



TRANSCRIPT

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**E&OE TRANSCRIPT
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SUBJECT/S: Citizenship Bill; European refugee crisis

MARLES: These recommendations go to amendments to the Citizenship Act regarding the stripping of citizenship from dual nationals who have been engaged in terrorist-related activities. From the outset, Labor made it clear that we were willing to support a sensible updating of our citizenship laws which have provided in them a principle from their inception, that those who take up arms against Australia lose their citizenship.

We believe that the legislation introduced by the Government – and with these recommended changes – represent a faithful updating of those laws. These mean that only persons who have been convicted of a terrorist-related offence or who are overseas collaborating with terrorist organisations can have their citizenship removed.

Now this represents a far narrower and more targeted set of amendments than those which were first considered by the Cabinet and the National Security Committee back in May.

To be frank, there's been a lot of heat and light around this debate from the beginning and there have been many different propositions which have been discussed from the Government benches, a lot of which have made us feel uncomfortable. But we think that this package does represent a sensible updating of

our laws which deals with a legitimate national security concern. And that is that we have a comparatively large number of Australians today who are fighting in Syria and Iraq in that conflict and when that conflict is over, the relationship between those people and our country will confront us with difficult issues that we will have to face.

The Parliament's been dealing with this over the last couple of years, the foreign fighters legislation is an example of that, and these amendments, this package represents another tool that we can provide to our national security agencies which allow them to keep us safe.

At the same time, there has been considerable anxiety amongst many Australians that this debate somehow renders dual citizens lesser Australians. This must never be the case and Labor will never allow this to be so. Dual citizens are just as Australian as anybody else, and it is very important that nothing that is put before the Parliament seeks to erode that principle. We believe that this package honours the status of all Australians while dealing with a difficult issue.

Now there have been a number of constitutional questions that have been raised by legal experts during the course of the hearings of the Committee. We frankly retain some anxiety in relation to the constitutionality of this legislation, but we note the letter that has been provided to the Committee by the Attorney-General assuring the Government's confidence in the constitutionality of this Bill. It would have been better if the Solicitor-General's advice had been provided to the Committee, but given the national security issues involved in this, we're not about to stand in the way of this legislation on that issue.

Suffice to say at the end of the day, it is for the Government to ensure legislation it puts before the Parliament is constitutional. Constitutionality is the Government's issue.

Now the Shadow Attorney-General has played a critical part in the work of the Committee and Mark will speak to you in a moment, but I do want to thank Mark for to the work he has played. I want to thank Dan Tehan and Anthony Byrne the deputy chair and indeed all the members of the Committee for I think the very sensitive way in which they've engaged with a difficult problem in a bipartisan and constructive way. After Mark's spoken will take some questions and I'll also make an additional comment about the situation in Europe.

DREYFUS: Thanks, Richard. Just before we go to questions, I wanted to make a point about the process, where to from here?

The Government will now consider the recommendations which, of course, are made on a bipartisan and unanimous basis in this report. Labor of course has to await the Government's response and then if the Government decides to accept these recommendations, to look at the way in which the Government has redrafted the Bill and brought that into the Parliament. It has to go through our party processes. Once the Government has announced that decision, whether to accept the recommendations and we have to look at the detailed provisions, the redrafting of the Bill to make sure it properly reflects the recommendations if that's what the Government decides.

As Richard's indicated, we did have concerns about the constitutionality of the Bill as it was brought to the Parliament on 24 June. An array of the leading constitutional experts in Australia made written submissions to the Intelligence Committee and came and gave evidence at the hearing conducted by the Intelligence Committee. That raised some very serious concerns about the constitutionality of this Bill. Whether, in fact, it would be struck down by the High Court.

Our concerns have not been fully met by what are pretty much flat assurances from the Government. We asked the Government to release the Solicitor-General's advice. The Government's declined to do that. We asked for the Government to try to explain in some other way why those concerns ought not be considered. We do take very seriously the role of the Parliament in making sure that all Bills that pass through the Parliament are constitutional, course, are effective because, of course, an unconstitutional Bill is a Bill that doesn't work, it won't be effective.

We've had to rely on the assurances that the Government when has provided, but you'll see when you read the detail of the report that our concerns there of the Government; regret that the Government hasn't better explained why in the Government's view the Bill is constitutional, that remains. Any questions?

REPORTER: What sort of retreat is this from the Government from its initial proposal which were basically giving the Minister [inaudible]?

DREYFUS: Assuming that the Government accepts these recommendations of the Intelligence Committee, what this marks is a much greater degree of clarity about the discretion that the minister is going to exercise. It's a significant refinement and a narrowing in some respects of the Bill the Government brought to the Parliament.

For example, the conduct provisions will only be used against someone who is overseas. There's quite a sharp division in the Bill now, if the Government accepts the recommendations, someone who is in Australia will only be able removed to have their citizenship removed if they are convicted of an offence, and the list has been shortened. And they will have to be sentenced to six years' imprisonment.

That's a significant refinement of the Bill. But in direct answer to powers your question, the Minister's powers are now - if the recommendations are accepted - going to be made a great deal clearer. It's now made clear if these recommendations are accepted, that any Australian citizen who loses their citizenship will have to get notice, will have to get reasons and there's a clear right to judicial review that will be spelt out in the Bill.

REPORTER: You've previously said you believe people should be brought back from overseas to face trial, why have you changed your mind?

DREYFUS: I haven't changed my mind, I was answering a question about how someone is to be convicted and I answered correctly, to be convicted you'd have to be brought back here. I haven't changed my mind at all and as I said a moment ago, this Bill – if the recommendations are accepted and it's changed in accordance with the recommendations – will make it clear that for someone in Australia there'll need

to be a conviction followed by a Minister exercising a discretion as to whether or not that person's citizenship is to be cancelled.

In respect of someone who's overseas, there's a conduct-based provision.

REPORTER: Will you only back it if those recommendations are adopted?

DREYFUS: Well, I think... Richard?

MARLES: We're responding today to recommendations of the Committee which we think – combined with the original legislation that's been introduced into the Parliament – represent a sensible package.

It is in our view, critical that these recommendations are picked up by the Government. Now as Mark said that's ultimately a matter for the Government and we will consider what comes from the Government when it's presented to the Parliament next week.

But this has been worked through in a very thorough and I think sensitive way, in a bipartisan, constructive way and I think the pathway now for the Government forward is pretty obvious.

REPORTER: The report says a child whose parent is convicted of a terrorist offence, the child could lose their citizenship at the direction of the minister. How fair do you think that is on kids who maybe, their mum or dad has done something wrong and they're the ones who lose...?

DREYFUS: I think you'll find that the recommendation is that particular effect of the Bill be removed. That the Committee's heard a whole lot of evidence about the international Convention on the Rights of the Child and has given very serious consideration to the submissions we heard in that respect and recommends some very substantial improvements which will ensure that as far as possible, the impact of loss of citizenship on an adult does not impact on a child, that the best interests of the child are taken into account, and that's what lies behind the recommendations that the Committee's made.

REPORTER: I assume you wouldn't back any Bill that you weren't sure would be effective. Why is it responsible to do so in this case?

DREYFUS: I don't think there's any certainty ever in the constitutional area - we have determined that it's appropriate in this case because of the appropriateness of this legislation, the need for these measures, to accept the assurances given by the Government.

But what we've done in the report is draw attention to the very serious concerns expressed by a whole range of Australia's leading constitutional experts. I think the Government needs to do a better job in explaining why in the Government's view, this legislation is constitutional.

It's not for the Opposition to go through this and explain. It's the Government that's bringing this legislation before the Parliament. It's the Government that's saying that it's confident in the constitutionality of the legislation.

I've got a long-term view that it's important that the public have confidence in all of our national security laws and it's very much the role of government to build that confidence which it can do in this case by explaining better why this legislation in the Government's view is constitutional.

REPORTER: [inaudible] stripping passports after they've already been convicted, say, 5-10 years ago, is that punishing them twice?

DREYFUS: This is an administrative consequence. The people concerned and you've heard from Dan Tehan at the earlier press conference, this is a recommendation of the Committee that there will be a applying narrow form of retrospectivity applying to a small number of people that have been convicted in the last ten years and who have been sentenced to more than ten years' imprisonment for the list of very serious terrorism offences.

So you can see immediately it's a very narrow application that's likely and what in effect the Committee is recommending is that – consistently with the notion that you renounce your allegiance to Australia if you commit a particular list of offences, and again the list of offences has been much reduced – then that renunciation of allegiance to Australia can be loss of something which leads to the loss of your citizenship.

So it's not going to be automatic. It will apply retrospectively to a small number of people who have already been sentenced to more than ten years' imprisonment for a terrorist offence and it will give to the Minister discretion to consider in current circumstances, having regard to the circumstances of the particular individual, having regard to Australia's current national security situation, whether or not that person should lose their citizenship.

REPORTER: How much room should there be for reasonable doubt when it comes to stripping citizenship based on affiliation with a terror group, and how much public accountability should there be for decisions based on that?

DREYFUS: We think there should be accountability and all of the recommendations of the Committee are directed to ensuring that there will be accountability, that there will be visibility of any use of ministerial power. The minister's going to be required – if these recommendations are accepted – to report publicly about the use of these powers and, of course, the recommendations say that there must be judicial review. It's essential that there be the possibility for anybody affected by the cessation of their citizenship to be able to go to a court to challenge that decision of a minister.

REPORTER: A US report suggests an Australian air strike against IS may have caused civilian casualties in Iraq. Do you think this is something the Government needs to be transparent about, given they're considering further action in Syria?

MARLES: Well, look, we've seen those reports in the newspaper. We're unaware obviously of the precise circumstances of that and as we understand it, there has been no briefing as yet provided to the Opposition about this particular incident. I think in those circumstances it's obviously difficult to comment about it precisely. Clearly it's important that the way in which the Government goes about its business in Iraq and Syria is as transparent as possible and that's clearly the position of the Opposition.

REPORTER: Mr Marles, Barnaby Joyce has said today Australia should take more Syrian refugees, do you agree with his position?

MARLES: I would like to make some comments on the situation in Europe, so perhaps I might do that and then answer your question. What we're seeing transpire at the moment in Europe is an absolute tragedy and it reminds us that we are going through the period of greatest humanitarian need that the world has seen since the Second World War. The UNHCR estimates there are 59 million people in the world today who are displaced. And what that means is that we as a country need to play our part. We need to increase the commitment that we make to the way, to the issues that the world are facing.

Right now we have a government which to be frank has turned its back on the world's affairs. We have a government which has been cutting aid. We have a government who during this period of time has actually cut funding to the United Nations High Commissioner for Refugees. We have a government that when it came to office reduced Australia's humanitarian intake.

All of this is a disgrace. As people would be aware at the ALP national conference in July, we announced that in government we would make a significant increase of Australia's contribution to the United Nations' High Commissioner for Refugees - \$450 million commitment over a 3-year period which would place Australia within the top five contributors to the UNHCR. We'd also double our humanitarian intake.

What we've got at the moment is a Prime Minister who is only offering the world gratuitous three word slogans, which in Europe are treated as a joke, which are plainly ignorant and which leave our country embarrassed.

They simply need to do more. In terms of taking refugees from Syria, the starting point is we need a high humanitarian intake and that's Labor's position. We would take our advice from the UNHCR as to whether we take people from particular areas and in this particular circumstance that may well involve Syria given that Syria is right now the greatest contributor to the number of people who are displaced in the world today.

But the starting point is we actually need a government which is going to play its part internationally and I think that's what Australians would expect us to do at this time of enormous humanitarian need.

REPORTER: But to be frank, you'd turn back a boat full of Syrian refugees, wouldn't you?

MARLES: How we deal with a situation involving the journey from Java to Christmas Island, involving a certain number of vessels coming from what is a transit country is a very particular set of circumstances and the answer to that question is we would do that to ensure that journey remains closed, to ensure that we would not see a human tragedy unfold on our border.

And it's really important that going forward we maintain the closure of that route from Java to Christmas Island. But to extrapolate a set of tactics and responses to that particular journey to the way in which Australia's opinion or the way in which the world should react to a journey between the top of the Bay of Bengal and Malaysia or indeed a journey across the Mediterranean is frankly ignorant.

And what we have from our Prime Minister now is an attempt to try and be evangelical in his policies as if what they represent is a global panacea. That is ignorant and silly.

The circumstances on the Mediterranean are different to those on Java and Christmas Island and it's different to those on the Andaman Sea and it's important that we understand all of that. What's consistent is that Australia can play a role internationally and we need to do that.

Whereas for the Government, the closure of the journey between Java and Christmas Island is really the central piece of an architecture about turning Australia's back on the world, we in Labor are very different.

We are going to have values or policies in this area based on values of compassion and compassion, I think, demands that Australia plays a greater role in the world today rather than a lesser one. Thank you.

DREYFUS: Thanks very much.

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