

Read, Shane (REPS)

From: Janet Magnin [janetmagnin@aol.com]
Sent: Wednesday, 3 July 2002 7:16 PM
To: JSCEM@aph.gov.au
Cc: janetmagnin@aol.com
Subject: Submission

From: Janet Magnin
E-mail: janetmagnin@aol.com
Phone: +33 3 8158 6474

Address:

6 rue de l'église
25320 Grandfontaine
FRANCE

Message:

Janet Lyn Magnin (nee Waterhouse)
6 Rue de l'église
25320 Grandfontaine
France
Tel: +33 3 8158 6474 (minus 8 hours)
Email: janetmagnin@aol.com

Joint Standing Committee on Electoral Matters	
Submission No.	85
Date Received	3/7/02
Secretary	<i>Shane</i>

2nd July, 2002

The Committee Secretary
Joint Standing Committee on Electoral Matters
Parliament House
Canberra ACT 2600
AUSTRALIA

SUBMISSION

Dear Sir,

I am an Australian living abroad and I am making this submission to bring to your attention the anomalous situation I find myself in, as a citizen of Australia and yet unable to vote in Australian elections simply because of my address.

After 38 years in Australia, including 16 years of public service as a high school teacher (and some 20 years on the Electoral Roll), I left Australia in July 1991, to live in France with my French husband. We had been married for only a year, and had no idea how long we would be staying in France, or anywhere else for that matter. At that time, I was totally unaware that it was even possible to vote from overseas, or if I did have a vague idea, I thought it was only for people travelling or working overseas for relatively short periods. I also admit that on starting a new life in a new country, I did not realise the significance of no longer having the right to vote in Australia, until some years later, when my life, and my family's, became directly affected by Australian law. It can also be noted that in 1991, communications were more limited than they are now: at the time, I was not able to keep up with current news from Australia, and I live several hundred kilometres fr!

om the nearest Australian mission.

However, this all changed for me when I learned in 1998 that I had lost my Australian citizenship some years before by taking French citizenship. Since then, I have resumed my Australian citizenship, but in making representations to various Members of Parliament about my and my family's citizenship situation, I have come to realise that Members of Parliament only represent and therefore only really listen to those who vote, either for them or against them. It is highly anomalous that, as an Australian citizen, subject to Australian laws even when resident abroad, I cannot vote for the people who have the power to make and/or change those laws.

I have had my most basic right as a citizen removed from me by the operation of a complicated set of electoral laws, with highly arbitrary time limits and criteria for remaining on the electoral roll. If some Australians living abroad can remain on the electoral roll and can therefore vote, why not all of us, no matter when or why we left Australia and no matter when or why we may return to Australia one day. I have also recently learned that some non-citizens living in Australia can and do vote, and yet I, descended from five generations of Australian pioneers, cannot.

In today's globalized world and thanks to the vastly improved communications of today, an Australian citizen does not need to be physically living in Australia to be considered Australian and to remain a part of the Australian community. Thanks to the Internet, I read an Australian newspaper everyday and am just as informed about events in Australia as I was when living there. I return regularly, am in regular communication with friends and family, and indeed still have financial interests in Australia. As many speakers acknowledged during the recent debate on the Australian Citizenship Legislation Amendment Bill 2002, Australians living abroad make an important contribution to Australia's economy, and can now retain their Australian citizenship even when taking the citizenship of another country. This confidence in Australia's citizens abroad should now be given concrete expression by restoring to those citizens their right to vote in Australian elections.

It is also interesting to compare the attitude taken by other countries to their overseas citizens. Unlike Australians, French expatriates are not only able to vote in all regular French elections, but can also vote directly for the members of a special Council (the C.S.F.E.) which meets regularly to discuss all aspects of expatriate life and which itself elects a number of Senators to represent French expatriates in the French Parliament. These Senators can propose laws and amendments for the benefit of their "constituency". French expatriates also have the benefit of an extensive network of help and advice; legal, taxation, housing - and even schools for expatriate children to be able to continue their education without interruption.

It seems to me that the Electoral Law as it currently stands is in urgent need of revision for the following reasons:

1. The current law is virtually unknown. On my departure from Australia, I was unaware of these laws, and I was not informed of the existence of the right to remain on the electoral roll in order to vote from overseas, at least according to certain conditions.
2. The time limits of the current law are far too restrictive. The limits of two years for enrolling from overseas or registering as an overseas voter, and six years for remaining on the Electoral Roll may suit some categories of Australians abroad (or may have in the past), but are far too restrictive and arbitrary to cover the myriad of individual situations that arise. In the first two years abroad, a person may not even be aware of the problem as there may not be an election within that short period. Then, by the time they learn of the procedure that must be followed, they have been struck off the Electoral Roll, and it is too late to re-enrol from abroad.
3. The current law is unverifiable. The requirement that, to remain on the Electoral Roll, a voter must have the "intention" to return to Australia to live is almost ridiculous in its subjectivity. How can "intention" be measured? What happens if the person changes his/her mind for any reason? Many Australians abroad do "intend" to return to Australia one day but cannot fix a time limit to their return. How many people know exactly where they will be six years from now? In life, circumstances can change from one moment to another. The right to vote should not be dependent on such a subjective, unverifiable and changeable criterion as "intention".

4. The current law is discriminatory, as it separates overseas Australians according to their reasons for living abroad. Only work-related reasons currently allow voters to remain on the Electoral Roll, so non work-related study, caring for an aged relative, or even retiring abroad would disqualify many expatriates. This again strikes me as a criterion that is totally irrelevant to the right to vote, which is a function of citizenship, not one's personal life choices.
5. The current law is possibly unconstitutional, in that it removes from certain citizens the most basic right of citizenship for no good reason. Living abroad is not a crime, as far as I am aware, nor is it a sign of mental illness. Constitutionally, citizenship is not linked to residency (in the same way as it is not linked to race or gender or marital status or any other spurious form of discrimination), and there are many people resident in Australia who do not vote.
6. Australians living abroad for whatever reason can keep up with life and events in Australia as never before thanks to modern means of communication. They often continue to contribute to life in Australia either directly, through business or cultural activities, or indirectly, as unofficial ambassadors.

The precise changes that I believe could be introduced very quickly would be:

- The complete removal of the 2-year and 6-year time limits on applying for overseas elector status and on remaining on the Electoral Roll while overseas.
- No removal from the Electoral Roll or other penalty for overseas voters if they fail to vote in any election for any reason.
- A register of overseas voters to be maintained for the rapid dissemination of electoral information, preferably via the internet wherever possible.

A longer term development that could be investigated would be the creation of a "virtual constituency" of Australians resident abroad, with Members of Parliament (or Senators) being directly elected by registered overseas voters.

Thank you for this opportunity to submit my views on this matter of fundamental importance to a democratic society.

Yours faithfully,

Janet Magnin