

## Grattan on Friday: Bill Shorten faces a summer of uncertainty

Written by Michelle Grattan, Professorial Fellow, University of Canberra

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It is not impossible that the Greens, who started the citizenship crisis with the resignation of then-senator Scott Ludlam, could end up winners from this fiasco that has cut a swathe through the parliament and threatens more havoc.

Wednesday's reference to the High Court of Labor's [David Feeney](#), who holds the Melbourne seat of Batman, has certainly put a gleam in the Greens' eyes.

Feeney hasn't been able to [produce the documentation](#) to confirm the renunciation of British citizenship which he says he made a decade ago.

Unless the paperwork turns up or the [High Court shows a leniency](#) that hasn't been in its nature recently, a byelection in Batman would give the Greens a big chance of installing a second MP to keep Adam Bandt company in the House of Representatives.

Bill Shorten is understandably livid about Feeney, who before the last election overlooked [declaring a A\\$2.3 million house](#), only narrowly held off the Greens in his seat, and now, if he triggers a byelection, could reduce the opposition's numbers. No wonder there's speculation he'd be ditched as Labor's candidate.

And Feeney's rank carelessness, to describe it most charitably, comes on top of the recent new revelations about Labor senator Sam Dastyari's [conduct](#), showing how deeply the New South Wales numbers man has been in the thrall of the Chinese, in particular of a Chinese business benefactor.

It's made for a very uncomfortable end to the parliamentary year for Shorten, who in previous months had most things breaking his way.

The citizenship crisis had taken a heavy toll on the government, with a minister and the Senate president gone from parliament, and the deputy prime minister and a Liberal backbencher forced to byelections.

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To put things in perspective: yes, they all failed to do due diligence, but none of them compromised themselves in the way Dastyari did.

Now it's Labor in the crosshairs. The [situation of several of Shorten's MPs](#) – leaving aside the egregious case of Feeney – is problematic, and Shorten's boast about Labor vetting processes is being seen as hubristic.

It will be months before Labor will know what damage the citizenship crisis might do to it.

It will be more contained if the High Court, when it considers the case of ACT senator Katy Gallagher who was also [referred this week](#), accepts the ALP argument that an MP is constitutionally eligible provided they took reasonable steps to renounce foreign citizenship before nominating, even though confirmation didn't come through by then.

If, however, the court were to find that the candidate needs the confirmation before they nominate, that could trigger byelections in three ALP seats (Braddon in Tasmania, Longman in Queensland and Fremantle in Western Australia) as well as in Mayo, held by crossbencher Rebekha Sharkie.

The Gallagher case will set a precedent for the other MPs with similar circumstances (although if Gallagher were knocked out her Senate position would be filled by a countback, not a byelection).

While byelection swings usually go against governments (Saturday's result in New England notwithstanding), the thought of having to fight in the marginal seats of Longman and Braddon would make Labor nervous.

Even if it turned out that the only byelection were in Feeney's seat, the strong prospect of a loss there would sour and distract Shorten's new year.

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Similarly, the extent of the fallout from the Dastyari affair is not yet clear.

There is no defence for Dastyari's action in warning his Chinese benefactor that his phone was likely tapped, so they should talk outside. That was the core of the latest revelations, which came on top of earlier ones about Dastyari receiving financial largesse and toeing China's policy line on the South China Sea.

But from Shorten's point of view, dealing with the Dastyari issue is fraught.

All Shorten has done this time is strip him of what minor responsibilities he had.

It's fanciful to think Shorten would ever contemplate trying to throw him out of the Labor Party, which would mean taking on the NSW right, and would reduce Labor's Senate numbers.

But while Dastyari stays, Shorten is open to Coalition attacks and hostage to anything further that may come out – just when the government is cracking down on attempts by foreign interests to influence Australian politics. Dastyari might face an inquiry by the Senate privileges committee.

It would be a gift for Shorten if Dastyari were to decide rehabilitation is too long a road and he should look for other career opportunities.

The problems that Shorten currently faces highlight certain weaknesses that his critics identify in his political approach.

The citizenship issue shows the way he plays the tactical game relentlessly, with insufficient appreciation of how things can come back to bite you.

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Of course Labor would make the most of the government's embarrassment over its dual citizens, but Shorten left himself little wriggle room when he insisted for so long Labor was fireproofed, despite warning signs it mightn't be.

When its vulnerability was exposed this week, Shorten doubled down. After all MPs' declarations became public, Shadow Attorney-General Mark Dreyfus produced a list of Coalition members who Labor said hadn't supplied enough evidence that they were not dual citizens. One was Josh Frydenberg, whose mother had been fleeing persecution. Frydenberg's inclusion in the Dreyfus list brought rebukes from two Labor MPs.

This was followed by Labor's unsuccessful attempt to refer four Liberals (not including Frydenberg) to the High Court, as well as four of its own and Sharkie.

The move on the Liberals looked like seeking cover, especially when one of them, Nola Marino, produced a letter from Italian authorities saying she did not have Italian citizenship.

Surely it is adequate to rely on a country's word that someone is not a citizen? Certainly Labor's deputy leader Tanya Plibersek is using a letter from Slovenian authorities.

The Dastyari affair raises questions about how far Shorten is willing to go for those who are politically important to him.

Dastyari had to leave the front bench after the initial revelations about his Chinese links.

But within months he was given a partial leg up, becoming deputy opposition whip in the Senate. This seemed undue haste, and it raises concerns about Shorten appearing beholden to his allies. We see another example in his refusal to take a tougher line towards the Construction, Forestry, Mining and Energy Union.

Despite the setbacks, Shorten is still very [well-placed](#) , compared with Turnbull, as the end of

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2017 approaches, although the December 16 Bennelong byelection will play into this balance.

Nevertheless, it is Shorten, rather than Turnbull, who appears to face the bigger uncertainties in the early part of 2018.

*Michelle Grattan does not work for, consult, own shares in or receive funding from any company or organization that would benefit from this article, and has disclosed no relevant affiliations beyond their academic appointment.*

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