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PARLIAMENTARY DEBATES



THE SENATE

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Commonwealth Electoral Amendment Bill 2016

In Committee

SPEECH

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BY AUTHORITY OF THE SENATE

SPEECH

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Questioner
Speaker Collins, Sen Jacinta

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Senator JACINTA COLLINS (Victoria) (03:20): I note Senator Conroy's remark, but add to it that the minister seems—

Senator Cash interjecting—

Senator JACINTA COLLINS: I am sorry, Senator Cash, is there a problem with this? Are you having trouble following? Is it too late in the evening? What is the issue?

The TEMPORARY CHAIRMAN (Senator Gallacher): You have the call, Senator Collins. Please address your remarks through the chair.

Senator JACINTA COLLINS: Added to the point that Senator Conroy just made is the concern that we are not just dealing with the minister sitting here and shrugging and refusing to answer the question about what lawful conduct would be available from us, as Senator Lambie said—a senator who will be campaigning in these circumstances and who wants to understand what would be appropriate campaigning under these new provisions. And the minister simply refuses to answer. Senator Day, though, by raising his amendments, raises an important issue about how to consider amendments in a bill and why we are still at the general question stage, because, of course, there are questions that run across a whole range of amendments. Whilst the government and the Greens seem to satisfy themselves with continuing to argue that we have the government's first amendment before us and, from time to time, they suggest we should narrow ourselves to just that one amendment—

Senator Conroy: When we do.

Senator JACINTA COLLINS: We could, but it is a ludicrous situation because, in terms of considering a piece of legislation, the minister has failed several times now to address important general questions about how these provisions will operate. For anyone who is still listening to this discussion at this hour of the night, the really concerning thing about that is not so much that we are still here now at almost 3.30 at night getting no satisfaction on very important questions; instead, it is that it is happening here under these circumstances that are part of the government-Greens fix. Important questions about how people can campaign in Senate elections in the future cannot or will not be answered by this minister. I think that is a very important to highlight so that anyone who is listening does not continue to hear this little voice harping, 'Can't we get on to substantive matters, and can't you narrow yourselves to the first amendment?' which is just ludicrous.

What it really highlights is the hunger that the Greens and the government have to break their word, to not be here till Easter—as the minister assured us he was prepared to be—and to try to ram this legislation through without adequate consideration. I think that the discussion on this particular issue, which Senator Day says does relate to his amendment and which we will eventually get through as we start moving through amendments, highlights exactly that point. But it is not the only one, Senator Day, I am afraid to say. There are a range of other general issues that have been raised so far that the government is refusing to provide adequate policy rationale for, and I have reflected in the past that I am astounded that these are issues that the Greens just swallowed. But now is the time to highlight where the government has failed to provide adequate policy rationale for this fix.

Senator Ian Macdonald interjecting—

Senator JACINTA COLLINS: The government may think it is adequate at 3.30 in the evening to have Senator Macdonald sit here and try to bully me while I make a contribution—

Senator Cash interjecting—

Senator JACINTA COLLINS: Senator Cash says she does not think anyone is really listening—so it does not matter! The sad thing is that the last time the government tried this, they eventually realised it was not a good

look—after about five hours, I think—and it all went away. They might want to consider that approach again, because there are still a range of general substantive matters that need to be addressed in relation to this bill.

I would be happy to talk about the government's first amendment if that would make them feel happy. I would be happy to make a contribution that dealt with all of it, but it is not going to make those general questions go away. They will still arise at some stage over the course of this debate. We have covered some of them but nowhere near all of them. Some of them we will get to again when we look at the amendments that relate to timing—and there are several of those. Is the minister, and are the Greens, actually suggesting we should deal with the various amendments put forward about the timing of the implementation of these measures one by one? Is that the suggestion? What is the justification for Senator Whish-Wilson or Senator Ludlam sitting there and saying, 'You have to talk to the amendment'? Senator Ludlam at least knows how legislation processes work.

Before we go into any detail on the government's nine amendments, we need to highlight, as has been done by Senator Conroy, the minister's failure to respond on this question about unlawful behaviour to Senator Conroy, to Senator Wang, to me, to Senator Day, to Senator Lambie or to Senator Muir—because it is an inadequate response from the government, an extremely inadequate response. I notice that the minister has not gone back to saying, 'You cannot ask us to respond on whether behaviour would be lawful or not.' Fancy asking that in consideration of a bill! How outrageous! That was his first response. I know that response did not come from the advisers box. I know he just plucked that one out of the air. That is no way to proceed with legislative reform, no way at all. But it does highlight the chaos that has been this government's approach to dealing with this and some of the other matters that other senators have raised during this process.

Another area of non-answer that senators will recall is that of the resources that will be available to the AEC—and they will recall the government's failure to respond to the Senate's return to order on that. Again we had Senator Cormann's typical response—'I am being misrepresented'—when I was complaining that he was trying to claim that the issue was commercial-in-confidence without highlighting what the harm might be. He was trying to use that as a reason to not even give ballpark figures for what resources the AEC would need to implement these changes—which are the most significant changes in 30 years to how we vote for the Senate.

The more amusing answer to that issue—and I think it was in response to another senator, not me—was: 'Wait until estimates.' The minister's response to those legitimate questions before the Senate was to tell us that we should deal with them post facto in estimates! We might as well not deal with legislation in this place. Let us imagine this new world, that the Greens have helped construct, where the government has the balance of power in the Senate. They will not have to deal with pesky committee stage considerations. Hell no, they can go back to what they did after 2004 and just ram things through.

The amusing part of them just ramming things through, however, is the lesson that at least John Howard learned from the Work Choices experience.

An opposition senator interjecting—

Senator JACINTA COLLINS: Eventually he learned it—that is right. In the enthusiasm arising out of having the balance of power, they put through measures that this government would have put through in the 2014 budget had they been able to—and now they will be able to, thanks to the Greens

They would have put those measures through, but the lesson that John Howard learnt, of course, was: he went too far, and the Australian public responded and booted them out. This was despite the fact that they had already backflipped, but a bit too late, on Work Choices. They had done their backflip but it was too late to impact on the public opinion about the excessive changes that they had allowed to occur to our fair workplace relations system.

Senator O'Neill: Self-indulgent.

Senator JACINTA COLLINS: It was worse than self-indulgent, Senator O'Neill; it was the ideological agenda and the arrogance that you see occur when parties like the coalition have control in the Senate. Others here like to refer to issues of 'choice' and 'democratic principles' and the like, but the point that I made in my contribution earlier is that I believe that Australians actually value the Senate as a brake on executive government. I think that Australians appreciate having a Senate composition, different in nature to that of the House, that allows the Senate to act as a brake on government.

Senator O'Sullivan: Will you get the chance to prove that?

Senator JACINTA COLLINS: We may get a real chance, Senator O'Sullivan, to prove that but, under this fix, it will be under your new system, which is rigged. Your new system is rigged to generate that outcome. And so we go back again to the minister's earlier comments where I think Senator Carr was very generous in saying that the minister—I cannot recall the exact phrase he used—was being disingenuous when he claimed that these measures are completely independent of when an election might occur. They are not completely independent. We know, with pretty much 100 per cent confidence, that Mr Turnbull will not be calling a double dissolution election if these measures do not succeed. We all know that. I do not know the minister's idea on logical possibilities, but he does not seem to have a good grasp of it. We do know that Mr Turnbull will not go to a double dissolution election without these measures.

We also know that the Greens have been complicit in delivering that possibility. I was picked up earlier for referring to Senator Di Natale as the 'senator for half measures', but this gives me the opportunity to explain his half measures, because when he scurried around—concerned because his own colleagues were concerned about the double dissolution implications—to try to work out what he might be able to fix and decided that a delay in the implementation was what would help, he only managed to get a delay until 2 July. We all know that there are three further Saturdays by which a double dissolution could occur. I do not know how he explained that in the party room. I do not know how he said to Senator Hanson-Young, 'Look, I have at least been able to eliminate half of the potential double dissolutions.'

I really do not know how satisfying that was for Senator Hanson-Young. I can only assume that it was not very satisfying because she is the one Green who has not spoken on the second reading of this bill. She has not been here as part of the Greens team during the debate—and I do not blame her at all, because she has been around long enough to understand the implications of what is going on for her in South Australia. Her scenario is, of course, that her leader, Senator Di Natale, has done a deal with the government, which will benefit Senator Xenophon in South Australia, to her and her other colleagues' detriment. She understands that very clearly. It would be an interesting place to be, the Greens party room, as they muse through this, because not only has the nature of the fix been highlighted, but also the inadequacies of the process and of the issues that they have failed to address in this fix must be outright embarrassing.

But they are now stuck in a scenario where they have to allow hours of detailed consideration to highlight this point, because they have assured the public at large that they will not gag. So, as I said at the outset of this process, we have been forced into an undesirable situation, which is: we need to deal with these issues in a committee stage consideration before the whole of the Senate at this hour of the night, and we need to do it in a way where we have people like Senator Macdonald, again—

The TEMPORARY CHAIRMAN (Senator Edwards): Order! Senator Collins—

An honourable senator: Next time just read out the phone book; it'll be more—

The TEMPORARY CHAIRMAN: Order! Order!

Honourable senators interjecting—

The TEMPORARY CHAIRMAN: I remind senators that interjections are disorderly. Senator Whish-Wilson is on his feet and I am looking to give him the call. Order!