238

Shawn O'Brien

From:	Darren Churchill
Sent:	Thursday, 7 February 2013 12:50 AM
To:	Shawn O'Brien; FAD
Cc:	Roger Howe
Subject:	Australian Democrats Minutes and Supporting Documents
Attachments:	NE EO minutes 130131.pdf; January25.pdf; National v Factional (An History of the 201213 NE Schism).pdf; A note on the validity of email motions _particularly thepdf
Importance:	High

Hi Shawn,

Please find attached the Minutes of last Thirsday's (31st January) Extraordinary NE meeting to consider disciplinary action.

The minutes refer to breaches of the Constitution and Standing Orders. However, ome of the people involved my also be the subject of criminal investigation (but such investigation is also covered in the breaches as they relate to Section 4.8 of the Constitution).

I have also attached the reasons why the email "motions" were invalid - and ruled as such by the January meeting of NE.

Please also find attached a letter from the Membership Officer attesting to the membership of Roger Howe and me. Also, my timeline and an history of the real and factional claims to National Executive.

As of now, I believe the real National Executive will look as follows when it next meets on 27th February, 2013:

Real National Executive (voting members only are shown):

National President Darren Churchill Senior Deputy National President Roger Howe Deputy National Presidents David Collyer Chris Ridings David King (to be confirmed) YADs Proxy Ellen Hardy (to be confirmed) +

State Presidents or Proxies

Trevor Jenner (ACT Proxy) Robert Livesay (Vic President) Bruce Hogben/Greg Croke (SA Proxy) Fiona Clancy (NSW Proxy) (to be confirmed)

234

Jim Page (Qld Proxy) (to be confirmed)

I have not (for the time being) included the 42 page timeline of the history of the whole dispute. It can be provided, should you require further information.

Kind regards, Darren

Darren Churchill National President, Australian Democrats

Doc 16 page 3

231



Extra-Ordinary National Executive Meeting to Consider Disciplinary Action Date: 31st January 2013 9:00pm AEDST (via Operator Assisted Chorus Call)

1.0 Meeting Opened by National President Darren Churchill in Chair at 9:00pm

2.0 Welcome / Roll Call / Apologies – Chair: National President Darren Churchill (P=present, Pa=Partial, Ap=apology, NI=Not invited, ?=absent, NV=non voting)

Voting Members

National President P Darren Churchill SDNP & Deputy National Presidents (5) P Roger Howe SDNP P David Collyer DNP NI Hayden Ostrom Brown DNP P Chris Ridings DNP **NI Stuart Horrex DNP Divisional Presidents/Proxies** Recognised Proxies: SA, ACT, Tas NI Drew Simmons NSW President P Robert Livesay VIC President NI Paulene Hutton TAS Proxy P Greg Croke SA Proxy P Trevor Jenner ACT Proxy NI Paul Young Acting WA President **YADs President** NI Matthew Burke YADS President

Non-Voting

Divisional President NI Paul Cole Qld President (insufficient length of membership for a vote on NE) (ie. < 1 year) No proxy appointed.

Officers, Subcommittee Office Holders

PNV Roger Howe (Acting) National Secretary PNV Anthony David IT Coordinator PaNV Max Baumann Policy Convenor PNV Robin Davis Membership Officer PNV Julia Melland Ballot Administrator & Minute taker The Chair outlines meeting rules under National Standing Orders. Say name to be heard by Chair, Don't interrupt speaker (Chair is allowed to interrupt), No discussion after motion put to vote. If you are named 3 times you will be required to leave.

It was noted that the members subject to these proceedings were given a very generous opportunity to come together on Tuesday night, 29th January 2013, and function as a full National Executive. When they caused the meeting to be abandoned, it became clear that the tactic used in September 2012 was going to be used at every meeting. Therefore this urgent disciplinary action was considered necessary, in order to enable the call for 2013/14 nominations to be opened and the decision put back into the hands of the shareholders, i.e. the members.

Also, that due to the disciplinary nature of the meeting some parts of it would be held 'in camera' as per Standing Order Sec. 39.2(b).

The Chair called a 30 seconds period of reflection for participants in the meeting to reflect on ethical practice, due to the serious matters being considered.

3.0 Constitutional and Legal Advisor to the National Executive

Motion: That National Executive appoint Greg Raines as Constitutional and Legal Advisor to the National Executive. Moved: Robert Livesay Seconded: David Collyer Carried unanimously.

4.0 Disciplinary Action

The Chair moved the meeting 'in camera' for discussion and consideration.

The Chair resumed full standing orders.

Motion: That **Access to an experimentation** membership be suspended for breaches of Sections 4.9; 4.8 (2); and 4.8 (3) of the Constitution and that he must show just cause why he should not be expelled. Moved: David Collyer Seconded: Greg Croke Carried unanimously.

Motion: That the must show just cause why he should not be expelled. Moved: Chris Ridings Seconded: David Collyer Carried unanimously.

Motion: That membership be suspended for breaches of Sections 4.9; and, 4.8 (3) the Constitution and Sections 40; 3; 11.1; and, 11.2 of the Standing Orders and that he must show just cause why he should not be expelled. Moved: Greg Croke Seconded: David Collyer Carried unanimously.

234

Motion: That

membership be suspended for breaches of Section 4.8 (2) of the Constitution and Sections 40; 3; 11.1; and, 11.2 of the Standing Orders and that he must show just cause why he should not be expelled. Moved: Chris Ridings Seconded: Robert Livesay Carried unanimously.

Motion: That membership be suspended for breaches of Section 4.8 (3) of the Constitution and Sections 40; 3; 11.1; and, 11.2 of the Standing Orders and that he must show just cause why he should not be expelled. Moved: Chris Ridings Seconded: David Collyer Carried unanimously.

Motion: That membership be suspended for breaches of Sections 4.8; and, 6.5(a) of the Constitution and that he must show just cause why he should not be expelled. Moved: Chris Ridinas Seconded: David Collver Carried unanimously.

Motion: That membership be suspended for breaches of Section 4.8 of the Constitution and Sections 40: 3: 11.1; and, 11.2 of the Standing Orders and that she must show just cause why she should not be expelled. Moved: David Collyer Seconded: Greg Croke Carried unanimously.

Motion: That membership be suspended for breaches of Section 4.8 of the Constitution and Sections 40; 3: 11.1; and, 11.2 of the Standing Orders and that he must show just cause why he should not be expelled. Moved: David Collyer Seconded: Greg Croke Carried unanimously.

Motion: That membership be suspended for breaches of Section 4.8 of the Constitution and Sections 40; 3; 11.1; and, 11.2 of the Standing Orders and that he must show just cause why he should not be expelled. Moved: David Collyer Seconded: Greg Croke Carried unanimously.

Action: To write to these members by email and registered post and invite them to give account of themselves at the next National Executive meeting (other than the follow-on meeting tonight), giving information on how this will proceed.

By: National Secretary, Roger Howe.

Note: The next meeting expected to be March 2013.

Meeting closed: 10:42pm

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A faction from within the Australian Democrats has made claims about the management and control of the party by means of unconstitutional email-motions. Quite deliberately, they are claiming that the passage of a motion via an e-mail ballot is the same as a meeting. Nowhere in the Standing Orders of the National Executive is there any suggestion that an e-mail motion is a meeting in and of itself.

1. Clause 6 of the National Constitution of the Australian Democrats establishes the National Executive and it's functions which are "To direct, organise and co-ordinate as required by the membership, the policies, functions and administration of the Party, in accordance with the Constitution.

2. The Standing Orders for meetings of the National Executive state:

40. Votes conducted by Email

- 40.1 Where a formal meeting cannot be practicably arranged, a motion considered by email will be valid as if considered at a meeting.
- 40.2 Motions for consideration by email must have a mover and a seconder.
- 40.3 The process that must be followed is:

(a) The full text of the proposed motion must be supplied to all Executive members.

(b) Discussion and debate must remain open for five (5) days, during which

(i) Amendments proposed may be incorporated by the movers, and

(ii) Other motions on the same issue or alternative proposals may be foreshadowed

- (c) The question, incorporating any amendments, will then be put to the vote,
- (d) Voting must remain open for five (5) days
- (e) Where a substantive motion fails to achieve the required majority, but has been foreshadowed, members will then vote on the foreshadowed motion.
- (f) Voting on a foreshadowed motion must remain open for a further 3 days.

- 40.5 All majorities required by these rules must be considered absolute majorities in order for a question considered by email to be carried.
- 40.6 The process and votes must be recorded and sent to all executive members by the National Secretary.
- 40.7 The result of any vote conducted by email must be declared provisionally within 48 hours of the close of the poll.
- 40.8 The record must then be treated in the same fashion as, and form part of, the minutes of Executive.

The words "cannot be practicably arranged" are significant in the context of the claims for control being made by this faction. Almost all decisions made by this group have been by e-mail motion either in the face of a scheduled meeting of National Executive, or with no attempt made to schedule one. Although 40.4 states that "the question may be declared and enacted", the declaration is provisional according to 40.7.

3. In relation to Standing Order 40.8, The Standing Orders further state:

12. Minutes

- A record of proceedings must be kept at all meetings, called 'minutes'.
- 12.2 The Minutes of a meeting must include:
 - (a) An attendance list, stipulating the name, branch, and/or division of which each attendee is a member;
 - (b) The times that the meeting opened and closed;
 - (c) Who held the Chair;
 - (d) The order in which business was conducted: and

- (e) The full text of all motions considered at the meeting including:
 - the names of proposers and seconders, and
 - (ii) the determination of the meeting.

In relation to 40.8 of the Standing Orders, such records in relation to the e-mail motions have never been circulated to members of the National Executive. Although they can and probably will be devised if they find it necessary, their failure to be circulated shows a dereliction of duty by those in the faction claiming to hold positions.

4. In relation to 40.3 the Standing Orders state:

16. Motions & Amendments

16.1 All motions and amendments, other than procedural motions, must be submitted in writing to the Secretary.

40.3(a) does not provide any exemption for this step to be omitted. Nor is there any exemption for 40.6. At all times these requirements have not been observed by the faction.

5. In exercising the use of Clause 40 of the Standing Orders, those members of National Executive who have drawn attention to the unconstitutionality of the procedure and therefore declined to vote have wrongly been classed as abstaining in any e-mail declaration of the votes.

Darren Churchill National President, Australian Democrats

6th February, 2013

January 25, 2013

To whom it might concern:

This is to certify that Darren Churchill and Roger Howe are both members of the Australian Democrats in good standing. Both are highly respected within the party.

Roger Howe has been a full voting member of the Victorian division since April 23, 1998. Darren Churchill has been a full voting member of the ACT division since May 9, 2007

Sincerely,

Robin Davis Acting National Membership Officer robin.davis@vic.democrats.org.au

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National Executive and YADs Executive Nominations 2012

National President **Darren Churchill** Brian Greig Deputy National Presidents (5) Jason Heeris Darren Churchill Tim Neal Chris Ridings Roger Howe David Collyer **Michael Pilling** David King Hayden Ostrom Brown Stuart Horrex YADs President Aaron Moss

Resulting National Executive (elected 13th July 2012)

National President Brian Greig Senior Deputy National President Darren Churchill Deputy National Presidents (in order elected) Roger Howe Hayden Ostrom Brown David Collyer Jason Heeris YADs President Aaron Moss

State Presidents or Proxies Paulene Hutton (Tas Proxy) Rick Westgarth (Vic Proxy) Anthony David (ACT Proxy) Drew Simmons (NSW President) Paul Stevenson (Qld President) John Davey (claiming WA Proxy) Sandra Kanck (SA President)

National Executive, following the resignation of Brian Greig (7th August National Executive meeting)

Senior Deputy National President Darren Churchill Deputy National Presidents (in order elected) Roger Howe Hayden Ostrom Brown David Collyer Jason Heeris YADs President Aaron Moss +

State Presidents or Proxies

Paulene Hutton (Tas Proxy) Rick Westgarth (Vic Proxy) Anthony David (ACT Proxy) Drew Simmons (NSW President) Paul Stevenson (Qld President) Tim Neal (WA Proxy) Sandra Kanck (SA President)

Following AGMs in SA and ACT (18th September National Executive meeting)

Elected National Executive Senior Deputy National President Darren Churchill Deputy National Presidents (in order elected) Roger Howe Hayden Ostrom Brown David Collyer Jason Heeris YADs President Aaron Moss

State Presidents or Proxies

Paulene Hutton (claiming Tas Proxy)/Josh Mitchell (Tas President) Rick Westgarth (Vic Proxy) Trevor Jenner (ACT Proxy) Drew Simmons (NSW President) Paul Stevenson (Qld President) Tim Neal (WA Proxy) Michael Pilling (SA President)

Faction's version Chair Michael Pilling (SA President) Deputy National Presidents Darren Churchill (SDNP) Roger Howe Hayden Ostrom Brown David Collyer Jason Heeris YADs President Aaron Moss

State Presidents or Proxies

Paulene Hutton (claiming Tas Proxy) Trevor Jenner (ACT Proxy) Drew Simmons (NSW President) Paul Stevenson (Qld President)/Jim Page (claiming to vote for Qld) Tim Neal (WA Proxy)

20th September - Rick Westgarth resigns from party. In a private telephone conversation he cited Hayden Ostrom Brown and Paulene Hutton's behaviour at September NE meeting. Faction creates its own interpretation as to how National Executive is constituted and start making up their own rules.

728

22-

NATIONAL EXECUTIVE v FACTIONAL EXECUTIVE

National Executive (as at 21st September)

Real National Executive

Senior Deputy National President Darren Churchill Deputy National Presidents Roger Howe Hayden Ostrom Brown David Collyer Jason Heeris YADs President Aaron Moss

State Presidents or Proxies Paulene Hutton (claiming Tas Proxy)/Josh Mitchell (Tas President) Robin Davis (Vic Proxy) Trevor Jenner (ACT Proxy) Drew Simmons (NSW President) Paul Stevenson (Qld President) Tim Neal (WA Proxy) Michael Pilling (SA President)

Factional Executive Chair Michael Pilling (SA President) Deputy National Presidents Darren Churchill (SDNP) Roger Howe Hayden Ostrom Brown David Collyer Jason Heeris YADs President Aaron Moss

State Presidents or Proxies Paulene Hutton (claiming Tas Proxy) Trevor Jenner (ACT Proxy) Drew Simmons (NSW President) Paul Stevenson (Qld President)/Jim Page (claiming to vote for Qld) Tim Neal (WA Proxy)

25th September (morning) – Faction claims to have suspended Darren Churchill from membership, via invalid email motion.

25th September (evening) – ACT Division Executive resolves that Darren is still the Divisional President and candidate for Ginninderra, at its September meeting.

7th October - Josh Mitchell resigns from the party citing childish, factional power games. Facebook comments at the time showed that this was directed at the factional group.

National Executive (as of 8th October): Real National Executive

Senior Deputy National President Darren Churchill Deputy National Presidents Roger Howe Hayden Ostrom Brown David Collyer Jason Heeris YADs President Aaron Moss

State Presidents or Proxies

Paulene Hutton (Tas Proxy) Robin Davis (Vic Proxy) Trevor Jenner (ACT Proxy) Drew Simmons (NSW President) Paul Stevenson (Qld President) Tim Neal (WA Proxy) Michael Pilling (SA President)

Factional Executive

Chair Michael Pilling (SA President) Deputy National Presidents Roger Howe Hayden Ostrom Brown David Collyer Jason Heeris YADs President Aaron Moss

State Presidents or Proxies

Paulene Hutton (Tas Proxy) Trevor Jenner (ACT Proxy) Drew Simmons (NSW President) Paul Stevenson (Qld President)/Jim Page (claiming to vote for Qld) Tim Neal (WA Proxy)

13th October – Faction claims to have dis-endorsed Darren Churchill as a candidate in the ACT Election, via invalid email motion.

23rd October – Faction claims Darren Churchill has resigned from the party due to continuing to be an endorsed candidate.

29th October (morning) – Faction claims to have suspended Roger Howe from membership, via invalid email motion.

29th October (afternoon) - Aaron moss resigns from the party following a paternalistic response from Pilling to a question about the attempt to suspend Roger and "trying to salvage some kind of process out of this mess."

National Executive (as of 30th October)

Real National Executive

Senior Deputy National President Darren Churchill Deputy National Presidents Roger Howe Hayden Ostrom Brown David Collyer Jason Heeris YADs President Mathew Burke

State Presidents or Proxies

Paulene Hutton (Tas Proxy) Robin Davis (Vic Proxy) Trevor Jenner (ACT Proxy) Drew Simmons (NSW President) Paul Stevenson (Qld President) Michael Pilling (SA President) Tim Neal (WA President) <u>Factional Executive</u> <u>Chair</u> Michael Pilling (SA President) <u>Deputy National Presidents</u> Hayden Ostrom Brown David Collyer Jason Heeris <u>YADs President</u> Mathew Burke

State Presidents or Proxies Paulene Hutton (claiming Tas Proxy) Trevor Jenner (ACT Proxy) Drew Simmons (NSW President) Paul Stevenson (Qld President)/Jim Page (claiming to vote for Qld) Tim Neal (WA President)

24th November to 29th November - Faction proceeds to appoint officers (by invalid email procedure) following its call for nominations in an invalid document purporting to be the National Journal. Claiming vote is for valid members of National Executive only. Three valid members of National Executive are <u>excluded</u> (Darren Churchill, Roger Howe, Trevor Jenner). Four invalid people are included: 1) Tim Neal invalidly claims a DNP vote (from a purported count-back from Darren Churchill); 2) Paul Young invalidly claims WA proxy; 3) Jim Page invalidly claims Qld Proxy; 4) Stuart Horrex invalidly claims a DNP vote (they apparently assumed that Jason Heeris would be elected President and that a countback of the July ballot results would see the DNP position go to Horrex).

Appointments conducted in secrecy, not even discussed on NE List (the NE's email list where general discussion is undertaken prior to a meeting or to inform NE members of various happenings), except where DNP David Collyer warned them the process was invalid.

2nd December – Jason Heeris resigns from the party, after the illegal onecandidate ballot was conducted and counted and give the result of 43% Yes -56% <u>NO</u>. Jason's resignation read "Please, don't any of you ever contact me again."

National Executive (as of 24th November)

Real National Executive Senior Deputy National President Darren Churchill Deputy National Presidents Roger Howe Hayden Ostrom Brown David Collyer Jason Heeris YADs President Mathew Burke

State Presidents or Proxies

Paulene Hutton (Tas Proxy) Robin Davis (Vic Proxy) Trevor Jenner (ACT Proxy) Drew Simmons (NSW President) Paul Stevenson (Qld President) Michael Pilling (SA President) Tim Neal (WA President) <u>Factional Executive</u> Chair Michael Pilling (SA President) Deputy National Presidents Hayden Ostrom Brown David Collyer Stuart Horrex (claiming countback) Tim Neal (claiming countback) YADs President Mathew Burke

State Presidents or Proxies Paulene Hutton (claiming Tas Proxy) Drew Simmons (NSW President) Paul Stevenson (Qld President)/Jim Page (claiming to vote for Qld) Paul Young (claiming WA Proxy)

4th December - Robert Livesay elected Victoria Division President

11th December – Paul Cole elected Queensland President (unable to be on National Executive due to not having 12 months membership). No valid proxy produced. Although NE has still not formally been advised of Paul's election.

12th December – Darren Churchill elected National President (declared 20th December). Countbacks also conducted for DNP positions created by Jason Heeris (resigned) and Darren Churchill (elected National President). Stuart Horrex and Tim Neal now DNPs. Countback sees Roger Howe elected Senior DNP.

National Executive (as of 12th December) <u>Real National Executive</u> National President Darren Churchill Senior Deputy National President Roger Howe Deputy National Presidents Hayden Ostrom Brown David Collyer Stuart Horrex Tim Neal YADs President Mathew Burke

State Presidents or Proxies

Paulene Hutton (Tas Proxy) Trevor Jenner (ACT Proxy) Drew Simmons (NSW President) Michael Pilling (SA President) Paul Young (WA Proxy) Robert Livesay (Vic President) Paul Cole (Qld President- non voting)

Factional Executive

Chair Michael Pilling (SA President) Deputy National Presidents Hayden Ostrom Brown David Collyer Stuart Horrex Tim Neal YADs President Mathew Burke

State Presidents or Proxies

Paulene Hutton (claiming Tas Proxy) Drew Simmons (NSW President) Paul Cole (Qld President – non voting)/Jim Page (claiming to vote for Qld) Robert Livesay (Vic President) Paul Young (WA Proxy)

27th December - Tim Neal resigns from office holder positions. Countback sees Chris ridings elected DNP. Paul Young becomes Acting WA President.

National Executive (as of 27th December) **Real National Executive** National President **Darren Churchill** Senior Deputy National President Roger Howe **Deputy National Presidents** Hayden Ostrom Brown David Collyer Stuart Horrex Chris Ridings **YADs President** Mathew Burke

State Presidents or Proxies Paulene Hutton (Tas Proxy) Trevor Jenner (ACT Proxy) Drew Simmons (NSW President) Michael Pilling (SA President) Robert Livesay (Vic President) Paul Young (Acting WA President) Paul Cole (Qld President-non voting) Factional Executive Chair Michael Pilling (SA President) **Deputy National Presidents** Hayden Ostrom Brown David Collyer Stuart Horrex Chris Ridings YADs President Mathew Burke

State Presidents or Proxies Paulene Hutton (claiming Tas Proxy) Drew Simmons (NSW President) Paul Cole (Qld President - non voting)/Jim Page (claiming to vote for Qld) Robert Livesay (Vic President) Paul Young (Acting WA President)

12th January 2013 - Ballot of South Australian members declares the position of SA President vacant. The SA Division State Management Committee, at its meeting on 20th December, determined that either Bruce Hogben or Greg Croke would be the Division's representative if that ballot was successful.

National Executive (current, as of 11th January, 2013) **Real National Executive** National President Darren Churchill Senior Deputy National President Chair Roger Howe **Deputy National Presidents** Hayden Ostrom Brown David Collyer Stuart Horrex Chris Ridinas **YADs President** Mathew Burke State Presidents or Proxies Paulene Hutton (Tas Proxy)

Trevor Jenner (ACT Proxy) Drew Simmons (NSW President) Paul Young (Acting WA President) Robert Livesay (Vic President) Paul Cole (Qld President- non voting) Bruce Hogben/Greg Croke (SA Proxy)

Factional Executive

Michael Pilling (SA President) **Deputy National Presidents** Hayden Ostrom Brown David Collver Stuart Horrex Chris Ridings YADs President Mathew Burke

State Presidents or Proxies Paulene Hutton (claiming Tas Proxy)

Drew Simmons (NSW President) Robert Livesay (Vic President) Paul Cole (Qld President - non voting)/Jim Page (claiming to vote for Qld) Paul Young (Acting WA President)