CHAPTER 2

Age, citizenship, residence and allegiance (ss. 16, 34 and 44 (i))

CONSTITUTIONAL AND OTHER LEGISLATIVE PROVISIONS

2.1 The basic provisions governing the affirmative qualifications of persons to nominate for, or sit in, the Commonwealth Parliament are ss. 16 and 34 of the Constitution and s. 69 of the *Commonwealth Electoral Act* 1918. Sections 16 and 34 are as follows:

> 16. The qualifications of a senator shall be the same as those of a member of the House of Representatives.
>
> 34. Until the Parliament otherwise provides, the qualifications of a member of the House of Representatives shall be as follows:—
>
> (i) He must be of the full age of twenty-one years, and must be an elector entitled to vote at the election of members of the House of Representatives, or a person qualified to become such elector, and must have been for three years at the least a resident within the limits of the Commonwealth as existing at the time when he is chosen:
>
> (ii) He must be a subject of the Queen, either natural-born or for at least five years naturalized under a law of the United Kingdom, or of a Colony which has become or becomes a State, or of the Commonwealth, or of a State.

2.2 The Commonwealth Parliament has 'otherwise provided', as was anticipated in s. 34, by enacting s. 69 of the *Commonwealth Electoral Act* 1918 in the following terms:

> 69. (1) The qualifications of a Member of the House of Representatives shall be as follows:—
>
> (a) He must be of the full age of eighteen years;
>
> (b) He must be a British subject;
>
> (c) He must have been for three years at the least a resident within the limits of the Commonwealth as existing at the time when he is chosen; and
>
> (d) He must be either—
>
> (i) an elector entitled to vote at the election of Members of the House of Representatives; or
>
> (ii) a person qualified to become such an elector.
>
> (2) To entitle a person to be nominated as a Senator or a Member of the House of Representatives he must have the qualifications specified in the last preceding sub-section.

2.3 In addition to these affirmative qualifications, a number of disqualifying provisions are set out in ss. 44 and 45 of the Constitution. The only one of these grounds of disqualification which is dealt with in the present chapter, as distinct from later chapters, is s. 44 (i), the subject matter of which is intimately connected with other matters here discussed. It is in the following terms:

> 44. Any person who—
>
> (i) Is under any acknowledgement 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:
>
> shall be incapable of being chosen or of sitting as a senator or a member of the House of Representatives.

Insofar as this provision disqualifies persons who have an allegiance to, or are citizens of, a foreign power, it thereby modifies the operation of s. 69 (1) (b) of the Commonwealth Electoral Act, and raises for consideration the rather uncertain area of dual-nationality or citizenship.

AGE

2.4 In 1973 the minimum voting age was reduced to eighteen years. At the same time the age requirement for membership of Parliament in s. 34 of the Constitution was reduced from twenty-one years to eighteen years by s. 69 (1) (a) of the Commonwealth Electoral Act. While we have no objection to the present qualifying age, the issue has been keenly debated in other countries. In Britain the formal qualifying age is twenty-one years even though the voting age was reduced to eighteen years in 1970.[1] Considerable pressure was brought to bear upon the British Government to reduce the qualifying age, but to no avail. Arguments employed in support of retaining the status quo in the main contended that eighteen year-olds were too immature and inexperienced to be allowed to stand for election. The fact that eighteen year-olds were now able to vote was not, it seems, seen as significant by the proponents of this argument; one member of the House of Commons reconciled opposition to lowering the election age with the newly-lowered voting age by suggesting that between the ages of eighteen and twenty-one a person would be able to vote and concentrate upon issues and hence gain some brief measure of experience before the age of twenty-one.[2]

2.5 Although it is most unlikely that any Australian government would now attempt to change the qualifying age for nominating for the Commonwealth Parliament, we feel it is appropriate to make some comments on the matter, in view of the differing qualifying age in Britain and in other countries.[3] We concede that many eighteen year-olds may be immature and inexperienced, but there are more important considerations at stake. Eighteen year-olds are old enough to marry, to pay tax, to contract for goods and services, to serve overseas in the Defence Force and to vote. This society has made eighteen years the age of majority, and in the Committee's view it is a matter of principle that these youths should be able to exercise all their civic responsibilities, both social and political, at the same time. Furthermore, we view a qualifying age in excess of eighteen years as a restriction on the members of the electorate themselves, which fetters both the choice of the party branches and the constituency to choose the member they may wish to have.

RESIDENCE

2.6 Both s. 34 of the Constitution and s. 69 of the Commonwealth Electoral Act contain a strong residential requirement, viz. that a person 'must have been for three years at the least a resident within the limits of the Commonwealth as existing at the time when he is chosen'. It is clear that this provision only assumes substantive significance in association with the requirement that a representative be a 'subject of the Queen' (s. 34) or a 'British subject' (s. 69). Because of the inherent width of the concept of British subject-status, described more fully below, it was no doubt felt necessary that a potential member of the Commonwealth Parliament have some demonstrated physical connection with Australia, and the residency requirement played this role.

2.7 If, as we recommend below, the requirement of status as a British subject is deleted in favour of a requirement of Australian citizenship, then the present residency

qualification becomes virtually redundant: most Australian citizens would already satisfy this qualification, including naturalized citizens. One of the prerequisites for obtaining a grant of Australian citizenship is that a person must have been resident for a specific period of time (two years in the eight years preceding the application), including a continuous period of at least one year before the application is lodged.[4] Further, as the residency qualification in s. 69 (1) (c) can be acquired at any time, this section by itself does not offer any real protection to the institution of Parliament, nor does it give any indication as to the prospective member's commitment to his country. A person may earlier in life live for three years in Australia without obtaining citizenship and, much later return to Australia and immediately stand for Parliament. The deletion of s. 69 (1) (c) from the Commonwealth Electoral Act may technically enable some Australian citizens who have obtained Australian citizenship by birth or descent, to nominate and sit in the Commonwealth Parliament, although they have only resided in Australia for a short period. In practice, this would not be a significant problem as such citizens would almost certainly not gain pre- selection and even if they did, it would be a matter that could quite properly be left in the hands of the electorate.

2.8 We consider that the acquisition of Australian citizenship, especially in the case of naturalized citizens, denotes not only a strong intention of permanent residency, but in most cases represents a more accurate gauge of a person's commitment to a country than any set period of residence. Consequently, and contingent upon the adoption of the test of citizenship which we propose below, we recommend that the period of residency required by s. 69 (1) (c) of the Commonwealth Electoral Act be deleted.

SUBJECT-STATUS AND CITIZENSHIP

2.9 Section 34 of the Constitution requires that a member of the House of Representatives must be a subject of the Queen, either natural-born or for at least five years naturalized under a law of the United Kingdom, or of a Colony which has become or becomes a State, or of the Commonwealth or of a State. Section 69 (1) (b) of the Commonwealth Electoral Act substituted the word 'British subject' as a shortened version of the constitutional requirement, and this expression has attained a specific legal meaning. The term 'British subject' is defined in s. 7 of the *Australian Citizenship Act* 1948 as follows:

> 7.(1) A person who, under this Act, is an Australian citizen or, by a law for the time being in force in a country to which this section applies, is a citizen of that country has, by virtue of his Australian citizenship or his citizenship of that country, as the case may be, the status of a British subject.

The countries to which s. 7 (1) applies are contained in s. 7 (2) and the regulations thereunder.[5]

2.10 In the Committee's view, the requirement in s. 69 (1) (b) of the Commonwealth Electoral Act that a member of the House of Representatives must be a British subject is no longer appropriate: it is excessively broad in scope[6] and arbitrary. We are not aware of any special qualities in British subjects which would make them more suitable to be members of Parliament than non-British subjects. While Australia still has historical ties with Britain and the Commonwealth countries, its trade and foreign policy have become more closely linked with other countries, and there does not appear to be any pressing social, economic or political reason, for retaining this qualification.

2.11 Although other relevant criteria could be substituted in the Commonwealth Electoral Act instead of the present requirement of British subject-status, for example

domicile or nationality, the Committee considers that a more appropriate method of determining eligibility should be that a member of Parliament is an Australian citizen. This is a status that can be easily ascertained, and obviously is more in accord with the functions of a parliamentarian than the present requirement in s.69(1)(b). This criterion has been adopted in other countries and perhaps is most evident in the United States Constitution: a Senator must have been a citizen of the United States for not less than nine years (Article 1, Section 3, Clause 3), and a Representative must have been a citizen for not less than seven years (Article 1, Section 2, Clause 2). The Australian Citizenship Act lays down the conditions for the acquisition of Australian citizenship by means of birth within Australia, by descent and by grant. Once acquired, this status can be relinquished in only a limited number of circumstances: primarily, by the voluntary acquisition of another citizenship or nationality,[7] by dual nationals who renounce Australian citizenship,[8] or those who serve in the armed forces of a country at war with Australia,[9] or by ministerial order in cases where a naturalized citizen has been convicted of making false representations or concealing material facts in his application for citizenship.[10]

2.12 The suggestion that a member of Parliament should be an Australian citizen has already been broached and accepted in principle in Australia. The Australian Constitutional Convention at Hobart in 1976 passed a motion recommending that the Constitution be altered to remove outmoded and expended provisions which contained, among others, the following recommendation:

> Section 34 —Qualifications of Members This section should be repealed and some section along the lines that follow should be enacted in its place: 'Until Parliament otherwise provides, the qualifications of a member of the House of Representatives shall be as follows: He must be 18 years of age, and must be an elector entitled to vote at the election of members of the House of Representatives, or a person qualified to become such an elector, and must be an Australian citizen.'

2.13 We agree with the principle inherent in the recommendation made by the Australian Constitutional Convention at Hobart that the requirement of Australian citizenship should be embodied in the Constitution and we *recommend* accordingly. However, without labouring the point, it is manifestly obvious from the record of past unsuccessful referendums, that constitutional change is extremely difficult to achieve. Until such change is possible, we *recommend*, as an interim measure, that the qualification of Australian citizenship be implemented immediately in the Commonwealth Electoral Act in substitution for the present requirement of British subject-status in s. 69(1)(b).

ALLEGIANCE

2.14 Although there has been a long standing Australian policy of favouring single nationality, the Australian Citizenship Act recognises that the holding of dual nationality by some Australian citizens is unavoidable because of the differences between various nationality laws, and this fact alone has not been made a bar to obtaining Australian citizenship. At first sight, however, s.44(i) of the Constitution appears to place an absolute bar against persons with dual nationality from nominating, or sitting, in the Commonwealth Parliament. The provision states:

> 44. Any person who—
>
> (i) Is under any acknowledgement 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:

shall be incapable of being chosen or of sitting as a senator or a member of the House of Representatives.

The intention behind this constitutional provision is fairly obvious. It was to ensure that members of Parliament did not have a split allegiance and were not, as far as possible, subject to any improper influence from foreign governments. So far as the Committee is aware, however, no person has ever been disqualified under this provision.

2.15 The provision first disqualifies Australian citizens who by their actions have clearly transferred their allegiance and loyalty to a foreign country. Such allegiance would usually be evidenced by the adoption of a foreign citizenship, although Lumb and Ryan[11] extend this disqualification to cover cases where a '*de facto* allegiance' is conferred without even taking on formal citizenship, e.g. accepting a foreign passport or serving in the armed forces of a foreign country. The second part of this paragraph embodies a purely objective test, so that the only question is whether a person, albeit an Australian citizen, is a subject or a citizen or entitled to the rights and privileges of a subject or a citizen of a foreign power. In our view it is unlikely that a court would construe this provision as requiring a person to have *voluntarily* retained his formal allegiance to his previous country before he breaches s.44(i).[12]

2.16 The fact that an Australian citizen is also a national of another country ought not in itself to be a bar to entry into the Commonwealth Parliament, unless it had been voluntarily acquired, or appropriate steps have not been taken to relinquish the non-Australian nationality so far as the candidate is able. In this respect, the minimum requirement ought to be the giving up of any rights or privileges available or accruing to the person by reason of their other nationality. To be an Australian citizen is to owe allegiance to the Commonwealth of Australia, either naturally or by explicit choice. An Australian citizen should not have his right to take the fullest part in our representative democracy impaired by the ascribing to him of a status by a foreign system of law, when it is shown that that system does not permit him to voluntarily relinquish that status.

2.17 It is an internationally accepted principle that each country has the right to detemine for itself whom it will regard as its nationals, and under what conditions its nationality can be acquired or lost. The Joint Committee on Foreign Affairs and Defence in its 1976 report, *Dual Nationality*, referred to the differences between the various nationality laws and stated:

> Rules governing nationality generally range from the automatic loss of a former nationality on acquisition of another, to making it impossible to surrender a former nationality. Some countries confer their citizenship on successive generations regardless of the country of birth. A consequence of this latter situation is that many Australians are unknowingly dual nationals and there is no way of determining with certainty who or how many are in this category.[13]

The problems posed by dual nationality are not merely academic, as there are also large numbers of Australian citizens who definitely fall within this category.[14] The Joint Committee notes that:

> . . . the large migration programme followed by Australia since the end of World War II has resulted in a large proportion of the 1,069,500 people granted Australian citizenship also being classified as dual nationals by virtue of the domestic legislation of their former homelands.[15]

The consequences of holding dual nationality are further complicated because many countries have strong views on the obligations of their citizens, and Australian citizens can find themselves unexpectedly confronted with these obligations when they revisit their former homelands. The Joint Committee comments:

> As dual nationals they can be expected to contribute to the general wealth, or gross national product of the country, and to fulfil compulsory requirements such as national service. Obligations can also include taxation, social services and various property law obligations. They can be placed at a serious disadvantage when visiting the country of their other nationality if either willingly or not, they should come into conflict with the domestic law of that country.[16]

These difficulties are compounded, however, when the former homeland either does not recognise renunciation of nationality[17] or permits renunciation only upon compliance with imposed conditions which may be difficult or impossible to fulfil.[18] The Joint Committee also noted that most of the submissions it received during the inquiry opposing the retention of dual nationality tended to be from people of European origin. The Committee stated:

> It was predominantly those from Czechoslovakia, Hungary, Poland, Yugoslavia, Estonia, Latvia, Lithuania, Italy and Greece who wanted only Australian citizenship. Many were war refugees who fled their former country for political reasons and who face severe obstacles, or outright refusal, when they attempt to relinquish their former nationalities.[19]

2.18 It is highly desirable that Australian citizens with unsought dual nationality should be free to participate in the highest levels of political life in the Australian democratic system. To deny them this right of citizenship on the basis of a determination by a foreign system of law, which for every other purpose has no application in the municipal law of Australia, would be most invidious. Professor Sawer's submission (No. 7) adverts to the problem of dual nationals and suggests that:

> . . . the disqualification should be modified where an Australian citizen also has another nationality forced upon him by the law of another country.

He then goes further and recommends:

> I would support the complete abolition of the disqualification, on the ground that nationality is to be regarded as at best for the electorate to consider, not for disqualification; it would then be necessary to consider ss. 34 and 16 of the Constitution.

2.19 We take the view that s. 44 (i) should be deleted. Simple abolition of s. 44 (i) without more would remove an important safeguard from the institution of Parliament which may not necessarily be compensated by electoral choice. It would not cover the situation of a member who after election was found to have an active allegiance to a foreign power, or to be exercising the rights and privileges of a citizen of a foreign power in circumstances which would inevitably compromise his position in Parliament. For example, a member may be in receipt of a pension, allowance, or *ex gratia* payment from a foreign government and, while the payment may be of an innocent nature, it could lead to the possibility of improper influence being exercised. Perhaps a more sinister area of influence could occur where a foreign government was in a position to deal favourably or unfavourably with other dual national members of the parliamentarian's family on their visiting the country of their non-Australian nationality. As a general principle we are of the opinion that a member of Parliament should not receive any rights, privileges or entitlements as a result of the possession of another nationality. Although we considered whether there should be any exceptions to this general rule, for example repatriation or pension payments, we concluded that it was important that members of Parliament should avoid being placed in a situation where even a suspicion of undue influence could arise. We are loath to create any opportunity for foreign governments to meddle in Australia's affairs, especially when it concerns the institution of Parliament. There is then, in our view, a need for some formal safeguards to cover at least part of the grounds originally intended to be covered by s. 44 (i).

2.20 The Committee considers that the safeguards in s. 44 (i), which are worth preserving without disqualifying dual nationals, can easily be embodied in a procedural provision. We believe that the most appropriate method is by means of a provision in the Commonwealth Electoral Act requiring any person who is seeking nomination to the Commonwealth Parliament to declare at the time of his nomination whether, to his knowledge, he holds a non- Australian nationality and, if he does, requiring him to make further declaration as to this other nationality along the lines recommended below. While we consider that the making of this declaration at the time of nomination should be a mandatory requirement, we think that it is unnecessary to go further and require that a breach of the declaration made pursuant to this provision should result in disqualification. We believe that the electorate will be placed in a position whereby it can make a proper judgment as to the commitment and loyalty of the candidate. Should facts emerge which are at variance with the undertakings given in the declaration, then the electorate would be able to express its view at the subsequent election should the member again be a candidate. We *recommend* that the terms of this provision be along the following lines:

> 73A. (1) A person shall declare at the time of nomination whether, to his knowledge, he holds a non-Australian nationality.
> (2) If the declaration made pursuant to sub-section (1) is in the affirmative, he shall further state:
> (a) that he has taken every step reasonably open to him to divest himself of the non-Australian nationality; and
> (b) that for the duration of any service in the Commonwealth Parliament, he will not accept, or take conscious advantage of, any rights, privileges or entitlements conferred by his possession of the unsought nationality.

ENTITLEMENT TO VOTE

2.21 The final qualification in s. 69 of the Commonwealth Electoral Act is contained in paragraph (d) and uses identical language to s. 34 of the Constitution. It states that a member or candidate must be an elector entitled to vote at Federal elections, or be qualified to become such an elector. The requirements for entitlement to vote are contained in s. 39 of the Commonwealth Electoral Act in the following terms:

> 39.(1) Subject to the disqualification set out in this Part, all persons not under eighteen years of age, whether male or female, married or unmarried —
> (a) who have lived in Australia for six months continuously, and
> (b) who are British subjects,
> shall be entitled to enrolment subject to the provisions of Part VII of this Act.
> * * * * * * * * * *
>
> 39. (3) All persons whose names are on the roll for any Electoral Division shall, subject to this Act, be entitled to vote at elections of Members of the Senate for the State of which the Division forms part and at elections of Members of the House of Representatives for the Division, but no person shall be entitled to vote more than once at any Senate election or any House of Representatives election, or at more than one election for the Senate or for the House of Representatives held on the same day:
> Provided that an elector shall not be entitled to vote as an elector of the Division in respect of which he is enrolled unless his real place of living was at some time within three months immediately preceding polling day within that Division. In this proviso the words 'real place of living' include the place of living to which a person temporarily living elsewhere has a fixed intention of returning for the purpose of continuing to live thereat.

(4) No person who is of unsound mind, and no person attainted of treason, or who has been convicted and is under sentence for any offence punishable under the law of any part of the King's dominions by imprisonment for one year or longer, shall be entitled to have his name placed on or retained on any roll or to vote at any Senate election or House of Representatives election.

(5) A person who is—

(a) the holder of a temporary entry permit for the purposes of the *Migration Act* 1958; or

(b) a prohibited immigrant under that Act,

is not entitled to enrolment under Part VII.

2.22 The provisions in ss. 39 (1) and 39 (3) do not add any further requirements to the qualifications of members of Parliament already contained in s. 69 of the Commonwealth Electoral Act. For practical considerations, s. 39 (5) is unlikely to be of any real significance, and in any event all three subsections would be subsumed under the amendments to s. 69 recommended by us in paragraph 2.25. However, s. 39 (4) provides a new disqualification, viz. that a voter and consequently, by virtue of s. 69 (1) (d), a member, should be of sound mind. In addition, this provision contains two other requirements which conflict with recommendations made by us later in this Report.

2.23 The terms of s. 39 (4), concerning persons attainted of treason and persons convicted and under sentence, are almost identical to provisions disqualifying members of Parliament under s. 44 (ii) of the Constitution. We have recommended the removal of these disqualifications for reasons fully set out in Chapter 3, but the continuance of virtually the same disqualification in s. 39 (4) would render the Committee's recommendations impotent. One possible solution is to amend the relevant terms of s. 39 (4) in conformity with our recommended amendments to s. 44 (ii) of the Constitution. However, we are of the opinion that any amendments to s. 39 would be outside the terms of this reference: s. 39 is primarily concerned with the qualifications of persons entitled to be enrolled or to vote and only incidentally with members of Parliament. In addition, the reasons applicable for our amendments to s. 44 (ii) in relation to candidates and members of Parliament are not necessarily appliable to electors themselves. The other solution, and the one we prefer, is to delete s. 69 (1) (d) of the Commonwealth Electoral Act, thereby breaking the link between the voting provisions in s. 39 and the qualifying provisions.

2.24 We consider that this link between the qualification for members and voting rights, which was originally expressed in s. 34 of the Constitution and later adopted by s. 69 of the Commonwealth Electoral Act, can be broken and left to the ordinary electoral processes to resolve the problem.[20] While theoretically this would enable an Australian citizen to nominate and be elected without being on the electoral roll, we regard this possibility as so unlikely as not to warrant constitutional or parliamentary regulation. However, should such a situation arise, we are confident that the electorate can make a judgment of the particular circumstance of each case and take the appropriate action at the polling booth. Accordingly, we recommend the deletion of s. 69 (1) (d) of the Commonwealth Electoral Act.

2.25 The only other disqualification contained in s. 39 (4) which is not subsumed within recommended amendments to either s. 69 of the Commonwealth Electoral Act or s. 44 of the Constitution concerns persons of unsound mind. This disqualification only arises incidentally and was not included in either s. 34 of the Constitution, or s. 69 of the Commonwealth Electoral Act, which both deal directly with the qualification of members. We consider that it is most unlikely that a person of unsound mind would have the capacity to attract the support necessary for nomination and to prepare and

submit the forms required by s. 71 of the Commonwealth Electoral Act.[21] The result of our recommendation would be to remove this requirement.

2.26 Recommendations:

1. Section 34 of the Constitution should be deleted and a section to the following effect inserted in its stead:

> **34. A member of the House of Representatives must be at least eighteen years of age and must be an Australian citizen (paras. 2.5, 2.13).**

2. As an immediate measure the following amendments should be made to s. 69 of the *Commonwealth Electoral Act* 1918:

- **(i) section 69 (1) (b) should be amended by omitting the words 'a British subject' and substituting the words 'an Australian citizen' (para. 2.13).**
- **(ii) section 69 (1) (c) should be deleted (para. 2.8).**
- **(iii) section 69 (1) (d) should be deleted (para. 2.23).**

3. Section 44 (i) of the Constitution should be deleted (para. 2.19).

4. Following the deletion of s. 44 (i) of the Constitution, a new provision should be inserted in the *Commonwealth Electoral Act* 1918, along the following lines:—

> **73A (1) A person shall declare at the time of nomination whether, to his knowledge, he holds a non-Australian nationality.**
>
> **(2) If the declaration made pursuant to sub-section (1) is in the affirmative, he shall further state:**
>
> - **(a) that he has taken every step reasonably open to him to divest himself of the non-Australian nationality; and**
> - **(b) that for the duration of any service in the Commonwealth Parliament, he will not accept, or take conscious advantage of, any rights, privileges or entitlements conferred by his possession of the unsought nationality (para. 2.20).**

Notes and references

1. Representation of the People Act, which took effect with the publication of a new Electoral Register on 16 February 1970.
2. P. Norton, 'The Qualifying Age for Candidature in British Elections', *Public Law*, Spring 1980, p. 55 and p. 64.
3. The United States Constitution provides that a Senator must be at least 30 years old (Article 1, Section 3, Clause 3) and a Representative at least 25 years old (Article 1, Section 2, Clause 2); see the Commonwealth of Australia Bill 1891 which contained a similar provision with respect to senators: under cl. 15 the qualification of a senator included *inter alia* that 'he must be of the full age of thirty years': Convention Debates, 1891, at p. 946, and see debate on cl. 15 pp. 605-610. The amendment requiring senators to be twenty-five years of age was defeated at the Adelaide Convention in 1897 (p. 1191), and a clause providing that 'the qualifications of a senator shall be those of a member of the House of Representatives' was adopted (p. 1224).
4. Section 14 (1) of the *Australian Citizenship Act* 1948 provides:

   14 (1) The Minister may grant a certificate of Australian citizenship to a person who has made an application in accordance with section 13 and satisfies the Minister--

   . . .

   (c) that he has resided continuously in Australia or New Guinea, or partly in Australia and partly in New Guinea, throughout the period of one year immediately preceding the date of the grant of his certificate;

   (d) that, in addition to the residence required under paragraph (c), he has resided in Australia or New Guinea, or partly in Australia and partly in New Guinea, or has had service under an Australian government, or partly such residence and partly such service, for periods amounting in the aggregate to not less than two years during the eight years immediately preceding that date;

5. Citizens of the following countries currently have British subject-status pursuant to the Australian Citizenship Act and Regulations: Australia, Commonwealth of the Bahamas, People's Republic of Bangladesh, Barbados, Republic of Botswana, Canada, Republic of Cyprus, Fiji, The Gambia, Republic of Ghana, Grenada, Guyana, Republic of India, Independent State of Papua New Guinea, Jamaica, Republic of Kenya, Kiribati, Kingdom of Lesotho, Republic of Malawi, Malaysia, Malta, Mauritius, Republic of Nauru, New Zealand, Federal Republic of Nigeria, Saint Lucia, St. Vincent, Republic of Seychelles, Sierra Leone, Republic of Singapore, Solomon Islands, Republic of Sri Lanka, Kingdom of Swaziland, United Republic of Tanzania, The Commonwealth of Dominica, Kingdom of Tonga, Trinidad and Tobago, Tuvalu, Uganda, United Kingdom and Colonies, Independent State of Western Samoa, Republic of Zambia, Zimbabwe.
6. The combined population of the Commonwealth nations, whose citizens have British subject-status pursuant to s. 7 of the Australian Citizenship Act, is approximately 1000 million.
7. *Australian Citizenship Act* 1948, s. 17.
8. ibid., s. 18.
9. ibid., s. 19.
10. ibid., s. 21.
11. R. D. Lumb and K. W. Ryan, *The Constitution of the Commonwealth of Australia, Annotated*, 2nd edn, Butterworths, Sydney, 1977 pp. 62-63.
12. Lumb and Ryan suggest that the second part of s. 44 (i) covers cases where an Australian naturalized citizen 'voluntarily retains the privileges or rights attaching to his former citizenship'. p. 63.
13. Australia, *Dual Nationality: Report from the Joint Committee on Foreign Affairs and Defence*, Parl. Paper 255/1976, Canberra, 1977, p. 2.
14. Citizens of the following countries are classified as dual nationals unless or until they formally renounce such citizenship: Argentina, Belgium, Brazil, Canada, Cyprus, Egypt, France, Germany (East), Greece, Hungary, Ireland, Israel, Lebanon, New Zealand, Poland, Switzerland, United Kingdom, USSR, Yugoslavia. This list was obtained from the Department of Immigration and Ethnic Affairs which compiled information from a local survey made in October 1979, and who also indicated that the survey was not comprehensive, and that there may well be other countries which fall within this category.
15. Report, *Dual Nationality*, cited fn. 13, p. 8.
16. ibid., p. 3.
17. The only country which, to the Committee's knowledge, does not recognise renunciation of nationality, is Argentina.
18. The countries which fall within this category and which have actively discouraged renunciation include: France and Greece, which provide extremely complex and lengthy renunciation procedures; USSR and Warsaw Pact countries in which renunciation is subject to government approval; Yugoslavia, which imposes stringent conditions on renunciation and may reject an application even if the conditions are fulfilled. Other countries which may well fall within this category but are omitted because of a lack of current information include: Iran, Iraq, Saudi Arabia, Syria, Turkey.
19. Report, *Dual Nationality*, cited fn. 13, p. 3.
20. This link has already been broken in other countries: in Britain the qualifying age is still 21 years although the voting age is 18 years. In the United States there is no constitutional qualification to the effect that a candidate to or member of, Congress be an elector or be entitled to vote.
21. 71. A nomination may be in Form C or Form D in the Schedule applicable to the case and shall—
    (a) name the candidate, his place of residence and occupation; and
    (b) be signed by not less than six persons entitled to vote at the election for which the candidate is nominated.