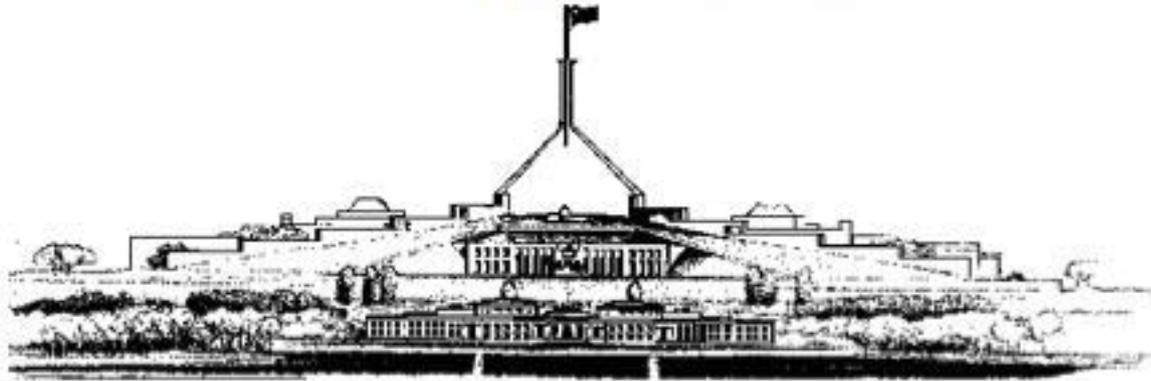




COMMONWEALTH OF AUSTRALIA

PARLIAMENTARY DEBATES



THE SENATE

BILLS

**Sex Discrimination Amendment (Removing
Discrimination Against Students) Bill 2018**

Second Reading

SPEECH

Monday, 3 December 2018

BY AUTHORITY OF THE SENATE

SPEECH

<p>Date Monday, 3 December 2018 Page 9124 Questioner Speaker Kitching, Sen Kimberley</p>	<p>Source Senate Proof No Responder Question No.</p>
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Senator KITCHING (Victoria) (13:03): I rise to speak on the Sex Discrimination Amendment (Removing Discrimination Against Students) Bill 2018, which Senator Wong introduced into the Senate. This bill fulfils the promise that all sides of politics gave following the leaking of the recommendations of the religious freedom review, or the so-called Ruddock report. Mr Ruddock submitted his report to the government in May. Six months later, the government has not released that report—six months! On 9 October, *The Sydney Morning Herald* reported that one of the recommendations of the Ruddock report would be:

Religious schools would be guaranteed the right to turn away gay students and teachers ...

As a result, Prime Minister Morrison gave a commitment that he would act to make it clear that no Australian school could expel a student on the basis of their sexuality or gender identity. This was in the context of the Wentworth by-election. These were fine words, but, as so often happens with this Prime Minister, they were not followed by any action. He has often done leadership by thought bubble. That is why Labor has decided to act. The Prime Minister may be happy to leave this matter hanging over the summer, but we on this side are not.

In this context, I want to make some observations about the position of religious schools in Australia. One of the foundations of our Western democratic way of life is respect for diversity of opinion. We rightly celebrate Australia's diversity of ethnic origins, language, cuisine and belief systems. We should equally celebrate our diversity of religious and philosophical views. We are not only a multicultural society, but also a multifaith society. It is my strong belief that societies with plurality of belief systems, such as Israel, the United States of America, the United Kingdom, France, Australia—of course—and a myriad of other countries, are the countries where they are able to flourish because they can be true to themselves.

But religious freedom is not just a matter of passive acceptance that our fellow Australians have many different faiths. Like all our freedoms, it is often subject to incursion; like all freedoms, it needs to be actively advocated for and defended. An essential part of religious freedom is the right of parents to send their children to religious schools. It must follow from that that religious schools, whether those schools are Christian, Jewish, Islamic or indeed anything else, have a right to educate their students in a way that encourages them to adhere to the faith and practices of the religious denomination which established them. Remember, parents actively choose to send their children to these schools. They do that for a reason, or perhaps for many reasons, but they are doing it in the best interests of their children as they see those interests to be.

It follows from this that such schools have a right to require that both students and teachers act in a way which is broadly consistent with the faith and practices of the religious denomination. If they are to be denied that right, the school cannot serve the purpose for which it was established. However, there is also a majority view in Australia that Australians should not be discriminated against on the grounds of sexuality or gender identity. In relation to schools, this is the view particularly in relation to discrimination against students. It is the need to reconcile these two broadly accepted propositions and the difficulty in doing so that has been brought into sharp focus in the wake of the marriage equality survey and subsequent legislation and the subsequent Ruddock report, which again I say we are yet to see.

The Sex Discrimination Act currently provides certain exemptions to religious schools. The act makes it unlawful to discriminate in, amongst other things, education against people who have certain protected attributes, as the act prescribes. These attributes include sex, sexual orientation, gender identity, intersex status, marital or relationship status, pregnancy or potential pregnancy and breastfeeding. The bill before us would require that religious schools conform to this provision of the act in relation to students. I point out, however, that while sexual orientation, gender identity, intersex status and marital or relationship status are protected attributes under the act, political advocacy and activism are not. There has also been discussion around subsections (1) and (2) of section 38 of the act, and I think there is a need to reconcile and balance different rights. I believe the balancing of rights

is desirable. In those circumstances, I believe an appropriately drafted, positively expressed right to religious freedom should be legislated.

I want to thank the Senate Legal and Constitutional Affairs Committee. The committee worked together very well and productively and the secretariat worked—dare I say it—a miracle to produce the report in a very short time. Labor has decided to act, and it is on that basis that I'm happy to commend Senator Wong's bill to the Senate.