

Message:

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

Dear Sir/Madam,

This submission is in response to the invitation for public comment as part of the Committee's Inquiry into Australian Expatriates.

I never intended to be an "expat". I was born and grew up in a NSW country town, went to Sydney Uni on a Teacher's College Scholarship, then went teaching French and English in various high schools in Sydney. I enjoyed travelling of course, and had travelled extensively, but was perfectly happy with my job and my life in Sydney. Then, I was lucky enough to be awarded one of only six French Government scholarships for Australia, to improve my French-teaching qualifications in France for a year. During that year, I met my future husband, who had been offered a job in Sydney, and a year later, we married in Sydney. However, another year later, in 1991, we made the decision to move back to France, for mainly practical reasons, one of which was that my husband's work was not really transferable to the broad Australian context (the job he had was on a year-by-year basis and could not be generalised). I would also have to add here that I had been much more warmly welcomed in France than my French husband had been in Sydney. I can count on the fingers of one hand the number of people who took the time and trouble to sit down and have a conversation with him during our two years there. But I doubt if governments can change some people's indifference and lack of politeness to a visitor.

So far, so good, no real problems. I had no trouble settling into my new life in France, as I was returning to the place where we had met and already spent time together. I have never seen myself as an "expat" (personally, I hate the word). I never saw myself as anything other than what I had always been: a normal person living a normal life, but now, just in a different country, not a "foreign" one, for the reasons given above. For me, moving to France was no different from moving interstate, to the place where one of the couple already has a house, for example. Being married to a French citizen for more than a year, I had no problems with French bureaucracy. I think I also had some rather romantic ideas of living a couple of years here and a couple of years there, but of course, in reality, this is less romantic than it sounds, and hasn't become possible for many reasons.

So far, so good. Our situation was such that, after a couple of years, I was able to stop working, to look after our children (France also provides an allowance for three years to a parent who does this, but that's another story), but then we wondered what would happen if anything should happen to my husband and he was not able to work. As I had been a public high school teacher of both English and French, it seemed a good idea for me to try to enter the French teaching service as an English teacher, or at least to have the qualification in case of need. I was also looking for an activity to keep my brain active while bringing up two small children, and preparing the required examinations by correspondence seemed just the thing. However, even to sit for the entrance exam required me to take French citizenship, which I did, in complete ignorance of the effect this would have on my Australian citizenship. I acquired French citizenship after the birth of my first child but before the birth of my second child, a significant point for later developments.

Still all is well, until some five years later, in 1998, when preparing a return visit to Australia, I learned that I had in fact lost my Australian citizenship by taking French citizenship. I should like to comment here that the Paris Consulate staff were helpful in immediately informing me of the possibility of resumption, however, the advice I was given regarding my children turned out to be wrong. I was initially advised (in writing!) that my son, born before I had lost my Australian citizenship, had not been affected (I found out later that he had lost his citizenship when I did) and that my daughter born after I had taken French citizenship would get Australian citizenship when I got mine back (I found out later that she was ineligible for citizenship by descent). I am telescoping here, all these details only came out gradually over several years of writing letters to the Minister for Immigration, and his Parliamentary Secretary. But it strikes me now as completely aberrant, that correct information is only available from the Minister's office. It seems to me that if Citizenship legislation is so complicated that the people sent around the world to advise people "in the field" cannot even grasp its full implications, what hope is there for the ordinary citizen? In addition, when writing to the Minister to make various points about the effects of Section 17 and the resumption provisions, while the answers were always polite, I quickly realized that my views counted for zilch as far as Australian politicians were concerned. And I quickly came to the conclusion that even though I am affected by Australian law, I have no say in its making, that politicians have no interest in me since I no longer have any right to vote. I don't "count" any more. I came to the realization that, from Australia's point of view, I was a sort of "second-class" Australian, "out of sight, out of mind", or worse, an "expatriot", as I have seen written, although I'm never sure if this is a deliberate mistake or not.

It was in the middle of my letter-writing that I happened to come across the Southern Cross Group, and because of my own experiences, I quickly came "on board" to help in the campaign for the repeal of Section 17 of the Citizenship Act. Although I had written to the Minister several times saying that Section 17 should be repealed, it still didn't happen until April 2002, with the weight of the Group behind it. On the other hand, the framers of the legislation repealing Section 17 went back to the Citizenship Council's recommendations made some two years earlier, and didn't seem to take into account the over 800 submissions, many from expats, received a year later in response to the DIMA discussion paper. Can you understand why many of us feel as though we are just voices crying in the wilderness?? For example, many people mentioned that the resumption provisions were not adequate, but the Citizenship Council had recommended that they were (with all respect to the Citizenship Council, how many of them were expats who had had their citizenship stripped from them because they had unknowingly taken another citizenship?) This is, I think, about the fifth or sixth time I have written my story. Can you understand that it is getting harder and harder to write the same things over and over again in the hope that someone over there is listening to us? (Maybe, this time someone is...)

I was able to resume my Australian citizenship under Section 23AA but I still had the problem that my daughter, having been born after I took French citizenship, was not and never could be eligible for citizenship by descent, as her only Australian parent was not Australian at the time of her birth (I was technically not Australian for the five years between taking French citizenship and resuming my Australian, despite having lived the first 38 years of life in Australia and being descended from five generations of Australians.) It was particularly galling that she was the one to "pay" for my mistake! But here I must acknowledge the efforts of the Southern Cross Group, for making the Minister for Citizenship aware of this category of innocent Section 17 victims, and the Minister himself, for seeing his way to making a change of policy in October 2003, allowing these children to apply for grant of Australian citizenship under section 13 (9) (a) of the Act. So, technically, my personal citizenship problems will soon be finished, although I am still waiting to hear

the result of my daughter's application. Although the whole process was supposed to take only three months, the papers were still at the Paris Consulate at least two months after my lodging them. Are they so understaffed?? There are only some 5500 Australians in France. Another child in the same situation, who lives in Britain and who applied at the same time as my daughter, has already received his Citizenship Certificate.

However, I am now "politicised". I find it more and more amazing, frustrating and annoying, that so many complications and exceptions still exist in Australian Citizenship law. For example, other children in the same situation as my daughter cannot apply for grant like my daughter can if they are over 18. What difference should their age make? Children of Section 17 victims whose parents cannot resume do not come under this change of policy - why not? While the change of policy was designed with children like my daughter in mind, why can't it be extended to the other children of Australians no matter when they were born who may wish, for example, to undertake further study in Australia to strengthen their links to their "other" country? Many other countries are able to accept the children of their far-flung citizens as their own, even the grandchildren, without restrictive residency restrictions. Here we are talking about people with real, lengthy connections with Australia (and their children), many if not most of them born in Australia, who are caught up in bureaucratic and legalistic traps, often through ignorance but sometimes through wrong advice, created by legislation originally framed in the post-WW2 and Cold War context of single citizenship and now including a mish-mash of patch-up legislation over the years that has grudgingly tried to make quick fixes for particular problems as they arise, perhaps right for a certain political climate at one time (Section 17 was almost repealed in the 1980s but politically it was still not "possible" then) but that are no longer suitable in today's mobile, globalized world. The repeal of Section 17 means that there will be no more new "victims". But the whole position on resumption and the position of children urgently needs to be clarified and simplified. I am now of the view that a complete overhaul of the Citizenship Act is necessary, to bring all its different provisions into some sort of coherent whole approach to citizenship. How about: "Once an Australian, always an Australian"? This is certainly how many, many Australians living abroad feel, whether or not they are still technically Australian. And why not extend to the grandchildren? What a fantastic network of people with a positive view of Australia in their hearts around the world. Speaking for myself, having been born in Australia, losing my Australian citizenship was like someone trying to cut my past away from me. It's bad enough not having my past around me all the time, like those who stay in more or less the same place all their life, let alone having it officially "removed" and being forced to explain, justify and prove my ignorance, intentions and links to get it back again. Future takers of a second citizenship do not have to justify continued links with Australia, or ignorance of the law, or an intention to return, or anything else. It's just not fair that those who lost in the past still have to go through hoops.

I would now like to respond to some of the specific terms of reference of this inquiry.

(a) the extent of the Australian diaspora

Who really knows? Until a proper census is taken of Australians living overseas, no-one can say with any certainty who we are, where we are, how many we are, or what we want or need from the Australian Government. At least this inquiry is a start (and a good one), but only a very small proportion of Australians living overseas will actually make submissions.

Recommendation: That the Government immediately undertakes a proper census of all Australians living overseas, through whatever means available, Embassy records, Internet registration. Of course, this still won't be 100% accurate, as some may not be able to be found after being ignored all these years, and some

may not want to be found. In any case, there should be strict guarantees that any information gathered will be kept confidential, and used strictly only for statistical / research / planning purposes.

(d) the needs and concerns of overseas Australians

Dual citizenship and resumption of Australian citizenship:

Dual citizenship for Australian-born citizens was finally accepted in principle by the repeal of Section 17 of the Australian Citizenship Act, although only after a very long, and at times difficult battle. However, it still does not apply to everyone equally. Resumption provisions, introduced as "patch-up" legislation in the 1980's, are far from adequate, and leave many former Australians "out in the cold". The present situation remains highly discriminatory, as, since 4th April 2002, takers of a second citizenship do not have to fulfil the same criteria that apply to those who took another citizenship in the past, often in ignorance, and who now wish to regain their Australian citizenship. In fact, the whole Citizenship Act is full of anomalies and discrimination, mainly due to the operation of Section 17, but also because of the various attempts to patch up problems over the years. It is now incredibly complicated to administer, with variations depending on when a person lost their citizenship, when their children were born, whether their children were registered, whether their children are now over 18 or over 25 and so on and so forth. Consulate staff have been found to have given wrong or, at best, misleading advice. These problems have still not been addressed, but must be soon. There are hundreds of thousands of loyal Australians around the world (and their children) who are virtually "lost" to Australia because of the former Section 17. Speaking personally, it is impossible to exaggerate the feelings of anger, bitterness and rejection when you discover that you have been stripped of something you were born with and still feel is a part of you.

Recommendation: That the repeal of Section 17 of the Australian Citizenship Act 1948 be made retrospective, so that any Australian citizen who took a second nationality at any time may immediately have their Australian citizenship reinstated, from the date of loss.

Failing that:

Recommendation: That resumption of Australian citizenship be made freely available on application by any person who lost their Australian citizenship under the operation of the former Section 17, without the current, restrictive criteria that apply, and that resumption be taken from the date of loss of citizenship, to protect the rights of any children born to former Australian citizens in this situation, to give them equal rights to children born of future Australian dual citizens. Along with this, that any children born to an Australian citizen who lost their citizenship under the former Section 17 be immediately eligible either to resume their citizenship by descent or for citizenship by grant, no matter how old they were at the time their parent lost their Australian citizenship or at the time of their application. "Once an Australian, always an Australian!"

Voting rights:

The right to vote is the fundamental right of every citizen. The Australian Constitution defines voters as the "people of the States" and the "people of the Commonwealth". Australians even when living abroad are still governed by Australian laws, so they should retain the right to vote for the people who will frame the laws. The current rules governing overseas voting are little known and very complicated, resulting in many Australians living abroad being disenfranchised. Being a disenfranchised Australian who made a submission to the JSCEM, I must say that the Committee's report into the 2001 Federal election was very disappointing, in that it did not see fit to recommend any significant changes to the current situation, and indeed seemed to ignore the fact that such a large number of submissions were made about the overseas voting problem. Yet another example of the feeling that we are "out of sight, out of mind" - or worse, that we are somehow traitors to our country, not to be trusted with

anything as important as a vote, because our horizons are wider than Australia's borders. I am not referring here to dual citizens, since not all Australians living abroad take the citizenship of their "host" country. In fact, before the repeal of Section 17, many did not precisely because of their great loyalty to Australia, yet they too are "punished" for leaving the country by being struck off the electoral roll.

Recommendation: That the current highly restrictive time limits governing registering and voting from abroad be removed to enable Australians living abroad to be immediately re-enfranchised, by allowing them to be re-enrolled either on the last electoral roll they were on before their departure, or on the electoral roll where their closest family member living in Australia is registered. That electronic voting be immediately investigated in order to facilitate its use by Australians abroad.

Recommendation: That a special "overseas Australians" electorate be established, at least in the Senate, whereby Australians who are registered at an Australian mission abroad, could vote for their own parliamentary representatives, who could introduce legislation for and on behalf of overseas Australians.

Representation:

Expatriates, having been ignored ("out of sight, out of mind") for so long, do not have a specific organization or government department that deals specifically with their needs and concerns. Information is not easy to find, let alone any actual provisions made for people living abroad. When the information is found, it is often negative - many people abroad feel "penalised" in many ways for having made the choice to live outside Australia. This often causes them to delay their return sometimes indefinitely.

Recommendation: That a department for Australians abroad be established (a Department of Emigration?) to centralise information and to administer the needs of Australians living abroad for any length of time. After all, if there really are about a million of us out here, we represent a fairly large minority group, equivalent to Australia's fifth or sixth biggest city. A first step that could be taken fairly quickly and easily could be the establishment of a website dedicated to centralising and providing information for expatriates or potential expatriates that cuts across the relevant departments, Citizenship, Taxation, Health, Distance Education, and so on.

Recommendation: In the longer term, a representative council could be established to properly represent the specific interests of Australians abroad. Expatriates would thus be encouraged to register in order to vote for their representatives on such a council. Several countries have such a council and/or a system of keeping in close contact with expatriates through newsletters etc.

Distance education:

I am bringing my children up bilingually and am making every effort for them to learn about and understand their Australian background, which, by the way, they are very proud of. I wanted them to spend some time in Australia while they were still primary school age, but this has proved to be impossible (partly because of the confusion over their citizenship status for so long, see above). In the meantime, expatriate children all over the world are being educated in British, American or local schools, and many are missing the special links forged through having some school experience in an Australian system. It would be wonderful if distance education was available to them, and with today's communication links this should not be so difficult. While education is a State responsibility, Federal programs do exist in certain circumstances. How about it?

Recommendation: That distance education be available to non-resident Australians, no matter how long they have been or intend to be away from Australia.

(e) the measures taken by other comparable countries to respond to the needs of their expatriates

Obviously, because I live in France, I am familiar with the way France deals with its expatriates (my husband was a French expatriate for two years in Australia) and I strongly recommend that the committee takes a close look at the French approach. I believe the Southern Cross Group submission will include a detailed description. Very briefly, for about 2 million expatriates, there is a 150-member representative council, the High Council for French Expatriates, elected by registered French expatriates, which deals directly with many (most?) aspects of expatriates' life abroad. The Council in turn elects Senators, who can present legislation for the benefit of expatriates, and is represented in the Cabinet by the Minister for Foreign Affairs. The Council can and does examine any aspect of expatriate life, from legal, taxation, health, pensions, superannuation, schooling and training, repatriation, voting, veterans' affairs and so on. There are committees with links to agencies that deal specifically with many of these issues. Thus French expatriates are not seen as separate from France, but as an integral part of the whole nation. And most importantly, French citizens when abroad can vote in all elections in France, from local government to Presidential and European elections, and referenda. They simply have to be registered at their closest Embassy or Consulate.

(f) the ways in which Australia could better use its expatriates to promote our economic, social and cultural interests

Do a census of expatriates, then include us in regular Australian censuses. Give us back our citizen's right to vote in Australian elections. Give us back our citizenship, if it was taken away by a law that no longer exists. Give our children their citizenship by descent. Give our spouses Australian citizenship (after a certain number of years of marriage and/or children but excluding residency requirements). Do anything and everything to make it easier for us to return when we want to, and/or to come and go more easily. Encourage registration at Embassies and Consulates, with regular information and contacts. Create a Council for Australian Expatriates. Create an expatriate electorate, with dedicated MPs or Senators. Encourage a more positive attitude towards expatriates: for example, the expression "brain drain" is rather unfortunate, as "drain" implies loss, whereas a network of Australians spread all over the world should be seen as a huge plus, something like a "brain expansion". Is it because Australia has always seen itself as a country of immigration that it becomes inconceivable that anyone would want to live anywhere else? I hope some of the submissions to this inquiry will receive public attention, so that people will understand better how and why some people leave the country. We're not all like Germaine Greer.

I dream of the day when I look up into the sky and I see a plane carrying a banner reading "Come home, all is forgiven, mate". I don't know if the Senate knew what it was in for when it decided to hold this inquiry, but, eternally optimistic as I am, like many Australians, I believe that a lot of good will come out of it, and that it won't simply been seen as a chance for a whinge. I have already read many of the submissions already made, and some of them describe situations much more heartbreaking than my own. But we all make our way as best we can in this world, we don't know what the future holds, and we can never know what was on the other paths we decided not to take.

Thank you for this opportunity to present my views, and I look forward to the great advances that will come from this inquiry, for the many Australians around the world but especially for Australia.

25th February 2004