

Australian Citizenship: Past, Present and Future

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Australian citizenship is something that initially crept into our lives quietly, almost unnoticed, in 1949. Yet it is a crucial part of that gradual process of evolution which has, this century, transformed Australia from British colony to independent nation-state.

Australian citizenship was, in 1949, no novel idea. It had been vigorously debated in the Constitutional Conferences of the 1890s. Being a citizen of one of the Australian colonies was a well-understood though undefined concept and the phrase featured in the Commonwealth bill of 1891. But after much debate it was 'subject of the Queen' that ultimately appeared, and still appears, in s 117 of our Constitution and 'people of the Commonwealth' that is used in s 24.

So it was that until 1949 Australians remained British subjects, possessing no unique citizenship of their own. Then in 1949 we became Australian citizens though still the Constitution remained silent on citizenship, unlike the United States' Constitution which ever since the 1860s has declared and defined citizenship of the United States. In Australia it was left to the Federal Parliament to enact the notion of Australian citizenship after World War II. As the Minister for Immigration of the day, Arthur Calwell, put it, the time had come for Australia to recognise its maturity as a member of the British Commonwealth. For the next twenty years Australians were not only citizens of this country but at the same time British subjects. In 1969 the law was changed and we ceased to be British subjects but, rather mysteriously, acquired instead 'the status of British subjects'. Finally, in 1984, there was a further change; we ceased altogether to be British subjects and ever since we have been simply Australian citizens and nothing more.

These changes over the past fifty years may seem quite dramatic ones. Questions of nationality are, after all, the *kind of thing that wars are fought over* but these changes have, I think, in fact made very little impact upon the Australian community apart from there being a rather vague appreciation that we are no longer British subjects, an appreciation that is reinforced whenever we arrive at Heathrow and are denied that wholly free access accorded to members of the European Union. Australian citizenship has none of the aura which surrounds the concept of being a citizen of the United States nor the echoes of revolutionary ardour that one associates with the notion of being a citizen of France. This is, I believe, largely because our citizenship has not had to be fought for but has come to us gradually, without fanfare and without struggle.

Indeed, while most Australians feel quite deeply about being Australian, I doubt whether very many associate that feeling with the possession of citizenship, though it is its possession that makes us Australians.

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Why we as a people have not in the past perhaps accorded to our citizenship any great significance, usually giving little thought to the concept, may be not only because of the very fact that, like independent nationhood, it has been bestowed on us without struggle or violence but perhaps, too, because the benefits it brings with it we take anyway very much for granted as inalienable rights that we of course possess. All this is some indication of our good fortune in living as we do in a stable democracy on an island continent with no border disputes with neighbours and with a population not torn by centuries-old ethnic feuds. This happy state now seems likely in the future to be somewhat overtaken by the shrinking of our globe through the advances of technology and the growth of globalisation and with it the advent of something like world citizenship. Already we have seen the advent of regional groupings in North America with its North American Free Trade Agreement and of course in Europe and, as yet somewhat faltering, in South East Asia. The European Union is providing an example of something approaching citizenship certainly wider than the borders of a single nation. However, far from imperiling the present relatively even tenor of our ways, globalisation may lead to an enlargement of the whole concept of citizenship, so that we may ultimately move from exclusive Australian citizenship to become world citizens, with national boundaries assuming a merely cultural and historical rather than legal significance and the rules of law of each nation incorporating truly international rules of law which prevail worldwide.

In this context it was fascinating to read only last week what the New Zealand Finance Minister had to say about citizenship as it affects Australasia during his visit to Melbourne when he addressed a Council for Economic Development meeting. He proposed that Australia and New Zealand should have reciprocal rights of citizenship, so that if there was to be a genuine common market as between the two there should as well be something approaching a common citizenship.

This is an interesting example of the benign and peaceful significance of citizenship as a word, like those of 'civilian' and 'community', as distinct from the almost martial ring of 'nation' and 'nationalism'; blessedly innocent too of the implications of force and subjection which 'subject' carries with it. It might be more difficult to contemplate New Zealanders welcoming the thought of becoming in any sense Australian subjects or adopting Australian nationality, even if only during their time here and even without losing their New Zealand identity, whereas to hold in common both citizenship of Australia and of New Zealand obviously does not strike any very discordant note. So perhaps, while citizenship may not arouse great patriotic ardour, it does have the advantage of soothing anxieties generally.

However unconscious native-born Australians may be of their citizenship while acutely aware of being Australian, at least for many migrants Australian citizenship has a very special meaning, its acquisition marking their final transition from settlers in a new country to full membership of the nation they have made their own. For them citizenship, its acquisition and its rights mark the completion of a long process begun when they left their native land to settle in a new continent.

It is interesting to look at the statistics about acquisition of Australian citizenship. Of the post-war migrants who have to date made their home in Australia and are eligible for citizenship, well over three million have already become citizens. Of migrants who have lived here for thirteen years or longer almost 77% have become citizens and what makes this statistic truly remarkable is that that 77% has been achieved despite the fact that the largest sources of our migrants, those from Britain, Ireland and New Zealand, have in percentage terms contributed relatively little to that total. Of all those migrants over the years who have not taken up citizenship but instead have been content to remain with only the status of permanent residents in Australia, a good deal more than half, as recorded in the 1996 census, have been from Britain, Ireland and New Zealand. Their reasons can only be matter for speculation but it seems not unreasonable to suppose that very many of them, and the Canadian and United States migrants too, have felt so much at home in the Australian community that they have seen no need to initiate steps towards acquisition of citizenship, being content to remain simply permanent residents. That is a status which, as we shall see, gives them many valuable rights and for them this may be enough.

In post-war Australia it was early determined that, consistently with its liberal reception of migrants, there should be a no less liberal availability of citizenship. Some nations have welcomed guest workers from abroad in times of full employment but have made it very difficult indeed for them or their children ever to become citizens. This has left those migrant guest workers and their offspring, even into the second and third generations, facing the possibility in times of economic downturn of having, at short notice, to leave the country in which they have made their homes and where they may have lived for all or much of their lives.

Australia, instead, has through its citizenship policy not only welcomed migrants but has made relatively easy their becoming an integral part of the Australian community. Perhaps the best evidence of this lies in the 1996 census statistics about citizenship. At first sight a bleak document, it in fact makes fascinating reading. It shows for instance that of the almost 125,000 Greek migrants eligible for citizenship an astonishing 97% had by 1996 become citizens and the figures for migrants from Yugoslavia, Hungary, Poland, Lebanon, the Baltic states, Egypt and a number of Southeast Asian nations, Laos, Vietnam and Cambodia, are also all over 90%. Those are the figures as at 1996 and since then this remarkable move towards citizenship has continued.

The great achievement of Australian citizenship, its striking accomplishment to date, lies then not so much with those of us who are Australians born and bred but, rather with those millions who, migrating to this land, have of their own free will chosen to become citizens and thus become an intimate part of the Australian community. I say of their own free will because Australia has not, as it might have done, exerted pressures upon them to become citizens by otherwise excluding them from valued entitlements.

It is true that only by becoming a citizen does one acquire the right to vote at elections and referendums, to stand for election to the Australian

Parliaments, to hold an Australian passport and thus freely to re-enter without a visa, to join the federal public service, serve in the armed forces or serve on a jury, if that is indeed a right rather than a duty. But the status of permanent resident does confer the prime right, that of remaining permanently in Australia and making it one's home and permanent residents share in the pension and other social welfare rights which citizens enjoy. So it has surely been very much the desire to join fully in the Australian community as citizens that has produced these very high rates of migrant acquisition of citizenship. And that was precisely the aim of the creation of Australian citizenship, as a nation-building tool once we opened the door, post-war, to large scale migration in no way confined to settlers from the British Isles.

In all this happy record of liberality and fair treatment there is a sad exception, the case of indigenous Australians. In a formal sense there has been no discrimination against them as to citizenship, unlike the case of slaves in the Southern states of the United States and, indeed, of the indigenous American Indian population, both of whom were originally denied citizenship. From first settlement on throughout the 19th century and on into the 20th century Australian aborigines were, albeit quite involuntarily, British subjects and they too became Australian citizens in 1949. But from their point of view, all this was something of a mockery. For much of our history their legal status as subject or citizen carried with it almost none of the civil or political rights we associate with citizenship. Until the 1960s most could not vote in elections and in some States and Territories they were even denied the right to travel or to decide where they would live other than on native reserves. Even the right to marry as they chose was not always theirs. They were in many respects citizens without rights.

All this came about because being British subjects and, following the *Australian Citizenship Act 1948* (Cth), being Australian citizens did no more than confer the status of subject or citizen but did not and still does not itself confer any specific consequent rights; that has never really been its purpose. Essentially the citizenship legislation does no more than describe who are citizens of Australia, whether by birth, adoption or descent, how one may become a citizen and how one may lose and may later resume citizenship. It does not attempt to describe the rights of citizens or their obligations, leaving this to a whole variety of other acts state and federal, legislation concerned with voting and standing at elections, with the holding of an Australian passport, with service on juries and so on. Only gradually, over the years, has this other body of legislation been amended to include, or, rather, no longer to exclude, indigenous Australians. It was only in 1967 that the Commonwealth government, by a constitutional amendment passed by an overwhelming majority at referendum, acquired the power to make laws for indigenous Australians, but in the 1950s and early 1960s they had already gained the vote in Commonwealth and, later, in State elections and also equal rights with all others to the benefits of Commonwealth social security legislation.

There is one feature of Australian citizenship law that is a matter of considerable controversy. Commonly referred to as dual citizenship, but more accurately described as the loss of Australian citizenship on acquiring the

citizenship of another country, it has been a feature of our citizenship law ever since 1949. It arises whenever an Australian citizen does any act the propose and effect of which is to acquire the nationality or citizenship of another country. The consequence is automatic forfeiture of Australian citizenship, whether or not the act is done with the knowledge that it means loss of that citizenship.

However this is no longer around the world by any means a universal international consequence of acquiring another nationality. For the past more than 50 years New Zealand and Great Britain have permitted dual citizenship, as now do Ireland, Canada, France, Italy, the United States. and many other nations as well. Treating dual citizenship in this way involves a recognition of the mobility of present-day populations.

The current state of Australian law involves considerable unfairness to the native born Australian, dramatically illustrated by the fact that over 4 million migrants who are now Australian citizens, have, ever since 1986, been perfectly able, according to Australian law and if the law of their country of birth permits it, to retain their citizenship or nationality of birth and the passports that go with it while also acquiring Australian citizenship, the two are not regarded as in any way inconsistent. Yet we take a quite different view of what is, in a sense, the reverse situation of an Australian citizen acquiring another citizenship. The consequence is that each year the citizenship of over 600 Australian born citizens is forfeited, often without the citizen being aware that what he or she is doing in applying for some foreign citizenship will have this consequence.

The anomaly arises, of course, because what our law penalises is not the retaining by a migrant of his citizenship of birth when he becomes an Australian citizen but only the acquiring by an Australian citizen of the citizenship of another country. The recent report of the Australian Citizenship Council has recommended repeal of this aspect of our citizenship law. What makes this controversial is that there is a section of opinion in Australia which believes that the present state of the law should not be altered because loyalty to Australia is regarded as an inherent quality of citizenship and is also seen as an exclusive affair, so that by acquiring the citizenship of another country there is a *disowning* of loyalty to Australia; one can't, it is thought, owe loyalty to two countries at once.

This disregards the fact that many Australians whose work prospects require them to work overseas may find their prospects adversely affected if they do not acquire the citizenship of the country they are working in, yet they have no wish to cease to be Australians; quite the contrary, they cherish being Australian and intend ultimately to return to live here.

It is in talking about such cases that one is forcefully reminded of the almost awkwardness of speaking of being an Australian citizen. Easy enough to be an Australian, easy too to think of oneself as a member of the *Australian nation*; but to say that one is an Australian citizen seems to me not readily to flow from Australian tongues. Yet it is citizenship and it alone that gives substance to our identity as Australians.

One by-product of the taking for granted of all those rights and privileges

which we have grown up with and have always possessed is that we all too easily fail even to recognise them as rights and as privileges and certainly accord them no position of honour.

It means, too, that we tend to feel uncomfortable in any celebration of the possession of civic values just as many of us either don't know all the words of our national anthem or feel embarrassed in singing it. In a sense there exists, I believe, a vicious circle. Because native-born Australians don't have any ceremonies associated with the rights and privileges of citizenship they barely recognise them as such and often come to regard anything like overt recognition of civic values and civic virtues as dubious and ceremonies surrounding them as unjustified. Unqualified exceptions to this are, of course, test matches and Anzac day.

All this is in sharp distinction from the feeling among migrants, who celebrate wholeheartedly the grant to them of Australian citizenship. This has led to a development that may mark something of an evolution in the Australian psyche. At citizenship ceremonies for migrants it has recently on occasion been thought appropriate for all those present who are already Australian citizens not to be mere observers but to be invited to take an active part by making an affirmation of loyalty, closely following the pledge of commitment made by those who for the first time become Australian citizens. That affirmation reads:

as an Australian citizen, I affirm my loyalty to Australia and its people, whose democratic beliefs I share, whose rights and liberties I respect and whose laws I uphold and obey.

The perhaps surprising thing is that where Australians have been invited to make this affirmation the invitation has been enthusiastically received, everyone joining in the making of affirmations of loyalty instead of being mere spectators of the ceremony of bestowing citizenship on others.

This response may perhaps suggest that there is, beneath the cynical approach which we Australians tend so readily to assume, a good deal less cynical feeling of true national civic identity, something that has taken the place of the 'Britishness' that was strongly felt in the 19th century, and the White Australia consciousness that was dominant then and on into the first fifty years of federation; an inclusive national civic identity which the words of the affirmation of loyalty seek to express.

This is rather borne out by a curious phenomenon which has been commented on each year over the past decade and a half, the new interest, especially by young Australians, in Anzac day, its services and its tradition, and in all that Gallipoli and the Kokoda trail stand for.

Where Australian citizenship is headed in the future no one can say with certainty; what does seem clear is that our citizenship accords very well with our notions of multiculturalism and tolerance and our dedication to that democratic spirit that has shaped so much of our political, social and industrial life.