason for concern. Earlier this week, it was revealed that one school chaplain at a Gympie State High School in Queensland had organised for a creationist to deliver a "scientific" lecture. Some providers of school chaplains brandish mission statements, which affirm their ambitions to transform young lives through God and gospel.

It isn't only secularists who have objections. Theologian Scott Stephens, for example, argues that the NSCP undermines the credibility of Christianity in Australia. The messy mix of federal government funds, state-level providers and a lack of chaplains adequately trained in pastoral care certainly mars the program's ethical legitimacy.

To be sure, there are many chaplains who do good work in schools, and respect the separation of church and state. But there are many others who go about their job with evangelical zeal.

However, it is misleading to reduce the matter to one about a wall of separation. Our judges have historically interpreted the Constitution's establishment clause in narrow terms. Most tellingly, state funding of private schools is constitutionally acceptable.

What is really at issue is the state's neutrality. As American legal philosopher Ronald Dworkin wrote, liberalism says "political decisions must be, so far as possible, independent of any particular conception of the good life".

This isn't an argument about whether religion is good or bad; it is about the proper limits of government power. The liberal state should generally aim to be neutral on matters of the good life.

If parents feel strongly about ensuring their children receive pastoral care and spiritual guidance from chaplains, they should send their children to private schools that make such provisions. To insist that governments must provide for this leads the state to privilege some moral conceptions over others.

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