

# Another Australian cabinet minister faces disqualification

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A profound political crisis engulfing the Australian government and the entire parliament has continued to spiral out of control this week. Last night, another senior minister, National Party deputy leader Senator Fiona Nash, announced she was a dual British citizen and therefore potentially disqualified from sitting in parliament.

Nash, the minister for regional development, local government and territories, is the third cabinet minister from the Nationals, the Coalition's rural-based partner, whose status will be referred to the High Court, following Deputy Prime Minister Barnaby Joyce and Resources Minister Matt Canavan.

Desperate to cling to office, Prime Minister Malcolm Turnbull today repeated his assertion that the High Court will declare the three ministers eligible to remain in parliament. He again effectively preempted the court, declaring he had "very, very strong" legal advice.

Last night Turnbull called an urgent cabinet meeting before Nash made her announcement to the Senate just before parliament adjourned for two weeks. The cabinet decided that Nash, like Joyce, would remain in office, and continue to vote in parliament, despite her uncertain legal status. Nash had known of her British citizenship since Monday, but said nothing publicly.

Earlier this month, Canavan stood aside as a minister, while still voting in parliament. Now the government's situation has become so precarious that it will try to keep Joyce and Nash in their posts until the country's supreme court rules on their cases. Yet, no High Court verdict is expected until mid-October at least.

A furore that last month initially targeted members of two "third" parties in the Senate—the Greens and the anti-immigrant One Nation—is now throwing into doubt the survival of the Liberal-National Coalition government.

Not only has the government's one-seat majority in the House of Representatives possibly been erased by the *prima facie* ineligibility of Joyce, a member of the lower house. In addition, three of the five National Party cabinet members are now in limbo, throwing serious legal doubt over every decision they made, and continue to make, as ministers.

An anti-democratic provision in the Constitution, section 44(i), declares that any person who acknowledges "allegiance" to any "foreign power" or is a citizen or "entitled" to be a citizen of any other country is "incapable" of being elected to parliament.

In circumstances that remain murky, this reactionary measure, which could disqualify millions of people who were born overseas or had a parent or grandparent born overseas, was first invoked against two Greens senators. Now, however, it has produced an unprecedented political and constitutional crisis.

When the Senate resumes on September 4, Nash will become the seventh member of parliament facing the High Court. This includes another National Party minister, David Gillespie, who has been accused of a financial conflict of interest, in violation of section 44 (v) of the Constitution.

Two other MPs, from One Nation and Family First, were disqualified by the High Court earlier this year. Nothing like this has ever happened before. In effect, the seven judges will determine the future of the government and the make-up of the parliament.

Apart from the Nationals, the others to appear before the court will be One Nation Senator Malcolm Roberts and two Greens senators, Scott Ludlam and Larisa Waters. The Greens quit their seats immediately last month, without a fight, after it was revealed that they were dual citizens, inadvertently, from birth.

Nash's case illustrates how far section 44(i) can

reach. She told the Senate she is automatically a British citizen because her father was born in Scotland. Many more MPs could be “entitled” to dual citizenship, even if they have not actually acquired foreign citizenship. One list, published by the *Australian*, named 50 MPs who had at least a grandparent born overseas.

The turmoil could worsen. During the week, the government was reported to be considering a “nuclear option” of referring at least four Labor Party MPs to the court. If that occurred, Fairfax Media reported, Labor would counter-attack by challenging eight Coalition MPs. Today, Senator Nick Xenophon, who heads his own four-member parliamentary team, declared that he could be a British citizen as well.

According to constitutional law experts, the government is compounding the legal uncertainty by retaining Joyce and Nash as ministers. Another part of the Constitution, section 64, requires all ministers to be members of parliament. In particular, any ministerial action that Joyce and Nash take from now on, having acknowledged their possible disqualifications, could be illegal.

In a warning sign for the government yesterday, independent MP Andrew Wilkie spoke for three lower house “crossbench” representatives in calling for Joyce to step down from cabinet while awaiting the High Court’s decision. However, the three MPs abstained from voting on a Labor motion to demand that Joyce be dismissed and not have his parliamentary votes counted.

Labor has now given notice to move a resolution when parliament returns on September 4 to defer all divisions (contested votes) within the lower house amid the uncertainty over Joyce’s status.

The instability was highlighted when right-wing Australian Conservatives Senator Cory Bernardi, who split from the Liberal Party earlier this year, called for parliament to be prorogued (suspended) by the governor-general until the constitutional crisis could be resolved by the High Court.

This would be the second resort within 18 months to the anti-democratic powers held by the Queen’s representative, after Turnbull last year asked the governor-general to prorogue the parliament to pave the way for a double dissolution election of both houses. That election backfired for the government, however, leaving it with a bare one-seat majority in the lower

house and only 29 seats in the 76-member Senate.

Bernardi also hinted at the underlying political crisis, saying the constitutional turmoil was exacerbating the loss of “faith in politics and our political institutions.”

In reality, the collapse of “faith” in the parliamentary set-up has been underway for a decade. A recently released survey commissioned by the Museum of Australian Democracy found that the level of “democratic satisfaction” dropped from 85.6 percent in 2007 to 42 percent last year.

That result is only a pale reflection of the social discontent and political disaffection produced as one government after another, both Labor and Liberal-National, has sought to make the working class pay for the ongoing economic breakdown that erupted in the 2008 global financial crisis.

Over the past decade, social inequality has intensified, with millions of working people experiencing job losses and declining living conditions, while the wealthy elite extracts huge fortunes. Income statistics released this week showed average real wages declining for private sector workers for the fifth year in a row.

Throughout this week, the Turnbull government sought to divert from the disarray produced by Deputy Prime Minister Joyce’s predicament, as a New Zealand dual citizen, by drumming up nationalist accusations. Led by Turnbull and Foreign Minister Julie Bishop, government ministers declared that the Labor Party had “treacherously” engaged in a “conspiracy” with a “foreign power” to “cause damage to Australia” by allegedly asking a New Zealand Labour MP to inquire about how the country’s citizenship laws worked.

This witch hunt blew up in the government’s face after New Zealand government ministers stated that it was media inquiries, not a Labour MP’s questions, that forced Joyce to reveal his dual citizenship. Nevertheless, the government’s desperate actions are a warning of the political establishment’s readiness to resort to vicious nationalism, branding opponents as treasonous, as its political crisis deepens.



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