

# Radio interview with Fran Kelly, ABC Radio National Breakfast

**FRAN KELLY:**

MPs and senators will be given 21 days to prove they are not citizens of another country under a circuit breaker plan to end the dual-nationals fiasco which has crippled the Government and undermined trust in the institution of Parliament. The Prime Minister will meet the Opposition Leader Bill Shorten tomorrow to discuss what amounts to a citizenship register. It will require all 226 parliamentarians to prove they have complied with Section 44 of the Constitution. But just moments after the PM disclosed the new rules, yet another Liberal MP John Alexander was placed under a legal cloud, further endangering the Government's wafer thin majority. The Prime Minister joins me in the Breakfast studio. Malcolm Turnbull welcome back to Breakfast.

**PRIME MINISTER:**

Good morning, Fran. Good to be with you.

**FRAN KELLY:**

You want all MPs to do a show-and-tell effectively, declare their heritage to Parliament. Are you prepared for the consequences like this because more disqualifications risks bringing down your Government?

**PRIME MINISTER:**

Fran, it is vitally important that we have complete transparency here and that Australians are satisfied that every member and senator is constitutionally eligible to sit in the Parliament.

The responsibility for satisfying that requirement of course falls on the shoulders of each and every member of the House and member of the Senate.

So what I've proposed here and as you know, I took this to Cabinet yesterday, and the proposed resolution that we're going to put to the House and the Senate and I'll discuss with Bill Shorten tomorrow is one that would require people to declare that they are to the best of their knowledge and belief, they are not a citizen of any other country, to state where their parents were born, the date of their birth and if they were a citizen at some point, of another country, for example they were born overseas, to state how that other citizenship came to an end and provide evidence that it came to an end.

**FRAN KELLY:**

And why do you think that is going to be good enough, voluntary disclosure, because-

**PRIME MINISTER:**

Well, what's the alternative?

**FRAN KELLY:**

Well, let me just put this to you first-

**PRIME MINISTER:**

No, no first tell me what is the alternative?

**FRAN KELLY:**

John Alexander did not disclose his possible dual-citizenship. Stephen Parry advised Cabinet colleagues but was told to keep quiet. We spoke to Andrew Wilkie yesterday-

**PRIME MINISTER:**

Well I-

**FRAN KELLY:**

I just want – if you could listen to what Andrew Wilkie had to say.

**PRIME MINISTER:**

Yeah okay. I'll listen carefully.

**FRAN KELLY:**

Because he thinks you've gone a long way towards it but not far enough.

**PRIME MINISTER:**

Okay, I'll listen carefully.

**FRAN KELLY:**

This is what he said.

**ANDREW WILKIE MP – RECORDING:**

Regrettably, I don't have confidence in all members and senators to be fully open and transparent and honest. No, I don't think we can have confidence that all members and senators would be honest when it comes to this process.

**FRAN KELLY:**

So, Andrew Wilkie doesn't trust his colleagues to fess up. Why should anyone else?

**PRIME MINISTER:**

I think the reality is that you're going to be required to state where your parents were born and the date of their birth. That is something that should

be within the knowledge – I mean there will be some people who won't know by the way but the vast majority will know that – that's something that is pretty hard to, conceal, you know. Most people's ancestry can be readily found. I mean, there is no information in that form, if you like, relating to me, that is not already in the public domain. That would apply to many people.

So I think the point Andrew Wilkie is making, he may as well call for an audit of all members' interests. You know how we have to file a register of our financial interests? From time to time people make mistakes and have to correct and so forth. Well, if you were to audit that, that would cost tens of millions of dollars. If you are going to be in a position where you say you do not trust anything any member of Parliament says in their disclosures, then an auditing process would be, you would literally be creating a huge audit office.

I think the system of voluntary disclosure with obviously very heavy penalties, political penalties and personal reputational penalties if people conceal things or don't disclose things honestly; I think that works and I think it will work well here.

**FRAN KELLY:**

You said yesterday that you had been assured by the Liberal Party Federal Director, Andrew Hirst that all Liberal parliamentarians believe they have complied with the Constitution.

**PRIME MINISTER:**

Yes, that's true.

**FRAN KELLY:**

Then we have got the John Alexander revelation. Were you surprised that John Alexander hadn't been prompted to check his citizenship given the whole debate on that?

**PRIME MINISTER:**

Well, John Alexander – again I don't want to get into the details of any particular case – but John Alexander has stated publicly and this is what he said to the Party, that he believes he is not a dual-citizen.

**FRAN KELLY:**

Well, they all believed that. Barnaby Joyce believed that. Fiona Nash believed that.

**PRIME MINISTER:**

Well, Fran that's why we're going to have the public disclosure, complete transparency and then people will be able to judge. If the Parliament concludes, if after all of this information is out there, if the Parliament

concludes that so many members and so many senators are either not solely Australian citizens or there is sufficient doubt about it, then they can be referred to the High Court.

Because the High Court is the only place that can determine the qualification of someone to sit in the Parliament. So this is consistent with the rule of law. It's consistent with our Constitution. It's consistent with transparency.

**FRAN KELLY:**

If the Parliament concludes, if the High Court concludes that, you lose your majority on the floor of the Parliament. Then what do we do?

**PRIME MINISTER:**

Well Fran, it depends what the High Court concludes. I mean you're jumping way ahead.

**FRAN KELLY:**

No you yourself said there would be line-ball decisions and you just said: "If the High Court concludes." Well, if it does?

**PRIME MINISTER:**

Okay, if the High Court concluded there are a number of members of the House of Representatives that were not eligible to sit in the Parliament, then there would be a series of by-elections. Depending on the result of the by-elections, that could have consequences for the government. I mean that's obvious.

But the issue here, the issue here is not sort of political partisanship or political tactics. The issue here is now that we have the High Court's decision, which was not what we expected or had sought, it is a very, very severely literal reading of the section, which has gone in a different direction to the way in which the court had been were progressing back in 92' in *Sykes v Cleary*. Nonetheless, it's a 7-0 decision. That's the law. So now that we know what the law is, what we need to do is make sure that everyone is in compliance with it.

**FRAN KELLY:**

And now that we know what the law is – let's stick with John Alexander for a moment – because it looks as though, under the law, he will be a dual-citizen of Britain by descent, unless he can find papers to say otherwise. If he can't, even though he says he believes he's not, will the government refer John Alexander to the High Court?

**PRIME MINISTER:**

Fran, I am not going to start front-running this process. You have got to – and when I say 'you', all of us – all of us have to respect the process

that's set up in the *Electoral Act* and in the Constitution. People should make their declarations and then cases can be referred.

Obviously, if a member believes that they are a dual-citizen now and are ineligible to sit in the Parliament, then they should resign. But you know, I take it as a given that every member of the House and the Senate, as of today, believes that they are eligible to sit in the House or the Senate.

**FRAN KELLY:**

Have we got a bigger issue here, as Craig Laundry and other Liberal MPs calling for perhaps to think about perhaps a referendum or something to change this? Because dual-citizenship should be celebrated in our society, not demonised.

**PRIME MINISTER:**

Yes, okay, thank you. There are two issues here, or two bundles of issues. The first one is dealing with the Parliament as it is – the 45th Parliament.

Are there members of senators that are not qualified to sit there?

The process that I have laid out, I believe, will enable us to reach a determination there.

The second question is what do we do with the future? What do we do with Section 44(1)?

Now, what we argued for in the High Court, which was our advice as to where the court was going to go, was that a foreign citizenship by descent, through your father or mother or whatever, would not disqualify you, should not disqualify you, unless you had acknowledged, accepted or acquiesced in it. So if you had-

**FRAN KELLY:**

Yeah and the court rejected that.

**PRIME MINISTER:**

I think that accords with what common sense and what people would understand as being fair.

Now, the court's taken a strictly literal approach and said knowledge is immaterial. What this means, of course, is that you can potentially, what concerns me, is that potentially people with multicultural backgrounds, you know, parents from different countries, different ancestry, their ability to stand for the Australian Parliament in this the most successful multicultural society in the world may be compromised because they actually can't find out for sure whether they do have the citizenship of another country.

You see, it's, you know, we've looked at cases where people have had say, in Barnaby's case, a New Zealand father. Well, that was fairly clear. In Fiona's

case, a UK father, that was fairly clear. But there are a lot of other more complex cases and so, if we get into the situation where somebody is sitting in the Parliament and then somebody discovers that through some arcane law of, I don't know, some country in Europe – Bosnian law, for example – that they are arguably a citizen of Bosnia, does that mean they are turfed out of the Parliament?

Now this is the challenge.

That's why I've referred all of this, I'm going to refer all of this, to the Joint Standing Committee on Electoral Matters and we have to look at a couple of things – one, as to whether there should be changes to the Constitution proposed.

I don't think Australians would welcome – well, I think it's questionable whether Australians would welcome dual-citizens sitting in their Parliament. I mean Craig has raised that point, it's a fair one. Of course, in many countries, dual-citizenship, like the UK, is not a bar. But I think the real, I think a more direct question is, should you be disqualified by a foreign citizenship of which you have no knowledge and which you have never accepted or acknowledged which was basically the argument that we put and lost in the High Court.

**FRAN KELLY:**

That's right and that's where the court has left us.

**PRIME MINISTER:**

And, also Fran, if I can just go on, there's also another question about the nomination process and I know Mr Wilkie raised this today and I actually flagged this yesterday. I think we've got to look at how people nominate for Parliament and I think the type of disclosures that I'm proposing that sitting MP's and senators should make now, something like that should be done when people nominate.

So in other words when you nominate you should have big red letters, dual-citizenship is not allowed. Where were you parents born? Have you satisfied yourself of all these things? Really just to make sure people focus on the issue and do their homework.

**FRAN KELLY:**

Okay. Prime Minister, 8:46am, I know time is tight but I must ask you about the issues unfolding on Manus Island. Our listeners are very exercised about this, we've had a lot of texts about it.

**PRIME MINISTER:**

Of course.

**FRAN KELLY:**

It's now in the second week, this standoff. It's been declared a humanitarian disaster by the UN and others. Why hasn't Australia got involved in sorting this out? 600 men living in intolerable conditions, frightened to move.

**PRIME MINISTER:**

Well this is in Papua New Guinea as you know.

**FRAN KELLY:**

In a detention centre we built and we ran.

**PRIME MINISTER:**

It is a decision by the PNG Supreme Court that that detention centre should close and many people were calling for it to close.

There are alternative facilities available of a very high quality with food and all of the facilities and the residents at Manus, at the RPC, they are being asked to move and they should move.

**FRAN KELLY:**

And they're scared to move. Do you accept that they're scared to move?

**PRIME MINISTER:**

Well, look, I think the reality is, and this is the very sad reality of the case, Fran, is that there are some activists in Australia, including the Greens Senator Nick McKim who are basically encouraging these people not to move.

**FRAN KELLY:**

Well, we've spoken to some of these people directly about their fears.

**PRIME MINISTER:**

Well, I think that the responsible course of action is to encourage them to comply with the lawful requests and requirements of the PNG authorities.

They have been able – and, of course, as you know, we have secured an arrangement with the United States which will enable a substantial number to be resettled in the United States.

Those who have been found not to be refugees should return home to their own country.

And we're doing everything we can to ensure that they, people are resettled but they cannot come to Australia.

The consequence of that is-

**FRAN KELLY:**

No, I understand your position on that.

**PRIME MINISTER:**

Yeah well-

**FRAN KELLY:**

But, what about, you say you're doing everything you can to resettle people and the US deal is going slowly, but it is going. New Zealand has offered to take 150 refugees now. You want to delay that until the US fulfill their agreement, why?

**PRIME MINISTER:**

Well Fran, New Zealand takes 1,000 refugees a year. Last year Australian took over 20,000.

**FRAN KELLY:**

Sure, but its offering to take 150. Why don't we just say yes?

**PRIME MINISTER:**

Because it would be marketed by the people smugglers as a back door to Australia.

Let's be clear. Fran, I see you frown – look, let's be quite clear about this-

**FRAN KELLY:**

Well, there are laws put in to place to stop that.

**PRIME MINISTER:**

Everything the Greens and people on the left of the Labor Party say about this is used as marketing by the people smugglers.

I mean they are the worst criminals. And what they do is they're saying to these people: 'Don't budge, don't budge. Get lots of pictures on the Australian news, the ABC is giving it a big run'. I'm not criticizing you for covering it. But they'll say: 'It's getting a big run in the Australian media and before too long the Australian government will weaken and allow you to come to Australia'. And that will then be the big opportunity, the marketing opportunity for the people smugglers.

We can't kid ourselves.

**FRAN KELLY:**

I understand that argument but what is the difference between going to New Zealand and going to the US?



**PRIME MINISTER:**

Well because it's a lot further away, New Zealand is seen as we know from our own intelligence, New Zealand is seen as effectively part of Australia by the people smugglers.

Do you know, we have intercepted and turned back boats which were heading to New Zealand?

I mean the people smugglers, the only reason New Zealand does not have thousands of people arriving in an unauthorised way on their shores is because of our border protection policies.

New Zealand is a prime beneficiary from our strong border protection policies.

**FRAN KELLY:**

PM, you've got a plane to catch but can I just ask you quickly about the Paradise Papers? More evidence of major corporations, the world's wealthy using tax havens to minimise tax. Last year we had the Panama Papers. Your name actually got caught up in that. Not suggesting you did anything illegal or improper there. But most of these activities are legal, that's the point. Yet tax minimisation we understand, I think you would agree, is morally wrong. What is your message to former business colleagues who believe minimising tax by whatever means possible is just good business practice?

**PRIME MINISTER:**

Well my message is that we have the toughest anti-multinational tax avoidance provisions in the world, in the diverted profits tax which imposes a heavy penalty – 40 per cent tax rate on any profits shifted off shore.

We passed landmark multinational tax avoidance legislation as you know over a year ago, and that legislation was opposed by the Labor Party. I have no idea why, but they voted against it. And that is already seeing profits by some of the big multinationals including companies like Google and so forth coming back into Australia.

So we are absolutely committed to ensuring that everybody pays their fair share of tax.

I've always paid my fair share of tax, I've always paid all the tax I'm obliged to pay and I believe all Australians, whether they're individuals or companies should do so.

And we have zero tolerance for this sort of multinational tax avoidance activity.

We've got AUSTRAC, the ATO – the Australian Taxation Office – they're all focused relentlessly on ensuring that everybody pays their tax.

We believe in lower taxes, Fran, we do, we're Liberals but we don't believe

in self-help approach to tax reform.

So we want to see company tax come down, but it is compulsory and so businesses whether they're businesses or individuals have got to pay their tax. It is not optional.

**FRAN KELLY:**

Prime Minister, thank you very much for joining us.

**PRIME MINISTER:**

Thank you.

**FRAN KELLY:**

Prime Minister Malcolm Turnbull who is now on his way to New England, for the by-election. Oh your Melbourne Cup tip before you go?

**PRIME MINISTER:**

Bondi Beach.

**FRAN KELLY:**

Of course.

**PRIME MINISTER:**

Sentimental favorite.

(Laughter)

**FRAN KELLY:**

In your electorate isn't it?

**PRIME MINISTER:**

Yeah exactly.

**FRAN KELLY:**

Malcolm Turnbull thank you.

**PRIME MINISTER:**

Thank you.

**[ENDS]**