

The Senate

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Finance and Public Administration  
References Committee

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Commonwealth legislative provisions relating  
to oversight of associated entities of political  
parties

Interim report

April 2016

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# Membership of the Committee

## Members

|                                      |          |
|--------------------------------------|----------|
| Senator Jenny McAllister (Chair)     | ALP, NSW |
| Senator Cory Bernardi (Deputy Chair) | LP, SA   |
| Senator Joanna Lindgren              | LP, QLD  |
| Senator the Hon Joseph Ludwig        | ALP, QLD |
| Senator Nova Peris                   | ALP, NT  |
| Senator Janet Rice                   | AG, VIC  |

## Substitute Member

|                                                            |         |
|------------------------------------------------------------|---------|
| Senator Lee Rhiannon (Substituting for Senator Janet Rice) | AG, NSW |
|------------------------------------------------------------|---------|

## Participating Members

|                            |          |
|----------------------------|----------|
| Senator Sarah Hanson Young | AG, SA   |
| Senator Debra O'Neill      | ALP, NSW |
| Senator Zed Seselja        | LP, ACT  |
| Senator Penny Wong         | ALP, SA  |



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# Senate Finance and Public Administration References Committee

## Interim Report

1.1 On 19 April 2016, the Senate referred the following matter to the Finance and Public Administration References Committee (committee) for inquiry and report by 4 May 2016.

- (a) Commonwealth legislative provisions relating to oversight of associated entities of political parties, with particular reference to the adequacy of:
  - (i) the funding and disclosure regime relating to annual returns;
  - (ii) the powers of the Australian Electoral Commission with respect to supervision of the conduct of and reporting by associated entities of political parties; and
  - (iii) any related matters; and
- (b) Senator Sinodinos appear before the committee to answer questions.<sup>1</sup>

1.2 The committee has decided to table this interim report in order to report non-compliance of the Senate order by Senator Sinodinos to the Senate.

### Steps taken by the committee

1.3 Following the referral on 19 April 2016, Senator Sinodinos' office was contacted informally by the secretariat on the morning of 20 April 2016 in order to obtain details of a contact for correspondence and to indicate the possible hearing dates under consideration by the committee in order to provide early advice of those dates. No issues with the possible hearing dates were raised with the secretariat.

1.4 Following a committee meeting later that day, formal correspondence was sent to Senator Sinodinos (at Appendix 1) indicating the hearing dates agreed by the committee and indicating that the secretariat would work with his office to find a suitable time. The committee asked for a response by midday 22 April 2016. Despite the secretariat following up with phone calls to his office and an email to the contact officer, the committee received no response to this correspondence.

1.5 On 26 April 2016, the committee considered the lack of response from Senator Sinodinos and agreed to send a further letter advising him of the time for him to appear on 28 April (at Appendix 2). Again the committee received no response.

### Receipt of the response

1.6 The committee received a response from Senator Sinodinos to the secretariat in hard copy at approximately 4.45pm on Wednesday 27 April 2016. The response

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1 *Journals of the Senate*, No. 150 —19 April 2016, p. 4128.

was provided to the Chair and not distributed to the committee until the next morning on 28 April 2016. However, the letter appeared in media in the evening of 27 April 2016. Under Standing Order 37 the 'evidence taken by a committee and documents presented to it, which have not been reported to the Senate, shall not, unless authorised by the Senate or the committee, be disclosed to any person other than a member or officer of the committee'. As there appears to be a prima facie case of unauthorised disclosure, the committee is investigating the matter.

### *Committee view*

1.7 The committee notes that in his response Senator Sinodinos cites his unavailability on the hearing dates. This was never conveyed to the committee. If the Senator was unaware of the inquiry agreed by the Senate on 19 April 2016, there were two and a half days between initial contact with his office and the initial deadline and over a week from the initial contact with his office until the actual response was received. The committee finds the lack of a timely response to a Senate Committee conveying an order of the Senate disappointing.

1.8 The committee notes that the week starting 26 April 2016 was originally scheduled to be a sitting week<sup>2</sup> and as such senators would have been expected to have commitments to the chamber in Canberra.

1.9 The committee further notes the short inquiry timeframe set by the Senate for the committee to work within, resulting in limited flexibility to rearrange hearings to accommodate witnesses. In this case, the committee offered to work with Senator Sinodinos to find a suitable time for his appearance during the days that the committee had set aside for hearings. It is important to note, Senator Sinodinos' attendance was not requested by the committee: it was directed by the Senate. The onus is on Senator Sinodinos to make himself available to appear at the public hearing, not for the committee to reschedule its hearing to accommodate Senator Sinodinos.

1.10 In his response, Senator Sinodinos concedes that hearing dates and availability aside, he does not intend to comply with the order of the Senate.

1.11 This action by way of the Senate order is clearly provided for in the standing orders of the Senate (SO 177(3)).

1.12 The committee notes the following possible responses available to the Senate, including motions:

- requiring Senator Sinodinos to attend the Senate chamber in order to explain the reasons for his non-compliance to the Senate;
- directing Senator Sinodinos to attend a further hearing of the committee;
- referring the non-compliance with a senate order to the Senate Standing Committee of Privileges, consistent with Parliamentary Privilege Resolution 6(8);
- to censure Senator Sinodinos;



- to consider whether a contempt has been committed, under Standing Order 82; and
- to pursue other remedies which may be available under the *Parliamentary Privileges Act 1987*.

**Senator Jenny McAllister**

**Chair**



# Coalition Senators' Dissenting Interim Report

1.1 This inquiry is unworthy of the Senate.

1.2 Never before has the Senate directed any of its Ministers to appear before one of its Committees. Ministers are accountable through questions with and without notice, and through the Estimates process. The motion establishing this inquiry stands without precedent and violates well-established Senate practice.

1.3 The usual process is for a Committee to invite a Minister to attend. Senator Arthur Sinodinos invoked the words of former Senator Mark Arbib, then a Minister in the Rudd Labor Government, in his declining a request to appear before a Senate Committee. The Committee refused to recognise the principle invoked by a Labor Senator when applied to a Liberal Senator.

1.4 The Electoral Commissioner, Mr Tom Rogers - the sole witness at the less than two-hour Committee hearing - noted in his submission that this space of public policy has already been the subject of 'significant scrutiny' and the Committee has a short reporting period. Mr Rogers also highlighted that the Australian Electoral Commission has already made numerous submissions to parliamentary inquiries, including to the Joint Standing Committee on Electoral Matters - the proper Committee to inquire into political donations.

1.5 We note that the majority of associated entities are affiliated with the Australian Labor Party and that these entities declared in total more than \$800 million of income to the AEC for financial year 2014-15, representing more than 90 per cent of all associated entities declared income. We also note that unions alone gave the ALP direct donations worth more than \$5.3 million in financial year 2014-15.

1.6 We asked for a number of witnesses to be invited to give evidence at this inquiry's hearings, including the Hon Bill Shorten MP, Mr Cesar Melham MLC, Mr Noah Carroll, Mr Lance Wilson, Ms Fiona Ward, and Mr Ted Lockyer. Labor and Greens Senators on the Committee did not entertain inviting these witnesses to appear.

1.7 These witnesses could have testified about the washing of a \$40,000 in kind donation from Unibuilt Pty Ltd to Bill Shorten's 2007 Maribyrnong election campaign via the Australian Workers Union – an associated entity.

1.8 The Chair's attempt to justify the exclusion on these witnesses on grounds of their being "not relevant to the terms of reference" further demonstrates the partisan nature of this exercise.

1.9 Asked why these witnesses were not relevant to the terms of reference, the Chair posited that "it was not possible for the Committee to discuss that because..." before receiving riding instructions from Senator Wong to proceed regardless. The Chair then proffered that she was unable to disclose private Committee deliberations and that such questions were out of order.

1.10 Clearly questions about the activities of the Victorian AWU – an ALP associated entity - are relevant to the inquiry's terms of reference.

1.11 This was underlined by the fact that the Electoral Commissioner answered a series of questions about this donation, which went undisclosed for eight years until Mr Shorten fronted the Royal Commission into Trade Union Governance and Corruption.

1.12 For the record it should be noted that the Royal Commission made no finding in relation to whether this donation breached the Electoral Act. A number of issues about it remain unresolved.

1.13 Senator Wong's intemperate criticism of Mr Rogers during the Committee's hearing on 28 April, also deserves comment.

1.14 Consistent with his past practice, the Electoral Commissioner rightly refused to be drawn on questions about evidence to a NSW ICAC inquiry, much of it contested, put to him by Senator Wong, preferring to wait until ICAC reports its findings.

1.15 That Senator Wong should twice accuse him of "turning a blind eye" and ignoring evidence, thus impugning his integrity and independence, simply because he wouldn't fall into line with her partisan line of questioning, further illustrates the purely political nature of this exercise, notwithstanding Senator Wong's unsuccessful attempts at parsing.

1.16 In conclusion, the establishment of this inquiry, the conduct of the Chair and Senator Wong at its one hearing and the content of the majority report, has been a partisan political exercise, unworthy of a Senate Committee and unworthy of further consideration by the Senate.

**Senator Cory Bernardi**  
**Deputy Chair**  
**Senator for South Australia**

**Senator Joanna Lindgren**  
**Senator for Queensland**

**Appendix 1**  
**Correspondence to**  
**Senator the Hon Arthur Sinodinos AO**  
**from the Chair of the committee dated 20 April 2016**



**THE SENATE**

**STANDING COMMITTEE ON FINANCE AND PUBLIC  
ADMINISTRATION**

**References Committee**

20 April 2016

Senator the Hon Arthur Sinodinos AO  
Cabinet Secretary  
PO Box 6100  
Parliament House  
CANBERRA ACT 2600

Dear Senator Sinodinos

I refer to the committee's inquiry, agreed by the Senate on 19 April 2016, with the following terms of reference:

- (1) That the following matter be referred to the Finance and Public Administration References Committee for inquiry and report by 4 May 2016:  
Commonwealth legislative provisions relating to oversight of associated entities of political parties, with particular reference to the adequacy of:
  - (a) the funding and disclosure regime relating to annual returns;
  - (b) the powers of the Australian Electoral Commission with respect to supervision of the conduct of, and reporting by, associated entities of political parties; and
  - (c) any related matters; and
- (2) That the Senate direct Senator Sinodinos to appear before the committee to answer questions.

I draw your attention to (2) where pursuant to Standing Order 177(3) the Senate has ordered you to appear before the committee to answer questions.

The committee will hold a public hearing for a full day on 28 April 2016 which may need to continue on Friday 29 April 2016 and the secretariat will work with your office to find a suitable time. The committee asks that you confirm your attendance by midday Friday 22 April 2016 to the contact below so that your appearance can be scheduled with other witnesses.

If you wish to provide a submission the committee has set midday 26 April 2016 as the closing date.

Should you or your office have any queries, please contact the Committee Secretary Ms Lyn Beverley on or [fpa.sen@aph.gov.au](mailto:fpa.sen@aph.gov.au).

Yours sincerely

Senator Jenny McAllister

Chair

**Appendix 2**  
**Correspondence to**  
**Senator the Hon Arthur Sinodinos AO**  
**from the Chair of the committee dated 26 April 2016**



**THE SENATE**

**STANDING COMMITTEE ON FINANCE AND PUBLIC  
ADMINISTRATION**

**References Committee**

26 April 2016

Senator the Hon Arthur Sinodinos AO  
Cabinet Secretary  
PO Box 6100  
Parliament House  
CANBERRA ACT 2600

Dear Senator Sinodinos

I refer to the committee's previous correspondence dated 20 April 2016 drawing your attention to the committee's inquiry into the Commonwealth legislative provisions relating to the oversight of associated entities of political parties where pursuant to Standing Order 177(3) the Senate has ordered you to appear before the committee to answer questions.

The committee advised that it will hold a public hearing on 28 April 2016 and asked that you confirm your attendance by midday Friday 22 April 2016. The committee notes it has not received a response from you to date.

The committee has considered and agreed a hearing program for 28 April 2016 and allocated you the following timeslot: 9.30 to 11.30am.

Should you or your office have any queries, please contact the Committee Secretary Ms Lyn Beverley on or [fpa.sen@aph.gov.au](mailto:fpa.sen@aph.gov.au).

Yours sincerely

Senator Jenny McAllister

Chair

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