

# Coalition senator circulates draft of bill to set up banking inquiry

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The Liberal National party senator Barry O’Sullivan will be circulating an exposure draft of his bill to set up a commission of inquiry into Australia’s banking industry on Thursday afternoon.

The draft will be sent to his [Coalition](#) colleagues, Labor, the Greens, and other Senate crossbenchers, to give them time to consider it at the weekend.

O’Sullivan would like to introduce the bill to the Senate next week. Despite the Turnbull government [abruptly cancelling](#) next week’s sitting of the House of Representatives, the Senate will still be sitting.

His decision to push ahead with his bill follows this week’s cabinet discussion about allowing a parliamentary inquiry into the banks.

If Malcolm Turnbull allowed a parliamentary inquiry to proceed it would be a significant U-turn. He has steadfastly refused to pursue a bank royal commission for years, and has spent considerable political capital doing so.

With the latest push for an inquiry coming from O’Sullivan, the Australian Bankers’ Association has become [increasingly frustrated](#).

And the big-four banks have [reportedly enlisted Australia’s top commercial law firms](#) and senior counsel in readiness, viewing the prospect of an inquiry as almost inevitable.

Political staff are also concerned that if a commission of inquiry is passed by both houses of parliament, its constitutionality could still be referred to the high court.

That’s because a “commission of inquiry” has only been established once, in 1986, to [investigate the former Labor minister and high court justice Lionel Murphy](#). At the time, three judges were appointed to oversee the

inquiry to provide independence.

The idea to pursue a commission of inquiry [was raised by the Greens senator Peter Whish-Wilson in 2016](#). The then-clerk of the Senate, Rosemary Laing, advised Whish-Wilson that parliament could establish such an inquiry if the government refused to allow a royal commission.

[Laing's advice](#) suggested a commission of inquiry into the banks would be possible although there would be difficulties, such as funding the inquiry (which the government would have to allow).

She noted that even if the commission bill passed, it could be challenged for validity and “costly interference could be run by interests opposed to such an inquiry”.

“Recourse could be had to litigation at every step to frustrate the commission if the opponents were determined and deep-pocketed enough, including challenges by individual witnesses, not to mention challenges to the appointment of commissioners in the first place,” Laing wrote.

O’Sullivan has been strongly pushing his own idea for a commission of inquiry since last week, when the same-sex marriage postal survey returned a yes vote.

He rejects reports that he has started pushing for an inquiry in retaliation over the same-sex marriage bill, which was introduced to the Senate by the Liberal senator Dean Smith.

It has been reported that O’Sullivan and some of his Coalition colleagues feel they were ambushed by Smith’s same-sex marriage bill, and are now trying to use a similar strategy to embarrass the Turnbull government on banks.

The treasurer, Scott Morrison, [has confirmed](#) that cabinet considered the option of allowing a parliamentary inquiry into the banks to go ahead, given the political reality of a handful of Nationals MPs willing to cross the floor.

But senior government ministers are [reportedly furious that news of the cabinet meeting was leaked](#) to the media, believing the leak was designed to “create tensions” between cabinet ministers that do not exist.

The Greens and Labor are looking forward to seeing the exposure draft of O’Sullivan’s bill and the terms of reference he is proposing for any commission of inquiry.