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HOUSE OF REPRESENTATIVES

Votes and Proceedings

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CORRECTIONS

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Thursday, 8 March 2007

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BY AUTHORITY OF THE HOUSE OF REPRESENTATIVES

PROOF

The majority of the facilities to be addressed by this proposal were constructed in the 1960s and 1970s to support training for deployment to Vietnam. These facilities are now substandard and no longer provide the functionality for a modern army. I know the member for Herbert and the Parliamentary Secretary to the Minister for Defence would be strongly in support of this work being carried out, particularly so that the men and women of the Army in that area have the best possible facilities to carry on with their work. The estimated out-turn cost of the proposal is \$207.2 million. Subject to parliamentary approval, construction could commence in late 2007, with completion in mid-2011. I commend the motion to the House.

Question agreed to.

Corporations and Financial Services Committee Report

Ms BURKE (Chisholm) (9.51 am)—On behalf of the Parliamentary Joint Committee on Corporations and Financial Services, I present the report of the committee entitled *Statutory oversight of the Australian Securities and Investments Commission*, together with evidence received by the committee.

Ordered that the report be made a parliamentary paper.

Ms BURKE—by leave—I would like to put on record the committee's thanks to ASIC for appearing biannually at the statutory oversight hearing. They have a rather large reporting burden to the parliament, as they also must appear at estimates. We thank them for their open review and discussions. At the hearing on 30 November, various issues were covered: the government's proposed reforms to corporations and financial services regulations, ASIC's first survey on superannuation fees and costs, professional indemnity insurance for financial planners, AMP's enforceable undertaking to ASIC to improve the quality of advice provided by its planners, ASIC's handling of the Westpoint matter and other high-risk mezzanine schemes generally, ASIC's work to better educate investors, the Vizard matter, implications for ASIC of the Cole commission report, proposed prohibition on hedging executive share options, corporate governance standards of Australia's listed property trust sector, and implications for ASIC of the expansion of private equity investment in Australia. These issues are all covered in the report.

Numerous issues were discussed at the hearing that have not been covered in the report, and they are also tabled. Most of us may think that this is fairly boring and routine stuff, but when you discover that it is all about how you are going to retire and whether your investments are going to be there, it is actually fairly important that ASIC is providing this oversight. One of the things that we need to commend ASIC on is their shadow shopper exercise to monitor super choice, how funds are moving, and giving advice to people about

what to do with their investments. Most of us are fairly clueless about what to do with our investments, and we need to ensure that the people who are giving us the advice are giving us advice that is not skewed to one product by virtue of the commissions they are receiving in respect of that product.

Another fundamental role that ASIC is playing is to educate the public about fraud. I am sure that all of us have had a constituent who has been burnt by Mr Tweed. Mr Tweed is out there getting lists of companies and share registers, and we need to keep reminding the public that if Mr Tweed offers to buy their shares from them, they should check the share price first and not just sign the paper and think, 'This is a quick way to get money. It is not. It is a lot less than you would get if you sold the shares. By virtue of his new schemes, you will probably never see the money. ASIC is keeping up a vigil on that and we commend them for it. We also ask, as ASIC does, that companies take the time and effort to ensure that, if Mr Tweed has asked for their register, they inform the shareholders on the register that Mr Tweed is probably about to lodge on them a share offer that is too good to be true—and it is. It is actually less than you would get if you just went to your stockbroker and sold those shares.

There is other information in the report with respect to the ongoing Vizard matter. We will keep a watching brief on this, as we do believe that there is more action that can be taken against Mr Vizard and other interested parties in that ongoing debate. I commend the report to the House.

AUSTRALIAN CITIZENSHIP BILL 2006

Consideration of Senate Message

Consideration resumed from 27 February.

Senate's amendments—

- (1) Clause 19B, page 21 (line 18), omit "(7)", substitute "(7A)".
- (2) Clause 19D, page 24 (line 5), before "has been", insert "subject to subsection (7A)".
- (3) Clause 19D, page 24 (after line 20), after subclause (7), insert:
 - (7A)The Minister may decide that subparagraph (6)(a)(ii) does not apply in relation to a person if, taking into account the circumstances that resulted in the person's conviction, the Minister is satisfied that it would be unreasonable for that subparagraph to apply in relation to the person.
- (4) Clause 19G, page 26 (line 4), omit "(4B)", substitute "(4C)".
- (5) Clause 24, page 34 (line 17), before "has been", insert "subject to subsection (4C)".
- (6) Clause 24, page 34 (after line 32), after subclause (4B), insert:
 - (4C)The Minister may decide that subparagraph (4A)(a)(ii) does not apply in relation to a person if, taking into account the circumstances that

resulted in the person's conviction, the Minister is satisfied that it would be unreasonable for that subparagraph to apply in relation to the person.

- (7) Clause 28A, page 41 (line 10), omit "(6)", substitute "(7)".
- (8) Clause 30, page 43 (line 19), before "has been", insert "subject to subsection (7)".
- (9) Clause 30, page 43 (after line 34), at the end of the clause, add:
 - (7) The Minister may decide that subparagraph (5)(a)(ii) does not apply in relation to a person if, taking into account the circumstances that resulted in the person's conviction, the Minister is satisfied that it would be unreasonable for that subparagraph to apply in relation to the person.

Mr ANDREWS (Menzies—Minister for Immigration and Citizenship) (9.55 am)—I move:

That the amendments be agreed to.

Australian citizenship became a reality with the commencement of the Australian Citizenship Act 1948 on Australia Day, 26 January 1949—just three years after the first celebration of this day as our national day. Each year, more than 100,000 people from more than 200 countries make the pledge of commitment and, in doing so, become Australian citizens. They pledge to uphold a set of common values, which include belief in our democratic system, equality under the law and equality of treatment and opportunity. As full participants in the Australian community they can vote, they can stand for parliament and, more importantly, they have the privilege of being a part of this nation. The Prime Minister recently said:

... the path is you come to this country, you embrace its customs, its values, its language, you become a citizen.

Since 1949, more than four million people have followed this path. They have contributed to the wonderfully diverse, welcoming and energetic country that Australia is today. These bills represent major improvements in the legislation which has served us well over the years but needs to better reflect and cater for the challenges of the 21st century. In addition to the policy changes, the bill will result in better structured legislation using modern language.

The legislation provides for the refusal of applications by people who are assessed as a risk to our nation's security, consistent with the United Nations Convention on the Reduction of Statelessness. There is explicit provision for refusal of an application unless the minister is satisfied as to the applicant's identity. A further significant safeguard is a provision to revoke citizenship where that status was acquired as a result of fraud by a third party. The revocation provisions have also been strengthened to cover conviction for a serious criminal offence committed at any time before the person becomes an Australian citizen.

The legislation will remove the age limit for registration by descent. This will provide access to their Australian heritage for those born overseas whose Australian parents failed to register their birth before they turned 25 years of age. In recognition of the potential for fraud is the registration of citizenship by descent case load. The bill makes it clear that a person registered as a citizen by descent will be taken never to have been an Australian citizen if, at the time of the person's birth, there was not at least one parent who was an Australian citizen.

There have been some claims from the opposition that COAG was somehow involved in the decision to increase the residence requirement from two years to three years. The fact is that the increase from two years permanent residence to three years permanent residence was not an agreed COAG outcome, nor was it the result of consultation with COAG. Indeed, it was announced by the Prime Minister on 8 September 2005, prior to the COAG meeting on 27 September. This is not surprising, given that citizenship law is a federal, not state, matter. There have also been claims that no reasons were given for the change from three years permanent residence to four years lawful residence. It is important to note that the change was from three years permanent residence to four years lawful residence, and up to three years on temporary visas can be counted towards the four years residence requirement. Reasons for the change were given on 17 September 2006, when the change was announced. The former Parliamentary Secretary to the Minister for Immigration and Multicultural Affairs, the Hon. Andrew Robb, said at the time:

This change, together with the proposed citizenship test with its English language requirement, will help ensure citizenship applicants have had sufficient time in Australia to become familiar with our way of life and appreciate the commitment they are making when they become citizens.

He also said:

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.

Resumption of citizenship has been streamlined, consistent with the repeal in 2002 of section 17, under which Australians who acquired citizenship of another country automatically lost their Australian citizenship. The age limit for resumption by people who knowingly renounce their citizenship will also be removed.

Importantly, there is explicit provision that all persons who were Australian citizens immediately before the commencement of this legislation, whether by birth in this country, by descent or by grant, will remain Australian citizens under the new act. The Australian

Citizenship (Transitionals and Consequentials) Bill 2006 has received little comment during its passage. However, it contains essential provisions to allow for transitional changes and consequential amendments to other legislation which are necessary following the repeal of the act that has served us so well over the years.

I would like to acknowledge those who have been involved in the development of the policy changes reflected in this legislation: my colleagues the Hon. Gary Hardgrave, the Hon. Peter McGauran, the Hon. John Cobb—who introduced the bills in the parliament—and, most recently, the Hon. Andrew Robb. I commend the provisions to the House.

Mr BURKE (Watson) (10.00 am)—In his speech, the Minister for Immigration and Citizenship gave a summary of the government's position on the Australian Citizenship Bill 2006 but did not really go to the question that is currently before the House. The question before the House is not that the bill be read a second time; it is that the amendments be agreed to. It is worth noting, in support of resolving the question that the amendments to the bill that went to the Senate be agreed to, what those amendments actually were. When this bill went through the House of Representatives, it contained a section which should have been unthinkable, and that was for a very small class of people—those who had been defined under the legislation as being stateless people. If they had spent five years inside a prison within Australia, they would be prohibited from becoming Australian citizens.

That part of the legislation is not controversial, but it also said that if they had spent the same period of time in prison in any country of the world they would be prohibited from having Australian citizenship. Labor argued the whole way through this—and I do not blame the minister opposite, because it was his predecessor who was responsible for the sloppy drafting—that you could outsource many things but you should never outsource Australian citizenship and you certainly should never outsource Australian citizenship to the worst regimes in the world. The government refused to amend that bill while it was in this House, so the House of Representatives of Australia was actually saying—and I have always acknowledged that it is for a limited class of people—that those people would be prohibited from taking up Australian citizenship not because they had done anything contrary to Australian law but because they may well have broken the laws that enforced apartheid in South Africa. They may well have rebelled against the Hussein regime in Iraq. They may well have been part of the support group of Aung San Suu Kyi, in Burma. They could have been imprisoned for the requisite period of time for any of those reasons, and the Australian government minister would

have had no right, no discretion at all, to allow that person to be an Australian citizen.

I have never been that impressed by the way the government exercises its discretion, but I certainly believe the minister should have a discretion in those instances. The motion that is before the House now is not about the entire bill. It is not about all the issues that the minister just went through. The motion before the House now is about an amendment that should have been carried in the House of Representatives the first time round. Fortunately, however, the amendment passed the Senate. We now have amendments which say that if that limited class of people were imprisoned by a foreign power then that would be highlighted to the minister and the minister would have a discretion. The bill is better for that change. Labor supports that amendment, and we are happy to support the resolution before the House.

Mr ANDREWS (Menzies—Minister for Immigration and Citizenship) (10.04 am)—Very briefly, in response to my honourable colleague opposite, I remind the House that the amendments in the Senate were government sponsored amendments.

Question agreed to.

**CUSTOMS LEGISLATION AMENDMENT
(AUGMENTING OFFSHORE POWERS AND
OTHER MEASURES) BILL 2006**

Second Reading

Debate resumed from 28 February, on motion by **Mr Ruddock**:

That this bill be now read a second time.

Mr HATTON (Blaxland) (10.04 am)—I had a few minutes yesterday to begin speaking on the Customs Legislation Amendment (Augmenting Offshore Powers and Other Measures) Bill 2006. This bill is quite simple. The three different schedules interleave to protect Australia better and to give better tools to the Australian Customs Service in dealing with a number of different situations with people they need to identify—in some cases people they need to search and, in other cases, where they need to look for weapons or to retain documents for later use. They are sensible changes and they have already been looked at in depth by the Senate Standing Committee on Legal and Constitutional Affairs.

Schedule 1 deals with changes to the powers of search and seizure available to Customs officers in the offshore environment. I will not be dealing with schedule 2, which updates broker licensing provisions and deals with the issue of locum Customs brokers. Schedule 3 deals with a related matter, the recovery of Customs duty, and the schedule modernises those provisions. I will also leave that aside. That arises from *Malika Holdings Pty Ltd v Stretton* in 2001, and there is nothing in it that I think needs to be drawn out.
