



COMMONWEALTH OF AUSTRALIA

PARLIAMENTARY DEBATES



THE SENATE

PROOF

STATEMENT BY THE PRESIDENT

Cabinet Secretary

SPEECH

Tuesday, 3 May 2016

BY AUTHORITY OF THE SENATE

SPEECH

<p>Date Tuesday, 3 May 2016 Page 44 Questioner Speaker PRESIDENT, The</p>	<p>Source Senate Proof Yes Responder Question No.</p>
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The PRESIDENT (16:06): I wish to read a statement to the Senate. By letter dated 2 May, Senator McAllister has raised as a matter of privilege the failure of Senator Sinodinos to comply with an order of the Senate of 19 April 2016 to appear before the Finance and Public Administration References Committee for the purposes of its inquiry into Commonwealth legislative provisions relating to oversight of associated political entities.

In determining whether to give precedence to a motion to refer a matter to the Privileges Committee I am required to have regard only to the criteria listed in Privilege Resolution 4—that is, the criteria to be taken into account by the President in determining whether a motion arising from a matter of privilege should be given precedence of other business. These are as follows:

(a) the principle that the Senate's power to adjudge and deal with contempts should be used only where it is necessary to provide reasonable protection for the Senate and its committees and for senators against improper acts tending substantially to obstruct them in the performance of their functions, and should not be used in respect of matters which appear to be of a trivial nature or unworthy of the attention of the Senate; and

(b) the existence of any remedy other than that power for any act which may be held to be a contempt.

The purpose of these criteria is to ensure that a matter which meets them is given an appropriate opportunity to be dealt with as an item of business so that the Senate may then make a decision on the merits of the case. The decision by the President to grant precedence is not a recommendation that the matter *should* be referred to the Privileges Committee for inquiry, simply that the Senate should be given the earliest opportunity to make that decision for itself.

In this case, the Senate ordered Senator Sinodinos to appear before a committee using the power expressed in standing order 177(3). Senator Sinodinos declined to appear, citing unavailability on the proposed hearing dates and indicating that he did not intend to comply with the order of the Senate.

In relation to criterion (a), the Senate has expressed the view in Privilege Resolution 6(8) that disobedience of a lawful order of the Senate without reasonable excuse may be dealt with as a contempt.

Privilege Resolution 6(8) provides that:

A person shall not, without reasonable excuse, disobey a lawful order of the Senate or of a committee.

The Senate has declared non-compliance with an order to be a contempt and it is therefore difficult for me to conclude that criterion (a) is not satisfied. However, it is a matter for the Senate to judge whether the facts in this case warrant such a remedy.

In relation to criterion (b), only the Senate has the authority to deal with non-compliance with its orders through the contempt jurisdiction. I note, however, that it also has access to other types of remedies, including such political and procedural penalties as those listed in the interim report of the Finance and Public Administration References Committee on this matter. What, if any, remedy to apply in this case is solely a matter for the Senate and to this extent, criterion (b) is satisfied.

In order that the Senate may resolve this matter without delay, I have determined that a motion to refer the matter to the Privileges Committee should be given precedence over other business for the day on which it is given.

I table the correspondence and invite Senator McAllister to give notice of a motion.