

Grattan on Friday: Suspense over medical transfers bill goes down to the wire

Written by Michelle Grattan, Professorial Fellow, University of Canberra

The battle over the medical transfers legislation has become something of a thriller for political tragiics.

The government is desperate to head off a defeat next week on the bill. That's just elevated the issue.

If it had let the legislation, passed by the Senate, go to the House of Representatives last year, instead of staging a filibuster, the matter would be over. It wouldn't be facing the unhelpful drama surrounding parliament's resumption on Tuesday.

The Coalition is in minority government and has its back against the wall but this vote is not one of confidence. Its carriage wouldn't lead to an early election. The poll will be in May, framed by the April 2 budget.

The amendments – based on a proposal advanced by independent Kerry Phelps - would allow medical transfers from Nauru and Manus on the advice of two doctors. The minister could refuse the transfer on security grounds, but any other rejection would go to a medical panel for reassessment and determination.

A key issue is the definition of "security". In the legislation, this comes from the ASIO act, which focuses on national security (terrorism, borders and the like), rather than including more common-or-garden criminality.

Scott Morrison has leapt on this to declare the government would be powerless to prevent a paedophile, rapist or murderer coming here.

But that raises the question: How many, if any, paedophiles, rapists and murderers are there among the people concerned?

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We are only talking of a limited cohort – a thousand or so - about whom much is known. After all, they have been confined for the whole period of the Coalition government. Most of them have been found to be refugees.

So the government should be able to provide some facts here. But Home Affairs Minister Peter Dutton's office was unable to do so, though it noted media reports about alleged criminal activity by some individuals.

Even if there is a risk some criminals could be transferred, it should be remembered that transferees go straight into detention once they reach Australia. The minister has full discretion on whether they stay there, or are allowed into the community. That remains a very strong safeguard.

The Prime Minister also raises the spectre of “hundreds upon hundreds” of people being transferred very quickly – indeed, within weeks.

This sounds an exaggeration but even if it isn't, the numbers would not be such as to overwhelm the detention system in Australia, as is being suggested. There have already been lots of transfers – almost 900, it was reported this week - without that problem.

The amendments will be passed if they get support from Labor and all but one of the crossbench.

In its attempt to cajole the crossbench and bludgeon Labor the government is using a mix of tactics.

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At the start of the week there was an inducement – it would set up a medical assessment panel to review cases. But even Morrison admitted this was, in effect, little more than a comfort blanket – all power would remain with the government.

Then the government wheeled out the heavy ammunition, with The Australian [reporting](#) that a Home Affairs department brief, based on advice from ASIO and Australian Border Force, warned of the threat posed to the offshore processing policy by the amendments.

ASIO presumably would not be thanking the government for being dragged publicly into this very political row. (Rather bizarrely, since it was an obvious government “drop”, the Home Affairs department has referred the disclosure to the Australian Federal Police to assess.)

When ASIO and the AFP were moved under the umbrella of Home Affairs (though both remain independent agencies) there were concerns about their being used politically.

This was surely an example of that happening.

While the police were not referred to in the Home Affairs advice, the president of the Australian Federal Police Association, Angela Smith, was quick on Thursday to say that “since being absorbed into the Home Affairs portfolio, the AFP has become politicised by being placed in a number of public compromising positions”.

As it throws everything at the fight over the amendments, the government has been loose with its assertions. For example, Home Affairs minister Peter Dutton said that “doctors including Dr Bob Brown and Dr Richard Di Natale, potentially, can provide the advice”.

Well, no, actually, not those two. Both are qualified medicos but neither is a registered practitioner now.

If the government feels it is on the rack over the amendments, Labor also is in an awkward

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position, and at least one of the independents finds herself in the spotlight.

Border security is always a vulnerable area for the ALP. In its attack on the amendments the government is targeting the opposition rather than the crossbenchers (some of whom it is lobbying more quietly and carefully).

Labor at this point is backing the legislation but Bill Shorten has made it clear he would like to see a compromise he could support.

An obvious one would be to tweak the definition of the “security” grounds in the bill.

Of course the opposition would want to embarrass the government in next week’s vote, however it is also understandable why Shorten might seek a politically acceptable middle road.

But while Labor needs to sandbag itself against government attack it must keep in mind the many in its own constituency who want a more compassionate position on refugees. If Shorten pulled his support for the bill without a very good reason, he would be in trouble with his own base.

In the event Labor holds firm, all eyes will be on independent Cathy McGowan, the crossbencher whose vote is still a question mark.

McGowan is retiring at the election after two terms. If the fate of the legislation comes down to her, she’ll be facing the biggest decision of her parliamentary career.

Michelle Grattan ne travaille pas, ne conseille pas, ne possède pas de parts, ne reçoit pas de fonds d'une organisation qui pourrait tirer profit de cet article, et n'a déclaré aucune autre affiliation que son poste universitaire.

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