

Ministers set to look at 18C inquiry

Written by Michelle Grattan, Professorial Fellow, University of Canberra

Cabinet on Monday is expected to consider referring the future of the controversial 18C section of the Racial Discrimination Act to a parliamentary inquiry.

The inquiry, which Malcolm Turnbull has flagged he supports, would represent a significant win for the conservatives within Coalition ranks, as a first step to forcing change of the section on a reluctant prime minister.

Turnbull didn't want that hornets' nest stirred but the conservatives have been gradually pushing him into doing something. The Prime Minister has suggested the joint committee on human rights would be the appropriate one to do the inquiry.

On Friday a court threw out a complaint against Queensland University of Technology (QUT) students under the section, but the Human Rights Commission has an investigation underway into a complaint about a Bill Leak cartoon featuring an Aboriginal father not knowing his son's name.

Cabinet minister Josh Frydenberg on Sunday strongly argued for change.

Noting he had been on record for some time believing the words "offend" and "insult" should be removed, Frydenberg said: "I think that threshold, with 'offend' and 'insult' is too low. It's invited complaints, which we've seen in the cases of QUT, as well as in the Bill Leak case."

Even if the cases were thrown out, there was the problem that the complaints were brought in the first place, and that became divisive and a distraction, he told Sky.

Frydenberg, who is Jewish, said he was aware of the strongly-held views by people he respected in the Jewish community who did not want change.

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“This is one issue in which I disagree with them.

"I don't think the words 'offend' and 'insult' are there to protect against Holocaust denialism, for example, which you would never want to see a green light for. ... I think community standards would prevent anti-Semitism, and you don't need a 'hurt feelings' test" to run successful cases against anti-Semitic views.

But Australia/Israel & Jewish Affairs Council executive director Colin Rubenstein insisted 18C was essential.

Rubenstein said the QUT judgement was “again demonstrating the falsity of the hysterical claims increasingly being heard that 18C makes it illegal to merely make someone feel offended”.

He said that especially when xenophobia in Australia was rising, “this legal provision continues to be essential in helping to maintain social cohesion while providing victims of racism with a just method for seeking redress where they have been the target of racial vilification”.

But he indicated possible support for changing the Human Rights Commission processes for dealing with complaints – something proposed by Liberal MP Julian Leeser on Friday. Leeser suggested that complaints with little prospect of success could be cut off at an early stage.

As he goes into the third last parliamentary week before Christmas, Turnbull faces a testing time in the Senate.

The legislation for the same-sex marriage plebiscite is set to be voted down, and there will probably also be opposition shenanigans around the issue in parliament.

The defeat won't be all bad for the government – it will avoid a distracting campaign over the summer – but it will be an election promise that it is not able to deliver, and pressure will

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continue to have the matter settled by a parliamentary vote.

The backpacker tax is also in the Senate, after the government brought in legislation for a compromise, with a rate of 19% instead of the original 32.5%. But this is accompanied by an increase in the passenger departure tax to compensate for lost revenue. Now Tasmanian independent Jacqui Lambie is proposing a 10.5% rate, if she can't get the planned tax scrapped. Opposition Leader Bill Shorten on Sunday indicated he was open to trying to cut the tax back from the government's proposed rate - Labor would look at what a Senate committee report said when it came down this week.

The draconian legislation to permanently deny entry to Australia to anyone sent to Nauru or Manus Island since mid 2013 is due to come into the House of Representatives. Shorten continues to toughen Labor's rhetoric against the measure ahead of caucus's consideration.

The legislation is part of a package to get refugees from Nauru and Manus resettled in third countries but the government hasn't announced the other part as yet.

Michelle Grattan does not work for, consult, own shares in or receive funding from any company or organisation that would benefit from this article, and has disclosed no relevant affiliations beyond the academic appointment above.

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