

Malcolm Turnbull laughs off the suggestion that this week's extraordinary developments mean the Senate is in chaos. Okay, let's humour the Prime Minister. The upper house looks a teeny bit messy and the future composition of the crossbench a tad uncertain, right?

To strip this down to its essentials – here's the situation.

Family First's Bob Day, from South Australia, is gone, exiting amid the financial disaster of his business, which turned out not to be his only problem.

Depending on how the High Court rules on whether he was eligible to be elected on July 2, his party could get to choose Day's successor (then likely be Rikki Lambert, Day's former staffer, or Robert Brokenshire, a SA MP); the second candidate on the Family First ticket (Lucy Gichuhi) could be installed; or the seat could go to Labor.

The first scenario is if Day wins the case; the latter two are if he is found to have been ineligible. ABC electoral analyst Antony Green predicts the most likely outcome is the elevation of Gichuhi, a Kenyan-born lawyer.

If One Nation's West Australian senator Rod Culleton doesn't survive the judgement the High Court will make on his eligibility, his place will go on the recount to the next candidate on the party's ticket, Peter Georgiou, who is Culleton's brother-in-law, neatly keeping the seat in the family.

When the Senate resumes on Monday, Family First will have no one there. To pass bills opposed by Labor and the Greens the government will need eight of ten crossbenchers, where previously it required nine of 11.

The government is putting to the Senate next week its legislation for the same-sex marriage plebiscite, destined to go down. But unless it has a change of heart, the industrial bills – to restore the Australian Building and Construction Commission and toughen union governance –

would be waiting until the final sitting fortnight, starting November 21. That is, if they are to be considered this year.

Turnbull on Thursday left up in the air whether the bills would come to a vote before the parliament gets up for the summer recess. "It will depend on our discussions with the crossbench. The reality is, as John Howard always said, politics is governed by the iron law of arithmetic," he said.

The government would present the industrial legislation "when we believe there is a majority that will support it and on terms that we will accept", he said. "It is important that we commit to a vote that we can win in the Senate."

There is another important consideration in politics and that's demonstrating leadership and resoluteness. The government made these bills triggers for a double dissolution. It has previously been very hopeful of getting them through. Turnbull's own credibility surely requires that the bills go to a Senate vote before Christmas, whatever the outcome.

At worst the government suffers a defeat, which admittedly would be a blow for Turnbull. But at least he would be making a gesture on the legislation he argued is so critical.

As double dissolution bills, they are eligible to go to a joint sitting, but the government believes they would fare worse there than in the Senate.

Turnbull desperately needs some policy achievements by year's end, and these bills are the obvious candidates. If they are pushed to a vote, this would concentrate the minds of the crossbenchers, who otherwise might just procrastinate endlessly.

The prospect of success is not likely to be much improved by delay and there is the outside risk that, if things turn out badly for the government, the ALP might pick up an extra number in the Day replacement.

The negotiations underway on the bills will be watched closely after the revelation of the horse trading on migration legislation that Abbott government ministers did with Liberal Democrat David Leyonhjelm, giving him a sunset clause on the Adler import ban (which the government later got around, to Leyonhjelm's anger).

The government has made it clear it is willing to be flexible on amendments. It knows that is its only chance.

As matters stand on the ABCC legislation, which is the more difficult part of the industrial relations package to get through, One Nation is mostly on side, although there is confusion about whether and how Culleton (who has been critical) would vote. At the other end of the spectrum, Tasmanian independent Jacqui Lambert won't support it.

Nick Xenophon has a plethora of amendments. Leyonhjelm, still smarting over his "dudding" on the Adler, had discussions with Turnbull on Thursday. "I could go either way at the moment," he said afterwards. He is looking for a trade off on some other issue on his economic or social agenda. Derryn Hinch, who has concerns, will have amendments and demands.

Labor is also busy lobbying the crossbenchers, trying to prevent them being swayed.

Turnbull on Thursday was again attacking the Construction, Forestry, Mining and Energy Union, describing it as "a union whose lawlessness is one of the great scandals, one of the great handbrakes on economic development around Australia". If, after all the talk, he didn't stand up and let the numbers be counted on these bills by year's end, it would surely be seen as a lack of backbone.

Michelle Grattan does not work for, consult, own shares in or receive funding from any company or organisation that would benefit from this article, and has disclosed no relevant affiliations beyond the academic appointment above.

Authors: Michelle Grattan, Professorial Fellow, University of Canberra

Grattan on Friday: Industrial bills test Turnbull's negotiating skills – and backbone

Written by Michelle Grattan, Professorial Fellow, University of Canberra

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