

High Court disqualifies five MPs, demanding “single-minded loyalty” to Australia

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Australia’s supreme court yesterday disqualified five members and ex-members of parliament, including deputy prime minister and National Party leader Barnaby Joyce, on the basis that they are dual citizens. The judgment is deeply reactionary, saturated with nationalist language demanding “unqualified allegiance to Australia.”

The High Court’s terse unanimous ruling adopted the strictest possible interpretation of section 44(i) of the 1901 Constitution, which states that any person who “is under any acknowledgment of allegiance, obedience, or adherence to a foreign power, or is a subject or a citizen or entitled to the rights or privileges of a subject or a citizen of a foreign power” is “incapable” of being elected to parliament.

The judgment insisted that anyone “entitled” to citizenship of another country was “ineligible” to stand for parliament, even if they had no knowledge of that entitlement and had never accepted it.

Along with Joyce, National Party cabinet member and deputy leader Fiona Nash was removed. Malcolm Roberts, a senator for Pauline Hanson’s anti-immigrant One Nation, was also ousted by the court. Two ex-Greens senators, Scott Ludlam and Larissa Waters, had their removals upheld. They had already resigned their seats in July in a groveling display of subservience to Australian nationalism.

Two other senators, ex-National Party minister Matt Canavan and Nick Xenophon, who heads his own populist party, were cleared by the court, but only because the judges found that they were not, in law, citizens of other countries.

In a rare joint judgment, the seven judges spoke with one voice, insisting that the paramount issue was to ensure that no candidates for parliament had “foreign loyalties or obligations.” The court ruled that any interpretation that permitted a person to argue ignorance of their divided “allegiance”—that is, that they had no knowledge of any entitlement to dual citizenship in another country—would threaten the “stability” of the parliamentary system.

Australia is a country of migrants, with over 28 percent of its population born overseas. The children of migrants and, in some cases, grandchildren, have the right to claim

citizenship in their parents’ home country, and Australian law allows them to do so. As many as three million people, for example, hold or can hold British passports. Amid all the judges’ invocations of patriotism, there was no mention of the fact that their court ruling disqualifies an estimated half of the country’s entire adult population from standing for federal parliament, unless they formally renounce their entitlement to citizenship in another country.

The High Court ruling has potentially far-reaching ramifications for democratic rights. If dual citizens are proscribed from standing for election, what comes next? Should their purported “divided loyalties” bar them from voting and from other basic political and civil rights? The colonial-era Constitution contains no bill of rights or even a guarantee of the democratic right to vote.

The entire political establishment has nevertheless immediately lined up behind the anti-democratic ruling, with the leaders of all the parliamentary parties declaring their “respect” for the High Court and the constitution. Greens’ leader Richard Di Natale was the most vociferous. On television last night, he boasted that Ludlam and Waters had acted “in the national interest” by quitting their seats as soon as their dual citizenships were raised.

The purging of parliament may be far from over. Reportedly, up to 20 other MPs could face disqualification under the court’s hardline interpretation of Section 44(i). Calls are already being revived for a McCarthyite “audit” of all parliamentarians to determine their “sole loyalty,” as previously demanded by the Greens.

John Cameron, the Western Australian lawyer who triggered the witch-hunt in July, by initiating Ludlam’s removal, said: “There will be others. This opens up a huge can of worms.”

The court specifically agreed with the submission of former independent MP Tony Windsor, presented by ex-solicitor-general Justin Gleeson, which stressed the need for “single-minded loyalty” to the country.

The issue of citizens’ obligations to the Australian state in time of war was pointedly raised. The judges insisted that it

was impermissible for a politician to have any “duty of allegiance or obedience” to another country. “So long as that duty remains under the foreign law,” the court stated, “its enforcement—perhaps extending to foreign military service—is a threatened impediment to the giving of unqualified allegiance to Australia.”

The judges bluntly rejected the Liberal-National Coalition government’s own submission to the court, in which it argued that MPs should be removed only if they knew of their entitlement to citizenship elsewhere. Such interpretations would introduce an “implied mental element,” the judgment stated. The resulting uncertainties, it asserted, would be “apt to undermine stable representative government.”

Reiterating a 1992 ruling, the court said the only possible defence would be if a candidate had taken “all reasonable steps” to renounce a foreign entitlement.

A similar approach would uphold many other anti-democratic provisions contained in the 1901 Constitution, such as the power of the unelected governor-general to dismiss governments and take control of the armed forces as “commander-in-chief.”

The court’s decision, particularly the ousting of Joyce, destabilises the already unstable Coalition government, which holds power with only a one-seat majority. The ruling, however, was conveniently handed down one day after parliament went into recess for four weeks, giving the government and the political establishment some breathing space to try to reorganise the affairs of state.

In Joyce’s place, Foreign Minister Julie Bishop will be anointed acting prime minister when Turnbull travels overseas. Indigenous Affairs Minister Nigel Scullion will be installed as National Party leader.

Joyce, who has since renounced the New Zealand citizenship he inherited through his father, has announced he will contest a December 2 by-election and seek to win back his parliamentary seat.

The decision temporarily leaves the Turnbull government without a working majority, but there are just four sitting days of parliament scheduled before December 2, and the government currently has confidence and supply assurances from several crossbench MPs.

If Joyce is defeated in the by-election, however, the government will lose its majority in the House of Representatives. It would then face the possibility of being brought down via a no-confidence motion, if all the five Greens, third party and independent members joined with Labor in voting to oust it.

The High Court ruled that each of the four ousted senators will be replaced, in effect, by the next candidate on their party’s list in last year’s “double dissolution” election. This

may exacerbate already sharp rifts in the Coalition, because Nash, a National, is due to be replaced by a Liberal Party member.

More broadly, the government’s turmoil throws further into doubt its capacity to impose the full agenda of austerity and militarism required by the corporate elite. Today’s *Australian* editorial sounded a warning. Turnbull, it asserted, “must find a way to control the political debate and command the economic narrative as he promised when he took over. Public patience is wearing thin and the parliament is perilous.”

The primary objective of the witch-hunt against some of the ruling elite’s most loyal parliamentary servants, on the grounds that they have had “divided loyalty,” has been to fuel a broader ideological campaign of nationalism and paranoia about “foreign” influence. For well over a year, the media, acting as the mouthpiece of the intelligence agencies, has been publishing racist-tinged hysteria against alleged Chinese “interference” in Australian politics, business and society.

The High Court decision has been handed down under conditions in which both US and Australian imperialism are consciously and recklessly provoking tensions with China, most sharply with the Trump administration’s threats to “totally destroy” North Korea—a formal ally of the Beijing regime. Any political organisations, workers or youth who oppose war will be accused of acting in the interests of a “foreign power” or even committing treason.

The promotion of patriotism is also aimed at diverting mass hostility to the government in a reactionary direction, as social inequality accelerates and class antagonisms deepen.

The political atmosphere being consciously whipped up recalls the conditions prior to World War I and World War II, when, immediately upon the outbreak of war, thousands of people deemed to have “allegiance” to enemy nations were rounded up and imprisoned in internment camps. At the same time, socialist and working class organisations, including the Trotskyists, that opposed Australian imperialism’s involvement in the war, were illegalised, and several of their members sent to jail.



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