To: Committee Secretary
Senate Legal and Constitutional Committee
Department of the Senate
Parliament House
Canberra ACT 2600
AUSTRALIA

Dear Sir,

Thank you for providing me with the opportunity to comment on the Australian Citizenship Bill 2005 (the Bill).

I believe that on the whole, this is an excellent piece of legislation. It will reform Australia's citizenship laws for the 21st century and should serve most within the Australian community well, whether they make their homes within Australia or abroad. I am pleased that almost all of the disadvantages Australian expatriates currently experience under the present Citizenship Act have been addressed in this Bill.

I am a person born in Australia to Maltese parents, who had to renounce their Australian citizenship under Section 18 of the Australian Citizenship Act 1948 before their 19th birthday, in order to retain Maltese citizenship as an adult. At the time, I felt I had absolutely no choice but to take that step, but my loss of Australian citizenship has weighed heavily upon me in the years since and has been a matter of deep regret and sadness to me. I still identify myself as an Australian, and I am extremely grateful that clause 29(3)(a)(ii) of the Bill will allow me to make an application for resumption of my Australian citizenship, once this legislation is enacted and in force.

However, I am very concerned that the Bill does not include children born to Section 18 victims after their renunciation. Normally, children born outside Australia to an Australian-born parent can be registered as Australian citizens by descent. Children of people in my situation, however, cannot, because they had no Australian-citizen parent at the time of their birth.

I myself have a child/children born after I was forced to renounce my Australian citizenship.

Citizenship Minister John Cobb MP said on tabling this legislation that the children of Section 18 victims have been excluded from the Bill because, 'unlike those who lost their citizenship under section 17, people who renounced their citizenship were well aware that they had ceased to be Australian citizens. They could have had no reasonable expectation of access to Australian citizenship for any children born after renunciation.'

I strongly take issue with this artificial and discriminatory distinction made by the Government between the children of Section 17 victims and the children of Section 18 victims.

Individuals who were naturalised abroad and lost their citizenship under Section 17 were in many instances faced with a very similar dilemma to Australian-born teenagers in Malta. They were confronted with a very difficult choice. In many cases, they needed the citizenship of their country of residence for employment reasons – e.g. in order to join a police force, or to teach in a state education system. In other cases, they needed to be citizens of their country of residence in order to make sure that they were not left penniless under estate

tax law when their non-Australian spouse passed away, as in the case of many Australians with American citizen spouses in the United States.

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

Two points should be made. First, although some Section 17 victims didn't know that they would lose their Australian citizenship on the acquisition of another citizenship, many thousands did know, and still felt compelled to acquire the other citizenship which lead to their loss.

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

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

I submit to the Committee that all Section 17 and Section 18 people were simply the victims of outdated laws, not only in Australia but also elsewhere, under which dual citizenship was prohibited. Australian-born people who renounced under Section 18 had to use Section 18 because they were starting from a base of two citizenships and had to divest themselves of one in order to satisfy the laws of their other country of citizenship. Those who began with only Australian citizenship and were compelled to naturalise abroad for various reasons did not have to formally renounce under Section 18 – Section 17 stripped them of their citizenship automatically. The fact that one person’s choice involved a formal renunciation whereas another’s did not is irrelevant today. Both groups of children are the innocent victims of laws that existed to prohibit dual citizenship; crafted at a time when the world was not the global village it is today.

The Government’s repeal of Section 17 in 2002 was a watershed in that it signalled that Australia as a nation was finally ready to embrace dual citizenship for all its citizens. This new Bill, in a broad sense, is about putting old wrongs right. It is about inclusion into the Australian family, rather than exclusion. Whether a particular past injustice is put right in this Bill should under no circumstances be conditional upon irrelevant technicalities. Such an approach would not be in line with the overall spirit of these reforms.

Yours faithfully,