



PRIME MINISTER

Reference: MS16-001702

8 May 2016

His Excellency General the Honourable Sir Peter Cosgrove AK MC (Ret'd)
Governor-General of the Commonwealth of Australia
Government House
CANBERRA ACT 2600

A handwritten signature in black ink, followed by the date '8/5/16' written vertically.

Your Excellency

I am writing to advise you to exercise your power under section 57 of the Constitution to dissolve both Houses of the Parliament simultaneously with effect from 9.00 am on Monday 9th May 2016 to enable an election for both Houses to take place on Saturday 2nd July 2016.

The constitutional preconditions for a double dissolution are set out in the first paragraph of section 57 of the Constitution, which provides:

If the House of Representatives passes any proposed law, and the Senate rejects or fails to pass it, or passes it with amendments to which the House of Representatives will not agree, and if after an interval of three months the House of Representatives, in the same or the next session, again passes the proposed law with or without any amendments which have been made, suggested, or agreed to by the Senate, and the Senate rejects or fails to pass it, or passes it with amendments to which the House of Representatives will not agree, the Governor-General may dissolve the Senate and the House of Representatives simultaneously. But such dissolution shall not take place within six months before the date of the expiry of the House of Representatives by effluxion of time.

I am able to advise that all conditions for a double dissolution have been met with respect to two parcels of legislation: the *Building and Construction Industry (Improving Productivity) Bill 2013* and the *Building and Construction Industry (Consequential and Transitional Provisions) Bill 2013* (“ABCC Bills”) and the *Fair Work (Registered Organisations) Amendment Bill 2014* (“Registered Organisations Bill”).

The Senate has, on two occasions, rejected each of the ABCC Bills and the Registered Organisations Bill. The requirement in section 57 that there be an interval of at least three months between the first rejection by the Senate and the second passage by the House of Representatives has been met in respect of each of those Bills. The prohibition in the last sentence quoted above from section 57 does not apply, as the dissolution would not take place within six months before the date of the expiry of the House of Representatives by effluxion of time.

* Fuller details of the parliamentary history of the Bills are contained in the letter from the Attorney-General which accompanies this letter. The Attorney-General's letter confirms that these Bills meet the terms of section 57 and that the constitutional requirements for a double dissolution on the basis of these Bills are satisfied.

Noted I am providing with this letter copies of the relevant Bills, certified by the Clerk of the House of Representatives.

Although the Constitution does not require it, it has been the practice of Prime Ministers in seeking previous double dissolutions to acquaint the Governor-General with the importance to the Government's program of the Bills which have been the subject of deadlock between the Houses and which satisfy the requirements of section 57.

The ABCC Bills and Registered Organisations Bill represent important elements of the Government's economic plan for jobs and growth, and of its reform agenda. The ABCC Bills aim to re-establish the Australian Building and Construction Commission. The Registered Organisations Bill aims to improve the governance and transparency of registered organisations.

These Bills were commitments of the Government parties before the 2013 election, were foreshadowed in the Governor-General's speech opening the new Parliament in November 2013, and were introduced in their current or earlier form in the Parliament in the first week of sitting. The Government has sought to secure passage of the Bills throughout the life of this Parliament.

The ABCC Bills relate to one of the largest sectors of our economy, which employs over a million Australians and is responsible for around 8 per cent of GDP. The re-establishment of the ABCC aims to improve productivity in this crucial sector, protecting and promoting employment. It would also help restore the rule of law to a sector which two Royal Commissions and many judicial decisions have found to be characterised by a culture of lawlessness which sets it apart from the rest of the economy.

The aim of the Registered Organisations Bill is to ensure that unions and employer organisations have rules of transparency and accountability similar to those that apply to corporations. The recent Royal Commission into Trade Union Governance and Corruption provided overwhelming evidence of the need for a new Registered Organisations Commission as "an independent stand-alone regulator", which is what the Government's legislation seeks to create.

I advise that the election should take place according to the following timetable:

Issue of writs	16th May 2016
Close of electoral rolls	23rd May 2016
Close of nominations	9th June 2016
Polling day	2nd July 2016
Return of the writs (latest date)	8th August 2016

*I accept this advice
- see below*

As you know, under section 12 of the Constitution, the Governors of the States issue the writs for the election of Senators for the States. Accordingly, I also advise you to request the Governors of the States to issue writs for the election of Senators in accordance with the above timetable.

Noted

I enclose for your consideration a form of proclamation relating to the dissolution of both Houses which, were you to accept my advice, I ask be made in sufficient time to enable the currently scheduled sitting of the Parliament on Monday 9th May not to be proceeded with.

Noted

Finally, I can assure Your Excellency that there is sufficient Supply for the ordinary services of government, following the passage last week by both Houses of Supply Bill (No. 1) 2016-2017, Supply Bill (No. 2) 2016-2017, and Supply (Parliamentary Departments) Bill (No. 1) 2016-2017, providing for interim Supply for a sufficient period to allow the election to take place, and for the 2016-17 Budget Bills to be considered and passed by the new Parliament.

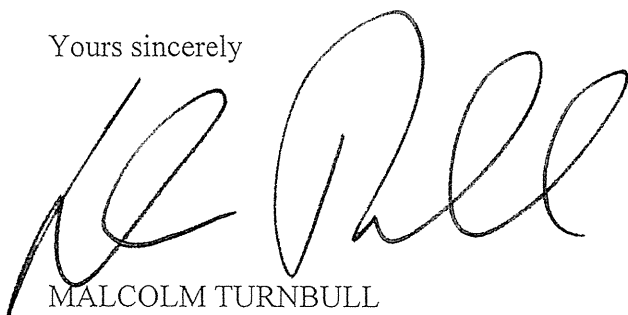
Agreed

Should Your Excellency accept my advice to dissolve both Houses, I propose to make a public statement to this effect, announcing the date of the election. I ask for your consent to that course.

Agreed

I also ask Your Excellency's consent publicly to release this letter, along with the Attorney-General's letter and attached information.

Yours sincerely



MALCOLM TURNBULL

I accept the Prime Minister's advice and will write to him immediately to inform of such.



ATTORNEY-GENERAL

CANBERRA

8 May 2016

His Excellency General the Honourable Sir Peter Cosgrove AK MC (Ret'd)
Governor-General of the Commonwealth of Australia
Government House
Canberra ACT 2600

A handwritten signature in black ink, appearing to be 'P. Cosgrove', with a large flourish and a small 'S' and 'C' written below it.

Your Excellency

This letter accompanies a letter from the Prime Minister, dated 8 May 2016, advising you to exercise your power under s 57 of the Constitution simultaneously to dissolve the Senate and House of Representatives on 9 May 2016, to enable an election for both Houses to be held on 2 July 2016.

I am writing to assure you that it is clear that the constitutional requirements for the simultaneous dissolution of both Houses of Parliament have been satisfied in respect of the following bills:

- the *Fair Work (Registered Organisations) Amendment Bill 2014* (“Registered Organisations Bill”); and
- the *Building and Construction Industry (Improving Productivity) Bill 2013* and *Building and Construction Industry (Consequential and Transitional Provisions) Bill 2013* (“ABCC Bills”).

Requirements for the simultaneous dissolution of both Houses

Section 57 of the Constitution establishes a mechanism for the resolution of a deadlock between the Senate and House of Representatives. It provides as follows:

If the House of Representatives passes any proposed law, and the Senate rejects or fails to pass it, or passes it with amendments to which the House of Representatives will not agree, and if after an interval of three months the House of Representatives, in the same or the next session, again passes the proposed law with or without any amendments which have been made, suggested, or agreed to by the Senate, and the Senate rejects or fails to pass it, or passes it with amendments to which the House of Representatives will not agree, the Governor-General may dissolve the Senate and the House of Representatives simultaneously. But such dissolution shall not take place within six months before the date of the expiry of the House of Representatives by effluxion of time.

If after such dissolution the House of Representatives again passes the proposed law, with or without any amendments which have been made, suggested, or agreed to by the Senate, and the Senate rejects or fails to pass it, or passes it with amendments to which the House of Representatives will not agree, the Governor-General may convene a joint sitting of the members of the Senate and of the House of Representatives.

The members present at the joint sitting may deliberate and shall vote together upon the proposed law as last proposed by the House of Representatives, and upon amendments, if any, which have been made therein by one House and not agreed to by the other, and any such amendments which are affirmed by an absolute majority of the total number of the members of the Senate and House of Representatives shall be taken to have been carried, and if the proposed law, with the amendments, if any, so carried is affirmed by an absolute majority of the total number of the members of the Senate and House of Representatives, it shall be taken to have been duly passed by both Houses of the Parliament, and shall be presented to the Governor-General for the Queen's assent.

The first paragraph of s 57 thus sets out four requirements that must be satisfied in order for you to exercise your power simultaneously to dissolve both Houses of Parliament:

- First, the House of Representatives must pass a proposed law, which the Senate rejects or fails to pass, or passes with amendments to which the House of Representatives will not agree.
- Second, after an interval of three months, the House of Representatives, in the same or next session, must again pass the proposed law with or without any amendments which have been made, suggested, or agreed to by the Senate.
- Third, the Senate must again reject or fail to pass the proposed law, or pass it with amendments to which the House of Representatives will not agree.
- Fourth, simultaneous dissolution of both Houses of Parliament must not take place within six months before the date of the expiry of the House of Representatives by effluxion of time.

Noted

All four of these requirements have been satisfied in respect of both the Registered Organisations Bill and the ABCC Bills.

The Registered Organisations Bill

On 19 June 2014 the Registered Organisations Bill was introduced in the House of Representatives for the first time.¹ On 15 July 2014, the House made amendments to the bill and passed it, as amended.²

On 17 July 2014 the bill was transmitted to the Senate.³ On 2 March 2015, the Senate rejected the bill by defeating the motion that the bill be read a second time.⁴

Accordingly, on 2 March 2015, the first requirement of s 57 of the Constitution was satisfied.

¹ House of Representatives Votes and Proceedings, 19 June 2014, p 585.

² House of Representatives Votes and Proceedings, 15 July 2014, p 706.

³ Journals of the Senate, 17 July 2014, p 1252.

⁴ Journals of the Senate, 2 March 2015, p 2209.

On 19 March 2015 the Registered Organisations Bill, in the same form as originally passed by the House, was introduced for a second time in the House of Representatives.⁵ On 25 June 2015 the House passed the bill.⁶ By that date, an interval of over three months had elapsed since the date of the Senate's first rejection of the proposed law on 2 March 2015. This all occurred during the first session of the 44th Parliament.

Accordingly, on 25 June 2015, the second requirement of s 57 of the Constitution was satisfied.

On 25 June 2015, the bill was again transmitted to the Senate.⁷ On 17 August 2015 the Senate again rejected the bill by defeating the motion that the bill be read a second time.⁸

Noted Accordingly, on 17 August 2015, the third requirement of s 57 of the Constitution was satisfied.

The remaining question is whether, if the dissolution were to take place (as the Prime Minister has advised you) on 9 May 2016, the fourth requirement (the six-month limitation) would be satisfied.

Noted The current House of Representatives first met on 12 November 2013. The final day before its expiry is therefore 11 November 2016. The six month period before the expiry of the House of Representatives (during which Your Excellency may *not* dissolve both Houses of Parliament) therefore commences on 12 May 2016 and terminates at the end of 11 November 2016. Therefore, the latest date upon which both Houses may be dissolved in accordance with s 57 is 11 May 2016. The fourth requirement of s 57 – that the dissolution take place outside the six-month period before the expiry by effluxion of time of the House of Representatives – is therefore satisfied.

So far as concerns the Registered Organisations Bill, therefore, the four requirements of s 57 of the Constitution are clearly satisfied.

The ABCC Bills

On 14 November 2013 the ABCC Bills were introduced into the House of Representatives.⁹ The House passed them on 12 December 2013.¹⁰

On 11 February 2014 the bills were transmitted to the Senate.¹¹ On 17 August 2015, the Senate rejected the bill by defeating the motion that the bill be read a second time.¹²

Accordingly, on 17 August 2015, the first requirement of s 57 of the Constitution was satisfied.

On 2 February 2016 the bills were introduced for a second time in the House of Representatives.¹³ On 4 February, the House passed the bills.¹⁴ By 4 February 2016, more

⁵ House of Representatives Votes and Proceedings, 19 March 2015, p 1211.

⁶ House of Representatives Votes and Proceedings, 25 June 2015, pp 1462-1463.

⁷ Journals of the Senate, 25 June 2015, pp 2842-2843.

⁸ Journals of the Senate, 17 August 2015, p 2963.

⁹ House of Representatives Votes and Proceedings, 14 November 2013, p 80.

¹⁰ House of Representatives Votes and Proceedings, 12 December 2013, pp 253-254.

¹¹ Journals of the Senate, 11 February 2014, p 434.

¹² Journals of the Senate, 17 August 2015, pp 2955-2956.

¹³ House of Representatives Votes and Proceedings, 2 February 2016, pp 1825-1826.

¹⁴ House of Representatives Votes and Proceedings, 4 February 2016, p 1856.

than three months had elapsed since the Senate first rejected the bills. This all occurred during the first session of the 44th Parliament.

Accordingly, on 4 February 2016, the second requirement established by s 57 of the Constitution was satisfied.

Also on 4 February 2016, the bills were again transmitted to the Senate.¹⁵

On 18 April 2016 (the day upon which Your Excellency summoned Parliament for its second session), the Senate rejected the bills by defeating the motion that the bills be read a second time.¹⁶

Noted

Accordingly, on 18 April 2016, the third requirement of s 57 of the Constitution was satisfied.

The remaining requirement (the six-month limitation) is also satisfied in respect of the ABCC Bills for the reasons set out above.

So far as concerns the ABCC Bills, therefore, the four requirements of s 57 of the Constitution are clearly satisfied.

In respect of both the Registered Organisations Bill and the ABCC Bills, the constitutional grounds for you to act on the Prime Minister's advice are established.

For completeness, I enclose a chronology of the parliamentary history of both the ABCC Bills and the Registered Organisations Bill.

Prorogation and the passage of time

Finally, I should briefly advert to two other matters, neither of which creates any constitutional or other legal impediment to Your Excellency accepting the Prime Minister's advice, and which I mention only for the sake of completeness.

Noted

First, the prorogation of Parliament on 15 April 2016 did not affect the operation of s 57 of the Constitution. In particular, the prorogation did not affect the constitutional significance of anything that occurred during the first session of the 44th Parliament, including the decisions of the House of Representatives and Senate regarding the bills referred to in this letter. The immateriality of such an inter-sessional prorogation to the operation of s 57 was clearly established by the High Court in *Western Australia v Commonwealth* ('*First Territorial Senators Case*') (1975) 134 CLR 201. Second, that case also established that Your Excellency's power simultaneously to dissolve both Houses does not depend upon your doing so within any particular time after the Senate's second rejection of any of the relevant bills.

Yours faithfully


(George Brandis QC)

¹⁵ Journals of the Senate, 4 February 2016, p 3725.

¹⁶ Journals of the Senate, 18 April 2016, p 4118.

PARLIAMENTARY CONSIDERATION OF DOUBLE DISSOLUTION BILLS

Noted
K 8/6

Fair Work (Registered Organisations) Amendment Bill 2014

Date	Event
19 June 2014 ¹	Bill introduced in the House of Representatives Bill read a first time in the House of Representatives Second reading of the Bill moved in the House of Representatives
25 June 2014 ²	Second reading debate in the House of Representatives
14 July 2014 ³	Second reading debate in the House of Representatives
15 July 2014 ⁴	Second reading debate in the House of Representatives House of Representatives agrees to second reading of the Bill House of Representatives adopts Government amendments to the Bill, agrees to Bill as amended House of Representatives agrees to third reading of the Bill
17 July 2014 ⁵	Bill transmitted to the Senate Bill read a first time in the Senate Second reading of the Bill is moved in the Senate
11 February 2015 ⁶	Second reading debate in the Senate
12 February 2015 ⁷	Second reading debate in the Senate
2 March 2015 ⁸	Second reading debate in the Senate Senate negatives second reading motion

Fair Work (Registered Organisations) Amendment Bill 2014 [No 2]

19 March 2015 ⁹	Bill introduced into the House of Representatives Bill read a first time in the House of Representatives Second reading of the Bill moved in the House of Representatives
14 May 2015 ¹⁰	Senate refers Bill to Senate Education and Employment Legislation Committee

¹ House of Representatives Votes and Proceedings, 19 June 2014, p 585.

² House of Representatives Votes and Proceedings, 25 June 2014, p 653.

³ House of Representatives Votes and Proceedings, 14 July 2014, p 695.

⁴ House of Representatives Votes and Proceedings, 15 July 2014, pp 704, 706.

⁵ Journals of the Senate, 17 July 2014, p 1252.

⁶ Journals of the Senate, 11 February 2015, pp 2137, 2151.

⁷ Journals of the Senate, 12 February 2015, p 2175.

⁸ Journals of the Senate, 2 March 2015, pp 2198, 2209.

⁹ House of Representatives Votes and Proceedings, 19 March 2015, p 1211.

¹⁰ Journals of the Senate, 14 May 2015, p 2599.

25 June 2015 ¹¹	Second reading debate in the House of Representatives House of Representatives agrees to second reading of the Bill Bill is read a third time in the House of Representatives
25 June 2015 ¹²	Bill transmitted to the Senate Bill read a first time in the Senate
11 August 2015 ¹³	Senate Education and Employment Legislation Committee reports
17 August 2015 ¹⁴	Second reading of the Bill moved in the Senate Second reading debate in the Senate Senate negatives second reading of the Bill

Building and Construction Industry (Improving Productivity) Bill 2013

Building and Construction Industry (Consequential and Transitional Provisions) Bill 2013

Date	Event
14 November 2013 ¹⁵	Bills introduced into the House of Representatives Bills read a first time in the House of Representatives Second reading of the Bills moved in the House of Representatives
14 November 2013 ¹⁶	Bills referred to Senate Education and Employment Legislation Committee
2 December 2013 ¹⁷	Senate Education and Employment Legislation Committee reports
2 December 2013 ¹⁸	Second reading debate in the House of Representatives
4 December 2013 ¹⁹	Senate refers Bills to the Senate Education and Employment References Committee
12 December 2013 ²⁰	House of Representatives agrees to second reading of the Bills Bills read a third time in the House of Representatives
11 February 2014 ²¹	Bills transmitted to the Senate Bills read a first time in the Senate Second reading of the Bills moved in the Senate

¹¹ House of Representatives Votes and Proceedings, 25 June 2015, pp 1462-1463.

¹² Journals of the Senate, 25 June 2015, pp 2842-2843.

¹³ Journals of the Senate, 11 August 2015, p 2905.

¹⁴ Journals of the Senate, 17 August 2015, pp 2956, 2959, 2963.

¹⁵ House of Representatives Votes and Proceedings, 14 November 2013, p 80.

¹⁶ Journals of the Senate, 14 November 2013, pp 125-127.

¹⁷ Journals of the Senate, 2 December 2013, p 197.

¹⁸ House of Representatives Votes and Proceedings, 2 December 2013, pp 143, 147.

¹⁹ Journals of the Senate, 4 December 2013, p 233.

²⁰ House of Representatives Votes and Proceedings, 12 December 2013, pp 246, 247, 248, 253-254.

²¹ Journals of the Senate, 11 February 2014, p 434.

27 March 2014 ²²	Senate Education and Employment References Committee reports
4 March 2015 ²³	Second reading debate in the Senate
5 March 2015 ²⁴	Second reading debate in the Senate
12 August 2015 ²⁵	Second reading debate in the Senate
17 August 2015 ²⁶	Second reading debate in the Senate Senate negatives second reading of the Bills

Building and Construction Industry (Improving Productivity) Bill 2013 [No 2]
Building and Construction Industry (Consequential and Transitional Provisions) Bill 2013 [No 2]

Date	Event
2 February 2016 ²⁷	Bills introduced into the House of Representatives Bills read a first time in the House of Representatives Second reading of the Bills moved in the House of Representatives
3 February 2016 ²⁸	Second reading debate in the House of Representatives
4 February 2016 ²⁹	Second reading debate in the House of Representatives House of Representatives agrees to second reading of the Bills Bills read a third time in the House of Representatives
4 February 2016 ³⁰	Senate refers Bills to the Senate Education and Employment Legislation Committee Bills transmitted to the Senate Bills read a first time in the Senate Second reading of the Bills moved in the Senate
11 March 2016 ³¹	Senate Education and Employment Legislation Committee reports
18 April 2016 ³²	Senate resolves to resume consideration of the Bills, pursuant to a request transmitted to it by the House of Representatives Second reading debate in the Senate Senate negatives second reading of the Bills

²² Journals of the Senate, 27 March 2014, p 752.

²³ Journals of the Senate, 4 March 2015, pp 2240, 2252.

²⁴ Journals of the Senate, 5 March 2015, pp 2263, 2264.

²⁵ Journals of the Senate, 12 August 2015, p 2930.

²⁶ Journals of the Senate, 17 August 2015, pp 2955-2956.

²⁷ House of Representatives Votes and Proceedings, 2 February 2016, pp 1825-1826.

²⁸ House of Representatives Votes and Proceedings, 3 February 2016, pp 1845, 1847.

²⁹ House of Representatives Votes and Proceedings, 4 February 2016, pp 1851-1856.

³⁰ Journals of the Senate, 4 February 2016, pp 3711-3712, 3725.

³¹ Journals of the Senate, 15 March 2016, p 3925.

³² Journals of the Senate, 18 April 2016, pp 4096-4097, 4117- 4118.



His Excellency General the Honourable Sir Peter Cosgrove AK MC (Retd)
Governor-General of the Commonwealth of Australia

The Honourable Malcolm Turnbull MP
Prime Minister
Parliament House
Canberra ACT 2600

Dear Prime Minister

When you called on me today, you handed me your letter of today's date advising me to dissolve both Houses of Parliament and take the necessary action to enable an election for both Houses to be held on Saturday 2 July 2016.

I confirm my acceptance of your advice to dissolve both Houses of Parliament simultaneously with effect from 9:00 am on Monday 9 May and I shall issue a proclamation accordingly.

I shall today invite State Governors to take the necessary action for the holding of Senate elections with the issuing of writs on Monday 16 May.

In accepting your advice, I have noted your assurances that there is sufficient Supply to enable the work of the administration of the Commonwealth to be carried on through the election period.

I have no objection to the public release of your letter and other attached correspondence, along with this reply. I also consent to you making a public statement regarding these matters.

Yours sincerely

Peter Cosgrove
8th May 2016



PROCLAMATION

WHEREAS by section 57 of the Constitution it is provided that if the House of Representatives passes any proposed law, and the Senate rejects or fails to pass it, or passes it with amendments to which the House of Representatives will not agree, and if after an interval of three months the House of Representatives, in the same or the next session, again passes the proposed law with or without any amendments which have been made, suggested, or agreed to by the Senate, and the Senate rejects or fails to pass it, or passes it with amendments to which the House of Representatives will not agree, the Governor-General may dissolve the Senate and the House of Representatives simultaneously:

AND WHEREAS the conditions upon which the Governor-General is empowered by that section of the Constitution to dissolve the Senate and the House of Representatives simultaneously have been fulfilled in respect of the proposed laws intituled:

Building and Construction Industry (Improving Productivity) Bill 2013
Building and Construction Industry (Consequential and Transitional Provisions) Bill 2013
Fair Work (Registered Organisations) Amendment Bill 2014

NOW THEREFORE I, General the Honourable Sir Peter Cosgrove AK MC (Ret'd), Governor-General of the Commonwealth of Australia, do by this my proclamation dissolve the Senate and the House of Representatives at 9:00 am on Monday, 9 May 2016.

Signed and sealed with
the Great Seal of Australia on
2016

Stu Murray

LS.

Peter Cosgrove
Governor-General

By His Excellency's Command

Malcolm Turnbull

Malcolm Turnbull
Prime Minister