

## **Section 44 of the Australian Constitution**

I first asked about dual citizenship in late 2013. I was born in England in the same year as the newly elected Prime Minister Mr Abbott and am a proud dual national, British and Australian. In previous years I had sort of heard questions asked of Ms Gillard regarding her British citizenship and remembered she had said she had renounced to comply with the constitution. I googled our constitution and found S44 and then emailed our new prime minister. He didn't bother answering.

I emailed a few more times and asked on Facebook, still no answer. So I thought of another thing I had vaguely heard about but didn't really know about, freedom of information. I had no idea what I was doing so I wrote to the FOI clerk at the Department of Prime Minister and Cabinet asking how to lodge an FOI asking for Mr Abbott renunciation papers and was shocked to get a letter from Ms Peta Credlin telling me that if ever I officially asked for an FOI regarding Mr Abbott's renunciation of British citizenship papers, then she would become the FOI clerk and refuse the request. That was in February 2014.

During 2014 I asked a few other MPs, mostly party leaders, to ask Mr Abbott about his renunciation papers, I asked a few newspapers to ask questions and again totally ignored.

I also started to get death threats online from supporters of Mr Abbott who were shocked I would be trying to get him to obey our laws. These were all referred to the AFP via their online forms.

I learnt the Australian Electoral Commission can't look at S44 because it isn't Australian Commonwealth law, the constitution is British and colonial state law. The AEC is limited and hogtied to just Commonwealth laws.

I learnt Mr Abbott sleeping with the Australian Federal Police was very helpful for him. I believe it was Mr Quaadvleig, the 2IC of the AFP who emailed me telling me they would never investigate breaches of S44 and most especially the signing of false declarations for the AEC by Mr Abbott.

I wrote to the Attorney General Mr Brandis, The Speaker of the House Mrs Bishop and my own local MP Mr Brough and was gloriously ignored by all. Coincidentally just after writing to those three and MR Quaadvlieg my email

account was hacked and everything deleted. I am an old computer security geek so only one or two original files were lost, copies of all important documents were kept here there and everywhere.

Mr Shorten MP blocked me on facebook for daring to ask him to ask Mr Abbott about dual citizenship.

Mr Watts MP went to the Fairfax media with a story about my being a birther, a birther is someone who is usually racist and doesn't believe president Obama of the USA was born in the USA.

Senator Cameron's office said my queries were an irrelevance and nationality didn't matter.

Senator McDonald's office said everyone knew Mr Abbott was a dual national and it was legal, wasn't it?

The Guardian newspaper sent a knock knock joke writer to do another story about birthers.

The Independent Australian ran many stories asking Mr Abbott to at least talk about his dual nationality.

Several other independent media groups also took up asking but again everyone is ignored.

Ms Butler wrote to Mr Abbott and was dutifully ignored, Senator Nash wrote to Senator Brandis about it and again was totally ignored.

There is a cone of silence about the question of S44 compliance.

I can understand party concerns about two dual nationals who can not renounce their birth citizenships: Senator Dastyari was born in Iran and according to Iranian diplomatic staff to renounce his citizenship he must return to Tehran and meet a special council to plea for the renunciation of his citizenship. He cant risk this because he and his parents fled Iran because of protests and political activities and to return he may face arrest and possible execution. Mr Nikolic could not renounce his Serbian or Yugoslavian citizenship because their rules say he can only do it if he has done national service.

But S44 is part of our laws and staying silent about Mr Abbott and the other MPs who were dual nationals is covering up crimes. I mentioned this in an

email to Senator Brandis and he destroyed my emails before passing to departmental officers. FOI shows that.

300,000 people on facebook were in various groups calling for Mr Abbott to show he has renounced his British citizenship.

34,000 signed a petition asking he show he has renounced and is in parliament legally, that was presented to Mr Shorten MP, Ms Plibersek MP, Mr Bandt MP and that was as far as it got. All stayed silent on the matter, neither dared ask in parliament.

Darryn Hinch, now Senator Hinch asked several times in his Sky News program about Mr Abbott's compliance with the constitution.

The system is broken because all MPs seem to be in agreement to cover-up for all breaches of S44.

There is a petition in the House of Representatives 1108-1606 asking Mr Abbott to show his renunciation of British citizenship papers, the response by Senator Cormann says "responsibility for compliance with S44 rests with each candidate who nominates for election" it then goes on to say making a false declaration is illegal and that the High court can hear breaches of S44 for 40 days every election cycle.

There is also a petition in the House of Representatives asking for an audit of compliance with S44 of the constitution, but it is lodged with Senator Cormann not the Attorney General and marked not to be reviewed. It was hidden by Dr. Jensen who was probably a dual national himself.

Shortly before the 2016 election a social media campaign started asking residents in electorates that have foreign born MPs to prepare to go to the Court of Disputed Returns to have their elected representatives show they comply with our laws. Mr Gray, Mr Ripol and Mr Baldwin all pulled out of nominating for the election, old age, retirement or fear of being caught? They were asked to show they comply with our laws and all refused. Dr. Jensen was disendorsed, was his dual citizenship a part of that reason? And Mr Nikolic got voted out.

The whole Section 44 thing is a shambles and mostly a political cover up. Mr Abbott is in parliament illegally and all MPs seem intent on protecting him from

the law. How can our society operate properly if those at the top are immune from prosecution?

## WHAT TO DO

The AEC must be allowed to monitor, check and prosecute breaches of S44 of the constitution. This can be done by a ministerial directive or a change in the electoral act.

The Court of Disputed Returns must be allowed to operate full time, that is every day of ever parliament, MPs can't be allowed to hide for 40 days and then glory in knowing they can't be caught. This would be in conjunction with the AEC being allowed to monitor, check and prosecute breaches of S44.

Special cases such as Senator Dastyari and Mr Nikolic must go to the High Court for adjudication, it can not be up to a cabal of politicians to ignore the law to protect a few.

## OTHER S44 PROBLEMS

\*\*\*\*\* I WILL NOT NAME THE SYDNEY BARRISTER WHO ADVISED ME ABOUT OFFSHORE ACCOUNTS, HE IS A MEMBER OF THE LIBERAL PARTY AND OBVIOUSLY WANTS TO PROTECT HIS OWN. JUST LIKE EVERYONE ELSE TIED UP WITH S44. BUT TO NOT DISCLOSE A CRIME OF BREACHING THE CONSTIUTION MAY ENDANGER HIS OWN PROFESSIONAL INEGRITY AND PUT HIM IN CONFLICT WITH HIS LEGAL PROFESSION AND THEIR ETHICS COMMITTEES

Mr Turnbull gloated in parliament in April 2016 that he is rich enough to afford Cayman Islands accounts. The problem here is that the accounts are there to get zero taxation and the only way to get zero taxation in the Caymans Islands is to be a citizen or to buy the rights of a citizen as companies do.

There is nothing illegal about using zero tax offshore accounts for most Australians, just as with dual nationality every Australian has the right to do just

that. Until you enter parliament.

The same few lines of our constitution that screw up Tony Abbott and probably half a dozen others for having dual nationalities also has problems for offshore account holders.

Mr Turnbull admits and gloats about having some, probably Mr Palmer has some too.

[Section 44 of the constitution](#) says an MP must be disqualified if they are entitled to the rights or privileges of a subject or a citizen of a foreign power.

Zero tax in the Caymans is a right and a privilege of citizens of the Caymans. The rich buy that right to zero tax.

I have asked Mr Keenan MP as Justice Minister to look into this but he blocks me on social media and refuses to answer my emails.

There you have it, the past two Prime Ministers are in parliament illegally and protected by 99% of all members. Why is it the laws of this country do not apply to politicians? Why are they protected from prosecution?

When reviewing the submissions a few of you politicians have a chance to clean up the place, remove some criminal frauds and set new guidelines and processes to ensure everyone follows our laws. If you find Mr Abbott and Mr Turnbull are in parliament illegally I would ask you provide me with the Common Informers (Parliamentary Disqualifications) Act penalty.

## CRIMINALITY PROBLEMS

Finding that an MP is in parliament illegally would be extremely bad for them and for our laws. My understanding is that an MP would face the Common Informers penalty as well as face having to repay their salaries, their expenses, office costs and lose their pension.

With the two I mention here both being Prime Ministers any laws they have given to the Governor General would become null and void. Perhaps even any

law they have voted on during their stay in parliament would become null and void.

If I may I would suggest a special law be enacted to ratify everything they have done in parliament, waive the repayment of salaries, expenses and costs.

The major penalty for them would be banishment from parliament and cancel any pension rights and gold card rights a legal MP or PM might expect. I would also ask that they not be allowed to stand for election again.

Please do not publish my address details which you hold elsewhere

## PROBLEMS FOR THE PEOPLE

A person who suspects or indeed knows that an MP is in breach of S44 of the constitution may or may not be able to act on that because the rules specify that a person must have voted in the election in which the MP or candidate stood. The AEC and High Court rule this must be in the electorate not the general election. I think this rule should be altered so that people all over Australia can decide to take an MP to court for breaching the constitution rather than just those in their electorate.

I have been contacted by many people since I first dared ask about Mr Abbott's citizenship and his breach of the constitution and those people were frustrated because they could not ask about the MP or senator they were concerned about. The judicial system and indeed the constitution is being denied to the people. One person living in Canberra was concerned about Senator Dastyari and wanted to ask in the High Court, but because they had voted in Canberra they were precluded from asking in the judicial system.

Please consider allowing people from all over Australia to be allowed to participate in the judicial system, and to take advantage of our constitution.

Tony Magrathea

This submission may have been sent, the APH computer system seems fragile at times and I did not get notification of this having been sent., There are a few added paragraphs to the original I tried to send.