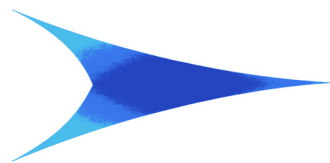


The Southern Cross Group

Promoting Mobility in the Global Community



[Name of Opposition MP]
Parliament House
Canberra ACT 2600

5 December 2005

Australian Citizenship Bill 2005 - Citizenship for Children of Australian-born Maltese

Dear [name]

The Southern Cross Group (SCG) is an international volunteer-run and volunteer-funded advocacy and support organisation for the Australian diaspora.

On 9 November 2005 the *Australian Citizenship Bill 2005* (the Bill) was tabled in the House by Citizenship Minister John Cobb MP. The Bill is on the House's agenda for Wednesday this week, 7 December.

The SCG warmly welcomes this Bill because it will solve the citizenship dilemmas of thousands in the Australian diaspora who make their homes outside Australia. Almost all of the reforms to citizenship legislation that the SCG has been lobbying for over a number of years are included in this Bill.

However, as you consider this important piece of legislation, we ask you to give due consideration to the fact that approximately **3000 children born in Malta to Australian-born parents have been excluded from access to Australian citizenship under the Bill**. You may have seen recent media coverage of this issue in Australia, which occurred during the Prime Minister's recent visit to Malta for CHOGM. Further information, along with the SCG's recent media releases, can be found at www.southern-cross-group.org.

As you will be aware, in the post-war period, Australia welcomed many thousands of Maltese migrants. Indeed, in the 2001 Census, 136,754 people in Australia indicated that they consider themselves to be of Maltese ancestry, with 46,998 being born in Malta, and 41,393 speaking Maltese at home.

A small percentage of Maltese migrants, however, returned to Malta after several years in Australia, taking their Australian-born minor children with them. These children had Australian citizenship by birth under Australian law, and Maltese citizenship by descent under Maltese law. They were therefore dual citizens as minors. However, back in Malta, the Maltese government, until changes to Maltese law in February 2000, demanded that these people formally renounce their Australian citizenship using Section 18 of the *Australian Citizenship Act 1948* by their 19th birthdays if they wished to remain Maltese citizens in adulthood.

Faced with a heart wrenching choice, some 2000 Australian-born young people were forced to renounce their Australian citizenship at the Australian High Commission in Malta in the three decades before February 2000. Their immediate families were in Malta, and they knew that life in Malta without Maltese citizenship would be extremely difficult. University education would be prohibitively expensive, a work permit would be required to obtain employment, residency permits would have to be renewed every few months or deportation could occur, housing loans would be unavailable, and social security and other government benefits such as scholarships would be inaccessible. Like many 18-year-olds in Australia, most of these Australian-born young people in Malta were still financially dependent on their parents. Choosing to keep Australian citizenship would have meant moving back to Australia without the rest of their family. In any event, the fare back to Australia and financial support once in Australia was beyond the reach of most of the families involved.

For all those who had to renounce their citizenship under Section 18, the loss of their Australian citizenship has been a matter of great sadness and deep regret since it occurred. We are extremely pleased that the Bill will provide these people with the opportunity to apply for resumption of their Australian citizenship.

But as this Bill is debated in the House we would like you to think about **the children of those 2000 Australian-born individuals in Malta**. Generally, when an Australian-born Australian citizen has a child born overseas, that child is eligible to be registered as an Australian citizen by descent. However, the Maltese-born children of these Australian-born individuals in Malta have not been able to become Australian citizens by descent. They were born after their parents had been forced to renounce their Australian citizenship. So they had no Australian-citizen parent at the time of their birth.

The SCG has collected data from a significant number of affected families in Malta. We estimate that approximately 3000 children are impacted. Their average age is 11. The youngest was born only a few months ago. A handful (9%) would appear to be aged 20 or over. One-page thumbnail sketches of six different families who have affected children are available on the SCG's website at:

<http://www.southern-cross-group.org/mediareleases/overview.html>

The Government has said that people who formally renounced their Australian citizenship using Section 18 of the *Australian Citizenship Act 1948* can have had no reasonable expectation that their children would become Australian citizens. This is the sole reason advanced by Minister Cobb for distinguishing the children of Section 18 victims from the children of Section 17 victims. The latter group has been included in the Bill.

Section 17 of the *Australian Citizenship Act 1948* was repealed with effect from 4 April 2002. It provided for the automatic loss of Australian citizenship on the voluntary acquisition of another citizenship by an adult. Many overseas Australians forfeited their Australian citizenship under Section 17, either knowingly or unknowingly, when they were naturalised in countries such as the UK, the US and Canada. Many Section 17 victims had children abroad after they lost their Australian citizenship. Those children are all being provided with access to Australian citizenship under the Bill.

The Government appears to be rationalising its flimsy distinction between Section 17 and Section 18 children by claiming that most Section 17 victims did not know they would forfeit their citizenship on the acquisition of another, thereby labelling their loss of citizenship as "innocent". This is being contrasted with Section 18 victims, who because they all had to sign a document to formally renounce, all knew they would lose their citizenship, and are therefore by implication "guilty".

Two points should be made. **First**, although some Section 17 victims didn't know that they would lose their Australian citizenship on the acquisition of another citizenship, many thousands did know, and still felt compelled to acquire the other citizenship which led to their loss. Individuals who were naturalised abroad and lost their citizenship under Section 17 were in many instances faced with a very similar dilemma to Australian-born teenagers in Malta. They were confronted with a very difficult choice. In many cases, they needed the citizenship of their country of residence for employment reasons – e.g. in order to join a police force, or to teach in a state education system. In other cases, they needed to be citizens of their country of residence in order to make sure that they were not left penniless under estate tax law when their non-Australian spouse passed away, as in the case of many Australians (including thousands of Australian war brides) with American citizen spouses in the United States.

Second, Section 18 people who renounced Australian citizenship in Malta and elsewhere never did so willingly or gladly, or because they in any way wanted to turn their backs on Australia. They signed their renunciation forms only because they felt they had no other option at the time and always with enormous regret. Those in Malta were very young – only 18 years old, and the forced choice was made at a critical juncture in their lives. They were about to start work, or go on to higher education. Almost all were still financially dependent on their parents. The decision they were forced to make at a time when they were hardly old enough to comprehend its magnitude, and in any event which they could not avoid, has proved in most cases to set the course of their entire lives. It took away options and opportunities. Section 17 victims, on the other hand, in most cases, lost their citizenship at a considerably later stage in life, in many cases to benefit from opportunities abroad.

It is simply wrong to brand Section 18 victims as traitors to Australia or to view them as disloyal to the nation and to now make their innocent children "pay". Old laws simply precipitated impossible choices for people who lost citizenship under both Section 17 and 18.

The SCG submits that all Section 17 and Section 18 people and their children were simply the victims of outdated laws, not only in Australia but also elsewhere, under which dual citizenship was prohibited. Australian-born people who renounced under Section 18 had to use Section 18 because they were starting from a base of two citizenships and had to divest themselves of one in order to satisfy the laws of their other country of citizenship. Those who began with only Australian citizenship and were compelled to naturalise abroad for various reasons did not have to formally renounce under Section 18 – Section 17 stripped them of their citizenship automatically. The fact that one person's choice involved a formal renunciation whereas another's did not is irrelevant today for the status of their children.

Both groups of children are the innocent victims of laws that existed to prohibit dual citizenship, crafted at a time when the world was not the global village it is today.

The Government's repeal of Section 17 in 2002 was a watershed in that it was a public statement that Australia as a nation was finally ready to embrace dual citizenship for all its citizens as a matter of policy. This new Bill, in a broad sense, is about putting old wrongs right. It is about inclusion into the Australian family, rather than exclusion. Whether a particular past injustice is put right in this Bill should under no circumstances be conditional upon irrelevant technicalities. Such an approach would not be in line with the overall spirit of these reforms. It would be wholly inappropriate to exclude from this legislation any specific groups, which have in the past been innocent victims of historically outdated citizenship laws in Australia, or any other country.

The Government has heard from hundreds of impacted families in Malta over many months. Further, in March 2005, the Senate Legal and Constitutional References Committee's final report in the Inquiry into Australian Expatriates specifically recommended that Section 18 children be provided with access to Australian citizenship under the planned reforms.

Our discussions with Shadow Citizenship Minister Senator Hurley on this matter to date indicate that it is probable that an amendment will be introduced by the Opposition to bring Section 18 children within the ambit of the Bill. We urge you to give the plight of these 3000 children of Australian-born Maltese your close attention and informed consideration as the Bill is debated this week. **Please support that amendment.**

Should you require any further information on this matter, please do not hesitate to contact the undersigned at any time.

Yours sincerely

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