



DEPARTMENT OF THE SENATE PROCEDURAL INFORMATION BULLETIN

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For the sitting week 15 to 18 March 2016

CASUAL VACANCY

Senator Paterson was sworn in at the commencement of the day on 15 March, having been chosen by the Victorian Parliament to fill the vacancy caused by the resignation of Senator Ronaldson. He made his first speech the following day.

LEGISLATION

The main focus of the week was undoubtedly on the Commonwealth Electoral Amendment Bill 2016 which joined the list of bills debated for over 20 hours, reaching more than 35 hours by the time it received a third reading. The lengthy introduction of the bill into the Senate was described in [Bulletin No. 301](#).

Consideration of the bill occurred under an order agreed to on 15 March providing for extended hours on each day and for the Senate to continue sitting on 17 March until a list of bills headed by the electoral bill had been dealt with.

Immediately after the order was agreed to (without debate because the mover of the motion also moved closure on it), senators sought leave to move motions to vary the order and, when leave was denied, moved to suspend standing orders. First, Senator Muir (who does not have any contingent notices on the Notice Paper) moved to suspend standing orders without notice (thereby requiring an absolute majority to support the suspension) in order to add to the program the bills to re-establish the Australian Building and Construction Commission, resulting in the Government voting against bringing on bills that it had claimed needed to be dealt with as a matter of urgency.

When this manoeuvre failed, Senator Leyonhjelm was refused leave to move a motion to bring on the Australian Greens' bill on marriage equality and moved unsuccessfully to suspend standing orders pursuant to a contingent notice, forcing the Greens (who had agreed to support the electoral bill) to vote against bringing on a bill of great significance to them. (The Greens subsequently moved an amendment to the motion designating the private senators' bills to be considered on 17 March, replacing an Opposition bill with their marriage equality bill.) When Senator Lazarus followed suit to add the ABCC bills and a bill relating to landholders' rights to resist coal seam gas prospecting on their land, the President indicated that he was inclined to invoke the ruling that motions to suspend standing orders to vary an earlier decision should not be capable of being repeatedly made because this would provide a means of permanently obstructing the business of the Senate. After senators addressed the matter, the President ruled that further motions subsequent to that of Senator Lazarus would not be in order.

The following day, two further attempts to vary the order were moved as formal motions and defeated, as was a third attempt on 17 March.

Having disposed of all the attempts to vary the original order, the Senate proceeded with the second reading debate which continued until the evening of 17 March. A second reading amendment calling for reform of the political donations system was agreed, but a “dilatory amendment” under standing order 114(2) (replacing “now” with “this day 6 months”) which has the effect of finally disposing of the bill was negatived, along with an amendment to make further progress on the bill contingent on the Government providing further details of a commercial confidentiality claim made in respect of an order for certain AEC documents (see below). After the second reading, the Opposition used the mechanism in standing order 115 to refer the bill to a committee at this point, without notice, again unsuccessfully.

Finally, the bill was considered in committee of the whole and was debated extensively until the first of many amendments was moved mid-evening. Debate continued through the night and into the afternoon of 18 March. The bill finally passed at around 1.30 pm after nearly 39 hours of debate, with amendments moved by the Government and the Australian Greens. It was then returned to the House of Representatives which had been suspended to await the Senate’s message.

The remaining bills nominated in the order were passed without amendments or requests before the Senate rose for the Easter break. A second reading amendment proposed by Senator Leyonhjelm in relation to Appropriation Bill (No. 3) drew attention to the expenditure for a new initiative, the Cities and the Built Environment Taskforce, that appeared to be new policy and therefore inappropriately included in the bill for the ordinary annual services of the government according to the resolution of the Senate of 22 June 2010. By voting against the amendment, the Senate appeared to repudiate the position it had adopted since the 1965 Compact, based on a set of principles formulated by an informal committee of Coalition Government senators.

ELECTION SPECULATION

The prospects of a simultaneous dissolution have been widely reported and there are two existing “triggers” in the Clean Energy Finance Corporation (Abolition) Bill 2013 and the Fair Work (Registered Organisations) Amendment Bill 2014. During the week there was also much speculation about whether the Houses could be recalled for an early Budget or some other purpose connected with the prospect of a simultaneous election. There are three methods to bring the Senate back but each method recognises the basic principle that the Senate determines its own sittings. The methods are:

- by ordinary motion or amendment to a relevant motion to add days to the existing order;
- by request to the President by an absolute majority of senators under standing order 55; and

- by the President pursuant to a discretion conferred by the Senate, usually in a routine motion for the next meeting of the Senate ('That the Senate, at its rising, adjourn till Tuesday, 10 May 2016, at 12.30 pm, or such other time as may be fixed by the President or, in the event of the President being unavailable, by the Deputy President, and that the time of meeting so determined shall be notified to each senator').

When the motion for the next meeting was moved on 18 March, the Leader of the Opposition in the Senate moved an amendment to provide that the discretion could not be exercised without the concurrence of an absolute majority of senators. Similar amendments were regularly moved to this motion from 1967 onwards to provide an alternative mechanism for the Senate to recall itself. These amendments became the basis of standing order 55(2) to (5). On this occasion, the amendment imposed a condition on any discretionary recall by the Government leaving the Government with the option of proroguing the Parliament so that the Governor-General, pursuant to section 5 of the Constitution, could appoint a time for a new session of Parliament.

The Prime Minister subsequently announced on 21 March that the Governor-General had accepted his advice to prorogue Parliament with effect from 5 pm on Friday 15 April and to summon the Houses at 9.30 am on Monday 18 April for a new session. The [advice](#) has been published by the Governor-General.

EXPLANATIONS FOR UNANSWERED QUESTIONS

There was much interest in the procedure under standing order 74(5) for seeking explanations from ministers for questions on notice unanswered for more than 30 days. Use of the procedure on 15 and 16 March contributed to the consumption of sufficient time to prevent the Senate proceeding to Government business before 7.30 pm on those days, thus demonstrating the time penalties inherent in the procedure.

ORDERS FOR THE PRODUCTION OF DOCUMENTS

Three orders for the production of documents relating to the CSIRO (2) and the Australian Electoral Commission which were responded to in the previous sitting period were reiterated on 16 March. The Special Minister of State reiterated his previous response on the AEC order the same day. The orders for CSIRO information are due on 30 March.

Other orders agreed during the previous sitting period were responded to as follows:

- for documents relating to the indexation of school funding (agreed 3 March) – some documents were provided on 18 March but a public interest immunity claim of Cabinet confidentiality was made in respect of other information. The minister also referred to requests for information in questions on notice that would be responded to in the normal course of events.

- in relation to an order of 17 November 2014 for economic modelling produced by a particular firm on the long-running tender and competitive evaluation process for the replacement submarines project and a Cabinet in confidence claim made on 23 February 2016, a copy of the independent legal advice on which the Minister's public interest immunity claim was based (agreed 3 March) – the minister responded on 18 March that the legal advice would not be disclosed, “consistent with the position of previous governments”. No public interest claim was made.
- for documents relating to an \$18 million communications campaign funded within the Infrastructure Investment program (agreed 29 February) – some documents were provided on 18 March but a public interest immunity claim of commercial confidentiality was made in respect of other information.

RELATED RESOURCES

The [Dynamic Red](#) records proceedings in the Senate as they happen each day.

The [Senate Daily Summary](#) provides more detailed information on Senate proceedings, including progress of legislation, committee reports and other documents tabled and major actions by the Senate.

Like this bulletin, these documents can be found on the [Senate website](#).

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