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The Hon John Howard, MP
Prime Minister of Australia
Parliament House
Canberra ACT 2600

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Dear Prime Minister

Repeal of Section 17 of the Australian Citizenship Act 1948

Formed in 1978, the Australian Law Students' Association (ALSA) is the peak body of law students representing over 20,000 students from all twenty-eight law schools in Australia. ALSA represents the interests of Australian law students nationally and internationally in the provision of careers information, legal education policy and research, international standard competitions and academic publications. We also have strong connections with international law student bodies in Asia, Europe and the Americas.

Recently ALSA has become aware of issues that can significantly decrease freedom of mobility within the legal profession and the opportunities for furthering the professional development of our young lawyers. In particular Section 17 of the Australian Citizenship Act 1948 negatively impacts on Australian-born Australian citizens who are seeking to work effectively within the professions, multinational companies and organisations, or as representatives of Australian businesses outside their country of nationality, by forcing them to forfeit their Australian citizenship.

ALSA notes that the Southern Cross Group has been actively campaigning for the repeal of Section 17. Our Association fully supports that Group's efforts and endorses the position taken in the Southern Cross Group's Open Letter to you of January 2001.

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As future members of the legal profession in this country, we are concerned that the effect of Section 17 is to create two classes of Australian citizens. In the spirit of multiculturalism, Australia rightly allows migrants who become Australian citizens to maintain their original citizenship, and recognizes that many Australian-born Australians have a second citizenship by descent. However, the law as it stands means that our country is effectively denying Australians who migrate from Australia the right to keep their citizenship and maintain their multiculturalism in their new countries of residence.

Just as we cannot expect those who come to Australia to ever want to completely sever their links to their countries of birth, it is inequitable to demand that Australians who leave Australia and chose to live parts of their lives elsewhere be forced, in the most formal sense, by law, to sever their ties to their homeland. It is also socially and economically undesirable for Australia to formally “turn its back” on what could be a rich home-grown global network of individuals keen to contribute back to this country.

It has often been said that Australia suffers from its lack of a constitutional bill of rights. On the issue of Section 17, it appears to us that our country’s lack of constitutional “equal protection” as understood in the United States context is all the more reason for our elected representatives to endeavour to ensure that all Australians are treated equally under legislation which Parliament enacts. Perhaps it is instructive to reflect upon the words of the US Supreme Court in *Afroyim v Rusk* in 1967 and the approach taken in one of the world’s oldest surviving constitutions. The Supreme Court held that in the United States, “the people are sovereign and the Government cannot sever its relationship to the people by taking away their citizenship”. It further found that “Congress has no power under the Constitution to divest a person of his US citizenship absent his voluntary renouncement thereof”.

Citizenship is a matter which touches at the core of democracy and individual identity. ALSA sees the repeal of Section 17 of the Citizenship Act as a matter of considerable concern to all Australians, and notes that the Australian Citizenship Council, led by Sir Ninian Stephen and supported by many eminent Australians, recommended the repeal of this provision twelve months ago.

We add our voice to that of the Law Council of Australia, the CPAs of Australia and the Australian-American Chambers of Commerce in the United States, as well as the many hundreds of Australians who have already addressed you and Immigration Minister Ruddock personally on this matter. We call upon your government to introduce amending legislation into parliament without further delay.

Yours sincerely,

Jason Roufogalis
President
Australian Law Students’ Association