



## DUAL REASONS FOR DUAL CITIZENSHIP

### Kim Rubenstein

*With increasing globalisation the nation state is losing its significance. This is reflected in a growing tendency to permit dual citizenship, a trend which Australia should follow. We should think of citizenship as membership and participation in a community, rather than as an exclusive allegiance to a single nation.*

### INTRODUCTION

I have been asked to comment on the recommendations against dual citizenship in the report of the Canadian Standing Committee on Citizenship and Immigration, *Canadian Citizenship: A Sense of Belonging*. Released in June 1994, the Canadian report was mentioned by the Joint Standing Committee on Migration of the Australia Parliament in its report *Australians All: Enhancing Australian Citizenship*<sup>1</sup> which supported the adoption of dual citizenship in Australian law. The Australian report also mentioned that the recommendations in the Canadian report may have had some association with the debate surrounding Canada's federal constitutional arrangements. A dissenting opinion on the recommendations was provided by members of the Bloc Quebecois.<sup>2</sup>

The Canadian report adopted the arguments of 'most of [their] witnesses'<sup>3</sup> which questioned the possibility of swearing 'loyalty and allegiance to more than one country',<sup>4</sup> which they believed diminished the value of Canadian citizenship.

The arguments against the approach of the Canadian report, and in support of the Australian report, are two-fold. First, the Canadian report places too much emphasis on citizenship as country-specific loyalty and allegiance. The second, connected to the first, concerns the increasing globalisation of world affairs and the extent of inter-connectedness between countries, as each rapidly cedes the sovereignty they once enjoyed as stand-alone nations. A brief examination of these ideas is now presented.

### LOYALTY TO ONE COUNTRY AND ONE COUNTRY ONLY

The preference for single citizenship originated with the development of the nation state. It required loyalty to one state over all others. This concept is all but drained of meaning in today's world order. In practical

terms, its significance is only in war time, when Australia is an enemy of another state or states.

I submitted to the Australian Joint Standing Committee during its inquiry that the world has a heightened sense of communities having common aims and purposes.<sup>5</sup> We are often working together, rather than against each other's interest.

It is possible to have a connection to a country other than Australia, without that undermining one's commitment to being a member of the Australian community. If citizenship is described as being something beyond 'allegiance', such as membership of a community and participation in the life of that community, then a person can be a citizen in more than one country, without citizenship being diminished. I have developed the different meanings of citizenship in another article.<sup>6</sup>

The concern about dual citizenship, in the event of war with another country, could be met by the insertion of a contingent provision in the Australian Citizenship Act 1948 (Commonwealth). In that event, Australians who are also citizens of an enemy country must renounce that citizenship to retain their Australian citizenship, at least for the duration of hostilities. An amendment to section 19 of the Act could achieve this.

### RESPONDING TO OTHER COUNTRIES' APPROACHES TO DUAL CITIZENSHIP

There are many countries today which allow their citizens to take up citizenship in other countries while maintaining the citizenship of birth or otherwise.<sup>7</sup> Citizens of these countries who take up Australia citizenship become dual citizens. Australia does not require these people to renounce their former citizenship in order to become Australian citizens.<sup>8</sup>

However, a person who is an Australian citizen and who acquires the nationality or citizenship of a foreign country and does so

with the sole and dominant purpose of acquiring that nationality shall cease to be an Australian citizen.<sup>9</sup>

The right to dual citizenship therefore depends on the country of origin. The anomaly is that some Australian citizens are entitled to dual citizenship and others are not – it depends on the birthplace of the Australian citizen.

This offends any notion of equality before the law.

#### CONCLUSION

The Australian report took the equality of treatment matter into account, and was also concerned to be consistent with international trends in citizenship law, which include a trend toward dual citizenship. These trends are a result of the change in our international order – an order which places less importance on allegiance, and more on membership and participation in the community.

#### References

- <sup>1</sup> Joint Standing Committee on Migration, *Australians All: Enhancing Australian Citizenship*, Australian Government Publishing Service, Canberra, 1994, paragraph 6.23, p. 184
- <sup>2</sup> *ibid.*, paragraph 6.24
- <sup>3</sup> Standing Committee on Citizenship and Immigration, *Canadian Citizenship: A Sense of Belonging*, House of Commons, Ottawa, 1994, p. 15
- <sup>4</sup> *ibid.*
- <sup>5</sup> Submission no. 81
- <sup>6</sup> K. Rubenstein, 'Citizenship in Australia: unscrambling its meaning', *Melbourne University Law Review*, vol. 20, December, 1995 (in press)
- <sup>7</sup> See *Australians All*, op. cit., Table 6.1, p. 187.
- <sup>8</sup> Note, however, that people who want to become members of the Commonwealth Parliament cannot be dual citizens. See section 44(i) of the Constitution which disqualifies persons who have an allegiance to a foreign power.
- <sup>9</sup> Section 17, Australian Citizenship Act 1948 (Commonwealth)

## MULTIPLE CITIZENSHIPS: TWO REPORTS AND SOME IMPLICATIONS

### Katharine Betts

*Though Canada is having second thoughts about dual citizenship, Australia is moving to embrace it. This could legitimate conflicts of allegiance of the kind shown in the recent conduct of Greek-Australian MPs (including Andrew Theophanous and Senator Bokus). If it were possible to abolish nation states, and give every human being universal global citizenship, such conflicts might not matter. But Garret Hardin presents arguments showing that this is not possible.*

In Canada and Australia immigrants with permanent residence have most of the rights of citizens; citizenship adds the right to vote and confers a new passport but gives little more by way of tangible benefits. The vote and a passport are not trivial benefits but, because permanent residents have most of the social and civil rights of citizens, the symbolic meaning of citizenship is now assuming greater relative importance. The two countries have each recently produced reports emphasising this symbolic meaning, arguing that immigrants and native-born alike should be encouraged to value citizenship as marking a common bond of membership within their national community.

The titles of these reports make their purpose clear: *Canadian Citizenship: A Sense of Belonging*<sup>1</sup> and *Australians All: En-*

*hancing Australian Citizenship*.<sup>2</sup> But, though they seem to share a common aim, on one question which has both practical and symbolic implications they come to different conclusions: they do not agree on dual citizenship. (Both reports speak of 'dual' citizenship but, if more than one citizenship is sanctioned, there is no reason to stop at two; neither of the reports suggest a mechanism to ensure that holders of more than one passport limit themselves to two.)

The current situation differs in each country. While some naturalised immigrants in Australia have de facto dual citizenship because their country of origin does not withdraw their original citizenship when they become Australians, Australian law does not recognise dual citizenship. The Australian report argues that it should. Canadian law