

# CRISIS AS COURT SACKS DODGY MPs

By Don Pagé

Government is in turmoil as the political consequences roll out, after the High Court sacked many MPs as being not eligible, due to a constitutional ban on dual citizens in Parliament.

Ethical standards of our politicians are in tatters after the debacle, in which the Prime Minister and Solicitor-General had proclaimed publicly – and wrongly -- that the MPs would be confirmed by the court. Their arguments were contrary to the wording and past interpretation by judges.

The nation's lawmakers have been shown as unwilling to obey the law, as they argued their hollow justifications in court and in public media.

The legality of about 100 ministerial decisions is now in question, after the story broke months ago and those decisions were since made.

From a slim majority the Liberal-National parties now run a minority government in Canberra, pending an expensive by-election for ousted MP Barnaby Joyce (National), in his safe National seat. Intricate consideration of preferences will decide how to fill Senate vacancies, causing more division within the Coalition Government. The National Party has been blamed for the disaster by not doing its homework, or ignoring the law, while the Liberal and Labor parties emerged unscathed because they had geared their preselections accordingly.

Prime Minister Malcolm Turnbull covered himself with something less than glory in the debacle. He had backed his Deputy PM to stay on in Cabinet – with ministerial power and salary -- while accepting the resignation of a lesser minister, Senator Matt Canavan (National), who quit the ministry but was later confirmed as a legal MP by the judges, as was Senator Nick Xenophon (Ind.). He appointed Mr Joyce acting Prime Minister for a time during a recent absence, when his status as an MP was in question.

The five MPs disqualified were National Party leader Barnaby Joyce, his deputy Fiona Nash, One-Nation Senator Malcolm Roberts, and two Greens senators who had already resigned from Parliament in July, Larissa Waters and Scott Ludlam.

## **SALARY GONE, BUT WHAT ABOUT THE PERKS?**

Although the sacked MPs are unlikely to have to repay their salaries and perks for past years, their future entitlements to a gold-plated parliamentary pension may be questioned for the period of their ineligibility. MP Joyce has been in Parliament since 2004. Whatever the political decision, it will be made under the Old Pals Act, which has not been repealed.

Despite the Government's legal arguments in his favour, the Deputy PM Joyce (National) confessed, "In my gut, I thought this is the way it was going to go," after the decision came down.

"I was always prepared for this outcome. I don't actually stand here totally surprised," he said.

The wisdom of this constitutional ban on any foreign allegiance for prospective MPs has been debated, given that Australia is a nation of immigrants with some retaining another citizenship.

Times have changed in the century or so since Federation, the argument goes. However, until the Constitution is changed, the law remains clear.

*Section 44(i) says that no one is eligible to become a senator or member of Parliament, "who is under any acknowledgement of allegiance, obedience, or adherence to a foreign power, or is a subject or a citizen of a foreign power."*

The Turnbull government needs to tread carefully, as its numbers will be temporarily reduced to 75 in the 150-seat parliament. Independent Cathy McGowan has promised to support the government against any vote of no-confidence and for supply, but gave no guarantees on bills. She formerly worked for a Liberal Party MP, before winning a seat as an Independent.

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