

Friday, October 24, 2008
The Registrar
High Court
Canberra ACT 2600

Dear Sir,

I am seeking advice as to how and in what form, that I, a citizen and resident of Tasmania may proceed to have a matter listed before the High Court of Australia that involves the Senate of the Commonwealth Australia.

The matter relates to the qualifications of Senator Abetz and his right to represent me as a Tasmanian Senator in the Senate House of the Commonwealth Parliament. I have spent more than eighteen months trying to elicit from Senator Abetz the exact date of his Naturalisation and, if and when he resigned his German Citizenship. He will not provide either of these documents and no details regarding this matter are given on his Parliamentary website.

I approached the Clerk of the Senate in the first instance and have since written to the current Labor and past Liberal Presidents of that Institution. I have not enclosed this documentation at this time.

The issue that I wish the High Court to address is that the Senate has failed to exercise its obligations under section 47 of the Commonwealth Constitution. Section 47 of the Constitution provides for any question as to the qualification of a member of the Senate is to be determined by the Senate.

The Presidents of the Senate were advised that Senator Abetz has refused to provide information as to his status in accordance with the requirements of Section 44 (1) of the Constitution to be a member of the Senate. I have discovered two of his four Senate nomination forms, both are signed by Senator Abetz and contain different dates for his naturalisation, one of which, must at best, be incorrect and therefore be an offence under the Commonwealth Electoral Act. The other two nominations have either not been kept or destroyed.

The provisions of Section 44 (1) state that no person who holds allegiance to a foreign power can retain a position as a Senator. Further, under Section 46 the Senator would be at risk of proceedings for recovery of penalties under section 3 of the "Common Informers (Parliamentary Disqualifications) Act 1975."

Two options were open to the Senate, either to refer the matter to the Court of Disputed Returns respecting the qualifications of Senator Abetz to be a Senator for consideration by the Court to consider or to call on Senator Abetz to produce written evidence to satisfy the requirements of section 44 (1).

The responses of the Presidents of the Senate were "that it is not appropriate or not proper for them to have the Senate do so and that the Electoral Commissioner for Tasmania has certified him elected." (An unusual response given the AEC is forbidden from determining the issue of qualifications.)
Further, that I could take action in the High Court with which I now intend to comply.

I look forward to hearing from you with details of what I need to provide to have the issue lodged as a Constitutional matter with the High Court.

Yours faithfully,

John Hawkins