AUSTRALIAN CITIZENSHIP BILL 2005

Submission Made on Behalf of the Sydney University Graduates Union of North America (SUGUNA)

Comments in this submission are applicable only to
The United States of America and Canada

Categories of Australians who are Resident in North America

Australians living for extended periods in North America fall into the following categories. It should also be noted that the majority of Australians living in North America are university graduates or professionals.

1. Long-term permanent Residents. These include a.) Persons who came to North America to acquire an advanced university degree or additional professional training and were then offered a very attractive position and stayed. b.) Persons who held a senior executive position with an international corporation in Australia and were sent to North America to assume a senior position in the parent company. c.) Spouses of American or Canadian citizens who established families here. d.) Australian citizens who have entered Canada and/or the USA through the normal visa/quota system.

2. Long-term Temporary Residents. This group includes: a.) Senior executives of Australian companies who are sent to North America to manage a subsidiary operation. (these persons are likely to return to Australia when they advance to a more senior position in the Australian company); b.) Persons entering the United States under the provision of the new e-visa (they are required to return to Australia after a prescribed number of years); c.) Post-graduate fellows who join an American or Canadian university or research group to acquire experience (this class may frequently be invited to accept a permanent research position, but they usually return to Australia on completion of their fellowship). d.) Australian citizens who have entered Canada and/or the USA through the normal visa/quota system.

3. Persons who were employed as Australian nationals by the United Nations and the international financial institutions, many of them on a long term career basis, and who had the status in the United States of non-resident aliens. The Australian spouses and children of these individuals were upon arrival accorded the same status. Upon retirement, many chose to remain in the US and acquire citizenship in that country."

SUGUNA

Most members of SUGUNA are in Category 1. Under conditions of their employment (either academic or corporate) most were required to become American citizens. In some cases, the discriminatory and punitive inheritance regulations against non-citizens in USA have forced some Australians to become USA citizens. As a result the Australian Government, through the provisions of Section 17 of the *Australian Citizenship Act, 1948,* ensured that these highly skilled Australians would never return to Australia to assume permanent residency there.

A recent change in the act has removed the provisions of Section 17 and now Australians who have to become naturalized Americans can retain their Australian citizenship. Having reviewed the *Australian Citizenship Act 2005* we note that persons who lost their citizenship under Section 17 of the previous act are now able to apply to regain their Australian citizenship under Section 29 Subdivision C of the proposed bill. Since enough damage has already been done by the provisions of the old Section 17, we do not understand why those who lost their Australian citizenship must go through the complex process of applying for reinstatement of their citizenship. Surely it should be possible to automatically reinstate the citizenship of those from whom it was taken away. If that were the case these persons would only need to apply for a passport at an Australian Consulate and present their Australian birth certificate. Furthermore, we believe the new regulations for reinstatement of Australian citizenship should apply equally to those natural born Australians and to those who became naturalized Australians.

On closer reading of the bill we find that it fails to address at least two other concerns that are known to affect some SUGUNA members. The first of these is the case of the spouse of a natural-born Australian who was born in another country, migrated to Australia as a child, and then became a naturalized Australian. After marriage that person entered the United States and lost Australian Citizenship under Section 17 when the spouse acquired American citizenship. There does not appear to be any provision for that person to regain Australian citizenship.

The second problem faced by, at least one, of our members is that she was born in Australia with American parents. She was registered with the US consul in Australia and on entering the United States she was recognized as an American citizen. On applying for an Australian passport she was told she never lost her Australian citizenship as she had not signed any papers renouncing her Australian citizenship. Her daughter was born here after 1974 but was just over 25 when her mother received her passport. On making application for an Australian passport the daughter learned that her citizenship by decent was not valid as she had been born after 1974 but was just over 25 when her mother received her Australian passport. It would seem that this restriction should be removed from the 2005 Bill.

The process of demonstrating good character—a requirement of the new regulations—can, itself expose the applicant to discrimination in the United States. The response of local law-enforcement officials when told that the reason for the applicant to be fingerprinted is as part of the process to regain Australian citizenship is almost universally a negative one. Comments such as “Is US citizenship not good enough for you?” are commonplace and can put the applicant in an invidious position. The prior method, whereby a respected community member attests to the good character of the applicant, should be sufficient.