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Chaplains rejected

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THE law and parents are against plans for school chaplains, say Andrew Lynch and Tess Livingstone.

Freedom of religion suffers serious limitations

Andrew Lynch

THE Commonwealth's plan to spend \$90 million over the next three years putting chaplains in every Australian school has been strongly criticised as weakening the separation of church and state in Australia.

Arguments of that sort are often fobbed off as too abstract, but the nation's founders did not think so. On the contrary, they took the trouble to limit the ability of the Commonwealth to play a role in religious affairs.

Under the Constitution, the Commonwealth Parliament is prohibited from passing a law which confers upon any religion the status of a national established church, like the Church of England enjoys in that country.

It also cannot prohibit the free exercise of religion or impose any requirement for religious observance upon the community. Additionally, the Constitution states that "no religious test shall be required as a qualification for any office or public trust under the Commonwealth".

That last one might well scupper the Prime Minister's plans for the Commonwealth to exercise a veto over who may take up a position as chaplain. John Howard has said that the Government reserves the right to "say no to somebody who is plainly unacceptable" and that this is just sensible given that taxpayers' money is being used to fund the chaplains.

But these comments from the Prime Minister only serve to demonstrate just why it is that the Government has no business launching this plan. The expenditure of public money on a project always justifies a degree of government control and scrutiny, but this is incompatible with the concept of religious freedom.

Barring the commission or incitement to commit illegal acts, people should be able to determine their own religious beliefs, or indeed whether to have none at all. If the separation of church and state means anything it is that the government should not use public money to decide which religious opinions are to be promoted at the expense of others.

Any religious denomination is right to be worried about what particular form of instruction their children might receive from school chaplains under this proposal. With chaplains trying to be everything to all students at a school, the danger for the major churches is that their particular doctrines and beliefs will be lost in the wash. It is revealing that the most prominent organisation to express concern over the plan is not the "extremists" that the Prime Minister says the Government

would be looking to veto, but the NSW Catholic Education Commission. A long history of persecution has made Catholics wary of tests of religious belief in order to be employed by the state.

The provision in our Constitution which forbids such things is a reaction against centuries of state-sanctioned religious intolerance in the United Kingdom. That part of the Constitution's guarantee has never needed to be relied upon here, despite strained relations between Catholics and Protestants until comparatively recently. It seems remarkable that it might be relevant to 21st century Australia.

Traditionally, the High Court has not interpreted the Constitution's freedom of religion provision in a very robust way. Litigants seeking to rely upon its protection have routinely been disappointed. For example, the funding by the Commonwealth of church schools – still something of a live issue – was challenged in the early 1980s as a form of "establishment" of religion. The Court rejected this, saying establishment required one church over others to be adopted as a national institution.

That decision was surely correct, but it is the prohibition on religious tests which risks being breached by the chaplaincy plan – and that part of the Constitution would seem to apply to religion in a broader generic sense.

There is nothing in the past cases which suggests that the Commonwealth could exercise such a power without running foul of the constraints placed in the Constitution by its framers.

There is no doubt that Australia's constitutional guarantee of freedom of religion suffers from serious limitations. It is a pale imitation of the many clauses in bills of rights around the world which offer effective protection of individual faith. But even its limited terms may serve to check this latest plan by the Commonwealth to fund and vet the religious beliefs of school chaplains.

But more generally, just the presence in our Constitution of such restrictions upon the Commonwealth is significant. Talk of insulating religion from the power of the state is not merely a resort to a vague ideal. It has clear constitutional text behind it. The inclusion by the Constitution's framers of that text should prompt us to think critically about any proposals which look sure to entangle the Government in issues of faith.

Life for chaplains would be very, very fraught **Tess Livingstone**

A FEW years ago in Rome, Cardinal Joseph Ratzinger – before becoming Pope Benedict XVI – urged Australia's Catholic bishops to be the salt rather than the sugar of the Earth.

It was a controversial statement and it springs to mind with the Federal Government's move to provide \$20,000 for schools to engage chaplains.

The idea has some strong positives – in the few genuinely rigorous academic schools in each state, many parents would welcome their children's attention being drawn to the importance of family rather than focusing primarily on personal excellence and ambition.

Some schools are moving in the right direction, with strong community service programs.

The \$20,000 would produce the best outcomes in schools where the school and parent body were like-minded about values and some of the most important and therefore controversial questions of religion.

If such unanimity of views is not present, the presence of a chaplain could unleash conflicts that would make the history of English wars look like a picnic.

In school communities where family views range from atheism or biblical fundamentalism to devout Judaism, Islam or Hinduism, the chaplain could be little more than a warm, fuzzy staff member supporting the students in general terms and making them feel good. In which case, could \$20,000 be better spent on upgrading books, hiring language tutors or improving science and maths teaching? These are issues that schools would have to consider carefully.

For a variety of reasons, the majority of religious schools have long waiting lists, attesting to the quality of education. Look more closely and the picture is far more complex. These days, families are shopping around and crossing religious boundaries like never before as they seek out the best education for their children. And one of the things driving this movement is dissatisfaction with much of the religious instruction presented in schools.

This is largely what is driving the home schooling movement, now growing at a phenomenal – some would claim dangerous – rate across the country.

Why? Many Catholics, for example, who regard Sunday Mass as binding in a way that it is a serious sin to stay in bed, are aghast at the lukewarm attitude of some secondary school teachers towards that obligation. Likewise, I know of at least half a dozen parents who have opted for secular secondary schools after they found Church schools from various denominations tip-toeing around the seriousness of abortion and in the case of some Catholic schools, encouraging students to argue in favour of the ordination of women, a debate that Pope John Paul II supposedly closed down for all time.

And yes, I acknowledge that other parents will hold views passionately opposed to these. Which is precisely why life for school chaplains, particularly in schools built to promote one particular faith tradition, would quickly become very, very fraught and communities divided along lines where neither side, each fired up with an intense belief in what is right, would give much ground.

From there it would all end in either tears or an insipid, dull form of chaplaincy, replete with sugar but lacking all salt.

Some of the most fortunate schools are those that are regularly visited by the local clergy of whatever denomination and, if it was available, a little remuneration for that work would be no bad thing, but the most committed priests and ministers do it for the love of the God to whom they have dedicated the best years of their lives.

Parents who take the faith seriously have long realised it is mainly up to them to pass it on to their children, with the backing of parishes, regardless of where their children attend. This is why many

people's experience will lead them to believe that the \$20,000 per school could be better spent.

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