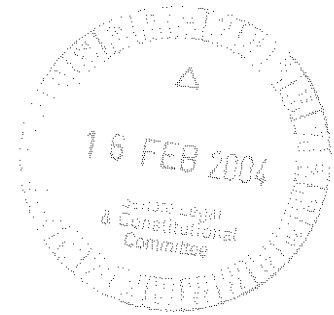


Geoffrey R. Cullen



The Committee Secretary
Senate Legal and Constitutional References Committee
Parliament House
Canberra ACT 2600
Australia

Dear Sir/Madam,

Submission to Inquiry into Australian Expatriates

I would like to respond to your invitation for public comment as part of the Committee's Inquiry into Australian Expatriates. I would like to address primarily Section D of your Terms of Reference relating to the needs and concerns of overseas Australians, with a focus on the issue of lost Australian Citizenships.

Preamble:

By way of introduction, I'd like to present a brief account of my personal background.

I was born fifty-three years ago in Gympie, Queensland. During my childhood years, I benefited from a wonderful array of support provided by parents, teachers and mentors and achieved the Queen Scout and Gold Duke of Edinburgh Awards. I graduated from the Queensland Agricultural College and the University of Queensland and became an Officer in the Australian Army Reserve.

Professionally, I worked in the sugar industry for ten years before joining an engineering company that provided consulting services throughout South East Asia. Accordingly, I traveled extensively during that period, meeting and working with numerous expatriate Australians who were similarly engaged. Subsequently, I opted for a more sedentary life style, becoming employed as a business analyst in the mining industry.

Fifteen years ago my United States born wife and I were married and we now live in Denver, Colorado. I became a member of the Australian American Chamber of Commerce and maintain an active interest in the local Australian expatriate community.

In 1997, I became a United States Citizen and consequently, lost my Australian Citizenship under the provisions of Section 17 of the Australian Citizenship Act 1948, (now repealed).

Reasons for adopting US Citizenship:

My decision to adopt US Citizenship was driven by circumstances common to many Australian Citizens living as Permanent Resident Aliens in the US. Dealing with the mind-numbing array of bureaucratic and legal barriers that impede the conduct of a normal life ultimately became so grinding that I yielded to taking the US Citizenship option.

Certainly, from a financial viewpoint, it would have been advantageous for me to apply for US citizenship as soon as I was eligible. However, it took me eight years to accept that, in order to live an effective life here in the US, I really had no alternative other than to become a US citizen.

A few examples may help illustrate some issues that influenced my citizenship decision:

1) In order to purchase a house in joint names with my wife, I needed to be a US citizen if we were to avoid additional gift tax payments to the IRS. Since I was an Australian citizen, if my wife paid more than \$10,000 towards our house than I did, the additional amount was considered a "gift" to me. Consequently, my wife would have had to pay gift tax on the additional amount at a 55 percent rate. Faced with this, we elected to purchase the home in my wife's name only. This brought forward other legal problems with respect to estate planning, insurance and inheritance issues.

2) Non-US citizens are faced with estate planning issues of considerable complexity. There is no problem with inheriting from one's spouse provided that a "Qualified Trust" is established. Then, in the event of my wife's death, the Trust would inherit, not me. This provision is required by the IRS to prevent non-citizens from taking funds out of the country in the event that a citizen spouse dies. The logistics of setting up and administering a Qualified Trust requires professional legal support and significantly complicates even simple estate planning. Further, continuous changes in the tax code require continuous monitoring and evaluation of personal circumstances over time.

3) Non-US citizens are subject to layers of legal complication. Recently, I encountered questions relating to citizenship when applying for health insurance coverage.

4) Non-US citizens are subject to taxation without representation. Even more so than Federal and State governments, Local governments and their planning commissions influence enormous power over homeowners and can adversely impact their finances in myriad ways. Of course, non-citizens are not eligible to

vote and accordingly, cannot register their dissatisfaction at the polling booth. Needless to say, non-citizens still get to pay for the cost of regulation that may be contrary to their interests and about which they have no say. Simply, if one wishes to vote, one must be a citizen.

5) However subtle it may be, non-US citizens suffer disadvantages in the employment market and of course, any government work is for citizens only.

Thus in due course, my US Citizenship option was taken. It was not a capricious choice of convenience; rather, the decision was taken pragmatically and thoughtfully, critically seen as a prerequisite to living and conducting my personal affairs in a normal, and as far as possible, uncomplicated fashion.

Negative Consequence of my adopting US Citizenship:

No other decision in my life has been as difficult to make as was the one that I took to become a US citizen. Why? Because, I was aware that I would lose my Australian citizenship as a result. For a number of years prior, there had been “talk” of repealing Section 17 of the Australian Citizenship Act 1948, however nothing ever came of it in a timely manner. Accordingly, I could no longer afford to wait around hoping that the wheels of bureaucracy might someday turn in my favour.

Some Australian friends and relatives could not understand why I chose to adopt US Citizenship. I was regarded as some kind of “traitor”, my loyalty was in question and as some would say, I was no longer “true-blue”. I found it difficult, if not impossible to explain to some that I felt there was no real alternative for me given my set of circumstances. Happily for me, while they may not have been totally approving, most people did understand and wished me well anyway.

When dealing with Australian officialdom, I was left with no uncertainty how the Australian Government would view the matter. As part of my fact-finding process regarding my status options, I called the Australian Embassy in San Francisco to enquire about the consequences of becoming a US Citizen. The representative to whom I spoke, contemptuously and unpleasantly informed me, “We will deny you entry”.

Identity:

It is immediately obvious to anyone who meets me and hears my voice that I am an Australian. Even after fifteen years living in the United States, I simply cannot escape my Aussie accent. The first thing I am asked when meeting someone new is, “Where are you from?” People are disappointed if I simply respond, “I’m from Denver”. They know better – they know that I’m from Australia and they want to know all about it.

I am proud of my Australian background and am deeply aware that the Australian culture is an integral part of my being.

While I am an US Citizen, I remain no less Australian. After all, I was born there, educated there, worked there, have family and friends there (and I'm still not immune from getting a lump in the throat whenever I see a Qantas advertisement on the television). I'm an Australian whose citizenship birthright, was automatically stripped away from me by faceless bureaucratic regulation.

An Appeal for a Fair Go:

April 4, 2002 was a happy day. I was delighted to learn that the Governor General had given Royal Assent to an Act repealing Section 17 of the Australian Citizenship Act, 1948, the very legislation that caused me to lose my Australian Citizenship. At least from that day forth, no one else could lose Australian citizenship the way I did.

The Repeal of Section 17 means that Dual Citizenship is allowed so that:

Australian citizens who acquire another citizenship, no longer lose their Australian citizenship.

Citizens of other countries who come to Australia and become Australian Citizens are not required to forfeit their prior citizenship in order to become an Australian citizen

In the case of people from elsewhere who became Australian citizens, should they now move on and adopt the citizenship of yet another country, they will not be required to relinquish their Australian citizenship.

I was not required by the US Government to relinquish my Australian citizenship in order to become a US citizen. It was the Australian Government, exercising the provisions of Section 17, of the Australian Citizenship Act, 1948, that removed my citizenship.

Unfortunately for me, and thousands of other Australian born people who lost their Citizenship prior to April 4th, 2002, the repeal of Section 17 does not apply retroactively. Consequently, anyone who has lost their Australian citizenship while Section 17 was still in effect did not automatically get their lost citizenship back. Nor do they acquire a right to apply for resumption of their lost citizenship. The repeal of Section 17, while welcome, just means that no further Australians will lose their Australian citizenship in this manner.

Many ex-Australian citizens like myself could be forgiven should they feel somewhat slighted and discriminated against. The worst we have done with respect to our Australian Citizenship is to have demonstrated poor timing.

We too, would like the opportunity to be allowed Dual Citizenship and to have our Australian Citizenship reinstated, without prejudice and without the drama of a long bureaucratic review process. At some point, I would like to see the repeal of Section 17 be applied retroactively for all those who have been victimized by it in the past.

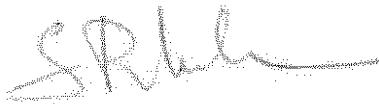
Conclusion:

Thank you for the opportunity to present these comments to the Committee. I continue in my life, glad of my Australian heritage and hopeful of making a continuing contribution to the community in which I live. Regardless of my citizenship status, I remain, in my mind, an unofficial emissary for Australia and continue to foster amicable relations between Australia and the Americans I meet.

I am planning a visit to Australia later this year. I fear that it will be a bittersweet experience for me. On the one hand, I'll be glad and excited to see the familiar sights and sounds of my old country once again. As well, the prospect of getting together with friends and family will be enormous fun. However, on the other hand, I know that there will be a sad moment when I present my USA passport to gain entry. It would really be much more comforting to be able to come home with an Australian passport.

I remain hopeful that someday, dual citizenship will be available to those of us who have lost our Australian Citizenship as a result of Section 17 and that the discrimination and unfairness of the situation will no longer be ours to bear.

Respectfully yours,

A handwritten signature in dark ink, appearing to read 'G. R. Cullen', with a long horizontal flourish extending to the right.

Geoffrey R Cullen