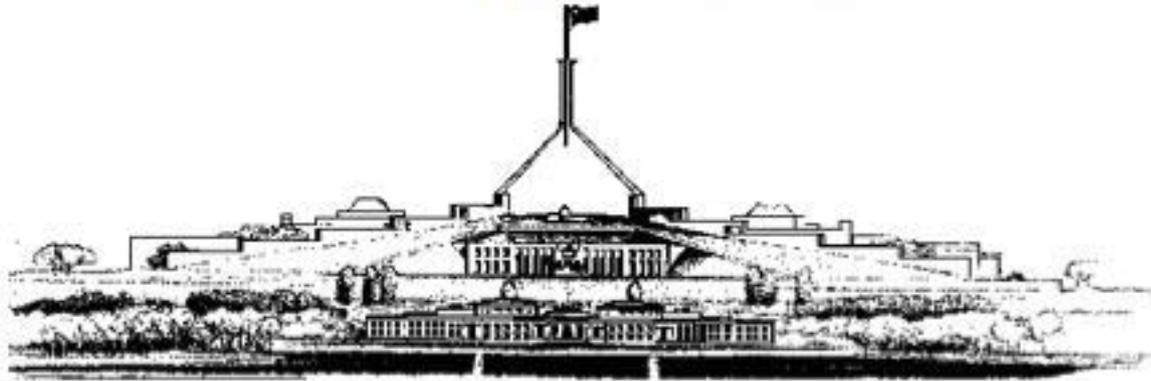




COMMONWEALTH OF AUSTRALIA

PARLIAMENTARY DEBATES



**THE SENATE**

**BILLS**

**Marriage Amendment (Definition  
and Religious Freedoms) Bill 2017**

**Second Reading**

**SPEECH**

**Monday, 27 November 2017**

BY AUTHORITY OF THE SENATE

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## SPEECH

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**Senator KITCHING** (Victoria) (20:26): I'm delighted to have this chance to speak on the Marriage Amendment (Definition and Religious Freedoms) Bill 2017. I begin by congratulating all of those who campaigned well and in the spirit of fair public discourse. I congratulate the 'yes' campaign and send congratulations and good wishes to people I know who want to be able to marry. I'm thinking of friends of mine, one couple who have been engaged for years, who now are able to celebrate the serious step of committing to each other, putting the other before anyone else, including themselves, and becoming, to some intents and purposes, indivisible. I'm thinking of Shelley Argent, the national spokesperson of Parents and Friends of Lesbians and Gays, who gave evidence at the Senate select committee hearing in Sydney earlier this year. She said:

As parents, we stand with our sons and daughters to support them on the issue of marriage equality and what we see as fair.

But I reiterate that Labor opposed the principle of the survey. We took the view that if the Marriage Act were to be amended it was the job of the elected parliament to legislate on the matter. But, as we all know, the deep divisions within the Liberal Party and the weakness of the Prime Minister in his own cabinet and his own party made it impossible for the government to allow the parliament to debate and vote on this question, even on a private member's bill. There was too great a risk that the deep split in the Liberal Party and the Prime Minister's lack of support in his own cabinet and his own party would be exposed. This survey proves that, indeed, the Prime Minister cannot lead.

There has been an explosion of cynicism and questioning not just of elected representatives but even of representative democracy. At its heart is inauthenticity from some of our leaders. The Prime Minister always said he was in favour of marriage equality, but his way of delivering it involved a completely unnecessary plebiscite that cost, as Senator Cormann's press release at the time stated, around \$120 million—and I must pause at this moment to thank Senator Cormann for ensuring that all Labor parliamentarians are now getting full and constant access to his media portal.

This is the same Prime Minister who wants cuts to Medicare, education and so much else because, he says, the government can't afford it. It's the same Prime Minister who will forgive every single member of this parliament every last dollar of their salary and entitlements, yet will chase to the ends of the earth those overpaid by Centrelink, even when the recipients have acted entirely appropriately and tried to do the right thing. The public are not stupid. There is an inauthenticity at the heart of this prime ministership. 'An empty leather jacket', I saw some wit on Twitter say today, recalling the leather-jacket-wearing, rich, urbane, inner-urban sophisticate whose pontifications on *Q&A* on the ABC once so enthralled Australia's chattering class. Where was that Prime Minister today, when two Liberal women senators were left to protest the lack of Liberal women MPs? That Prime Minister wouldn't have pretended that a vote for Labor in Bennelong was somehow, in a way he has not yet explained, a vote for people smugglers. That Liberal would not have said:

Now believe me, right now, the people smugglers are using Kristina Keneally's articles, her statements on this as a marketing tool to get people onto their boats to take them to sea... When the boats start again, if Labor were ever to get back into government, how many of those asylum seekers is she going to bring to Bennelong?

My friend the member for Gellibrand pointed out today that Robert Menzies, in campaigning for the conservatives in a 1940 Corio by-election, declared, equally implausibly, 'Hitler's eyes are on Corio.' History tells us that Labor went on to win that by-election in Corio.

We want and need leaders who are true to themselves, comfortable in their own skin, honest about what they believe and strong enough to have the courage to implement it. We did not get that in the debate on marriage equality. We had Malcolm Turnbull send out a few brave Liberals to fly the flag for the cause he says he believes

in. Like a cowardly armchair general, he sent out the member for Goldstein, Senator Smith and others to fight the fight he ought to have fought.

Tim Watts, the member for Gellibrand, made me think back to that troubled time of war and back further to Winston Churchill's description of a weak Prime Minister, Ramsay MacDonald. It was said that MacDonald was a Prime Minister in name only. It was said a more formidable force, Baldwin, was allowed to call the shots and make the big decisions in his government. Sound familiar? Well, so might these words. Churchill described him thus:

I spoke the other day, after he had been defeated in an important Division, about his wonderful skill in falling without hurting himself. He falls, but up he comes again, smiling, a little dishevelled, but still smiling ...

Then, staring at Ramsay MacDonald across the chamber, Churchill said:

I remember, when I was a child, being taken to the celebrated Barnum's circus, which contained an exhibition of freaks and monstrosities, but the exhibit on the programme which I most desired to see was the one described as "The Boneless Wonder".

Winston Churchill went on:

My parents judged that that spectacle would be too revolting and demoralising for my youthful eyes, and I have waited 50 years to see the boneless wonder sitting on the Treasury Bench.

And so it is, all these decades on, that we too have a 'boneless wonder' pretending to run our government—a hopeless hack whose achievements in business have made him rich but whose ineptitude in government is making more and more Australians, other than his friends, poorer and poorer. This 'boneless wonder' has been so cowardly in leadership that he has been willing to sacrifice the careers of up-and-coming backbenchers to fight a fight he was not courageous enough to fight himself. There are many reasons for the rising tide of cynicism in public life, but central to it are the boneless wonders in this place who won't stand up when it matters. When I came here, I vowed to myself I wouldn't be one of those. I wouldn't die wondering what might have been or what I could have done; I'd go for it. I suspect most, if not all, of us arrive here with that fervent hope. With some, and clearly it is the case with our Prime Minister, cynicism and pragmatism get the better of them. Sic transit gloria Malcolm.

The solution the government came up with was a non-binding kind of plebiscite in which the votes of the Australian people would be used to override the Prime Minister's opponents within his own cabinet and his own party. Labor and other members of the Senate strongly opposed this expensive, unnecessary and wasteful exercise and it was defeated in the Senate. The government then turned to the expedient of a postal survey, which could be conducted by the Australian Bureau of Statistics and would not require legislation. Labor opposed this exercise also, but we could not defeat it, neither in the parliament nor in the High Court. Once it was clear that the survey was to go ahead, Labor decided it was necessary to secure the biggest vote possible in support of the proposal to amend the Marriage Act. Led by Bill Shorten and our leader in the Senate, Senator Penny Wong, we threw ourselves wholeheartedly into the campaign for a 'yes' vote. Why? Because we on this side of the chamber are not people who take our bat and ball and go home. We fight for what is principled.

I acknowledge, of course, that other members of the Senate—some Liberal senators, the Greens political party, the Nick Xenophon Team and Senator Hinch—also campaigned strongly. I acknowledge also that voters for the Liberal Party, the Greens political party and other parties were part of the successful 'yes' majority. But I think all senators will agree it was the support of the great majority of Labor voters for the 'yes' campaign that made possible the great victory we saw. Of course, there are now many more progressive voters enrolled than ever before, because those voters, predominantly young people, wanted to ensure that they had a say. This was the upside of a cynical political exercise by the Prime Minister: people feeling there was an issue they wanted to ensure they could have a say on.

Having said that, I want to comment on some specific aspects of the vote. Six coalition seats voted no, three in rural Queensland and three in suburban Sydney. These results are not especially surprising given that the National Party advocated a 'no' vote and that a substantial section of the New South Wales Liberal Party also campaigned for a 'no' vote. In fact, I was surprised that support for the 'yes' case was as strong in country seats as

it was. Outside Queensland, every rural and regional seat voted yes, and that is perhaps something the National Party should take note of.

The fact that 11 Labor seats voted no, some of them by wide margins, should also be taken note of. Of these, nine are in the suburbs of Sydney and two are in the suburbs of Melbourne. What these 11 seats have in common is their multicultural character. What we saw in this survey was not the usual class-based divide we see at most Australian elections; we saw a cultural, religious and ethnic divide over a specific issue. If the 'yes' vote in most country seats has a lesson for the Nationals, we need to accept, and I do accept, that the 'no' vote in these 11 seats has a lesson for Labor. People in these seats vote overwhelmingly Labor at federal and state elections. They are in some ways the bedrock of our support. Yet in this survey they did not accept the position that Labor asked them to support.

I respect the fact that many of these voters hold sincere religious and cultural beliefs that led them to vote the way they did. I think the lesson here is that we as a party need to work harder to listen to the views of our voters in these seats and to communicate the values and policies of our party more effectively to them. This vote is a reminder that Labor represents a wide spectrum of voters who hold widely varying views, and sometimes conflicting views, on many issues. It's the role of a political party to represent the views and interests of its voters but also to lead its voters—to persuade them that the party's policies and values are to be taken into account. Ultimately, of course, we must hold to the values and policies of our party, but we also need to work harder to persuade our voters to support those values and policies.

Some politicians are voting against the results in their seat, on both sides, and I think that those parliamentarians should be given that freedom, both for consistency of approach and because it is respectful. This debate, like any debate, is not made better by attacking people for acting on their conscience, on their beliefs or on their faith. I think, disappointingly, we saw some sectarianism in the education bill, the Gonski 2.0 bill. It is not fitting for anyone to use arguments that belittle someone's beliefs; it is simply wrong. Indeed, some of this debate on same-sex marriage has reminded me very much of Arthur Miller's play *The Crucible*. A lack of tolerance in any way, the non-extension of a hand held out to help and a lack of willingness to understand another person will never help any community.

Now that the survey results are known, the responsibility to decide the issue of marriage equality has come back to this parliament, where perhaps it should have been all along. The government decided to submit this question to the Australian people, and now they have their answer. The Australian people have shown that they support changing the definition of marriage in the Marriage Act so that any two adults who wish to, regardless of gender, can enter into a civil marriage on the same basis as any other two people. Now it is our responsibility to take that mandate from the people and turn it into legislation.

The best way to do that is to pass the bill which Senator Smith has introduced, without unnecessary delay. We have only two sitting weeks left this year, and we can and should bring this matter to a conclusion before we leave. Some members may complain that this does not leave sufficient time for debate. My answer to that is the parliament could have debated this question at any time this year and could have debated a bill such as this at its leisure. That this did not happen is because of the delaying and obstructionist tactics of that faction of the government parties which is opposed to the principle of marriage equality and because of the weakness of the Prime Minister in not overruling them and allowing a bill to be brought to the parliament much earlier.

I thank Senator Smith for his courage in grasping this issue and for his patience and diplomacy in crafting a bill which accommodates the views of a wide spectrum of members and senators. It is after all no easy thing to draft a bill which both Senator Rhiannon and Senator Leyonhjelm will support. But Senator Smith has done that and he deserves our thanks.

I was speaking about this bill and the survey on Melbourne radio station JOY FM about a month ago. I mentioned an article by Matthew Knott from Fairfax about Senator Smith, who some time ago did not support same-sex marriage but has since become, in Matthew Knott's words, 'a passionate supporter'. I think this speaks to the complexity of this debate, that one could start with one position and move through to the opposite. But, having been on the Select Committee on the Exposure Draft of the Marriage Amendment (Same-Sex Marriage) Bill, I know that Senator Smith is a very thoughtful person. He understands human nature, both at its best and at its worst, and retains compassion and patience and has respect for human beings. The Senate select committee had a membership that really did encompass the full spectrum of views on this issue, and yet everyone on that

committee, even if they vehemently disagreed with something another committee member was saying in our private meetings, was respectful of the other person's view. The committee was chaired with utter professionalism and even-handedness by Senator Fawcett. The point is that Senator Smith's bill is a compromise bill, a bill which none of us is perhaps entirely happy with but which represents what most of us are prepared to accept.

It is difficult to discuss the amendments without seeing their wording. I support, and Labor supports, religious freedom. What that means is the right of all Australians to practise their religion and to express their religious beliefs in a way that is consistent with the law. The Smith bill provides that no religious marriage celebrant can be required to perform a marriage ceremony which is contrary to their religious principles. No priest, minister, rabbi or imam will be required to perform a same-sex marriage if they do not wish to do so. The bill contains certain other protections for religious organisations and the expression of religious opinions.

But religious freedom does not mean the right to act in a discriminatory way in matters which have no connection to religion. One potential that has been discussed is an amendment regarding the provision of commercial goods and services. I do not believe that Australian society is served by allowing providers of commercial goods and services to not serve or to not provide goods and services to gay and lesbian Australians. A comparison would be to allow a provider of commercial goods and services to not serve or to not provide goods or services to an interracial couple who come in to seek goods or services for their upcoming nuptials, because the provider does not believe in interracial marriage. Equally, a provider cannot refuse to provide goods and services to women, Jews, Catholics, Indigenous people, Muslims, Chinese people, people with a disability, gay men or lesbians or transgender people. They cannot do so even if they genuinely hold a religious belief which holds one or other of these categories to be in some way inferior or objectionable, and thank God for that.

The Australian people have told us, and by a wide margin, that they want all Australians to be treated equally, regardless of gender identity or sexuality. I want to quote Noel Pearson, because I think that he is a very thoughtful individual. He said after the survey:

I think the same-sex marriage debate has shown us very clearly that the silent majority of Australia is actually ... generous, very fair-minded and actually want to bequeath our children something better than we have ...

The government sought the views of the Australian people and that is what the Australian people have told us. Our fellow citizens have been kept waiting for far too long for us to take action on this matter. They should not be kept waiting any longer.

I want to go back to Shelley Argent, who spoke quite emotionally when she gave evidence at the Senate select committee hearing. She said at that hearing:

When I first began lobbying MPs, I would say most of you were not even in politics. I was being told that our sons and daughters would want to marry the dog, the TV or the dead.

... ..

As parents, we want our sons and daughters to have the right to marry in a respectful manner, just the same as their peers and siblings.

... ..

As parents, all we ask is that our sons and daughters have the right to the same opportunities and to be seen as equal by the government, regardless of gender or orientation. They work; they pay taxes, and they contribute equally to society. We, their parents, want them, when they can finally marry the person they love, to have the same opportunities and privileges that marriage provides.

So let us legislate and let the bills ring. Thank you.