



PARLIAMENT OF AUSTRALIA
HOUSE OF REPRESENTATIVES

RECEIVED 31 Jul 2019
Registry of Members' Interests

To the Registrar of Members' Interests

**Statement of Member's qualifications relating to
sections 44 and 45 of the Constitution
46th Parliament**

FAMILY NAME	O'Brien		
GIVEN NAMES	Llewellyn Stephen		
ELECTORAL DIVISION	Wide Bay	STATE	QLD

Attestation under paragraph (5) of the resolution adopted on 4 April 2019

The material I provided to the Australian Electoral Commission (AEC) in respect of my last nomination for election, in accordance with Part XIV of the *Commonwealth Electoral Act 1918*, is complete and accurate.

Yes

No

Supplementary material

If you have marked 'no' or wish to provide supplementary material to augment, explain or correct information provided to the AEC, please separately complete the form 'Supplementary material regarding Member's qualifications relating to sections 44 and 45 of the Constitution'.

Signed: _____

_____ Date: 30 July 2019

Notes

1. The requirement to make this statement is contained in a resolution adopted by the House of Representatives on 4 April 2019.
2. Forward the original, signed copy of all pages of this statement to the Registrar of Members' Interests, RG.39 Parliament House, Canberra ACT 2600.

QUALIFICATION CHECKLIST

Relating to your eligibility under Section 44 of the Australian Constitution

Candidate's name

Llewellyn (Llew) Stephen O'Brien

Please fill out this checklist.

Be aware that completing this checklist does not guarantee that you are eligible to be elected under section 44 of the Australian Constitution or under the *Commonwealth Electoral Act 1918*.

If you have any doubts about your eligibility, you should seek independent legal advice.

If you provide information in this checklist that you know is false or misleading, you may commit an offence against the *Criminal Code* with a maximum penalty of imprisonment for 12 months, \$12,600 or both.

You must answer every question in the checklist that has check boxes by marking one, and only one, of the boxes provided. Your nomination will be rejected if you do not mark any of the boxes, or if you mark more than one of the boxes, provided for any of these questions.

Please provide supporting documentation as appropriate. You may provide additional documents if you are unable to fit all your responses in this checklist.

Note: If you answer 'yes' in question 10 then you **must provide at least one document** in response to question 10a.

You should not include information in this checklist, or in any additional documents you provide, that is inappropriate in any way. If you do, the information may be redacted by the Electoral Commissioner and not published on the Australian Electoral Commission's website.

You may choose to redact information (for example, your own or another person's personal information) from additional documents before providing them. Redactions must be in accordance with any directions of the Electoral Commissioner.

The candidate statement and declaration that you have made elsewhere in this nomination also relate to your eligibility to be elected. In that statement and declaration:

- (a) you have declared that you are qualified under the Constitution and the laws of the Commonwealth to be elected as a Senator or member of the House of Representatives; and
- (b) you have stated that you are an Australian citizen.

Questions marked with an asterisk (*) are mandatory

1. Do you know the place of birth of each of your parents and grandparents (whether biological or adoptive)? *

<input checked="" type="checkbox"/>	YES
<input type="checkbox"/>	NO

- 1a. Please provide any relevant details (for example, why you do not know the place of birth of a parent or grandparent):

Other relevant details relating to your knowledge of your parents' and grandparents' places of birth

[Please provide particulars of, or documents related to, any details provided in response to question 1a. These will be published with this checklist on the Australian Electoral Commission's website.]

Continued overleaf

QUALIFICATION CHECKLIST

Relating to your eligibility under Section 44 of the Australian Constitution

2. Do you have a parent or grandparent that you know was born in another country? This may be a biological or adoptive parent or grandparent. *
 (If you do not know any of your parents' or grandparents' places of birth, please mark the 'N/A' box.)

<input type="checkbox"/>	YES
<input type="checkbox"/>	NO
<input type="checkbox"/>	N/A

2a. If 'yes', please provide the following details, to the extent known:

Relationship to you (e.g. mother or adoptive father)	Paternal Grandfather	Relationship to you (e.g. mother or adoptive father)	
Place of Birth	Canada	Place of Birth	
Date of Birth	18 / 07 / 1912	Date of Birth	/ /
Relationship to you (e.g. mother or adoptive father)	Maternal Grandfather	Relationship to you (e.g. mother or adoptive father)	
Place of Birth	Wales	Place of Birth	
Date of Birth	17 / 11 / 1895	Date of Birth	/ /
Relationship to you (e.g. mother or adoptive father)	Maternal Grandmother	Relationship to you (e.g. mother or adoptive father)	
Place of Birth	New Caledonia	Place of Birth	
Date of Birth	16 / 09 / 1903	Date of Birth	/ /

2b. Please provide any other relevant details:

Other relevant details relating to your parents' and grandparents' places and dates of birth

(Please provide particulars of, or documents related to, any details provided in response to questions 2a and 2b. These will be published with this checklist on the Australian Electoral Commission's website.)

Continued overleaf

QUALIFICATION CHECKLIST

Relating to your eligibility under Section 44 of the Australian Constitution

3. Have you provided details in question 2a in relation to each parent and grandparent that you know was born in another country?*
- (If you do not know any of your parents' or grandparents' places of birth, please mark the 'N/A' box.)
- YES
 NO
 N/A

- 3a. If 'no', please explain why you have not provided those details:
 Explanation of why you have not provided details relating to each parent and grandparent that you know was born in another country

4. Do you know which citizenships have been held by each of your parents and grandparents (whether biological or adoptive)?*
- YES
 NO

- 4a. Please provide any relevant details (for example, why you do not know the citizenships held at a particular time by a particular parent or grandparent):

Other relevant details relating to your knowledge of your parents' and grandparents' citizenships

My maternal grandfather may have had English citizenship from birth.
 My maternal grandmother may have had French citizenship from 1903 until 1926.
 My paternal grandfather may have had Canadian citizenship.

Even if all of these citizenships were held, though, they did not pass to me from my grandparents. The reasons for that in relation to France and Canada are set out in the supporting documentation from those countries. In relation to the UK, it is clear that British citizenship would not have come to me by descent.

Attached - letter dated 20 July 2018 from Immigration, Refugees and Citizenship Canada and letter dated 4 December 2017 from the Embassy of France

[Please provide particulars of, or documents related to, any details provided in response to question 4a. These will be published with this checklist on the Australian Electoral Commission's website.]

Continued overleaf

QUALIFICATION CHECKLIST

Relating to your eligibility under Section 44 of the Australian Constitution

5. Do you have a parent or grandparent that you know acquired citizenship of another country by descent, naturalisation or other means? This may be a biological or adoptive parent or grandparent.*

<input checked="" type="checkbox"/>	YES
<input type="checkbox"/>	NO
<input type="checkbox"/>	N/A

(If you do not know any of your parents' or grandparents' citizenship, please mark the 'N/A' box.)

5a. If 'yes', please provide the following details, to the extent known:

Relationship to you (e.g. mother or adoptive father)	Father	Relationship to you (e.g. mother or adoptive father)	
Country of foreign citizenship	Canada	Country of foreign citizenship	
Period foreign citizenship held	1933-1957;2009-afterward	Period foreign citizenship held	
Relationship to you (e.g. mother or adoptive father)		Relationship to you (e.g. mother or adoptive father)	
Country of foreign citizenship		Country of foreign citizenship	
Period foreign citizenship held		Period foreign citizenship held	
Relationship to you (e.g. mother or adoptive father)		Relationship to you (e.g. mother or adoptive father)	
Country of foreign citizenship		Country of foreign citizenship	
Period foreign citizenship held		Period foreign citizenship held	

5b. Please provide any other relevant details:

Other relevant details relating to your parents' and grandparents' foreign citizenships

[Please provide particulars of, or documents related to, any details provided in response to questions 5a and 5b. These will be published with this checklist on the Australian Electoral Commission's website.]

QUALIFICATION CHECKLIST

Relating to your eligibility under Section 44 of the Australian Constitution

6. Have you provided details in question 5a in relation to each parent and grandparent that you know acquired citizenship of another country by descent, naturalisation or other means?*

(If you do not know any of your parents' or grandparents' citizenship, please mark the 'N/A' box.)

<input type="checkbox"/>	YES
<input type="checkbox"/>	NO
<input type="checkbox"/>	N/A

- 6a. If 'no', please explain why you have not provided those details:

Explanation of why you have not provided details relating to each parent and grandparent that you know acquired citizenship of another country

7. Do you know which citizenships have been held by each of your current and former spouses and similar partners?*

(If you do not have a current or former spouse or similar partner, please mark the 'N/A' box.)

<input type="checkbox"/>	YES
<input type="checkbox"/>	NO
<input type="checkbox"/>	N/A

- 7a. Please provide any relevant details (for example, why you do not know the particular citizenships held at a particular time by a current or former spouse or similar partner):

Other relevant details relating to your knowledge of the citizenships of your current and former spouses and similar partners

(Please provide particulars of, or documents related to, any details provided in response to question 7a. These will be published with this checklist on the Australian Electoral Commission's website.)

Continued overleaf

QUALIFICATION CHECKLIST

Relating to your eligibility under Section 44 of the Australian Constitution

8. Do you have a current or former spouse or similar partner who you know is or was a citizen of another country? *
- (If you do not have a current or former spouse or similar partner, or you do not know the citizenship of any of your current or former spouses or similar partners, please mark the 'N/A' box.)

<input type="checkbox"/>	YES
<input type="checkbox"/>	NO
<input type="checkbox"/>	N/A

- 8a. If 'yes', please provide the following details, to the extent known:

Relationship to you
(e.g. wife or former de facto partner)

Country of foreign citizenship

Was foreign citizenship held at the time
of marriage (if applicable)?

Relationship to you
(e.g. wife or former de facto partner)

Country of foreign citizenship

Was foreign citizenship held at the time
of marriage (if applicable)?

- 8b. Please provide any other relevant details (for example, whether you acquired foreign citizenship because of a spouse's foreign citizenship):

Other relevant details relating to your current or former spouse's or similar partner's foreign citizenship

(Please provide particulars of, or documents related to, any details provided in response to questions 8a and 8b. These will be published with this checklist on the Australian Electoral Commission's website.)

Continued overleaf

QUALIFICATION CHECKLIST

Relating to your eligibility under Section 44 of the Australian Constitution

9. Have you provided details in question 8a in relation to each current or former spouse or similar partner that you know is or was a citizen of another country? *

(If you do not have a current or former spouse or similar partner, or you do not know the citizenship of any of your current or former spouses or similar partners, please mark the 'N/A' box.)

<input type="checkbox"/>	YES
<input type="checkbox"/>	NO
<input checked="" type="checkbox"/>	N/A

9a. If 'no', please explain why you have not provided those details:

Explanation of why you have not provided details relating to each current or former spouse or similar partner that you know is or was a citizen of another country

10. Have you ever been a subject or citizen of any country other than Australia? *

<input type="checkbox"/>	YES
<input checked="" type="checkbox"/>	NO
<input type="checkbox"/>	UNKNOWN

10a. If 'yes', please provide the following details, to the extent known:

Country of foreign citizenship

Manner in which foreign citizenship was lost (if applicable)

Date of losing foreign citizenship (if applicable) / /

* (If you contend that you have renounced or lost your foreign citizenship, you must provide at least one document that you are satisfied supports your contention. (The document may be an official document, or if you have no official document, a statutory declaration.) This will be published with this checklist on the Australian Electoral Commission's website.)

10b. Please provide any other relevant details (for example, how you lost your foreign citizenship, or why the response to question 10 is unknown):

Other relevant details relating to the loss of your foreign citizenship

(In addition to the requirement to provide at least one document mentioned under question 10a, please provide particulars of, or documents related to, any other details provided in response to questions 10a and 10b. These will be published with this checklist on the Australian Electoral Commission's website.)

Continued overleaf

QUALIFICATION CHECKLIST

Relating to your eligibility under Section 44 of the Australian Constitution

11. Are you now a subject or citizen of any country other than Australia?*

YES
 NO
 UNKNOWN

11a. If 'yes', please provide the following details, to the extent known:

Country of foreign citizenship

Date of acquiring foreign citizenship / /

Country of foreign citizenship

Date of acquiring foreign citizenship / /

11b. Please provide any other relevant details (for example, why you are prevented from renouncing your foreign citizenship, or why the response to question 11 is unknown):

Other relevant details relating to possible disqualification by reason of section 44(i) of the Australian Constitution

[Please provide particulars of, and documents related to, any details provided in your response to questions 11a and 11b. These will be published with this checklist on the Australian Electoral Commission's website.]

12. Are you under sentence or subject to be sentenced, for an offence for which you have been convicted, which is punishable by imprisonment for one year or longer?*

YES
 NO

NOTE: A person convicted of an offence with a maximum penalty of imprisonment for one year or longer may be disqualified even if the sentence imposed on the person for the offence is less than the maximum penalty.

12a. If 'yes', please provide any relevant details:

Relevant details relating to possible disqualification by reason of section 44(ii) of the Australian Constitution

[Please provide particulars of, and documents related to, any details provided in your response to question 12a. These will be published with this checklist on the Australian Electoral Commission's website.]

Continued overleaf

QUALIFICATION CHECKLIST

Relating to your eligibility under Section 44 of the Australian Constitution

13. Are you an undischarged bankrupt or insolvent?*

<input type="checkbox"/>	YES
<input checked="" type="checkbox"/>	NO

13a. If 'yes', please provide any relevant details:

Relevant details relating to possible disqualification by reason of section 44(iii) of the Australian Constitution

(Please provide particulars of, and documents related to, any details provided in your response to question 13a. These will be published with this checklist on the Australian Electoral Commission's website.)

14. Do you hold an office of profit under the Crown, other than an office expressly exempt from section 44(iv) of the Australian Constitution?*

(Offices of profit under the Crown include, for example, many public sector jobs in Australia.)

<input type="checkbox"/>	YES
<input checked="" type="checkbox"/>	NO
<input type="checkbox"/>	UNKNOWN

14a. Please provide any relevant details, to the extent known (for example, the relevant body in which you hold the office of profit and your role, or why the response to question 14 is unknown):

Relevant details relating to possible disqualification by reason of section 44(iv) of the Australian Constitution

(Please provide particulars of, and documents related to, any details provided in your response to question 14a. These will be published with this checklist on the Australian Electoral Commission's website.)

Continued overleaf

QUALIFICATION CHECKLIST

Relating to your eligibility under Section 44 of the Australian Constitution

15. Do you have a direct or indirect financial interest in any contract or other agreement with the Commonwealth public service?*

Do not count an interest that is expressly excluded from section 44(v) of the Australian Constitution, such as a shareholding in a company that has 25 or more other shareholders.

NOTE: Section 44(v) may disqualify you even if you are not a party to the relevant contract or agreement. A disqualifying financial interest may arise, for example, from an agreement between the Commonwealth public service and a trustee of a family trust of which you are a beneficiary.

<input type="checkbox"/>	YES
<input checked="" type="checkbox"/>	NO
<input type="checkbox"/>	UNKNOWN

- 15a. Please provide any relevant details, to the extent known (for example, your direct or indirect financial interests, or why the response to question 15 is unknown):

Relevant details relating to possible disqualification by reason of section 44(v) of the Australian Constitution

[Please provide particulars of, and documents related to, any details provided in your response to question 15a. These will be published with this checklist on the Australian Electoral Commission's website.]

16. Please provide any additional details relating to your qualification under the Australian Constitution or the *Commonwealth Electoral Act 1918*:

[Please provide particulars of, and documents related to, any details provided in your response to question 16. These will be published with this checklist on the Australian Electoral Commission's website.]

I confirm the information in the checklist provided above, and any additional information provided in support of my statements, to be true and correct, to the best of my knowledge.

Signature of candidate



Date

16/4/19



Liberté • Égalité • Fraternité
RÉPUBLIQUE FRANÇAISE

Ambassade de France en Australie

L'Ambassadeur

Canberra, Monday, December 04, 2017

N° 2017- 3308132

Dear Mr. Fitzgibbons,

You recently consulted me regarding the declaration of citizenship that the Hon. Llew O'Brien MP, Federal Member for Wide Bay, is going to submit to the Australian Parliament.

On the basis of the details transmitted by Mr. O'Brien, I can confirm to you the following:

Mr. O'Brien's grand-mother, Mrs. Rose Angel Yvonne Dalstein, born in 1903 in New Caledonia, was presumably a French citizen. When she married Mr O'Brien's grand-father in 1926, she lost her French nationality (assuming she was a French citizen). Under the French legislation which was in force at that time (the 1889 Nationality law), a French woman lost her nationality when she married a foreigner.

We have no information to support the possibility that Mr. O'Brien's grand-mother would have subsequently requested to regain her French nationality after a new legislation was introduced.

Therefore, since she was no longer a French citizen in view of her marriage in 1926, she could not have transmitted her former nationality to her daughter.

Please let me know if you should need me to do some further research.

Yours faithfully,



Christophe PENOT

Adam Fitzgibbons
Senior Adviser
Minister for Agriculture and Water Resources
Suite MG 41 Parliament House
CANBERRA ACT 2600

Embassy of France, 6 Perth Avenue, Yarralumla ACT 2600
Tel : 61 (02) 6216 0100 – Fax : 61 (02) 6216 0194 secretariat.canberra-amba@diplomatie.gouv.fr



Immigration, Refugees
and Citizenship Canada

Immigration, Réfugiés
et Citoyenneté Canada

Case Processing Centre
P.O. Box 12000
Sydney, Nova Scotia
B1P 7C2

July 20, 2018

File: PR00109976
UCI: 1114325438

Mr. Llewellyn Stephen O'Brien
C/O CANADIAN CONSULATE GENERAL
SYDNEY, AUSTRALIA

ATT: CONSULAR SECTION

Dear Mr. O'Brien,

This letter refers to your application for a Citizenship Certificate received on July 18, 2018. I regret to inform you that we are unable to issue you a citizenship certificate as you do not meet the legislative requirements of the *Citizenship Act (CA)*.

The reasons why you are not eligible for a citizenship certificate are based on Section 3 of the Citizenship Act, which sets out who is a Canadian citizen. The pertinent paragraph for your application is 3(1)(g) which describes how certain persons born outside Canada before February 15, 1977, are Canadian citizens and the pertinent sub-section (*as amended by Bill C-37 effective April 17, 2009*) is 3(3) which limits citizenship by descent to the first generation born or adopted outside Canada. Sub-section 3(3) is specific to persons born outside Canada, whose Canadian parent was also born or adopted outside Canada.

According to information provided, your father, *Dennis Leo O'Brien*, was born outside Canada February 20, 1933. He had established a claim to Canadian citizenship under paragraph 4(1)(b) of the Canadian citizenship Act, through derivation of his father (*your grand-father*), *Dennis Jack O'Brien*, who was a British Subject born in Canada.

Your father lost his citizenship on February 21, 1957, pursuant to sub-section 4(2)-CCA. Legislation that came into effect on April 17, 2009, automatically restored citizenship to certain former citizens who were born in Canada or outside Canada in the first generation; and as a result, citizenship was automatically restored to your father on April 17, 2009.

Your mother, *Yvonne June O'Brien (nee: Phillips)* was born outside Canada, in Australia, June 01, 1935. She does not have a claim to Canadian citizenship.

.../2

Canada



Because you were born outside Canada on *June 26, 1972*, and your father was also born outside Canada, the first generation limitation found under subsection 3(3)(b)-CA is applicable to you. As a result, you do not meet the statutory requirements for citizenship outlined in Section 3 of the current Citizenship Act.

There is an exception to the first generation limitation found under subsection 3(5) of the Citizenship Act. Please note that this has been explored in order to determine if you had a *parent or grandparent* who was a Crown Servant at the time of your birth or at the time of your parent's birth outside Canada. However, it's been determined that you did not have a Crown Servant parent or grandparent. As such, sub-section 3(5)-CA is not applicable.

Consequently, your application has been refused, and we are unable to issue you a citizenship certificate at this time.

I understand this conclusion to your application may be disappointing. However, if you would still like to become a Canadian citizen, your first step would be to apply for permanent residence. Once you have become a permanent resident, lived in Canada for a certain period of time and fulfilled all other requirements associated with subsection [5(1)-CA], you will be able to apply for a grant of Canadian citizenship.

If you wish to find out more about applying for permanent residence for yourself, please visit the CIC Web site at www.cic.gc.ca.

We hope this information will be of assistance.

Yours sincerely,

L. Hamilton,
Citizenship Officer