

# Press Conference – Parliament House

## **PRIME MINISTER:**

Good afternoon.

I've just concluded a meeting of the Cabinet and after having discussed this citizenship issue over the last few days with the Speaker and the Clerk of the House and now of course with my Cabinet colleagues, I can announce that the Government will be proposing, or is proposing that both the House and the Senate should resolve on additional means of transparency and disclosure on matters relating to citizenship.

I'll go through the resolution that we propose. It's cast in terms of the House of Representatives but obviously a similar resolution will be proposed in the Senate and this is what the resolution would say.

The House resolves 1) That not later than 21 days from the date of the resolution and in respect of subsequent parliaments, within 21 days of being sworn in as a member, each member shall provide to the registrar of members interests a statement containing the following;

- a) A declaration by the member that at the time the member nominated for election to the House of Representatives, he or she was not, to the best of his or her knowledge and belief, a citizen of any country other than Australia.
- b) A declaration that the member, to the best of his or her knowledge and belief, is not a citizen of any other country other than Australia.
- c) So far as the member is aware, the place and date of the member's birth and citizenship, which the member held at the time of birth
- d) So far as the member is aware, the place and date of the birth of the member's parents.
- e) Whether to the best of the member's knowledge and belief, the member has ever been a citizen of another country and if so, which country or countries.
- f) If the member has answered the previous question in the affirmative, then provide details and evidence of the time and manner in which the member's citizenship of that other country was renounced or otherwise came to an end.

And there's a provision that this information would be updated in the usual way. The registrar of member's interests shall upon the expiry of the time period for lodging the statement, provide such statements received to the Speaker who will then publish them.

What this is doing is using essentially the same process that we have for disclosure of member's interests – that's financial and pecuniary interests – which you're all familiar with – for disclosure of this information.

Now as I've said repeatedly over recent times, every member of the House and every member of the Senate has a personal obligation to ensure that they are in compliance with the Constitution. That obligation is continuing and if they have reason to believe they are not, then they should say so and take the appropriate action.

What we have seen is a concern, a legitimate concern, that there is insufficient transparency about this matter.

What this will do is ensure that the member's, or the senator's personal obligation is brought squarely to the front of their mind and that they make these disclosures. So I will be speaking to the Leader of the Opposition later today and I look forward to meeting with him later this week. I think it's very important that together with the leaders of other parties and independents, we see this as precisely what it is; an issue for the whole Parliament, for every Member of Parliament. We need to ensure, especially now the High Court has clarified the interpretation of section 44(1) of the Constitution, we need to be absolutely satisfied that every member is taking their obligations very, very solemnly and seriously and is in compliance with the Constitution.

I just want to say this is not an audit, there is no auditor. The obligation is on each member and each senator to make a full disclosure as I have repeatedly said in recent times.

So I believe this is a very important step. I look forward to reaching agreement on this with the Leader of the Opposition. I think it's important this be seen as the Parliament speaking with one voice in terms of ensuring that the public can have total confidence in the composition, or the constitutional composition of the Parliament.

**JOURNALIST:**

Prime Minister, will these declarations, will they be statutory declarations or other legally binding declarations?

**PRIME MINISTER:**

They're a declaration in exactly the same form as they are for member's interests, Phil. So I'm using the standard procedure, so if a member – for example – were to make a statement here that was incorrect or false then they would be committing a very serious breach of privilege.

**JOURNALIST:**

Prime Minister, these declarations still won't satisfy the Constitution, or might not satisfy the Constitution because the caveats are: "As far as the member or senator is aware," or "best of my knowledge and belief". In the High Court's ruling, it's obvious that whether or not you know is irrelevant. If you are, you are.

**PRIME MINISTER:**

Well I think obviously members and senators have been put very squarely on notice now. So they'll be turning their mind to their own affairs and the issues of citizenship, foreign citizenship, – let's analyse them – they really come about, in recent times in two ways.

Firstly, citizenship by descent. That is where somebody has a parent who was born in another country, had citizenship of another country and that was the case with Barnaby Joyce and Fiona Nash and others. So this obviously, would disclose the place of birth and the date of birth of the member's parents or the senator's parents.

Then there is the other case, where somebody has been a citizen of another country. This is Malcolm Roberts' case for example and there have been others and the question is; are they still a citizen of that other country, have they renounced that citizenship, did they do it effectively or at the right time? Again, so that deals with that.

So I think what this set of declarations does, is address both the cases of citizenship via descent and also the case of a prior citizenship that is either continuing or has not been properly renounced or brought to an end to by some other means.

**JOURNALIST:**

Prime Minister are you requiring documentation? One of the points that you made is that documentation would have to be provided.

**PRIME MINISTER:**

Yeah, what we're proposing in f) which is the one relating to renunciation of citizenship, is that the member would provide details and evidence of the time and the manner in which the citizenship came to an end. So for example, if they had been a citizen of the United Kingdom they might say: "Well, I filed my notice of renunciation and I received confirmation from the Home Office at such and such a date and here it is."

Of course, there are other countries where the citizenship of a foreign country expires or is terminated upon becoming a citizen of Australia. So, they would say: "By reference to such and such a law of this other country, my citizenship expired." It's asking for an explanation.

**JOURNALIST:**

Prime Minister, how confident are you that every Liberal MP has their affairs in order and you won't lose more MPs through this process?

**PRIME MINISTER:**

Well let me just say that the Federal Director has told me that all of the Liberal Party Members believe that they are in compliance with the Constitution.

**JOURNALIST:**

Don't you need to go back to grandparents Mr Turnbull?

**PRIME MINISTER:**

Thanks Michelle I'm very glad you asked that. It's a question, really of remoteness and knowledge. I think we may find that some members will have to do quite a bit of research to determine the place and date of birth of their parents, let alone their grandparents or potentially great-grandparents.

So it's really simply trying to get a balance between what is reasonably accessible and remoteness. There is no reason other than that.

**JOURNALIST:**

But this doesn't give them necessarily constitutional protection, if you don't go back to grandparents?

**PRIME MINISTER:**

I want to be very clear about this. The only body – institution – that can determine that a member is not qualified to sit in the parliament is the High Court, okay?

And the only person that can say with complete – the person with the greatest knowledge about the facts and circumstances surrounding someone's eligibility is obviously the member or senator concerned. That's why it's very important to stress that this is a personal responsibility on every member and senator, just as it is with financial disclosures and member's interests.

So the way I would see this working is that when this is presented, and the reason I am making this public today is because I, obviously we want to make sure people will start working on it because it can't be effective until the House or the Senate for that matter passes a resolution.

But I think it is important for people to be alert to this and start getting prepared. The people may, when they do that work, when they do that due diligence, they may come to the conclusion that they're not eligible and they may choose to resign.

**JOURNALIST:**

Prime Minister-

**PRIME MINISTER:**

Please, let me go on.

On the other hand, the circumstances that are published may be of a nature that other members say well, you may think you're eligible but I don't. And then that other member, as I've said over the last week, is able to move that a case be referred to the High Court.

This is an important step. I think this is the right step of transparency

and, then, what follows from that depends upon the reaction of both the members that do the work and do the due diligence on themselves and, of course, the attitude of others.

**JOURNALIST:**

Prime Minister, you said that if any member gave false information, then that would be a serious breach of privilege-

**PRIME MINISTER:**

Privilege yeah.

**JOURNALIST:**

Would it be reasonable to assume therefore that anything to flow from that would be a reference to the High Court?

**PRIME MINISTER:**

Well clearly Mark, the reason the House would move that a particular member be referred to the High Court is because it felt that there was – they either weren't eligible or that there was sufficient doubt about it, that the High Court needed to deal with it.

A member of the House is always able to resign. If a member resigns then there's a by-election. In the Senate there has to be a reference because it's the court that has to decide the method of replacement – which is normally a count back as we've just seen recently.

And then the AEC, as you know, comes back after the count back to the High Court as the Court of Disputed Returns and says right, we've done the count back you know, Senator 'X' replaces Senator 'Y' and the court then affirms that in the normal way.

**JOURNALIST:**

Is there a role for the Attorney-General in this process at all given that he has had quite a prominent role and the Solicitor General giving advice on Senators and Members?

**PRIME MINISTER:**

Well in the case that there's litigation – if there are references and referrals that flow from this then the Commonwealth would be represented, typically, because it's clearly a matter of clear constitutional interest and the Commonwealth would be represented by, formally by the Attorney-General but normally the Solicitor General does the appearance and the advocacy.

**JOURNALIST:**

And did he provide advice on this process?

**PRIME MINISTER:**

I have emerged from the Cabinet, so this is a Cabinet decision, which we've been discussing this morning.

Hang on, not all at once – I'll go to Katherine and then I'll work around the room.

**JOURNALIST:**

Prime Minister, does the government yet have a candidate to be Senate President in order to replace Stephen Parry?

**PRIME MINISTER:**

That is a matter for the Senate Party Room. I'm a humble member of the House of Representatives.

**JOURNALIST:**

And also is there any case that the MPs who were not validly elected, at the last federal election, repay public money that they-

**PRIME MINISTER:**

That matter is dealt with by the Special Minister of State and I'll leave that to him.

I'm just going to work around the room.

**JOURNALIST:**

Is this register going to become a permanent feature of future parliaments as well?

**PRIME MINISTER:**

Yes, yes. What we're proposing is that this information be provided not later than 21 days from the date of the resolution, which will be when the parliament – when the House sits or the Senate sits. And then, in respect of subsequent parliaments within 21 days of being sworn in as a member.

I mean there's a lot of aspects of this High Court decision that need to be worked on in respect of future elections. You know I think we have to, for example, consider whether people who nominate for parliament should not be obliged to provide information like this as part of the nomination process, even if only to make sure that they turn their minds to it. Because, you know, clearly we don't want any more people being found to be ineligible.

The High Court's decision does create some real challenges as they have said that knowledge is not material. And so the fact is that, very often people do not know and it may be that they don't know because it is very hard to know. Maybe they don't know because they haven't turned their mind to it.

So as you know, the argument we submitted to the court which was that, which was not successful, was that it was consistent with what Justice Deane said

in 'Sykes v Cleary' which was that a person would only be disqualified if they had acknowledged, accepted or acquiesced to the foreign citizenship by descent.

But the court took a different, very literal reading of the section and we accept that. We've got to work with that interpretation.

**JOURNALIST:**

Prime Minister, what would the penalty be for any MP who's found to make false declarations and just to clarify the speaker once he publishes his findings, that will be made public?

**PRIME MINISTER:**

Yes sure.

Well the penalty, it's a breach, it's a contempt and the Parliament is able to impose such, I think Parliament has got a fairly free hand, as some of your historian colleagues will tell you.

But it is a – the way that we see this operating as is along the same lines as the members' interests disclosure.

Most members you would imagine would, in the future, would fill this in after they become elected and have no need to look at it again. Whereas members' interests, there are regular changes as people's investments change and you know they receive, they go on trips and all that sort of stuff.

**JOURNALIST:**

Prime Minister, was this an exercise in barnacle removal, to use a term coined by John Howard and based on your own backbench calling for an audit, continuing that call. Should those calls now cease?

**PRIME MINISTER:**

Let me explain why I do not support an audit. And I notice that Bill Shorten hasn't called for that. He made some remarks last week which were rather confused, and look I make no criticism of him for that.

I mean I'm firm in my mind and the Cabinet's turned its mind very seriously to this and as you can see, we are presenting a well thought through transparency proposal, which is consistent with what's done with members' interests.

And what an audit involves is a third party coming in and literally investigating every member's situation. That clearly would be hugely time-consuming. The auditor – and it really would be relieving members of their responsibility.

Let's say the auditor, let's say it's a retired judge, I saw some people mention that. Let's say the retired judge concludes that a person is eligible

or ineligible, it doesn't determine anything. That's just an opinion. Ultimately, it's only the court that can determine these matters, and it is the House or the Senate that must refer them.

What this is doing is putting responsibility very plainly where it resides, which is on each individual member and senator.

**JOURNALIST:**

Can I just clarify the actual process? So, people go in, they put in their declarations and you talked about the possibility of an MP or senator then saying: 'Well I think this is a bit dodgy'. It appears to be a possibility of a Coalition government ever actually deciding well as a government we're going to look at individual situations and refer it?

**PRIME MINISTER:**

You know, we actually have done. I mean we referred the – Nash, Canavan and Joyce were all referred by the government. But I mean they were situations where the relevant ministers concluded that they were dual citizens or, in the case of Canavan, there was sufficient doubt that he was, that the matter should be dealt with by the High Court.

As you know, the High Court concluded in respect of Matt Canavan that notwithstanding that he had been registered on the roll in Italy by his mother's action because he had not made an application himself or applied for it himself, that he was not a citizen of Italy. So he wasn't disqualified.

Look, I am not, Laura, there is no question, there's no question that this decision of the court will result in some complex cases. There's no doubt about that.

But I think the best approach is always one of transparency and what we have here is a means of doing that. I think it is reasonable, it is a very reasonable approach and it's one that I hope that the opposition and other parties will support. Obviously the House and the Senate can have, well they do have different practices, but it would be good if they were as close as possible.

So we'll certainly be proposing this be passed by both houses. The Senate sits next week and the House sits later.

**JOURNALIST:**

Can I ask you a question about Adani?

**PRIME MINISTER:**

Can we just stick to citizenship today?

**JOURNALIST:**

Will you commit to refer everyone who says in their declaration that they



were a foreign citizen at the date of nomination for the last election, refer all of them to the High Court?

**PRIME MINISTER:**

I don't want to make any commitment of that kind and I'll explain why, I'll explain why with a case like Sam Dastyari.

Now, I'm not making any undertakings or statements about him. Just use him as an example.

Sam Dastyari as I understand it is a citizen of Iran. He says he has done everything he can to renounce that citizenship, but has been unable to do so. This is one of the lines of reasoning that came out earlier of *Sykes v Cleary* in fact in '92. What do you do with somebody who is a citizen of a foreign country but that foreign country simply won't allow them to renounce their citizenship?

You know, where does it become, where does the renunciation efforts become reasonable?

So that's the sort of case where you may get a situation where somebody's – where somebody is a citizen of another country but it is not disqualifying.

But given the literal, the severity, and I don't say that in the critical term, but the very strict literal interpretation of the court's decision, if people are foreign citizens, then unless there is a proviso of the kind I described, then they should not be sitting in the Parliament.

**JOURNALIST:**

Prime Minister, is it a matter of principle now that you have got the High Court ruling, if this process tosses up a frontbencher on either side, minister or a shadow minister, should they retain their ministries or shadow ministries or should they stand down if they're referred to the High Court?

**PRIME MINISTER:**

Well I think – let's deal with those cases, you're asking me to speculate really on a hypothesis on a hypothesis Mark, I think-

**JOURNALIST:**

Well, it is a possibility.

**PRIME MINISTER:**

Well Mark it is – I think what you have got to do is address each case as it arises.

I know – do you want to mention the minister you're talking about?

**JOURNALIST:**

I'm asking about a matter of principle, that if someone whose eligibility to sit in the Parliament is in question to the degree that the Parliament decides to refer them to the High Court, should they retain their ministry?

**PRIME MINISTER:**

I think that is a fair question. If that circumstance arises, we will consider it when it does. But I am very alert to it, I'm determined that Australians see there is full transparency and that we undertake the correct process, the legal process, the Constitutional process.

Now I will just take one more.

**JOURNALIST:**

One of the ones that is a known known, leave aside Iran, say British subjects – we've had several cases of this which I think my colleague is referring to. If you had applied before nominations closed, but had not received back from the Home Office, would you refer people who in that circumstance because the strict ruling would seem to include those-

**PRIME MINISTER:**

Chris, again, I do not want to give legal advice of the run, but there will be, there may well be a number of line ball cases and it may be that they end up in the High Court. I'm not suggesting that any of this is without difficulty. You know, the court made its decision in the terms it did. It may well give rise to more cases. We don't know, so let's not jump ahead of ourselves. I know that's what you guys always like to do. But let's just focus on, I think it's a practical and reasonable approach, which we commend to the other parties and I look forward to discussing it with Mr Shorten shortly.

Now, just one more.

**JOURNALIST:**

Are you satisfied that Senator Barry O'Sullivan doesn't have an indirect pecuniary interest in contravention of Section 44? There was new revelations on Saturday that it looks like he does?

**PRIME MINISTER:**

Well, again, you're talking about allegations and you're talking about another part of Section 44. I think, for the purposes of today, we've got enough to discuss with Section 44(i), which is the citizenship question.

Just one more from Katharine, then I'd better run.

**JOURNALIST:**

Prime Minister, just so I'm clear, if people are making incorrect declarations, then it is a breach of privilege. What is the sanction? What

punishments do you have in place?

**PRIME MINISTER:**

The Parliament has very extensive powers for breaches of privilege, quite severe powers, but it is a – look, Katharine, I think it's a – I think what you've got to recognise is that if somebody put in a statement like this and literally lied in it, it would be-

**JOURNALIST:**

They would go to jail

**PRIME MINISTER:**

Yeah, well, the political consequences alone would be very, very dramatic. I mean, clearly, if they were a citizen of another country and said they weren't, clearly the immediate consequence would be they would be out of parliament, but let's focus – look, I am sure-

**JOURNALIST:**

Subject to being referred.

**PRIME MINISTER:**

I am sure that most, you know, I'm sure that most people accept that politicians do their best to get these disclosures right, whether it's the member's interest disclosures or other things they make when they nominate.

People do make mistakes. People sometimes have mistaken beliefs about their circumstances. The important thing is to get the facts there, and this will ensure that everybody turns their mind to the issue, the important questions about, you know, where were your parents born – you know, that's the key issue in terms of citizenship by descent, the first question, and then of course if you have been a citizen – and many people have, many members were born in other countries – how did you dispose of that prior citizenship? How did you renounce it? How did it come to an end?

So this is about transparency, it's about integrity and I'm looking forward to discussing it with the Opposition and other parties and crossbenchers as well, just as I have with my colleagues and I look forward to this being adopted in both the House and the Senate.

**JOURNALIST:**

Do you want the Senate motion passed next week, if possible?

**PRIME MINISTER:**

Well, yes, I would like the Senate motion to be passed when the Senate sits and the House motion when the House sits, but I'm optimistic we can reach agreement here. I think this is a reasonable set of disclosures and

declarations, a reasonable approach and it is quite consistent with the members' interest disclosure practice that has worked for many years.

**JOURNALIST:**

And it will-

**PRIME MINISTER:**

That is absolutely – this is about transparency, it is about confidence, it is about standing up for the Constitution, but as I say, the obligation to comply with the Constitution in terms of being qualified to sit in the House or the Senate is on the shoulders of each and every member and senator. It is their obligation. That's why this will be their declarations and their disclosures.

Thank you all very much.

**[ENDS]**