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CORRECTIONS

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Thursday, 9 November 2006

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BY AUTHORITY OF THE HOUSE OF REPRESENTATIVES

PROOF

It has a nice, flowery little image that this is all going to be hunky-dory and we are all going to get on well with each other. What good faith bargaining means is that the unions will have access to your workplace whether one of your employees is a member of the union or all of them are. It means access by the union to the workplace and it means access to the financial records of the organisation. Eventually this so-called good faith bargaining and access to all negotiations that take place will flow through to what is called 'pattern bargaining'. That means that an employer's individual circumstances and situation will no longer be taken into account because they will be roped in like everybody else. They will be roped into providing the conditions and wages of every other company in the same industry, regardless of the circumstances at that particular location—regardless of whether it is a location that requires seasonal work or regardless of other circumstances which differentiate it from other organisations.

The Leader of the Opposition has also failed to acknowledge the role that the Office of Workplace Services has provided and the protection that it has given to a lot of Australian workers. Since 1997 the OWS has won back over \$43 million in unpaid wages for all Australians. Since 27 March this year it has recovered over \$5 million for over 3,000 Australian workers. Where it is required, 193 inspectors and officials across 26 locations are out there fighting for these conditions on behalf of employees, and they are also able to initiate prosecutions. The ALP want to abolish this. Why do they want to do that? Do they want to abolish it because the OWS is not doing its job? Are they going to abolish it because it is not recovering unpaid wages? Are they going to abolish it because it is not initiating prosecutions if employment laws are broken? No, they do not want to abolish it for any of those reasons; they want to abolish it because they realise the OWS has filled the gap which the unions believe they should be holding.

This campaign is all about the union movement's survival. If members on the other side believe that I am making that up, I only have to recall a conversation last week with an ACTU official who said, 'We are fighting for our survival.' He did not say, 'We are fighting for workers,' or, 'We are fighting for workers conditions,' or, 'We are fighting for jobs.' He said, 'We are fighting for our survival'—the survival of the union movement. It has absolutely nothing to do with the workers and it has nothing to do with creating jobs. In fact, you never hear the words 'job creation' come out of the mouth of the Leader of the Opposition; it is all about the union movement and its position. The campaign by the union movement, Your Rights at Work, is a sham and I look forward to making further contributions on it. (*Time expired*)

The DEPUTY SPEAKER (Hon. IR Causley)—Order! The discussion is concluded.

AUSTRALIAN CITIZENSHIP BILL 2005

Report from Main Committee

Bill returned from Main Committee with unresolved questions; certified copy of the bill and schedule of the unresolved questions presented.

Ordered that this bill be considered at the next sitting.

AUSTRALIAN CITIZENSHIP (TRANSITIONALS AND CONSEQUENTIALS) BILL 2005

Report from Main Committee

Bill returned from Main Committee without having been fully considered; certified copy of the bill presented.

Ordered that this bill be considered at the next sitting.

ABORIGINAL AND TORRES STRAIT ISLANDER HERITAGE PROTECTION AMENDMENT BILL 2005

Second Reading

Debate resumed.

The DEPUTY SPEAKER (Hon. IR Causley)—The original question was that this bill be now read a second time. To this the honourable member for Grayndler has moved as an amendment that all words after 'That' be omitted with a view to substituting other words. The question now is that the words proposed to be omitted stand part of the question.

Mr HAASE (Kalgoorlie) (4.20 pm)—As I was saying before question time on the Aboriginal and Torres Strait Islander Heritage Protection Amendment Bill 2005, this kind of uncertainty, uncorrected, would discourage overseas institutions from ever allowing items from their collections to be exhibited in Australia. Australia's reputation as a borrower of cultural materials was damaged by a series of declarations under the Victorian provisions of the act in 2004-05 that stopped Museum Victoria returning Aboriginal artefacts to the UK lenders, despite a certificate under the Protection of Movable Cultural Heritage Act 1986.

The Metropolitan Museum of Art in New York is an example of an overseas institution which owns and displays Aboriginal artefacts. The Arts of Africa, Oceania and the Americas collection contains more than 11,000 pieces, including 40,000-year-old rock paintings and Aboriginal artefacts dating from the 18th century to the 20th century. Another is the Captain Cook Birthplace Museum in Middlesbrough, England. It houses the largest collection of its kind outside Australia, comprising mostly artefacts donated by the Aboriginal Arts Board of Australia. The British Museum in London has a substantial collection of ethnography dating back to 1798, including weapons, tools and

Waite Institute

Dr SOUTHCOTT (Boothby) (9.57 am)—I would like to speak about the Waite Institute, in my electorate of Boothby. The Waite Institute is a world-class research institute in the area of agricultural research. It was established as part of the bequest of Peter Waite. It includes the University of Adelaide undergraduate and postgraduate teaching in the area of ag science, the CSIRO, the South Australian Research and Development Institute, the Australian Wine Research Institute, Provisor and also since 2002 the Australian Centre for Plant Functional Genomics. I am advised that, around the world, the Waite Institute is one of the top two or three agricultural research institutions. The Australian Wine Research Institute, part of the Waite, was recently described by France and the United States as leading the world's best grape and wine R&D grouping.

Australia has had tremendous success in recent years with exports of wine. We have very successfully exported to the British market and the American market, and this has been underpinned by a focus on innovation and R&D. But, as we look to the future in the wine industry, we can see that there are pressures there—there is a pressure from oversupply, but also we can expect intense competition in international markets in the future. That means it is critical that Australia, to maintain its competitive advantage in this area, focus on innovation and R&D.

With this in mind, all of the groups at the Waite Institute have formed a wine innovation cluster and they will be looking to continue Australia's advantage in this area. This is a very important innovation and initiative. It is one that I will be doing my best to support. Michael Porter, the Harvard business lecturer and economist, talked about the competitive advantage of nations. He spoke about clusters, and the idea of a cluster was to have universities, industry and research functions all co-located. That is what we have at the Waite Institute. That is important to underpin the future success of the Australian wine industry. The wine innovation cluster is an initiative we should support. *(Time expired)*

The DEPUTY SPEAKER (Hon. IR Causley)—Order! In accordance with sessional order 193 the time for members' statements has concluded.

AUSTRALIAN CITIZENSHIP BILL 2005

Cognate bill:

AUSTRALIAN CITIZENSHIP (TRANSITIONALS AND CONSEQUENTIALS) BILL 2005

Second Reading

Debate resumed from 1 November, on motion by **Mr McGauran**:

That this bill be now read a second time.

upon which **Mr Burke** moved by way of amendment:

That all words after "That" be omitted with a view to substituting the following words:

"whilst not declining to give the bill a second reading, the House:

- (1) opposes the increase in residence requirement to 4 years.
- (2) notes that the government consulted with the Council of Australian Governments (COAG) on increasing the period from 2 to 3 years on national security grounds but undertook no consultation on the increase to 4 years and has given no adequate reason for this measure;
- (3) opposes the discriminatory treatment of people who lost their Australian citizenship under section 17 of the old Act (acquisition of citizenship of another country) and those who lost citizenship under section 18 (renouncing of citizenship) given that it fails to provide equitable treatment for a number of groups, but particularly the Maltese community; and
- (4) notes that a stateless person would be denied citizenship if convicted for an offence of greater than 5 years even if it were a trumped up conviction under a brutal and oppressive foreign regime".

Mr QUICK (Franklin) (10.01 am)—I, like other members who have spoken in this debate, welcome the opportunity to speak on the Australian Citizenship Bill 2005 and the Australian Citizenship (Transitionals and Consequentials) Bill 2005. Citizenship is a rather strange area to talk about. Basically, most people in Australia take for granted the fact that they are Australian. They do not worry too much about the rights and responsibilities of being Australian. I know it will take a certain form this Boxing Day, when we are playing the Ashes test against the English. There will be two groups of people, the Poms and us, and there will be banter between the English and Australian supporters. At Olympic Games and Commonwealth Games we become very jingoistic and accentuate the positive attitudes about Australia.

But it is different when you actually leave the shores of Australia for another country and you front up to the immigration and customs desk and get your passport out. When you visit London you are in the 'Others' group. I remember the first time I left Australia, in 1966—40 years ago. My brother and I decided to emigrate to Canada. We had to go through all the initial requirements to be considered for Canadian citizenship. We had to have chest X-rays to see whether we had tuberculosis. We had to give evidence that we had jobs. We had to name the spon-

sors who were sponsoring us to go to Canada and, when we arrived at the Canadian-American border in Washington state and were about to be allowed into Canada, we had all the required documentation. We were in the dilemma of still being Australians—we still had our Australian passports—but in those days, 40 years ago, I believe we were British citizens. We had the Governor-General sign a declaration to that extent, so we were basically British subjects rather than Australian citizens.

Then, after two years, I decided to come back to Australia. I did not take up my Canadian citizenship but still have a strong affinity with the Canadians, and I admire many of their things, especially the fact that they have their own flag. I then met and married someone who had Lithuanian nationality. My mother-in-law came out in 1949 in one of the first waves of immigration. She and my wife speak Lithuanian at home because my mother-in-law had difficulty learning English. She is fluent in Polish, Russian, German and Lithuanian because, as you rightly know, Lithuania is in that area where waves of conquerors have gone backwards and forwards over the years, especially in the first and second world wars. My children and I have learnt Lithuanian phrases to be part of that Lithuanian family.

Mention has been made of the emphasis to learn English, and it has been touted as a fact that, if you do not speak it, you are somehow less of a person. I think that is a load of BS; I really do. If you come from another countries for a variety of reasons—such as persecution or intolerance—and you seek solace in this place, the fact that you might not be fluent in English is, to my mind, somewhat irrelevant. If you are fluent in English, you can be a most undesirable person but you have one attribute in the tick box compared to a person who might have a hell of a lot more to contribute to Australian society but who does not get the tick in the box because their language skills are deficient for a variety of reasons—basically, a lack of opportunity; the fact that they have not had the opportunity to go to school because of the conflict within the country that they came from.

Another fact that really worries me is this extension of the waiting period to four years. Personally, I think it is driven by the fact that we have this fear of people who dress differently and who come from a region of the world where there is mayhem, intolerance or terrorist cells, and the easy way out is to say, 'We're going to raise the bar, and if you come out here we are going to punish you by extending the period from two to three to four years.' If things get worse, as they probably will in the world, are we going to raise it to five or six years and make it harder and harder for people? I think we should encourage people to take up citizenship, not make it harder for them to acquire it.

My eldest daughter married an Englishman recently, and luckily for him he is within the two-year period. My daughter availed herself of the opportunity to take up British citizenship so that now she has Australian and British citizenship, so when she goes to England with her husband they can walk through the easy gate rather than lining up with the others. Michael, to his credit, wants to become an Australian citizen because he sees that this country has a lot to offer him, not only in job opportunities but also because he can make a real commitment and contribute to Australia. This almost psychopathic fear of certain parts of the world and hence raising the waiting period from three to four years is the wrong way to go; it really is.

But this government seems to have its blinkers on. It is determined to whip up an almost hysterical feeling in the community to get the flag out and wave it and say, 'The only way we can keep these undesirables under control and deter them is to force them through this little narrow channel and, once they are in here, we're going to raise the bar and we're going to make them conform to all these things.' Australians around the world are basically considered to be nice, laid back, laissez-faire people who, when they are confronted with intolerance and injustice, contribute to peacekeeping roles involving their armed forces in conflicts in the various wars we have contributed to, but the rest of the time, if people come to our country, we accept them.

I am old enough to remember the first wave of migrants when I was a kid at Port Augusta High School. I vividly remember a guy called Rudi Gerdtröitlin, a German kid who came out. He wore lederhosen to school. The kids in Port Augusta High School were dumbfounded. Here was this kid in these leather lederhosen rocking up when the rest of us were in shorts and blue shirts going to Port Augusta High School. This kid had real trouble, but he soon fitted in. He could speak half-a-dozen languages. We saw the positive things that he could contribute to our society in Port Augusta. Then the other waves started coming along.

That is the right way; inclusion rather than exclusion should be the way we tackle these things. To raise it from three to four years—and have the possibility of five if the world goes absolutely turtle and turns inside out—is the wrong way to go. But this Attorney-General is fixated; this government is fixated with deterring people.

I think we ought to really look at this issue rather than becoming jingoistic and sabre rattling and saying, 'This is the way to go and we're going to make it harder'—I really do. We are a nation of many races. My relatives came out in 1853. They were Cornish tin miners. The alluvial gold ran out in Ballarat and the mine owners went

over to St Ives and said, 'We want you to come to Australia to sink the shafts, to contribute to Australian society.' So the Quick family came out in 1853 and have contributed to Australian society in many ways.

They helped form Australia as we know it. One branch of the family, Sir John Quick, helped write the Australian Constitution, helped form the concept of federal parliament. I consider myself to be part Cornish, part English, part Lithuanian, part Australian, part Canadian. The people who come from other shores in their thousands, as we welcome them, have much to contribute. But we should not say we only want white, English-speaking, conformist, church-going people—'You can easily enter the door.' For goodness sake, we are probably the most tolerant society that I know—and I have visited most parts of the world. We have got it right, but we do have pockets where people are causing concern. But, rather than focusing all our resources and energy on that small festering sore, let us look at all the positives when we discuss citizenship.

If you go to citizenship ceremonies, as other speakers have said, there is a real pride. We enjoy conferring our citizenship on other people and they enjoy receiving it and wish to contribute, and in many cases have shown real contributions in that interim period between when they arrive and when they actually get the piece of paper.

As a teacher, I did not make an overt attempt to highlight to my students the facts about Australian citizenship. I did it in a calm, perhaps unorthodox, way to highlight the fact that because we have so many things going for us, living in such a wonderful nation where we want for nothing, we have a responsibility to contribute to the welfare and wellbeing of people less fortunate than we are. If that means opening our doors as a result of conflicts, we should do it. But we should not then say, 'There are some people who have snuck in who are out to cause mayhem, so let's focus all our legislative endeavours to sort them out.' To my mind, that is the wrong way. It is easier to be involved in initiatives in other countries where we can provide the example rather than, as the Americans do, try to keep a lid and a clamp on the unrest, social mayhem and disorder.

They are my concerns. We are going to lose. It is going to be four years. The government is determined. In the event that we win the next election—I will not be here, but when we do win the next election—I would like to think that some of these issues will be resolved and we will make it easier rather than harder.

Finally, there is one positive thing. When our committee did the report on overseas adoption, we highlighted some of the things that needed to be sorted out when it came to children coming from overseas and the problems they faced with citizenship. I welcome the fact that, of our 27 recommendations, the government agreed to 24, which was great. Amendment (30), citizenship for persons adopted in accordance with the Hague convention on intercountry adoption, inserts a new subdivision AA, relating to citizenship for persons adopted in accordance with the Hague convention on intercountry adoption. The purpose of this new subdivision is to allow children adopted overseas by Australian citizens to become Australian citizens in a similar way in which children born to Australian citizens overseas can become Australian citizens.

The new provisions implement the government's response to a recommendation made by the House of Representatives Standing Committee on Family and Human Services in its inquiry into the adoption of children from overseas, and I congratulate the minister. As someone who has visited China and seen the need for us to simplify and clarify some of the things regarding overseas adoption, I welcome the minister's quick response in this. I thank the House for the opportunity to say a few words on this issue.

Mr BYRNE (Holt) (10.18 am)—I rise today to speak about the Australian Citizenship Bill 2005 and the Australian Citizenship (Transitionals and Consequentials) Bill 2005 and welcome the member for Franklin's contribution. I just want to put on the record how much he will be missed when he departs. He has been a fantastic member of parliament. He has been an ornament to this parliament and to this place and to the Australian Labor Party. Certainly I, along with many of his other colleagues, will miss him after the next election.

Mr Neville—I endorse that.

Ms Hall—So do I.

Mr BYRNE—Thank you. When someone becomes an Australian citizen, and as a politician I have in fact witnessed many people becoming citizens in this country—people from many diverse backgrounds, people from war-torn backgrounds and people from more affluent backgrounds—it is an amazing reminder of what can make our country great, because, in taking that act of citizenship, they are renewing the lifeblood of our country. Particularly given our decreasing fertility rates in this country, we need to bring more and more people into this country to keep our country strong. One of the great privileges I have as the federal member for Holt is attending City of Casey citizenship ceremonies. The City of Casey, for those who are not familiar with it, is I think the largest council in Victoria. It has a population of about 230,000 people, with some 65 families shifting in per week, and it has a very unique citizenship ceremony—and I will touch upon this because the symbolism of the Australian citizenship ceremony that is embodied by the City of Casey says a lot about the debate we are having about this bill today.

It is interesting that in the period from November 2005 to October this year the City of Casey welcomed over 1,700 new citizens, according to the Mayor of the City of Casey, and these new citizens came from a great variety of backgrounds, with just under 70 different nationalities represented in this particular period. What is particularly striking and particularly noticeable about those who attend these citizenship ceremonies is that the ceremony is a rite of passage. There is no doubt about that. Some have taken a very long step from different and far-flung countries; some a much shorter step. But, in taking that step, they are making our community and our country much stronger. In my observation, regardless of their backgrounds—whether they are Islamic, Hindu, Jewish, English or whatever—each of these people treats the ceremony with the same sense of reverence. They know that, in taking that incredibly long step or that short step, they are making a significant commitment.

It is not easy to leave the country of your birth, for whatever reason, and set up your future life and the lives of your children in another country. It is not an easy thing. It is not an easy transition. If you look at people who shift from state to state for employment opportunities, you will see that it is not an easy transition. There is the issue of dislocation, the issue of the difficulties of leaving family and friends behind. But these people make that journey—some pushed because of war-torn circumstances, the circumstances in their country; some pulled by the attraction of this country. But when they reach that threshold point, when they become citizens, as I said, they add to the lifeblood of the community.

The City of Casey has a unique ceremony. It has a very intimate, very personal ceremony. At the end of the ceremony, you are handed an Australian native plant. After citizenship has been conferred upon you, you are handed an Australian native—and I have very proudly handed an Australian plant to a large number of people who have become citizens in the City of Casey. In the speeches that I give to these people, the symbolism for these people in receiving that plant is that they are like the plant, because becoming Australian citizens is like them putting roots into the soil of our country. By putting roots into the soil of our country, they are embodied, embedded, in our country. They become a greater part of our country, a greater whole of our country. In doing so, they also transform the landscape of our country—they change our country. They become embedded within it, but they can change it at the same time. They can change the landscape of our country.

It is interesting, in the context of the debate about citizenship and some of the provisions of this particular bill which we are examining today. We need to really reflect upon what it means to be an Australian citizen—the expectations that we put on people who become Australian citizens and what their beliefs are, what their expectations are, what their understanding is of the country that they are becoming part of. They are becoming the very roots of the soil of the country. They, in becoming Australian citizens, can determine the future of our country by voting for who will represent them. So, in making that step, it is an incredibly significant step.

I wonder what many of those who have become citizens—particularly those people who I have dealt with recently who had a sense of exuberance, a sense of joy, a profound sense that they knew exactly what they were doing—would say about the provision that extends the permanent residency requirement from two years to four years. I have heard media reports which effectively say, 'I have seen some people walk out.' In fact I have heard it from the parliamentary secretary—'Some people walked out of a citizenship ceremony.' We know the sorts of groups of people he is talking about.

I will tell you one thing: in every citizenship ceremony that I have ever been to, for everybody that I have seen undertake that citizenship, it is almost like a sacred ceremony—it is a sacred rite of passage. We have to be very mindful of this when we consider this particular bill, for those people who take that very sacred rite of passage are adding to the lifeblood of our community, are strengthening our community and making it a stronger community, are becoming citizens and strengthening us economically—for without them our economy starts to peter and to die. We do need them, and that is reflected in the increased uptake of immigrants in this country. We do not need to demonise any of them. When we ask them to become part of us, we ask all of them to become part of us, not just some of them.

I do not understand this provision and what we are saying in terms of the citizenship ceremony. When you come into the country as a permanent resident you would have an expectation that after two years you could really become part of this country, that you could exercise your rights to determine who represents you and become a fully integrated part of the community. The argument that we have in this country is about integration. It is about people from all parts of the world becoming part of our country. Gareth Evans, my predecessor as the member for Holt, talked about it as a 'salad bowl'—people from different parts of the world making up the salad bowl of our community.

What are we saying to these people? Instead of two years, which is what it was, or instead of three years, which was what was agreed to as a consequence of security concerns by the premiers in COAG, we are now saying four years. For what justification? What are we saying? On the one hand we are saying we want you to become part of

our community, we want you to integrate into our community and we want you to understand Australian values—in fact, the discussion paper that the parliamentary secretary put forward talks about all of this. But on the other hand we are saying: ‘Well, we have changed our minds. Instead of being two years, we have some security concerns about you we wanted ticked off, so the states agreed it was to be three years, but now it is four.’ I do not understand that. What signal are we sending to people who come to this country—that they are not good enough?

What we need is the complete antithesis of what we are saying. On the one hand we are saying, ‘Become part of our country, integrate’—I hate to use the word assimilate, but I mean become a deeper part of our community—‘and accept our values.’ Let’s talk about ‘accepting our values’. We have a discussion paper which talks about English testing, for example, and how we should qualify for citizenship. But where is there in this something which categorically and clearly defines what it means to be an Australian—about the sense of fairness, egalitarianism and equality?

I see nothing in this. I see some slogans but what about what I do not see? If you are going to put a discussion paper before this place, before the House, before the Australian people and talk about English testing and a whole range of other things, some of the punitive things, what about what it means to be an Australian? What about what Australia is and what it hopes to be, and how these people can shape the country? When these people become citizens, they shape the future of our country. So where is the debate? We have a debate about English testing; we have a debate about accepting history and geography, but what do we have about what it really means to be an Australian? In this community at the present time there is a great debate about what it means to be an Australian. What we see in the community and what I see in the outer suburbs of the electorate I represent and the electorates that others represent is a great debate, a sense of dislocation from the community, a sense of ‘what does it really mean?’ because Australia has changed.

In the suburbs that I grew up in in the 1970s there was a very strong sense of community. People knew each other. Now you might know someone 40 kilometres away but not someone that shares a residential apartment next to you. So Australia has changed. So what are we saying to these people who come from far-flung places with different cultures and different ideas about what Australia represents? Is Australia as fair a place as it was 20 years ago? I would say no. Is Australia a less equal place? I would say no. But where is a discussion about this?

If we are going to have a discussion about English language testing, to be more productive let us have a discussion about where we are at in Australia at the moment, the problems that we confront, the issues that we confront, the issues that we are dealing with and what it really means. If you look at America as a society, it has a very powerful national narrative. When people come from all parts of the globe to become part of America, there is a very powerful narrative that they become part of. What I see in terms of this sort of legislation that has been put forward is the bandaid measures. For some reason that is still ill-defined, citizenship permanent residency requirements are now going to be shifted from two to four years. But where is the national narrative? Where is the national discussion? We are in the midst of the great culture wars at the present time. Where is the freedom of expression when a unique program called *The Glass House* gets taken off television? Where is that discussion about where we are as a society?

A society is defined by its narrative. It is defined by how it defines itself. At the present time I would argue that, particularly as a consequence of globalisation, as a consequence of market forces and how they have affected our communities, many people are very uncertain about what their society represents. We are fiddling around at the edges with this and with this sort of legislation. Worse than that, we are creating that great thing called the wedge—a wedge that wedges some portions of the community off against other portions of the community.

When I first came into this place in 1999, in my first speech I spoke about my great fear that what governments would do in order to win government and to hold government was to wedge sections of the community against each other. I had seen some of the worst examples of that with the rise of Pauline Hanson. In those days my electorate represented Dandenong and areas like Springvale South, Noble Park and Keysborough. These were areas that were very heavily multicultural. In fact, we had areas that represented people from 142 different countries. The interesting thing about it, before Ms Hanson came along, in my view was that that area operated better than anywhere else in the world in terms of tolerance, in terms of acceptance, in terms of understanding, in terms of them becoming part of our society. Yet Ms Hanson came out and basically said that, because people come from a different part of the world with different ideas and different cultures and different backgrounds, they should be stigmatised and demonised. So people I knew who did not have the name Smith or Jones or Peters but maybe Truong or Nguyen or something else were being vilified and abused while walking down the streets of Dandenong, one of the most multicultural electorates in the country.

It is up to us, in national government, as the legislators to set the national tone in this place to define what is acceptable as a community standard but also to help define who we are as a people, what we are as a country and

where we go as a country. I certainly believe that we have failed in the past 10 years. We have gone from being an outward-looking country, with an understanding that we live in a changing world and have to have tolerance and understanding, to a more inward-looking society. We can see the costs of that within our community through the divisions that exist.

These are the issues that need to be addressed by this government but which have not been addressed, and in fact they have been exacerbated by some of the provisions in the bill that I see here, because, again, what market signal is being sent? What rational justification is there for extending permanent residency from two to four years? There are some tinkering amendments which allow people covered under various sections of the act to gain citizenship, and I welcome them. But there is another group, covered under section 18, which affects a lot of people of Maltese background, who have not been affected and whose conditions have not been changed. That is one of the amendments that we have moved. I have about 1,200 people of Maltese background who live in my electorate. So if the government is serious about remedying these things, even with a bandaid measure like this, why hasn't that been addressed? I say to the government: when you go down the path of creating division in the community, however well constructed the language is, however well structured it is, you rend the fabric of our community. I know, and my residents tell me and a lot of other people I know tell me, that Australia is a less fair place.

Our national anthem says: 'Advance Australia Fair'. What a lot of people are saying in our country is that it is 'advance Australia less fair', because it is a less fair place than it was 20 years ago. What this government sends in a subliminal way through the community is that there are some people who are less equal than others, depending on where they come from or on what religious belief they have, contrary to the rhetoric that you read in the minister's discussion paper. That is the message that is clearly being sent to those people in those communities. Governments are here to lead. If there are fears within a community, governments are here to assuage those fears and to unite a community, because any government knows that a government and a country that are disunited cannot function as a country, cannot become the great country that it could become. Australia is a great country, and it can become a much greater country.

This bill is a bandaid measure in its tinkering around the edges; it does not address the very serious issues that we confront. We need to have a proper national debate about what it really means to be an Australian and about where we are really going as a country, and the people who come from different parts of the world need to be part of that. They do not need to be excluded. They do not need to be subliminally told that they are going to be excluded. They need to be involved. If we can do that, then instead of facing the divisions that we saw in the Cronulla riots I believe we will have a more united country, a fairer country, a more Australian country. I look forward to the day when that debate happens in this place.

Mr EDWARDS (Cowan) (10.39 am)—I welcome the opportunity to involve myself in this important debate on the Australian Citizenship Bill 2005 and the Australian Citizenship (Transitionals and Consequentials) Bill 2005. I want to start off by congratulating the member for Holt on his very strong, impassioned words. This is an issue that does evoke emotion and passion. How can we possibly talk about these bills without having strong feelings about the issues that are involved in the discussion paper, which the minister circulated, and indeed the bills? Like the previous member who spoke, I have over nearly 30 years, through service in state parliament, local government and federal parliament, attended countless citizenship ceremonies. Indeed, as far as I am concerned, they have always been the highlight of my political life over the years. The cities of Stirling, Wanneroo, Joondalup, Swan and Bayswater all conduct wonderful services and ceremonies. I suppose the ones I most attend these days are those of the City of Wanneroo, which over many years has been one of the leading local authorities when it comes to citizenship ceremonies, particularly with regard to the one they hold outdoors every year on Australia Day—and what more fitting day could there possibly be to take out Australian citizenship on than Australia Day?

One of the other things that I do, like a lot of other members, is to attend many schools and talk to students about a whole range of issues. One of the things that has come to the fore of late in those discussions has been young people themselves wanting to talk about citizenship. One of the questions that inevitably a member of parliament is asked by these young people—and I am sure that I am no Robinson Crusoe here—is: 'What is it that got you involved in politics?' I explain to them that I had been involved in local government for some years and in state government for some years when I gave it away in the mid-nineties. They say, 'What got you back involved?' It was the same matter raised by the member for Holt—it was the issues being raised by Pauline Hanson, the way in which those issues were being raised and the fact that the current government and the current Prime Minister seemed to be happy for Pauline Hanson to raise those issues and for that wedge type debate to be had in the community. That made me angry, because I grew up with a lot of new Australians, as they were called in those days: Italians, Macedonians, Slavs and Greeks—people who came from a whole range of European countries; people whose parents could not speak English but who learnt through their children. There were young blokes who came from Italy who went to school with us who had never seen a football or a cricket ball, and many of

them ended up representing the state teams in Western Australia. That is where many of them learned their Australian values—through the field of sport—and that is where they were able to teach their parents many of the values of Australia.

I mentioned that I attend a number of schools to talk to students. I was recently at Morley Senior High School in my electorate. I met with a group of young people there and we talked about a whole range of issues. I met one particular young girl who is a Muslim. Following the meeting I had with that group she wrote to me. But I also received a letter from the school following my visit. They said:

Dear Graham,

Thank you again for a great breakfast chat. The students greatly appreciated your views and the insight you gave regarding political life. You made a wonderful impression on all of the students, especially ...—

and I have taken her name out—

the Muslim girl you met at the breakfast. I believe she has sent you a letter describing her life as an Australian practicing Muslim. We are very proud of ...—

this young girl—

and would like to thank you for your support.

I want to read into the *Hansard* what this young girl wrote to me, because I think it is so pertinent to this debate. She said:

Dear Mr ... Edwards,

... I am 17 years old and completing my secondary studies at Morley Senior High School in Perth.

I arrived in Australia in the year 1994 from Pakistan. I am a practicing Muslim of Afghan origin. I passionately believe that I am one of the very few lucky young women to grow up in a country so multicultural, diverse and modern as Australia. I have been brought up in a country alien to me but I have learned to appreciate and embrace the values and beliefs of the Australian way of life. On a regular basis, I might see images and stories of poverty in Sudan, hunger in Zimbabwe and war in Iraq and Afghanistan. I watch with sadness and disbelief, I try to grip these images and come to terms with what is happening around me, then I think to myself how lucky I am to be in Australia. If only others were given a fair chance and had the opportunities and prospects I have today.

However, I have faced many obstacles in my life as have many other Muslim men and women. Although I am a practicing Muslim, I do not wear the veil. When I meet people, I am frequently told I do not appear a stereotypic Muslim; I would have been guessed European or Persian. It is difficult to avoid the parochial views towards Muslim men and women. Even today, marginalisation of the Muslim race is evident and stronger than ever before. It comes as no surprise to me anymore hearing the words Islam or Muslim being associated with topics of terrorism, violence, chaos and corruption. In fact, I'm surprised when the connection is not made!

I will come back shortly to that statement. Her letter continues:

There does exist a minority of extreme Islamists among the Muslim race but why should everyone be judged on the basis of a few people's actions. This is not only apparent in the Muslim population, but also among the Jewish, Christian and Hindu communities.

Another issue I have given a lot of thought to is the government's intention of implementing new citizenship laws. By sitting a short test comprising of general knowledge and Australian culture, I do not understand the underlying purpose of the test. It is argued that "foreigners" may come to terms with Australian morals and should be aware of the values and attitudes upheld in the Australian society. From my perspective as a young Australian, I believe this is sending an unclear and impractical view of Australia. I've placed myself in others shoes and thought that if I were a migrant and intended on living in Australia, the idea of a test creates feelings of insecurity and mistrust towards the Australian community. To me values cannot be forced upon someone or tested; they are developed from personal experiences and teachings. I do not think I would have been the same person I am if I had to be educated about Australian culture before I came to terms with the Australian way of life. Whatever happened to the Australian value of *fair go*?

I can clearly remember Peter Costello's attitudes towards the issue earlier this year. He claimed that if you don't believe in democracy and aren't prepared to embrace the Australian culture, don't come here. It came as a shock to me at first. When I thought about his speech even more I was confused and hurt, angry with him and ashamed of my cultural and religious beliefs. But then further thought made me ask why I should have to discard of my religious beliefs or prevent them from shaping my opinion? Why should my own moral standings be reduced so that others become content? I think it is inappropriate to recommend the rejection of one's beliefs simply because he lives on different land and territory. Maybe a better response to the situation would have been a recommendation of uniting the person's own beliefs and the beliefs and values of Australia. I was positioned to view Mr. Costello's statement as an obvious attack on the Islamic population and I do not believe I was alone in thinking this.

I sincerely hope for an improved and more appropriate approach to the arrival of immigrants into Australia. Everyone should have the opportunity to demonstrate their full potential and talents in a country so expansive and open to integration and growth. After all, isn't that what Australians stand for, equality? I, myself came to Australia at the age of five and could not speak a

word of English. I am 17 now and strive eagerly towards University degrees and a full time career. I have complete trust and belief that I may achieve anything I stand for and who could ask for more in a country so willing to acknowledge my intentions!

Thank You for your attention.

I was very impressed and I thought it was an incredibly strong letter. It was an incredibly mature letter for a young girl to have written. I can understand exactly why the year 12 coordinator said, when the school wrote to me, that they were very proud of this young lady. I want to go back to a sentence from this letter. I will repeat it:

It comes as no surprise to me anymore hearing the words Islam or Muslim being associated with topics of terrorism, violence, chaos and corruption. In fact, I am surprised when the connection is not made!

I was going past the library the other day, and I noticed a display of books. I stopped to have a second look because, in that display, there were books titled: *Holy Terror*; *7/7: The London Bombings*; *Terror on the Internet*; *The Koran for Dummies*; and *The Osama bin Laden I know*.

In with those books about terrorism were: *Basic Principles of Islam and Muslims: Their Religious Beliefs and Practices*. I wonder why it is that books of that mixture would be on display. I have seen similar sorts of books in other book shops, all together and on display. I could not help but think back to the words of that young girl about the association between Islam and terrorism. She said, and I repeat: 'In fact, I am surprised when the connection is not made.' I just wonder how it is possible to debate the issues and not to be influenced by the connection to Muslims in displays such as these. I do not think they are intentionally put together to associate Muslims with terrorists, but it seems to me that the connection is being made—perhaps subconsciously, but it is certainly being made. It was a bit of lesson for me to think of her words and then to think of that display.

When I speak at citizenship ceremonies I say to people that, just because they have come from different countries, it does not mean they have to discard their heritage, their customs or their religion but I do ask people to bring their customs, heritage and other beliefs and fold them into the country that is Australia. Australia is a diverse nation. Our strength as a nation is drawn from that diversity. We should celebrate that diversity and all that comes with it.

I think we should also be cautious about playing the wedge and playing politics with these issues, which go to the basic, everyday lifestyle of Australians. We need balance and open debate but, at the end of the day, we also need compassion, understanding, support and encouragement for those people who, often, have come to Australia in incredibly difficult and dangerous circumstances.

The young lady whose letter I read mentioned the phrase 'fair go'. I always say at our citizenship ceremonies that, if Australia stands for one thing, it is for the thing that I was brought up to believe in most about our nation—that is, a fair go. I was always taught as a young bloke that you never ask for a fair go unless you are prepared to give a fair go. That is the important thing about being Australian. Unfortunately, the ethos and the importance of a fair go seems to have been lost in today's Australia and in today's society. If we could get back that whole approach to a fair go—giving a fair go and asking for a fair go—we would be much richer and much better off as a nation.

One of the things that we have to ensure that we stay away from is the politicisation of these issues. By politicising these issues, we are tossing away any chance of a fair go for some of these people whose future and whose children's future lies in Australia. Australia must be tolerant. We must be compassionate, we must be strong, we must be patient and, above all, we must not lose sight of the fact that our greatest strength as a nation is our diversity. I support the amendment.

Mr ROBB (Goldstein—Parliamentary Secretary to the Minister for Immigration and Multicultural Affairs) (10.56 am)—In summing up, I would like to thank all those who have made a contribution to this debate over the last couple of days. It has been an extensive debate; it is an important bill. The Australian Citizenship Bill 2005 and the Australian Citizenship (Transitionals and Consequentials) Bill 2005 will replace the Australian Citizenship Act 1948. The bills deliver better structured, clearer and more accessible Australian citizenship law, drafted in the language of the 21st century. In this regard the second body of improvements has stemmed from the original Australian Citizenship Council report. The major and significant response to that report was embodied in amendments in 2002.

The changes maintain and reinforce the notion that Australian citizenship is a positive and unifying force and that Australian citizenship lies at the heart of our national identity. It gives a strong sense of who we are and our place in the world. Importantly, citizenship allows people who come to Australia to fully participate in Australian life and to take advantage of the great opportunity this country provides. Australia is also the richer for the unique experiences and perspectives which migrants bring to our country. Diversity makes us stronger, but only when

those who bring this important diversity also support the values—our values—which are the glue that maintains and has sustained such a cohesive society.

The act of becoming an Australian citizen is a significant one. It involves a formal commitment to Australia and its people. Australian citizenship brings with it privileges but also responsibilities. Importantly, the bills retain the principle that Australian citizenship is a privilege and not a right. This is underpinned by the retention of the existing discretion to refuse an application for citizenship despite the applicant being eligible to be approved. This has been a consistent feature of naturalisation legislation through the Commonwealth for over 100 years and reflects the role of the state in determining citizenship and that it is a strong bipartisan matter. Australian citizenship is a very valuable status. It cannot and should not be undervalued.

The risk of fraud is continual. A major change in this bill allows the consideration to be given to the revocation of Australian citizenship where a third party has been convicted of fraud in relation to an application. Following amendments made by this bill, it will be possible to revoke citizenship where a person has obtained approval to become a citizen on the basis of third-party fraud. The revocation provisions have also been strengthened to allow for revocation for a conviction of a serious criminal offence committed at any time before the person becomes an Australian citizen.

Applicants for citizenship by descent are required to have an Australian citizen parent at the time of their birth. Importantly, a new provision makes explicit that a person born overseas who did not have an Australian citizen parent at the time of their birth will be taken never to have been an Australian citizen. One other important area of change to the citizenship by descent provisions is the removal of the age limit. Currently persons must apply for citizenship by descent before they turn 25. The Australian government recognises that there are some people who have an entitlement to citizenship by descent but have not been registered for whatever reason.

The inclusion of a personal identifiers framework is an essential addition to our citizenship legislation. It will increase the government's ability to authenticate and identify a person making an application for Australian citizenship and to combat identity and document fraud in the citizenship program. The bill explicitly states that a person cannot be approved for Australian citizenship unless there is satisfaction as to their identity. Another significant measure aimed at safeguarding Australian citizenship is allowing for an application to be refused if the person is assessed as being a direct or indirect threat to the security of our nation. This provision applies to all applications, whether a person is applying to become a citizen by descent, by conferral or by resumption of their Australian citizenship.

On the matter of resumption of Australian citizenship, the Australian government recognises that, over the years, many people have lost their Australian citizenship—some without knowing because of the operation of Australian law, while others have knowingly renounced their allegiance to Australia. The government has amended the legislation to provide that the only requirement for those people to resume their citizenship is that they be of good character and, as indicated above, that their identity can be confirmed. Provisions for resumption by people who renounce their citizenship were first introduced by this government in 2002. The removal of the age limit represents a very significant concession. Citizenship has been a powerful force in the development of this nation, and these bills will ensure it continues to be so.

I now turn to some of the points raised during the debate on these bills over the last couple of days. Firstly, there is a proposal in the current bill to increase residency requirements to three years and an amendment foreshadowed by the government to increase that to four years. This proposal to increase residency requirements to four years from the current two years has been raised, in one way or another, by nearly all speakers. The existing bill proposes an increase in the residential qualifying period of not less than two years in Australia in the previous five years to a period of three years. However, the government will propose a further amendment, which has been circulated, which proposes new residency requirements of a minimum of four years before being able to apply for Australian citizenship.

These new requirements recognise the changes in the migration program over the past four years. Increasing numbers of people spent significant periods of time in Australia as temporary residents prior to becoming permanent residents. This is why only one of the four years spent in Australia, as proposed in the amendment, will need to be as a permanent resident. This will also include those who have been here on temporary protection visas; they will qualify for three of the four years for citizenship. So three of the four years residency will be a requirement before people will be eligible to apply for citizenship.

Also, absences from Australia of up to 12 months will be allowed during the four-year period, but people will not be allowed to spend more than three months away from Australia in the year before applying for citizenship. People who are already permanent residents will only be required to meet the current two-year residential qualify-

ing period provided they apply for citizenship within three years of the commencement of the act. This is not intended to be retrospective in that sense.

They are the mechanics of what is proposed. This measure has come in for particular attention by those opposite during the course of this debate. I must say I have found the arguments that I have listened to by those opposite against extending the residential qualifying period to four years to be totally unconvincing. The opposition are quite happy to support an increase from two to three years; however, the proposal to take the period from two to four years instead of two to three has brought, in the main, a sort of 'shock, horror!' response, which sounds to me more like playing to an audience than a response based on any plausible argument.

Opposition members interjecting—

The DEPUTY SPEAKER (Hon. BK Bishop)—Order! The parliamentary secretary is entitled to sum up and to pay attention to the arguments that were raised by the opposition and other members in the House. I think it is reasonable that you listen to his response.

Mr ROBB—There have been cries of 'marginalising people', 'putting up the barriers', 'discriminating against new arrivals' and 'no new national security arguments to justify the change'. All of these statements that I have heard in the last two days ring pretty hollow when most of those speakers in the next breath have waxed lyrical about the significance of citizenship and referred to the importance of rights and responsibility. The comments also ring pretty hollow when all speakers totally ignored the principal argument for extending the residential period to three years advanced in the second reading speech by my predecessor, the member for Parkes. The principal reason for going from two to three years advanced by the member for Parkes has been ignored in every contribution made by those opposite over the last two days. It was the sole reason advanced by me in September when announcing the intention to extend the resident requirement to four years. So the sole reason I have advanced for extending it to four years and the principal reason advanced by the member for Parkes when he made the second reading speech has been ignored in every contribution made by those opposite who have opposed the two to four year proposition. In the second reading speech, my colleague the member for Parkes said:

The increase in the residential qualifying period will allow more time for new arrivals to become familiar with the Australian way of life and the values to which they will need to commit as citizens.

He went on:

It will also strengthen the integrity of the citizenship process by giving more time for the identification of people who may represent a risk to Australia's security.

So there are reasons. The principal reason is to give people more time to understand the Australian way of life. The member for Watson, in his contribution, spent 20 of his 30 minutes entirely focused on the national security part of that argument, as though that was the only reason. It is still a legitimate reason, a good reason, which you supported, to go from two to three years, but you spent all your time on the national security argument as to why it should not go from three to four or, in this case, in total from two to four. That was conveniently ignoring, I think, the critical issue of how long it takes for new arrivals to understand the way of life they are signing up to when they make the very serious pledge of citizenship. If, as all those opposite claimed, they believe so strongly—as I am sure they do—in the significance of citizenship and the commitment that goes with it, why did every one of them completely ignore any consideration of the time needed for those seeking citizenship to understand just what they are committing to? That is the crux of the argument for going from two to four years.

I can assure the House that the sole motivation in advocating an increase from three to four years, on subsequent consideration by the government of these changes for the resident requirement, was to do with new arrivals, especially those from new and emerging communities, who nowadays are often from countries with cultures far removed from the Australian culture. Over 200,000 people in the last 10 years have come from the Middle East and Africa. It makes no reflection on the merits of any culture. It is just a fact that it is more difficult if you come not from Europe but from other cultures that are far removed from the Australian culture to get some understanding of what it is that makes Australia tick—what is the way of life that you are committing to as you take that pledge.

Of course many people who come from cultures far removed from the Australian culture do not have English language skills when they arrive, and they need sufficient opportunity to understand exactly what they are committing to when they make the citizenship pledge. When people take out citizenship, they are committing to a way of life. As the new citizenship ads say—and these ads encouraging people to take out citizenship were a matter of some discussion in the debate over the last two days—citizenship is more than just a ceremony. And that is the point: it is much more than just a ceremony; it is a huge commitment. When people take the pledge, they need to have the English language skills to understand exactly what they are committing to and they have to have a sense

of how Australia works—Australian values and the essence of the Australian way of life—because they are committing to signing up to that way of life.

A lot of my motivation for recommending these proposals to the cabinet was my experience moving around every state across dozens of new and emerging communities and seeing the difficulties some of these people are experiencing in just coming to grips with the new environment. They are highly motivated and they are going to make great citizens, but they need the opportunity and the time, if they are going to commit to our way of life, to get a true sense of Australia. Two years is certainly inadequate. Three years is very difficult. Four years, in my view, is an absolute minimum. When you look around the world, four years is pretty much a minimum. It is not unreasonable to expect these people to have a reasonable opportunity to get a real sense of what it is to be Australian—what it is to make a contribution, what it is to commit to the Australian way of life.

In fact what I have found in the last few weeks since announcing our intention to move a further amendment to take this to four years is that a number of African community members have said to me that they have a sense of some relief, that they have been feeling under pressure with a two-year requirement to understand Australia within that two-year period. They are saying they feel some relief that there is not an expectation for them to acquire a sense of the Australian way of life and take out citizenship within a two-year period. I am confident that this extension is a sensible proposal that will only serve to further enhance the effectiveness and the privilege of citizenship.

On another matter, the opposition has moved an amendment to provide access to citizenship for children born to Maltese citizens who had previously been Australian citizens. Under the new act, all people who were born in Australia and voluntarily renounced their Australian citizenship will be able to resume their citizenship, subject to character and national security considerations and verification of their identity. I think that is an important and a major provision in the bill which obviously is supported by those opposite.

However, Australian citizenship is a privilege; it is not a right. Provision has not been made for the children of the Maltese citizens who had previously been Australian citizens. In the government's view, they do not have sufficient connection with Australia for automatic provision to be made for them. Their parents consciously renounced Australian citizenship and at the time of doing so could have had no expectation of being able to resume it without migrating to Australia. The Senate Legal and Constitutional Legislation Committee, in their inquiry into the bills, accepted the proposed provisions, stating:

The Committee considers that this matter has been fully considered by the Government over a number of years and that renunciation is properly regarded as a more significant and conscious relinquishing of the bonds of allegiance to Australia.

That was in contrast to the many people who had unconsciously lost Australian citizenship under section 17, which of course has now been withdrawn from the bill. However, these people under section 18 had consciously renounced their citizenship and, according to the committee, it did present itself as a more significant and conscious relinquishing of the bonds of allegiance to Australia.

So we have made a major concession and a proper concession to all of those Maltese citizens who had previously been Australian citizens—that is an important provision—but not for their children, who were not born here, have never been in Australia and have been Maltese citizens from birth. Importantly, though, there is still a path for such children to gain citizenship if they so wish. Presumably either of their parents who seek to renew their Australian citizenship, as Australian citizens, can sponsor their non-citizen children. (*Time expired*)

The DEPUTY SPEAKER (Hon. BK Bishop)—The original question was that this bill be now read a second time. To this the honourable member for Watson has moved, as an amendment, that all words after 'that' be omitted with a view to substituting other words. The immediate question is that the words proposed to be omitted stand part of the question.

Question agreed to.

Original question agreed to.

Bill read a second time.

A division having been called in the House of Representatives—

Sitting suspended from 11.17 am to 11.37 am

AUSTRALIAN CITIZENSHIP BILL 2005

Consideration in Detail

Bill—by leave—taken as a whole.

Mr BURKE (Watson) (11.37 am)—I move the following opposition amendment circulated in my name:

Clause 21, page 18 (line 2), after "17", insert "or 18".

Some of these issues have already been raised in the right of reply by the Parliamentary Secretary to the Minister for Immigration and Multicultural Affairs. This amendment, while not confined explicitly to the Maltese community, effectively impacts upon the Maltese community. The government has been willing to regularise and fix the citizenship problems for the parents who were forced to relinquish their citizenship, but it has chosen not to do so for their children. For those people covered under section 17 the situation is fixed for their children, but for those people covered under section 18 it is not. No credible argument was offered in that right of reply to explain the reason for that distinction.

Labor believes we are opening up a ludicrous situation where the argument from the government is, 'They don't have a connection to Australia,' yet their parents have enough of a connection to Australia that we are moving special legislation to try to fix their citizenship. What is their connection to Australia? Labor calls it 'mum and dad'. That is the connection to Australia. I know that the government is having trouble reconciling just how close that nexus is, but Labor views it as a particularly close nexus. I will leave it to the member for Gorton and the member for Prospect to raise some specific examples they have seen in the Maltese communities in their own electorates.

We should not be opening up a ludicrous position simply to cover for an error made by a previous minister. This was an announcement made in 2004, as I understand it, by the minister who is now the Minister for Vocational and Technical Education, who made a gaffe and said the government would fix it for one but not for another. It is not fair to somebody who is now running pretty much half the operations of the Department of Immigration and Multicultural Affairs to have to cover for a junior minister who mucked things up. That is the only reason we are in this situation now. To be running an argument in the Parliament of Australia that there is not a sufficient nexus, when the nexus is called mum and dad, is a ludicrous situation that Labor oppose. We therefore seek what is a pretty modest amendment, I have to say: if we are fixing it for the parents, let us fix it for the kids in the same hit.

Mr ROBB (Goldstein—Parliamentary Secretary to the Minister for Immigration and Multicultural Affairs) (11.40 am)—I do not wish to add a great deal to my comments in summing up a few minutes ago. I would just like, though, to make the point that the government sees—and also, as I said earlier, the Senate Legal and Constitutional Legislation Committee in its inquiry into these bills saw—a very clear distinction between those people affected by section 17 of the Australian Citizenship Act 1948 and those affected by section 18. The fact is that, for those who had been previously affected by section 17, it did not allow Australians to acquire another nationality and retain their Australian citizenship. Many people unknowingly lost their citizenship under that section, together with the right of access to Australian citizenship for their children, as a result of the application of Australian law. The impact of section 17 was recognised appropriately and addressed long ago, in 1984, and addressed conclusively with the repeal of that section by the parliament in 2002.

However, the circumstances of people who ceased to be Australian citizens under section 18 are totally different. It is a totally different matter. In this case, cessation of Australian citizenship was the result of an application. People had to physically make an application. In the case of former citizens in Malta, it was the result of a conscious decision of the individual in response to the laws of Malta. For all of those who took a conscious decision, we have sought appropriately in this legislation, and supported by those opposite, to redress that, and they will have the opportunity to take out Australian citizenship.

But for their children—who have never been here, who have never been Australian citizens—we think that it is only appropriate that there be a conscious decision by those children to establish some real bonds with Australia if they are going to take out Australian citizenship; not to live in Malta, never come back to Australia and just go down to the embassy and get citizenship. But if they wish, these children who have never had a bond with Australia, who were not born here—those who were born here will be eligible for citizenship—will have a pathway if they wish to be Australian citizens and their parents have taken out citizenship. They have to come to Australia and apply for citizenship. There is a pathway. If they wish to establish a bond then that is a good thing, and there is an opportunity here to do it. That is why we think—and the Senate committee thought—the legislation goes far enough, and it still provides an opportunity for those children who genuinely wish to become an Australian citizen in due course. They have to establish some formal bond with Australia to do that.

Mr BOWEN (Prospect) (11.43 am)—I would like to strongly support the amendment moved by the honourable member for Watson and express my disappointment in the remarks just made by the Parliamentary Secretary to the Minister for Immigration and Multicultural Affairs. I must say that many of those children of people who revoked their citizenship under section 18 will have found the parliamentary secretary's contribution particularly insulting and disappointing, to hear that they have no bond with Australia. They will say they do have a bond with Australia, and they will be very disappointed to hear a senior representative of this government say they have no

bond. Many of them have spent a lot of time in Australia. It is not true to say that they have left Australia and have no bond with Australia. They will be particularly insulted to hear that contribution.

The parliamentary secretary says: 'Well, they revoked their citizenship, and therefore they cut their links with Australia.' It is worth remembering the circumstances under which they were forced to do so. Under Maltese law at that time, they would not have been allowed to own property in Malta. They would not have been allowed to study in Malta. They would not have been allowed to work for the Maltese government.

The Maltese community makes a great contribution to this nation and has done for many years, but it is a community which still feels particular links with Malta. There are many Maltese people who move back and forth on a temporary basis between Malta and Australia. For the people who were forced into this position, thankfully the Maltese government have now changed that law. The Maltese government have seen the error of their ways; they have seen that it is possible to have a great and abiding loyalty to Australia and also a loyalty to Malta, but the Australian government is failing to make this correction. The parliamentary secretary says: 'We have fixed it for people who revoke their citizenship. It's okay if somebody revoked their citizenship—they can get it back. But we're going to exclude the innocent son or daughter who had no say in whether their parents revoked their citizenship. If their parents lost their citizenship automatically, that is okay, but if their parents took a deliberate decision, forced onto them by Maltese law, then they are going to be excluded.'

The amendment moved by my honourable friend the member for Watson is a very simple one; it is not complex: insert 'or 18'. It is only two words, but those two words would have a great impact for those 2,000 or 3,000 Maltese citizens who are very keen to see their existing bond with Australia certified and restored by citizenship. The parliamentary secretary's predecessor and previous Minister for Citizenship and Multicultural Affairs, the member for Parkes, talked in his second reading speech about section 17 and made no mention of section 18. However, his predecessor, the minister for citizenship before him, the member for Moreton, announced that the government would fix section 18. He went out in a fanfare and was welcomed by the Maltese community. He said it in a speech at the Sydney Institute and no doubt sent out press releases to the Maltese papers. He said, 'We will fix this for the children of people who renounced their citizenship under section 18.'

His successors, the member for Parkes and the member for Goldstein, have reneged on that commitment to the Maltese people for no good reason. They draw the false distinction and the false dichotomy that the children of people who lost their citizenship under section 17 can get their citizenship back but the children of people who revoked it under section 18 cannot. It is a false distinction; it is a disappointing one. The Maltese community in Australia—Australian-Maltese people—have a right to be very disappointed in this government and to say, 'We have been let down and, frankly, we have been misled, because we were told by a minister in this government that this would be fixed.'

You would think from the parliamentary secretary's contribution that these people are going to be some sort of a burden or a drain on Australian society if they are granted Australian citizenship. I say I have yet to find a Maltese-Australian who is a burden or a drain on Australia. Go and talk to the Maltese chicken farmers in my electorate and, no doubt, the electorate of the member for Gorton who have been working in Australia for 40 or 50 years and hear about their cousins or nephews and nieces who have been denied Australian citizenship. (*Time expired*)

Mr BRENDAN O'CONNOR (Gorton) (11.48 am)—I associate myself with the comments made by the member for Watson and the member for Prospect. There seems no logic to this. There is no common sense in the government's position when they suggest that they will fix the anomaly in sections 17 and 18 with respect to the parents and not fix the existing anomaly for the children of parents who come under those sections. I have been dealing with the Maltese community in my own electorate. I have had people contacting me from Malta who were born here and are seeking to come back here as citizens.

We should understand the history of this matter. As the member for Prospect indicated, people who were born here and went back to Malta were under duress when they chose to relinquish their Australian citizenship so they could remain in Malta. That law was a bad law. That was an onerous and unfair law in Malta, and it has been rectified. In 2004, the former minister for citizenship indicated that they would fix this anomaly for the parents who were coerced into relinquishing their citizenship so they could remain in Malta and for their children. The parliamentary secretary today has indicated that he will not do so because those children have no association with this country. As I think the member for Watson quite rightly said, could there be a stronger bond than being children of Australian citizens or of parents who were born in this country and are eligible to become Australian citizens? How can children who are minors be asked to wait and not be able to automatically become citizens when their parents are able to become citizens?

So I ask the parliamentary secretary if he believes that Lillian and Steve Schembri's children, Glenn, Clint and Cherece—who are going to school in Kings Park, a suburb in my electorate—are not suitable to become Australia-

lian citizens? Could he explain to those parents why they are in a position to be eligible for citizenship but their three children are not? It is an illogical position for the government to suggest that it cannot accept the amendment moved by the member for Watson to include section 18 in clause 21 of the bill. Section 18 should be inserted. As I said in my first contribution on this matter, we are happy that the government has chosen to remove the anomaly that exists between those who renounce their citizenship in order to acquire and those renounced in order to obtain. That is, we are happy that that anomaly in sections 17 and 18 will be rectified once this bill has been enacted, but we are not happy that the government has stopped short of removing all anomalies by treating the children of these two categories differently. There should be no distinction in the way in which the government treats these children that are residing in this country. Indeed, we realised there was an unfair provision with respect to the parents. Through this legislation, that will now be rectified but the one relating to the children will not be.

So I have to return to my electorate and explain to the Maltese community there that, whilst the government has fulfilled its undertaking to rectify the anomaly between sections 17 and 18 for the parents, it will not fix it for the children. Those parents who were forced to relinquish their citizenship because of an unfair law in Malta and who have returned here—Australian born, like Steve and Lillian Schembri—cannot tell their children that they can become Australian citizens like their parents. I think that is an awful situation to place those parents in, and I think the government should attend to this matter and fix the anomaly—or go out and explain to the Maltese community why it has decided to break its word to that community, because it is an absolute travesty and a disgraceful and contemptuous attitude towards the Maltese community in this country.

Question unresolved.

The DEPUTY SPEAKER (Mr Quick)—As the question is unresolved, in accordance with standing order 188, the question will be included in the report on the bill to the House.

Mr ROBB (Goldstein—Parliamentary Secretary to the Minister for Immigration and Multicultural Affairs) (11.54 am)—by leave—I present a supplementary explanatory memorandum to the bill. I move government amendments (1) to (76):

- (1) Preamble, page 1 (line 4), before “formal”, insert “full and”.
- (2) Clause 2, page 2 (table item 2), omit “3”, substitute “2A”.
- (3) Page 3 (after line 3), after clause 2, insert:

2A Simplified outline

The following is a simplified outline of this Act:

This Act sets out how you become an Australian citizen, the circumstances in which you may cease to be a citizen and some other matters related to citizenship.

Generally, you become an Australian citizen automatically if you are born in Australia and one or both of your parents are Australian citizens or permanent residents when you are born.

There are some other, less common, ways of automatically becoming a citizen.

Division 1 of Part 2 has details about acquiring citizenship automatically.

Also, if you were a citizen under the old Act immediately before the day that this section commences, you will continue to be a citizen: see subsection 4(1).

What this Act covers

Becoming an Australian citizen *Acquiring citizenship automatically*

There are a range of ways you can become an Australian citizen.

The other way to become an Australian citizen is to apply to the Minister. This is covered by Division 2 of Part 2. There are 4 situations in which you can apply for citizenship.

The first is citizenship by descent. Generally, you would apply for this if you were born outside Australia and one or both of your parents were Australian citizens when you were born. Citizenship by descent is covered by Subdivision A.

The second is citizenship for persons adopted in accordance with the Hague Convention on Intercountry Adoption: see Subdivision AA.

The third is citizenship by conferral. Generally, you would need to be a permanent resident and willing to make a pledge of commitment to apply for citizenship by conferral. There are some less common circumstances in which you can apply for citizenship by conferral. Citizenship by conferral is covered by Subdivision B.

The fourth is resuming citizenship. In certain cases where you previously ceased to be an Australian citizen, you can apply for your citizenship to resume. Resuming citizenship is covered by Subdivision C.

The Minister must be satisfied of your identity for you to acquire citizenship by application. Rules about identification are in Division 5 of Part 2.

The Minister may be required to refuse your application on national security grounds.

Acquiring citizenship by application

There are a number of ways that you can cease to be an Australian citizen.

You can renounce your citizenship.

If you did not automatically become an Australian citizen, the Minister can revoke your citizenship in certain circumstances.

There are some other, less common, ways of ceasing to be a citizen.

Division 3 of Part 2 has details about ceasing to be a citizen.

Ceasing to be an Australian citizen

You can apply to the Minister for evidence of your Australian citizenship. This is covered by Division 4 of Part 2.

Evidence that a person is an Australian citizen

- (4) Clause 3, page 3 (line 18), omit "3", substitute "2A".
- (5) Clause 3, page 3 (lines 20 and 21), after "is a personal identifier", insert "provided under Division 5 of Part 2".
- (6) Clause 3, page 3 (line 21), after "provide", insert "unauthorised".
- (7) Clause 3, page 3 (after line 21), at the end of the definition of *disclose*, add:
 Note: Section 42 deals with authorised access to identifying information.
- (8) Clause 3, page 3 (before line 22), before the definition of *foreign law*, insert:
entrusted person means:
 - (a) the Secretary of the Department; or
 - (b) an APS employee in the Department; or
 - (c) a person engaged under section 74 of the *Public Service Act 1999* by the Secretary of the Department; or
 - (d) a person engaged by the Commonwealth, the Minister, the Secretary of the Department, or by an APS employee in the Department, to do work for the purposes of this Act or the regulations or of the *Migration Act 1958* or the regulations made under that Act.

- (9) Clause 3, page 3 (line 24), after “identifier”, insert “provided under Division 5 of Part 2”.
- (10) Clause 3, page 3 (line 25), after “from any”, insert “such”.
- (11) Clause 3, page 3 (line 27), after “analysing any”, insert “such”.
- (12) Clause 3, page 3 (line 28), after “from any”, insert “such”.
- (13) Clause 3, page 4 (line 1), after “any”, insert “such”.
- (14) Clause 3, page 4 (line 2), after “from any”, insert “such”.
- (15) Clause 3, page 4 (after line 6), after the definition of *identifying information*, insert:

You must make an application to become an Australian citizen. The Minister must approve or refuse you becoming an Australian citizen.

You must be eligible to be an Australian citizen to be approved.

The Minister may be required to refuse your application on grounds relating to:

national security offence means:

- (a) an offence against Part II or VII of the *Crimes Act 1914*; or
- (b) an offence against Division 72 of the *Criminal Code*; or
- (c) an offence against Part 5.1, 5.2 or 5.3 of the *Criminal Code*; or
- (d) an offence against the *Australian Security Intelligence Organisation Act 1979*; or
- (e) an offence against the *Intelligence Services Act 2001*; or
- (f) an offence covered by a determination in force under section 6A.
- (16) Clause 4, page 5 (lines 20 to 25), omit subclause (1), substitute:
- (1) For the purposes of this Act, *Australian citizen* means a person who:
- (a) is an Australian citizen under Division 1 or 2 of Part 2; or
- (b) satisfies both of the following:
- (i) the person was an Australian citizen under the *Australian Citizenship Act 1948* immediately before the commencement day;
- (ii) the person has not ceased to be an Australian citizen under this Act.
- (17) Page 7 (after line 12), after clause 6, insert:

6A National security offences

- (1) The Attorney-General may, by legislative instrument, determine that:
- (a) an offence against a specified provision of a specified Australian law or a specified foreign law; or
- (b) an offence against an Australian law or a foreign law involving specified conduct;
- is a national security offence for the purposes of paragraph (f) of the definition of *national security offence* in section 3.
- (2) A determination under subsection (1) applies in relation to:
- (a) applications made under this Act after the determination takes effect; and
- (b) applications made under this Act before the determination takes effect that have not been decided before the determination takes effect.
- (18) Clause 10, page 9 (line 15), omit “will promote one or more”, substitute “is necessary for either or both”.
- (19) Clause 10, page 9 (line 21), omit subparagraph (2)(c)(iii).
- (20) Page 11 (before line 4), before clause 12, insert:

11A Simplified outline

The most common way you become an Australian citizen under this Division is by being born in Australia and by having a parent who is an Australian citizen or a permanent resident at the time of your birth.

There are some other, less common, ways of becoming an Australian citizen under this Division. These cover:

The following is a simplified outline of this Division:

- citizenship by being born in Australia and by being ordinarily resident in Australia for the next 10 years: see section 12; and
- citizenship by adoption: see section 13; and
- citizenship for abandoned children: see section 14; and
- citizenship by incorporation of territory: see section 15.

(21) Clause 13, page 11 (line 20), omit “of”, substitute “in force in”.

(22) Page 13 (before line 5), before clause 16, insert:

15A Simplified outline

You may be eligible to become an Australian citizen under this Subdivision in 2 situations:

The following is a simplified outline of this Subdivision:

- you were born outside Australia on or after 26 January 1949 and a parent of yours was an Australian citizen at the time of your birth: see subsection 16(2); or
- you were born outside Australia or New Guinea before 26 January 1949 and a parent of yours was an Australian citizen on 26 January 1949: see subsection 16(3).
- non-satisfaction of identity: see subsection 17(3); or
- national security: see subsections 17(4) to (4B); or
- cessation of citizenship: see subsection 17(5).

(23) Clause 16, page 13 (line 15), after “Subdivision”, insert “or Subdivision AA”.

(24) Clause 17, page 14 (after line 10), after subclause (1), insert:

(1A) The Minister must not approve the person becoming an Australian citizen unless the person is eligible to become an Australian citizen under subsection 16(2) or (3).

(25) Clause 17, page 14 (lines 12 and 13), omit “be so approved”, substitute “become an Australian citizen under subsection

You will be registered if the Minister approves you becoming an Australian citizen.

You do not become an Australian citizen, even if the Minister approves you becoming an Australian citizen, unless a parent of yours was an Australian citizen at a particular time: see section 19A.

16(2) or (3)”.

(26) Clause 17, page 14 (lines 18 to 24), omit subclause (4), substitute:

National security

(4) If the person is not covered by subsection (4B), the Minister must not approve the person becoming an Australian citizen at a time when an adverse security assessment, or a qualified security assessment, in respect of the person is in force under the *Australian Security Intelligence Organisation Act 1979* that the person is directly or indirectly a risk to security (within the meaning of section 4 of that Act).

(4A) If the person is covered by subsection (4B), the Minister must not approve the person becoming an Australian citizen if the person has been convicted of a national security offence.

(4B) A person is covered by this subsection if:

(a) at the time the person made the application under section 16, the person:

- (i) is not a national of any country; and
- (ii) is not a citizen of any country; and

(b) at the time of the person’s birth, the person had a parent who was an Australian citizen.

(27) Clause 19, page 15 (line 6), omit “(1)”.

(28) Clause 19, page 15 (lines 9 to 15), omit subclause (2).

(29) Page 15 (after line 15), after clause 19, insert:

19A When a person does not become a citizen despite the Minister's approval

Despite section 19, a person does not become an Australian citizen under this Subdivision, even if the Minister approves the person becoming an Australian citizen, unless:

- (a) if the person was born on or after 26 January 1949—a parent of the person was an Australian citizen at the time of the person's birth; or
- (b) if the person was born before 26 January 1949—a parent of the person became an Australian citizen on 26 January 1949.

(30) Page 15 (before line 16), before Subdivision B, insert:

Subdivision AA—Citizenship for persons adopted in accordance with the Hague Convention on Intercountry Adoption**19B Simplified outline**

You may be eligible to become an Australian citizen under this Subdivision if you are adopted outside Australia in accordance with the Hague Convention on Intercountry Adoption by at least 1 Australian citizen.

You must make an application to become an Australian citizen. The Minister must approve or refuse you becoming an Australian citizen.

You must be eligible to be an Australian citizen to be approved. You may be refused citizenship even if you are eligible.

The Minister may be required to refuse your application on grounds relating to:

The following is a simplified outline of this Subdivision:

- non-satisfaction of identity: see subsection 19D(4); or
- national security: see subsections 19D(5) to (7); or
- cessation of citizenship: see subsection 19D(8).

19C Application and eligibility for citizenship

- (1) A person may make an application to the Minister to become an Australian citizen.

You will be registered if the Minister approves you becoming an Australian citizen.

Note: Section 46 sets out application requirements (which may include the payment of a fee).

Eligibility

- (2) A person (the **applicant**) is eligible to become an Australian citizen if:
 - (a) the applicant is adopted in a Convention country by:
 - (i) a person (the **adopter**) who is an Australian citizen at time of the adoption; or
 - (ii) 2 persons jointly, only one of whom (the **adopter**) is an Australian citizen at the time of the adoption; or
 - (iii) 2 persons jointly, both of whom (the **adopters**) are Australian citizens at the time of the adoption; and
 - (b) an adoption compliance certificate issued in that country is in force for the adoption; and
 - (c) under the Intercountry Adoption regulations, the adoption is recognised and effective for the laws of the Commonwealth and each State and Territory; and
 - (d) the legal relationship between the applicant and the individuals who were, immediately before the adoption, the applicant's parents has been terminated; and
 - (e) if subparagraph (a)(i) or (ii) applies and the adopter is an Australian citizen under Subdivision A or this Subdivision at the time of the adoption—the adopter satisfies subsection (3); and
 - (f) if subparagraph (a)(iii) applies and each adopter is an Australian citizen under Subdivision A or this Subdivision at the time of the adoption—either or both of the adopters satisfy subsection (3); and
 - (g) if the applicant is aged 18 or over at the time the applicant made the application—the Minister is satisfied that the applicant is of good character at the time of the Minister's decision on the application.
- (3) An adopter satisfies this subsection if the adopter has been present in Australia (except as an unlawful non-citizen) for a total period of at least 2 years at any time before the applicant made the application.

Definitions

- (4) In this section:

adoption compliance certificate has the same meaning as in the Intercountry Adoption regulations.

Convention country has the same meaning as in the Intercountry Adoption regulations.

Intercountry Adoption regulations means the *Family Law (Hague Convention on Intercountry Adoption) Regulations 1998*.

19D Minister's decision

- (1) If a person makes an application under section 19C, the Minister must, by writing, approve or refuse to approve the person becoming an Australian citizen.
- (2) The Minister must not approve the person becoming an Australian citizen unless the person is eligible to become an Australian citizen under subsection 19C(2).
- (3) The Minister may refuse to approve the person becoming an Australian citizen despite the person being eligible to become an Australian citizen under subsection 19C(2).

Identity

- (4) The Minister must not approve the person becoming an Australian citizen unless the Minister is satisfied of the identity of the person.

Note: Division 5 contains the identity provisions.

National security

- (5) If the person is not covered by subsection (7), the Minister must not approve the person becoming an Australian citizen at a time when an adverse security assessment, or a qualified security assessment, in respect of the person is in force under the *Australian Security Intelligence Organisation Act 1979* that the person is directly or indirectly a risk to security (within the meaning of section 4 of that Act).
- (6) If the person is covered by subsection (7), the Minister must not approve the person becoming an Australian citizen if the person:
 - (a) if subparagraph (7)(b)(i) applies to the person:
 - (i) has been convicted of a national security offence; or
 - (ii) has been convicted of an offence against an Australian law or a foreign law, for which the person has been sentenced to a period of imprisonment of at least 5 years; or
 - (b) if subparagraph (7)(b)(ii) applies to the person—has been convicted of a national security offence.
- (7) A person is covered by this subsection if:
 - (a) at the time the person made the application under section 19C, the person:
 - (i) is not a national of any country; and
 - (ii) is not a citizen of any country; and
 - (b) either:
 - (i) the person was born in Australia; or
 - (ii) the person was born outside Australia and, at the time of the person's birth, the person had a parent who was an Australian citizen.

Cessation of citizenship

- (8) If the person has at any time ceased to be an Australian citizen, the Minister must not approve the person becoming an Australian citizen during the period of 12 months starting on the day on which the person ceased, or last ceased, to be an Australian citizen.

19E Registration

If the Minister approves the person becoming an Australian citizen, the Minister must register the person in the manner prescribed by the regulations.

19F Day citizenship begins

A person becomes an Australian citizen under this Subdivision on the day on which the Minister approves the person becoming an Australian citizen.

(31) Page 15 (before line 17), before clause 20, insert:

19G Simplified outline

You may be eligible to become an Australian citizen under this Subdivision in 7 situations:

The following is a simplified outline of this Subdivision:

- you satisfy the general eligibility criteria: see subsection 21(2); or
- you have a permanent physical or mental incapacity: see subsection 21(3); or

- you are aged 60 or over or have a hearing, speech or sight impairment: see subsection 21(4); or
- you are aged under 18: see subsection 21(5); or
- you were born to a former Australian citizen: see subsection 21(6); or
- you were born in Papua: see subsection 21(7); or
- you are a stateless person: see subsection 21(8).
- non-satisfaction of identity: see subsection 24(3); or
- national security: see subsections 24(4) to (4B); or
- non-presence in Australia: see subsection 24(5); or
- offences: see subsection 24(6); or
- cessation of citizenship: see subsection 24(7).

(32) Clause 20, page 15 (line 19), omit “approves”, substitute “decides under subsection 24(1) to approve”.

(33) Clause 21, page 18 (lines 17 to 27), omit subclause (8), substitute:

You may need to make a pledge of commitment to become an Australian citizen.

You must make an application to become an Australian citizen. The Minister must approve or refuse you becoming an Australian citizen.

You must be eligible to be an Australian citizen to be approved. You may be refused citizenship even if you are eligible.

The Minister may be required to refuse your application on grounds relating to:

Statelessness

(8) A person is eligible to become an Australian citizen if the Minister is satisfied that:

- (a) the person was born in Australia; and
- (b) at the time the person made the application, the person:
 - (i) is not a national of any country; and
 - (ii) is not a citizen of any country; and
- (c) the person has:
 - (i) never been a national of any country; and
 - (ii) never been a citizen of any country; and
- (d) at the time the person made the application, the person:
 - (i) does not have reasonable prospects of acquiring the nationality of a foreign country; and
 - (ii) does not have reasonable prospects of acquiring the citizenship of a foreign country; and
- (e) the person has:
 - (i) never had reasonable prospects of acquiring the nationality of a foreign country; and
 - (ii) never had reasonable prospects of acquiring the citizenship of a foreign country.

(34) Clause 22, page 18 (line 29) to page 19 (line 2), omit subclause (1), substitute:

(1) Subject to this section, for the purposes of section 21 a person satisfies the *residence requirement* if:

- (a) the person was present in Australia for the period of 4 years immediately before the day the person made the application; and
- (b) the person was not present in Australia as an unlawful non-citizen at any time during that 4 year period; and
- (c) the person was present in Australia as a permanent resident for the period of 12 months immediately before the day the person made the application.

Overseas absences

(1A) If:

- (a) the person was absent from Australia for a part of the period of 4 years immediately before the day the person made the application; and
- (b) the total period of the absence or absences was not more than 12 months;

then, for the purposes of paragraph (1)(a), the person is taken to have been present in Australia during each period of absence.

(1B) If:

- (a) the person was absent from Australia for a part of the period of 12 months immediately before the day the person made the application; and
- (b) the total period of the absence or absences was not more than 3 months; and
- (c) the person was a permanent resident during each period of absence;

then, for the purposes of paragraph (1)(c), the person is taken to have been present in Australia as a permanent resident during each period of absence.

Confinement in prison or psychiatric institution

(1C) Subject to subsection (5A), the person is taken not to satisfy paragraph (1)(a) if, at any time during the 4 year period mentioned in that paragraph, the person was:

- (a) confined in a prison; or
- (b) confined in a psychiatric institution by order of a court made in connection with proceedings for an offence against an Australian law in relation to the person.

(35) Clause 22, page 19 (line 5), omit "Paragraph (1)(b) does", substitute "Paragraphs (1)(a) and (b) do".

(36) Clause 22, page 19 (lines 9 to 15), omit subclause (3).

(37) Clause 22, page 19 (lines 16 to 18), omit subclause (4).

(38) Clause 22, page 19 (before line 20), before subclause (5), insert:

(4A) For the purposes of paragraph (1)(b), the Minister may treat a period as one in which the person was not present in Australia as an unlawful non-citizen if the Minister considers the person was present in Australia during that period but, because of an administrative error, was an unlawful non-citizen during that period.

(39) Clause 22, page 19 (line 20), omit "The", substitute "For the purposes of paragraph (1)(c), the".

(40) Clause 22, page 19 (after line 24), after subclause (5), insert:

Ministerial discretion—confinement in prison or psychiatric institution

(5A) The Minister may decide that subsection (1C) does not apply in relation to the person if, taking into account the circumstances that resulted in the person's confinement, the Minister is satisfied that it would be unreasonable for that subsection to apply in relation to the person.

(41) Clause 22, page 19 (line 27), omit "The", substitute "For the purposes of paragraph (1)(c), the".

(42) Clause 22, page 20 (lines 5 to 13), omit subclause (7).

(43) Clause 22, page 20 (lines 14 to 29), omit subclause (8).

(44) Clause 22, page 21 (lines 10 to 12), omit subclause (10), substitute:

- (10) For the purposes of subsection (9), *spouse* includes de facto spouse.

Ministerial discretion—person in an interdependent relationship

(11) If, at the time the person made the application, the person:

- (a) holds a permanent visa granted to the person because the person was in an interdependent relationship with an Australian citizen; and
 - (b) is in that interdependent relationship;
- then, for the purposes of paragraph (1)(c), the Minister may treat a period as one in which the person was present in Australia as a permanent resident if:
- (c) the person held that visa during that period and the person was in that interdependent relationship during that period; and
 - (d) the person was not present in Australia during that period; and
 - (e) the person was a permanent resident during that period; and
 - (f) the Minister is satisfied that the person had a close and continuing association with Australia during that period.

(45) Clause 24, page 21 (after line 27), after subclause (1), insert:

(1A) The Minister must not approve the person becoming an Australian citizen unless the person is eligible to become an Australian citizen under subsection 21(2), (3), (4), (5), (6), (7) or (8).

(46) Clause 24, page 21 (lines 29 and 30), omit "be so approved", substitute "become an Australian citizen under subsection 21(2), (3), (4), (5), (6), (7) or (8)".

(47) Clause 24, page 22 (lines 5 to 11), omit subclause (4), substitute:

National security

- (4) If the person is not covered by subsection (4B), the Minister must not approve the person becoming an Australian citizen at a time when an adverse security assessment, or a qualified security assessment, in respect of the person is in force under the *Australian Security Intelligence Organisation Act 1979* that the person is directly or indirectly a risk to security (within the meaning of section 4 of that Act).
- (4A) If the person is covered by subsection (4B), the Minister must not approve the person becoming an Australian citizen if the person:
- (a) if subparagraph (4B)(b)(i) applies to the person:
 - (i) has been convicted of a national security offence; or
 - (ii) has been convicted of an offence against an Australian law or a foreign law, for which the person has been sentenced to a period of imprisonment of at least 5 years; or
 - (b) if subparagraph (4B)(b)(ii) applies to the person—has been convicted of a national security offence.
- (4B) A person is covered by this subsection if:
- (a) at the time the person made the application under section 21, the person:
 - (i) is not a national of any country; and
 - (ii) is not a citizen of any country; and
 - (b) either:
 - (i) the person was born in Australia; or
 - (ii) the person was born outside Australia and, at the time of the person's birth, the person had a parent who was an Australian citizen.
- (48) Clause 24, page 22 (line 16), after paragraph (5)(b), insert:
and (c) the Minister did not apply subsection 22(11) in relation to the person;
- (49) Clause 24, page 22 (lines 18 to 20), omit “unless the Minister considers the person is engaging in activities at that time that are beneficial to Australia”.
- (50) Page 28 (before line 2), before clause 29, insert:

28A Simplified outline

You may be eligible to become an Australian citizen under this Subdivision if you ceased to be an Australian citizen under this Act or the old Act.

You must make an application to become an Australian citizen again. The Minister must approve or refuse you becoming an Australian citizen again.

You must be eligible to be an Australian citizen again to be approved. You may be refused citizenship again even if you are eligible.

The Minister may be required to refuse your application on grounds relating to:

The following is a simplified outline of this Subdivision:

You will be registered if the Minister approves you becoming an Australian citizen again.

- non-satisfaction of identity: see subsection 30(3); or
- national security: see subsections 30(4) to (6).

- (51) Clause 29, page 28 (line 8), omit “Subdivision A or B”, substitute “Subdivision A, AA or B”.
- (52) Clause 29, page 28 (lines 25 and 26), omit “Subdivision A or B”, substitute “Subdivision A, AA or B”.
- (53) Clause 30, page 29 (after line 13), after subclause (1), insert:
- (1A) The Minister must not approve the person becoming an Australian citizen again unless the person is eligible to become an Australian citizen again under subsection 29(2) or (3).
- (54) Clause 30, page 29 (lines 15 and 16), omit “be so approved”, substitute “become an Australian citizen again under subsection 29(2) or (3)”.
- (55) Clause 30, page 29 (lines 22 to 28), omit subclause (4), substitute:

National security

- (4) If the person is not covered by subsection (6), the Minister must not approve the person becoming an Australian citizen again at a time when an adverse security assessment, or a qualified security assessment, in respect of the person is in force under the *Australian Security Intelligence Organisation Act 1979* that the person is directly or indirectly a risk to security (within the meaning of section 4 of that Act).
- (5) If the person is covered by subsection (6), the Minister must not approve the person becoming an Australian citizen again if the person:
- (a) if subparagraph (6)(b)(i) applies to the person:
 - (i) has been convicted of a national security offence; or
 - (ii) has been convicted of an offence against an Australian law or a foreign law, for which the person has been sentenced to a period of imprisonment of at least 5 years; or
 - (b) if subparagraph (6)(b)(ii) applies to the person—has been convicted of a national security offence.
- (6) A person is covered by this subsection if:
- (a) at the time the person made the application under section 29, the person:
 - (i) is not a national of any country; and
 - (ii) is not a citizen of any country; and
 - (b) either:
 - (i) the person was born in Australia; or
 - (ii) the person was born outside Australia and, at the time of the person's birth, the person had a parent who was an Australian citizen.
- (56) Clause 32, page 30 (line 11), omit "Subdivision A or B", substitute "Subdivision A, AA or B".
- (57) Page 31 (before line 3), before clause 33, insert:

32A Simplified outline

There are 4 ways in which you can cease to be an Australian citizen:
--

The following is a simplified outline of this Division:

- | |
|--|
| <ul style="list-style-type: none"> • you may renounce your Australian citizenship: see section 33; or • if you did not automatically become an Australian citizen, the Minister can revoke your citizenship: see section 34; or • you serve in the armed forces of a country at war with Australia: see section 35; or • if you are the child of a responsible parent who ceases to be an Australian citizen, the Minister can revoke your citizenship in some situations: see section 36. |
|--|

- (58) Heading to subclause 34(1), page 32 (line 19), at the end of the heading, add "*or for persons adopted in accordance with the Hague Convention on Intercountry Adoption*".
- (59) Clause 34, page 32 (line 22), after "Subdivision A", insert "or AA".
- (60) Clause 37, page 37 (line 9), omit "written".
- (61) Clause 42, page 40 (after line 5), after subclause (1), insert:
- (1A) This section does not apply if the person believes on reasonable grounds that the access is necessary to prevent or lessen a serious and imminent threat to the life or health of the person or of any other person.
Note: A defendant bears an evidential burden in relation to the matter in subsection (1A) (see subsection 13.3(3) of the *Criminal Code*).
- (62) Clause 42, page 40 (lines 6 to 9), omit subclause (2), substitute:
- (2) This section does not apply if the access is through:
 - (a) a disclosure that is a permitted disclosure within the meaning of section 43; or
 - (b) a disclosure to which section 43 does not apply because of the operation of subsection 43(1A).
Note: A defendant bears an evidential burden in relation to the matter in subsection (2) (see subsection 13.3(3) of the *Criminal Code*).
- (63) Clause 42, page 40 (line 17), omit "one or more", substitute "either or both".
- (64) Clause 42, page 40 (lines 28 to 30), omit paragraph (4)(g), substitute:
- (g) the purposes of this Act or the regulations or of the *Migration Act 1958* or the regulations made under that Act;

(65) Clause 42, page 40 (line 32) to page 41 (line 5), omit subclause (5).

(66) Clause 43, page 41 (after line 11), after subclause (1), insert:

(1A) If:

(a) a disclosure of identifying information is made to a person who is not an entrusted person; and

(b) the disclosure is a permitted disclosure;

this section does not apply in relation to any further disclosure of that identifying information by a person who is not an entrusted person.

Note 1: A defendant bears an evidential burden in relation to the matter in subsection (1A) (see subsection 13.3(3) of the *Criminal Code*).

Note 2: Paragraph 3 of Information Privacy Principle 11 in section 14 of the *Privacy Act 1988* may apply to further disclosures of that identifying information by a person who is not an entrusted person.

(1B) This section does not apply if the person believes on reasonable grounds that the disclosure is necessary to prevent or lessen a serious and imminent threat to the life or health of the person or of any other person.

Note: A defendant bears an evidential burden in relation to the matter in subsection (1B) (see subsection 13.3(3) of the *Criminal Code*).

(67) Clause 43, page 41 (lines 13 to 15), omit paragraph (2)(a).

(68) Clause 43, page 41 (line 16), omit paragraph (2)(b), substitute:

(b) is for the purposes of this Act or the regulations or of the *Migration Act 1958* or the regulations made under that Act; or

(69) Clause 43, page 41 (after line 20), after paragraph (2)(d), insert:

(da) is to an agency of the Commonwealth, a State or a Territory in order to verify that a person is an Australian citizen; or

(70) Clause 43, page 41 (after line 24), after paragraph (2)(e), insert:

(ea) is reasonably necessary for the enforcement of the criminal law of the Commonwealth, a State or a Territory; or

(eb) is required by an Australian law; or

(71) Clause 43, page 41 (lines 29 and 30), omit "a request for the provision of a personal identifier", substitute "action taken by the Department".

(72) Clause 43, page 41 (line 33) to page 42 (line 6), omit subclause (3).

(73) Clause 44, page 42 (after line 25), after subclause (2), insert:

Exception

(2A) If:

(a) a disclosure of identifying information is made to a person who is not an entrusted person; and

(b) the disclosure is a permitted disclosure within the meaning of section 43;

this section does not apply in relation to any modification or impairment of that identifying information by a person who is not an entrusted person.

Note: A defendant bears an evidential burden in relation to the matter in subsection (2A) (see subsection 13.3(3) of the *Criminal Code*).

(74) Clause 46, page 45 (after line 19), after subclause (2), insert:

Children aged under 16

(2A) An application under a provision of this Act by a child aged under 16 must be set out:

(a) on a form that contains no other application; or

(b) on a form that also contains an application by 1 responsible parent of the child.

(75) Clause 52, page 49 (after line 9), after paragraph (1)(a), insert:

(aa) a decision under section 19D to refuse to approve a person becoming an Australian citizen;

(76) Clause 52, page 49 (lines 21 to 27), omit subclauses (2) and (3), substitute:

Citizenship by conferral decision

(2) However, if:

(a) the Minister makes a decision under section 24 to refuse to approve a person becoming an Australian citizen; and

(b) the Minister's reasons for the decision did not refer to the eligibility ground in subsection 21(8) (about statelessness); and

(c) the person was aged 18 or over at the time the person made the application to become an Australian citizen; a person (the *applicant*) cannot apply for review of that decision unless the applicant is a permanent resident.

The government proposes amendments to the Australian Citizenship Bill 2005 and the Australian Citizenship (Transitional and Consequential) Bill 2005. None of the amendments change the intent of the bills, which is to deliver better structured, clearer and more accessible citizenship legislation, drafted in contemporary language and, more importantly, the continuation of Australian citizenship as a privilege and not a right. The proposed amendments respond to parliamentary committee reports, implement policy changes and rectify or clarify the drafting of certain provisions.

Following its inquiry into the bills, the Senate Legal and Constitutional Legislation Committee majority report made a number of recommendations, including recommendations for amendments to the bills. The government has fully accepted 10 of those recommendations and partially accepted one recommendation. The proposed amendments to give effect to the committee's recommendations are as follows. The preamble to the bill is to be amended to implement the committee's recommendation that the preamble recognises that Australian citizenship represents full and formal membership of the community of the Commonwealth of Australia.

The amendments will insert simplified outlines explaining the operation of various parts of the bill. These amendments address the committee's recommendation for a simplified guide to the new act to assist readers with interpretation. The government will also make a readers guide to legislation available on commencement.

The proposed amendments will also make a number of changes to the personal identifier provisions. These provisions will be more closely aligned with the policy objectives of strengthening integrity of the identification or authentication of the identity of a person making an application for Australian citizenship, and to combat identity and document fraud in a citizenship program. As amended, the provisions are also more closely aligned to the Privacy Act 1988. They result from a review of the provisions of the bill and consultations with the Office of the Privacy Commissioner as recommended by the committee. The Office of the Privacy Commissioner is satisfied with these amendments.

Further amendments dealing with the refusal of applications from stateless people on national security grounds ensure that the bill complies with the convention on the reduction of a statelessness and give effect to a recommendation of the committee.

The committee also recommended that the bill be amended to make clear on its face that a person who is a citizen under the Australian Citizenship Act 1948 is a citizen for the purposes of the new act. An amendment is proposed to give effect to this recommendation.

Another proposed amendment recommended by the committee will clarify when a child may make an application for citizenship in their own right and when an application may be considered as part of the application of a responsible parent of the child.

There is also an amendment to the merits review provision ensuring that people applying for Australian citizenship on grounds of statelessness have access to merits review. This change was recommended by the committee and accords with the policy objective that existing review rights be maintained.

On 17 September, I announced changes to the residents' requirements for Australian citizenship. Australian citizenship is a privilege, not a right. It is important that new migrants to Australia can fully participate in the opportunity that life in Australia offers. To this end, the government is focused on ensuring that citizenship applicants have spent a reasonable period of time living in Australia so that they are familiar with Australia's values and way of life, that they appreciate the commitment they make to Australia as new citizens and that they can quickly make the most of the opportunities available in Australia.

Additionally, changes in the migration program over the years have resulted in an increasing number of people spending significant periods of time in Australia as temporary residents prior to becoming permanent residents. The amendments will give effect to these changes. The amendments will require applicants to have a total of four years lawful residence in Australia immediately prior to application for Australian citizenship by conferral, including at least 12 months of permanent residence immediately prior to application. They provide for periods of absences from Australia not exceeding 12 months in total during the four years prior and no more than three months in the 12-month period prior to application.

I did spend some considerable time in my summing up of the bill (*Extension of time granted*) articulating the arguments in favour of this extension from two to four years. I do not propose to go back through those in any detail, except to reinforce the fact that the motivation in taking this from two to four years is primarily to ensure that new residents—especially many from new and emerging communities who often come from cultures far removed from our own—have the opportunity not only to understand Australia but to also get the language skills which enable them to fully appreciate what it is they are pledging to when they take that very important decision to apply for and to commit to Australian citizenship.

These new residence requirements will only apply to people who become permanent residents on or after commencement of the legislation. For a period of three years following commencement, people who are permanent residents before the commencement of the new legislation will only need to meet the current residence requirements. It is proposed that these arrangements be given effect through the amendments to the transitionals and consequentials bill. These changes also bring Australia into line with the residency requirements in other countries.

The amendments also implement the government's response to a recommendation made by the House of Representatives Standing Committee on Family and Human Services in its inquiry into the adoption of children from overseas. The amendments will very properly provide for children adopted overseas to Australian citizens under full and permanent Hague convention on intercountry adoption arrangements to be registered as Australian citizens. It also provides for the necessary integrity of the adoption process consistent with the convention. I think that is a very important amendment that we have introduced to this bill. A proposed amendment to the Australian Citizenship (Transitionals and Consequentials) Bill 2005 will ensure that these new provisions apply to children adopted before, on or after commencement of the new provisions.

The proposed amendments also contain a number of technical changes. The package does not contain any amendments in relation to a formal citizenship test. Submissions in response to the recently released discussion paper on the merits of a formal citizenship test close on 17 November 2006 and consideration of this by the government is expected in the new year, before any presentation to the House. I commend these amendments to the Main Committee.

Mr BURKE (Watson) (12.03 pm)—There is some good stuff in these amendments. Obviously some of the issues about personal identifiers are issues that Labor would not have a problem with. For procedural ease, we have allowed them to be all dealt with together, but there are a couple of things in here that are completely unacceptable and that is why Labor will be seeking to divide on these amendments when they are taken together.

I find it extraordinary that one of the arguments from the parliamentary secretary is that the real reason, the big reason, that they have in wanting to move it originally to three and now to four years is primarily to ensure that the people involved have the opportunity to appreciate the Australian way of life. Why not five years? Why shouldn't people have five years to appreciate our way of life? What were the arguments that the parliamentary secretary quoted when he introduced the bill? He said, 'This is the real reason,' and he quoted the member for Parkes—from a speech that was about reaching a conclusion of three years. The parliamentary secretary actually incorporated into his speech arguments that were brought to the Australian parliament as to why it should be three years. He quoted them with authority and said, 'These are the reasons you need to listen to.' They are the reasons we are listening to. They are reasons that we take into account and they are the reasons why we announced we would support the bill. They are the reasons why we announced that this bill was not controversial and, hence, why we are debating it in here.

But it started to become controversial the moment this government—and I do not even know the extent to which I can say this government—at the moment this parliamentary secretary—and I respect that he is elevated beyond the parliamentary secretary level; he has more power than the previous junior minister had, and that was made clear during estimates—

Mr Bowen—More staff.

Mr BURKE—More staff, more power, more authority, and now we have a bizarre amendment. The amendment is bizarre for a very simple reason. The argument he gives is about the opportunity to appreciate the Australian way of life. Yes, that is an important argument. But let's not pretend that there is something magic about the number four. We know how they got to the number four—it was the equation: government policy equals Labor plus one. When Labor supported two years, they made sure that the move was to three. But much to their surprise, Labor agreed to three. So why did we then end up with four? Because they thought, 'Labor has agreed to three. Government policy has to be Labor plus one. So then we have four.' Thank heavens we have never agreed to 20, because the parliamentary secretary would be in here moving that it should be moved to 21 years. He would have a good reason. He would say the primary reason for moving to people waiting 21 years—

Mr Bowen—The sole reason!

Mr BURKE—the sole reason is primarily to ensure, solely to ensure, that they have the opportunity to appreciate the Australian way of life. I want to know what is magic about the number four in that reason, because it has not come out as a result of the discussion paper he has issued. Submissions to that have not even closed, yet the parliamentary secretary has arrived at the magic number four. Other than the formula of government equals Labor plus one, I cannot understand how they get there. But I can understand why Labor will not accept it. For the par-

liamentary secretary, that might be the most important reason in the world, and in public policy, yes, it is an important reason. But I tell you: national security ranks higher. National security reasons will always rank higher.

When COAG dealt with this issue they did not simply decide that we needed to increase the waiting time for citizenship. They actually had to deal with an issue of balance. The citizenship delay period is an important issue of balance, because you are balancing two very serious competing considerations. You want to make sure you do not integrate into society people who you do not want to integrate—people to whom you want to say, ‘This is not the country for you,’ and occasionally that does happen. You also want to make sure you do not alienate people and create a self-fulfilling prophecy.

COAG made that decision faced with the best intelligence that was available to them in the direct aftermath of the London bombings. When they made the call to three years, we were willing to run with it for that reason. But let’s not pretend that they decided that any increase was what they wanted. No, they agreed to three. It was part of a 10-point plan on national security. Simply wanting to trump Labor with a formula is lousy public policy. You do not do that with national security decisions. Labor cannot support that and will be voting against the amendment.

Mr BOWEN (Prospect) (12.08 pm)—I would like to make some brief remarks in support of the honourable member for Watson. I was astounded to hear the parliamentary secretary in his remarks say, ‘The opposition’s reasons for opposing this are weak,’ when he had not, and his government had not, put up any reasons at all for the change. As the honourable member for Watson said, when the government proposed a change from two to three years, there was a serious national discussion. It was an agenda item on COAG. The premiers had their say. There were national security implications discussed. The minister brought it into the chamber and put up the reasons for moving to three years. Then we have the issuance of a press release and the parliamentary secretary saying we are going from three to four. No reasons. No explanation.

Mr Burke—An intelligence briefing from Mark Textor.

Mr BOWEN—An intelligence briefing from Mark Textor saying, ‘The Labor Party has matched us. We have to go one further’. As the honourable member for Watson has said, this is a terrible way to run the citizenship of this nation. For this government to play politics and say, ‘We must increase it to three. It is a matter of national importance and three is the right figure.’ After consideration—and there was some consideration in the Labor Party in our caucus about how we would respond—the caucus agreed that the government’s proposals were worthy of support. Then all of a sudden it was just changed to four. It is not on for the parliamentary secretary to come in here and use exactly the same words to support going from three years to four as his predecessor used for going from two years to three and say, ‘They are the arguments’ but give no reason, no explanation as to why four is better than three.

For the first time today we heard the sole reason. The sole reason for this change is to give people more of a chance to experience Australian life. For the first time, we heard that there are no national security implications, no other considerations to go in, but the government have decided that four years is the magical number, better than three—and they expect the Labor Party just to say, ‘Oh, well, okay, that’s all right then. You were wrong when you said three was the right figure.’

Mr Burke—They’d be worried if we agreed.

Mr BOWEN—That is right. And if we agree, it will be five years! No doubt there will be a rushed amendment coming in, because the government will say: ‘We have to differentiate from the Labor Party; we can’t have the Labor Party and the government having same policy on citizenship. There has to be differentiation.’ Mark Textor will be on the phone saying, ‘You’ve got to change this; we’ve got to have an extra year in.’ This is a disgrace, and it will be opposed.

Mr BRENDAN O’CONNOR (Gorton) (12.10 pm)—I think the one thing we agree with the government on is that citizenship is very important. Labor believes so and has always considered the importance of citizenship: being a member of the Australian citizenry is certainly an important thing. But it is also a sensitive matter. I think that where you can reach bipartisan agreement you should do so, because you do not want to alarm people in our community. You do not want to alarm immigrants, people who have come to this country, people who are waiting for their citizenship.

I listened earlier to the parliamentary secretary talk about the fact that he has travelled far across the country to many citizenship ceremonies. I can assure you that in my electorate—and you would know this, knowing the area I represent—there are very large citizenship ceremonies because of the nature of the area. There is an enormous cross-section, an enormous diversity, of ethnicity. I am always overwhelmed myself, not only by the sheer number of people who seek to be citizens but by the way in which they are affected, the emotion that I see in those applicants when they are considering becoming an Australian citizen. There is overwhelming emotion in that hall when I attend those ceremonies. I must admit that I enjoy being part of what is a very important day.

It annoys me—it is insulting—to suggest that it is only time, this arbitrary figure, that will count as to whether a person should be or wants to be an Australian citizen. It is very important for the government to outline, therefore, why the eligibility requirement has to be doubled from two years to four years. As other colleagues of mine have said in this debate, we understand why the government proposed the change from two years to three years. That was a considered decision. That was a decision that took into account information provided by intelligence agencies. That was the decision that was determined after discussions with state and territory governments. That was a decision that was made not by press release but by proper discussion. As a result of that process, we believed we would support the government. We were not going to play politics with such an important matter. I ask the parliamentary secretary: why not five years? I ask the parliamentary secretary: if he has to find a figure to distinguish the government from the opposition and we were to agree to four, why not five years? What is the significance of four years?

As the member for Watson indicated, not only was that decision of three years determined through proper discussion and consultation, having regard to our national security requirements and being sensitive to the way in which it will be perceived by applicants and those choosing to become Australian citizens; we have not heard a cogent argument proposed by the government as to why we have to move from three to four. In fact, as has already been indicated, the parliamentary secretary, in explaining the move from two to four, used the arguments by the former minister when he was arguing changing the requirement from two years to three years. So we have not heard an additional argument that has been put by the parliamentary secretary or anyone in this government as to why it now must move from two years, as it currently stands, to four years.

I would also like to reiterate the point made by the member for Watson. There is a very delicate balance about the way in which you send a message to people who want to become Australian citizens. The message is this. Firstly—let us be clear about this—permanent residency is a very important factor in all of this, but then there is that next step, and all the entitlements and obligations that entails, to become an Australian citizen. You do not want to send the message that people are not welcome, and the fact that the government has extended the time without providing one decent reason in our view means that they have to come up with something better. They failed to do that and therefore we are questioning of the reasons and the motives of this government.

Mr ROBB (Goldstein—Parliamentary Secretary to the Minister for Immigration and Multicultural Affairs) (12.16 pm)—I would like to respond to some of the points that have been made by those opposite in regard to the proposed extension from two to four years. My point in the summing up, in referring to my colleague the member of Parkes's justification for the increase from two to three years, was to highlight the fact that his principal argument was the need for people to more fully understand Australia before they made the pledge. The secondary argument related to national security measures—which, by the way, were not a conclusion out of COAG. The COAG meeting release did not refer to these matters in any way. The decision had already been taken some weeks before, by the Prime Minister, because citizenship is a federal government matter. In the COAG material released from that meeting on 27 September 2005, the agreed outcomes from the COAG meeting made no reference to citizenship. It is not surprising, because Australian citizenship law is a matter for the federal parliament alone.

My reference to my colleague's arguments was to highlight the fact that the principal argument of going from two years to three was not referred to by any speaker—not one speaker on the other side—as a reason against going from three years to four. Not one of them raised the matter of the time required for people to gain some decent sense, some keen understanding, of what it is they are committing to when they take out Australian citizenship. I put to this Main Committee chamber and to those opposite that Australia is virtually alone in the world with a two-year requirement. In fact, at three years it would be virtually alone in the world. It is typically five years and as high as eight and 10 years in some countries. It was a judgement that four years in Australia was a far more appropriate time, especially when you consider what is happening with the changing mix of migration in this country.

This has not been referred to or addressed in any sense. They are very strong arguments and reasons why we should extend the period from two to four years to give people who have come from cultures far removed from the Australian culture the opportunity to understand what it is and the way of life that they are signing up to when they take out Australian citizenship. As I have moved around—not just at citizenship ceremonies but, more importantly, as I have mixed in the communities, especially African communities and many of those from the Middle East—so many people do not feel that they have got sufficient time within two or three years to have a keen sense of Australia and often to get the language skills to understand Australia, the values that are important here, the norms that are important here and the way of life that is so much a critical part of taking out citizenship, which is the commitment to a way of life.

These are the things which have not been addressed for one second by any of the raft of speakers we have heard on the other side. They have solely restricted their argument to national security matters, which we agree on. But

the extension to four years is driven by the dynamics of a changing mix of migration to this country and the importance of maintaining the confidence within the broader community that those who come here and take out citizenship are well equipped to know what they are pledging to when they make that commitment, can become strong citizens who can realise the great opportunities in Australia and will not stumble into citizenship without sufficient time to fully understand the very important commitment they are making.

Mr BURKE (Watson) (12.20 pm)—Obviously the opposition maintains its objection, including the references that have been made a number of times to the parliamentary secretary's argument about African communities. I do not know who out there is being told that at the moment after two years you are obliged to immediately take out citizenship. I hope that no-one is being told that and I hope that no-one is under that impression, because if anybody feels that they are not yet ready to take out citizenship they get to wait; they get to delay. I am not sure where that argument takes us.

Before making a further contribution, I want to ask a question of the parliamentary secretary concerning amendment (47) on page 13 of the document he has circulated. In amendment (47), there is reference to a new subparagraph (4A)(a)(ii). As I understand it, this amendment applies to a very small class of people who have had to meet a whole set of other criteria. My understanding of this amendment is that, if people within that subset have been imprisoned under foreign law for more than five years, the minister will have no discretion but will be obliged to reject their application for citizenship. Before I proceed with any further remarks, I want to check if that is correct.

Mr ROBB (Goldstein—Parliamentary Secretary to the Minister for Immigration and Multicultural Affairs) (12.23 pm)—That is correct.

Mr BURKE (Watson) (12.23 pm)—I just find this an extraordinary clause. If somebody has been imprisoned in a foreign land, I am quite comfortable with that raising a particular discretion or sending some extra alert signs back to the minister, saying, 'Hang on, you might not want to approve this person for citizenship.' I am also very comfortable with there being a commitment that, if people have committed an offence under Australian law, there is an absolute bar. I do not think you need to have ministerial discretion if the offence was committed under Australian law. But why on earth are we placing ourselves in a situation where the law of another country will determine whether or not somebody is eligible for Australian citizenship? During my speech on the second reading—and the parliamentary secretary was there at the time—I could not find this section because at the time I was looking through the substantive bill and not through the amendments, so I apologise for not raising it at that time. We are not in a position to be able to move an amendment about this right now, but it is something we will be pursuing in the Senate.

But I have to say: if there is one concept in the world that other countries should have nothing to do with, it is a determination of who gets Australian citizenship. We have legislation before us now which says, if somebody who fits this class of people spent part of their life in South Africa as an anti-apartheid activist and was imprisoned for more than five years in the cell next to Nelson Mandela, they are not allowed to become an Australian citizen. We have a situation here where, if somebody was involved in internal rebellion against Saddam Hussein and was imprisoned, and they fit the class of persons covered by this legislation, the minister of Australia has no discretion as to whether or not they are eligible for citizenship because that has already been ruled out by Saddam Hussein.

If somebody has spent part of their life as an activist in Burma and they found themselves under house arrest for a period of time, in the same house, let's say, as Aung San Suu Kyi, and they fit this class of people, even if the Australian minister thinks this is a good person involved in a struggle against an evil regime and even if this person accords with every single Australian value that we would want upheld, the Australian minister is barred from allowing this person to receive citizenship.

I think if somebody has been imprisoned overseas it should be brought to the attention of the minister. It should be something which they have an extra look at. But why on earth of all the legislation has the government chosen to outsource citizenship—and not just outsource citizenship to our allies or to our close near neighbours but outsource it to any country in the world? It does not matter what country it is. I respect that this section applies to a limited class of people, but even for any limited class I do not believe there should ever be a situation where the rest of the world takes control of who gets citizenship of Australia.

There will obviously be times where, as a member of the opposition, I will not be all that thrilled to bits with the way a government minister exercises the discretion, but I will defend that that is the person who should be exercising it—that the discretion should lie with the minister of the government of Australia, not with the criminal systems of some of the rogue regimes around the world.

This was not in the original bill. What sort of accident has caused this to end up as an amendment before the Australian parliament, I do not know. But the parliamentary secretary should make sure that by the time we come

to divide on this in the House, he has sought leave to revisit this issue and take it out of the amendment. If there is one thing that Australia should have control of, it is Australian citizenship. I find it absolutely repugnant to come into the parliament of Australia and be told that we will allow any other country this power. It could have been the Taliban when they were in charge of Afghanistan and had Australians under arrest facing capital punishment for holding Bibles that were in Arabic. I do not want to know that a regime like that will actually get to determine for some class of people whether or not they are eligible for Australian citizenship. It is something that lies squarely in the responsibility of the government of Australia. Whoever is responsible for this drafting should understand that we will outsource many things; citizenship is never one of them. (*Time expired*)

Mr ROBB (Goldstein—Parliamentary Secretary to the Minister for Immigration and Multicultural Affairs) (12.28 pm)—After that impassioned statement I need to make some points of clarification. Firstly, the consideration of this grew out of recommendations by the Senate Legal and Constitutional Affairs Legislation Committee. That is why we are considering elements of this. Secondly, during a number of the contributions by those opposite during the debate of the bill, the content of this provision has been misrepresented. Many speakers rose to complain that migrants who come here and have confronted the circumstances just articulated by the member for Watson could find themselves automatically denied an opportunity to take out citizenship in Australia. Of course that is not correct.

As the member for Watson was alluding to, this only applies to people who were born in Australia. So what it means is that someone who was born in Australia would need to renounce their Australian citizenship. Then they would need to take out citizenship of another country. Then they would need to lose that citizenship, be locked up for five years by another country and at that point in time seek to return to Australia and take out Australian citizenship. So it is not a circumstance in which there is any case on record that would apply. You can make the theoretical case, but it is hard to find the practical case.

However, I would like to conclude with the fact that I have listened to the contributions and I have also examined the provisions. The government is considering the issue for any circumstance that does not go to national security matters. That certainly should not and will not change. But, if any amendments are necessary, we would look to move those in the Senate.

Question unresolved.

The DEPUTY SPEAKER (Hon. IR Causley)—As the question is unresolved, in accordance with standing order 188 the question will be included in a schedule attached to the committee's report to the House on the bill.

Bill agreed to with an unresolved question.

Ordered that this bill be reported to the House with an unresolved question.

AUSTRALIAN CITIZENSHIP (TRANSITIONALS AND CONSEQUENTIALS) BILL 2005

Second Reading

Debate resumed from 9 November 2005, on motion by **Mr McGauran**:

That this bill be now read a second time.

Mr ROBB (Goldstein—Parliamentary Secretary to the Minister for Immigration and Multicultural Affairs) (12.31 pm)—I move:

That further proceedings on this bill be conducted in the House.

Question agreed to.

ADJOURNMENT

Mr NEVILLE (Hinkler) (12.31 pm)—I move:

That the Main Committee do now adjourn.

Television Sports Broadcasting

Ms VAMVAKINO (Calwell) (12.32 pm)—Today I want to speak about concerns that local constituents in my electorate of Calwell have raised with me over the future of televised sporting events currently available on free-to-air television. I suspect that many of my colleagues in this place would have already received a large number of emails via the 'Save My Sport' campaign from local constituents equally worried about the future of free-to-air sporting events that they love to watch so dearly. As the elected representative of Calwell, I want to take this opportunity to raise the many concerns that have been put to me by my own constituents and to make sure that their views are represented in this place.

Australia's current antisiphoning laws were introduced in 1992 under a Labor government. They were specifically designed to prevent certain events traditionally shown on free-to-air television from being siphoned off to