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The Supreme Court and US-Israel Dual Citizenship

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As AIPAC preps for its annual policy conference entitled "Connected for Good" with an expected attendance of 20,000 committed Zionists, its most zealous Zionist Congressional supporters will also likely be in attendance; that is, those who have signed the loyalty oath as well as those who retain dual citizenship to Israel and are thereby entitled to AIPAC campaign support.

There is always more to the story when it comes to AIPAC and how it has been allowed to circumvent and or manipulate US law as it continues to function unfettered by legal requirements that every other foreign country must adhere to. To take a critical eye to AIPAC should not be construed as anti-semitic as AIPAC can take credit for motivating and finagling the US into wars in the Middle East at a cost of $4 trillion from the American taxpayer.

With allegedly hundreds of members of Congress and Federal government employees with dual US-Israel citizenship, what has been missing since the Supreme Court's 1967 decision is scrutiny of the unintended consequences of that decision as it has affected American foreign policy.

To date, there may be no way to confirm which, if any, Members of Congress have dual citizenship with Israel although the informed rumor mill claims that to be the case. *In a* 2015 interview *with Sen. Bernie Sanders, Diane Rehm, claiming to have a list, unequivocally stated that "you have dual citizenship with Israel"* to which Sanders responded just as unequivocally "*No. I am an American.*" It is essential for Members to be forthcoming about their citizenship since real or imagined conflicts of interest can only result in misguided speculation and further alienation.

If the Russians had ever inserted itself into American politics as intimately as the Israelis have, both political parties would be loony-tunes but especially the Dems who appear to have more of a fondness for Zionism. Clearly no other country has taken advantage of the US largesse as Israel has with its hustle of $233 billion (as of 2014) in foreign aid since 1948 including $38 billion in 'military assistance' in 2016 plus other unaccounted-for military projects over the years. It takes chutzpah.

The history of dual citizenship in the US is an outrageous example of how easily the US abandoned its responsibility to secure its own national security rather than protect its economic well-being from foreign manipulation. The consequences of that duplicity have yet to be fully explored.

The artist Beys Afriyum, born Ephraim Bernstein in Poland, became a naturalized US citizen

in 1926. In 1950 he travelled to Israel, voted in the 1951 Knesset election and remained until 1960 when Mr. Afriyum applied for a renewal of his US passport. The State Department refused citing that by virtue of voting in a foreign election, Afriyum had given up his citizenship in accordance with the Nationality Act of 1940 which stated that a US citizen would lose their citizenship if they voted in an election in a foreign country. In 1958, the Supreme Court adopted Perez v. Brownell (6 – 3) which reiterated the 1940 Act regarding loss of citizenship by voting in a foreign election.

Mr. Afriyum sought a declaratory judgment from the District Court claiming that the 1940 Act was unconstitutional. However, both the District Court in a summary judgement and the Second Circuit Court of Appeals upheld the right of Congress to strip a citizen of their citizenship.

Mr. Afriyum then appealed to the Supreme Court which ruled 5 – 4 in his favor in overturning its earlier decision in *Perez v Brownell*. The Court further concluded that there is "*no general power to revoke an American citizen's citizenship without prior consent*".

In a compelling dissent, Justice John Harlan argued that in its power to regulate foreign affairs, Congress has the power to "*expatriate any citizen who intentionally commits acts which may be prejudicial to the foreign relations of the United States, and which reasonably may be deemed to indicate a dilution of his allegiance to this country"* and, in a prescient glimpse into the future, that "*allowing Americans to vote in foreign elections ran contrary to the foreign policy interests of the nation and ought to result in loss of citizenship.*"

Further, Harlan referred to Black's opinion as a '*remarkable process of circumlocution*" with "*unsubstantiated assertions*," "*a lengthy albeit incomplete survey*" and that he "*finds nothing in this extraordinary series of conventions which permits the imposition of constitutional constraint upon Congress*."

After the Court's decision, it was determined that Afriyum had voted in the 1955 and 1959 Knesset elections and that Afriyum later became an Israel citizen.

Despite the 1967 decision, the Homeland Security oath for naturalized citizens has not yet incorporated the new standard which still reflects US citizenship based on the one person/one country concept as established principal:

> "I absolutely and entirely renounce and abjure all allegiance and fidelity to any foreign prince, state or sovereignty of whom or which I have heretofore been a subject of citizens."

While the LA Times editorial "*The Problem of Dual Citizenship*" asks "*How can a person be equally loyal to two countries*?" and in citing the *Afriyum v Rusk*case, the Times understates its warning that "*dual citizenship can present a security issue whether to permit access to classified information*.."

Since the days of the *Afriyum* decision, the potential for betrayal and conflicts of interest have intensified dramatically for Members of Congress and Federal employees and those holding national security clearances given the unparalleled financial and political support that the US provides to Israel. In addition, the 2018 adoption by the Knesset of the *Basic Law* which establishes that Israel is now specifically a Jewish nation raises First Amendment

issues regarding the establishment clause as it prohibits state-sponsored religion.

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