

From: Ron & Jenny Jelleff
To: [Inquiry, Section 44 \(REPS\)](#)
Subject: A belated submission
Date: Tuesday, 8 May 2018 10:23:46 AM

Hello

I notice from your website that the closing date for the inquiry into Section 44 of the Constitution was 9 March 2018. However since the report was expected on 9 April 2018, and has not to my knowledge yet been released, I will take the chance that this submission is not too late.

It seems to be agreed amongst commentators that the Australian public would not pass change to the Constitution which would allow dual citizens to stand for election to the Australian Parliament. However there is one change that might get support.

Section 44 prevents people who may have a conflict of interest either financially or by virtue of allegiance to another country from “being chosen or of sitting as a senator or a member of the House of Representatives”.

This is being interpreted as preventing anyone from nominating if they fail to satisfy the conditions of Section 44.

I think that there is merit in simply not allowing a person to serve in the Australian Parliament if don't satisfy the terms of Section 44, whilst allowing them to stand and be elected. The simplest change to accomplish this may be to change
incapable of being chosen or sitting
to simply
incapable of sitting

This could well be supported in a referendum after last year's Section 44 debacle.

Many people stand for Parliament not because they expect to be elected, but to show the flag for a political party or to publicise a particular cause. As we know sometimes candidates win against the odds. Under the current rules candidates would have to sacrifice some rights or interests on the chance that they may be elected. Why should they have to? It would also cover the case of someone like Hollie Hughes who took a government job after the election and was therefore ineligible to be elected after a Senate recount. Was she expected to turn down the job on the chance, which would have seemed very slim at the time, that the recount could happen?

Serving in the Parliament presumably starts when those elected swear the Oath of Allegiance. They would then have a little time to organise their affairs – whether it is resigning from a position in the Public Service, disposing of any business connection with the Government or renouncing any other citizenship rights.

Sections 20 and 38 of the Constitution provides for Vacancy by Absence, so an elected Senator or Representative could stall indefinitely from taking the Oath of Allegiance while organising their affairs to satisfy the requirements of Section 44. However generally they wouldn't want to, because they want to get paid and want to have an influence.

I would also argue that there should be provision under the Constitution for a person to renounce citizenship rights from any other country under Australian law, and therefore

not be dependent upon bureaucratic processes in another jurisdiction, which as has been shown can proceed at glacial speed. Any parliamentarian accessing rights which they have renounced should be disqualified from serving in the Parliament.

Sincerely

Ronald Jelleff