



HIGH COURT OF AUSTRALIA

19 June 2014

RONALD WILLIAMS v COMMONWEALTH OF AUSTRALIA & ORS

[2014] HCA 23

Today the High Court unanimously decided that legislation enacted by the Commonwealth Parliament which purported to provide legislative authority to make agreements for the outlay of public money, and to make payments under those agreements, is invalid in its operation with respect to a funding agreement between the Commonwealth and Scripture Union Queensland ("SUQ"). By that agreement, the Commonwealth was to pay SUQ to provide chaplaincy services at schools in Queensland.

In December 2010, Ronald Williams brought a proceeding in the High Court challenging the payment of money by the Commonwealth to SUQ for SUQ to provide chaplaincy services at the state school Mr Williams' four children attended. In 2012, the Court held that the funding agreement between SUQ and the Commonwealth, and the payments made under it, were not supported by the executive power of the Commonwealth under s 61 of the Constitution.

Soon after the Court made orders in that proceeding, the Parliament enacted the *Financial Framework Legislation Amendment Act (No 3) 2012* (Cth) ("the FFLA Act"). The FFLA Act amended the *Financial Management and Accountability Act 1997* (Cth) ("the FMA Act") and the *Financial Management and Accountability Regulations 1997* (Cth) ("the FMA Regulations") to provide legislative support not only for the making of agreements and payments of the kind which were in issue in the first proceeding, but also for the making of other arrangements and grants.

Mr Williams then brought a fresh proceeding in the High Court against the Commonwealth, the relevant Minister and SUQ, challenging the validity of the relevant provisions of the FMA Act and FMA Regulations inserted by the FFLA Act. He challenged the validity of those provisions both generally and in their particular operation with respect to the payment of money by the Commonwealth to SUQ under the then funding agreement. Both the agreement and the payments made under it were said to be made under the "National School Chaplaincy and Student Welfare Program".

The Court held that, in their operation with respect to the challenged funding agreement and the challenged payments made under that agreement, none of the challenged provisions is a valid law of the Commonwealth. The provisions are not, in their relevant operation, supported by a head of legislative power under the Constitution. Providing at a school the services of a chaplain or welfare worker for the objective described in the FMA Regulations is not a provision of "benefits to students" within the meaning of s 51(xxiiiA) of the Constitution. The Court further held that the Commonwealth's entry into, and expenditure of money under, the funding agreement was not supported by the executive power of the Commonwealth. The making of the payments was therefore held to be unlawful.

- *This statement is not intended to be a substitute for the reasons of the High Court or to be used in any later consideration of the Court's reasons.*