



COMMONWEALTH OF AUSTRALIA

PARLIAMENTARY DEBATES



HOUSE OF REPRESENTATIVES

**MIGRATION AMENDMENT
(PROTECTION OF IDENTIFYING
INFORMATION) BILL 2009**

Second Reading

SPEECH

Thursday, 18 June 2009

BY AUTHORITY OF THE HOUSE OF REPRESENTATIVES

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Questioner
Speaker Robert, Stuart, MP

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Mr ROBERT (Fadden) (10.52 am)—I rise to speak on the Migration Amendment (Protection of Identifying Information) Bill 2009. There is no doubt that the issue of migration and the wider issues of refugees, illegal immigrants and boat people are a debate this parliament needs to have, what with the recent surge in boat people. Notwithstanding that the push factors have not substantially changed globally, and considering the recent surge, this is a debate the nation needs to have. It is a debate that should be carried out with great compassion but with a firm resolve to represent the best interests of our nation. Let us not forget we are a young nation, just over 200 years old; we are a nation of immigrants. Some reports suggest that over 25 per cent of Australian citizens were born overseas. We are one of the great nations of immigrants. Our diversity is what gives us strength, it is what pulls our communities together and we need to do everything possible to ensure a strong sense of integration with all people who come to our nation—a strong sense of shared values and of shared commitment to our nation, its direction and its future. And it is in this context that I wish to raise some comments in supporting the migration legislation amendment bill.

The objective is to amend the Migration Act 1958 to ensure that identifying information obtained by the department or provided to the department by other external and domestic agencies is better protected and governed by part 4A of the act. The Migration Act currently provides for a strict regime for the collection, use, access and disclosure of personal identifiers collected under the act. Part 4A describes the department's obligations in relation to the handling of this information and, of course, contains a range of criminal penalties for any breaches. Amendments to the act in 2004 and 2007 unfortunately had the unintended consequence of limiting the provisions as they were originally intended. It would appear the departmental legal advice has said that personal identifiers collected by other agencies may not now be fully protected by part 4A of the act—clearly an unintended consequence. So this bill seeks to ensure that the rights and privacy of people whose personal identifiers are provided by external sources, including international agencies, are protected under the act and to ensure that the data our foreign and domestic partners provide to us will also be provided this protection. Furthermore, the bill codifies the handling of personal identifier information and puts

beyond doubt the protection of the information. The amendments are therefore not contentious.

However, the context in which these amendments operate is far from simple. The amendments go to the heart of the integrity of our migration, immigration and refugee-handling policy. The collection of information set out in the Migration Legislation Amendment (Identification and Authentication) Act 2004 was designed to ensure that all migrants from any country arriving in this great nation, whether they are coming permanently to settle or temporarily to visit, do not pose any threat to Australia and her interests, that people coming to our great nation come here for the right reasons—that is, they come here to join in and celebrate our democracy; that they come here with the intention of taking on our shared values; and, importantly, that when they arrive, be they temporarily arriving or coming permanently, they are who they say they are. The first rule for any country is to know who is in it, and indeed for those coming here to know who they are as well. Our entire migration and immigration system hangs off this concept of integrity.

We are a nation of immigrants, a nation built on the backs of those who have come here seeking a better life. And why wouldn't you? Australia is one of the greatest nations on earth and, as the member for Fadden, I simply say that Fadden, with the glorious beaches of the Gold Coast and the great broad water and hinterland, is one of the greatest places in one of the greatest countries on earth. So why wouldn't people want to come here? And, because our nation is built on the hard work, the sweat, the tears and the blood of those who have come, they are indeed welcome. But the integrity of that system that brings them here is fundamental. Let us not forget that on 25 April 1915, when the Anzacs so heroically charged the beaches of Anzac Cove, many of them had not been born in Australia. They were migrants, yet they had adopted Australia as their own. They were willing to fight, and so many of them died, for that adopted country. It is why this debate must be held with great resolve but also great compassion.

Our migration program has always been a nation-building program—a true one in all senses, not just in words. The Department of Immigration and Citizenship estimates that a person comes or goes from our shores every second. That is a staggering number.

The department said in Senate estimates that there were more than 25 million movements in the last financial year—an astonishing number of people coming and going. And our capacity to correctly identify these people and to ensure they have an entitlement to be here is imperative not only to our national security but also to our community harmony.

People are free in our country. When people arrive on our shores, holidaying or voluntarily, they are free to roam right across this grand continent. There are no police checks. There is no border security. There are no gates and bars. People are free. The only check we have is on our borders, hence the integrity of that checking mechanism is fundamental. We absolutely insist on a strong framework of checks and balances.

I join the shadow minister in not supporting some of the recommendations of the Joint Standing Committee on Migration report No. 2 into future options for additional community based detention alternatives. As she quite rightly pointed out, a number of these recommendations patently fail the integrity test. The recommendations will be seen as further softening of this government's response to people smugglers. Although the push factors globally have not changed significantly, though the government would like to tell us they have, upwards of 20 illegal vessels have come to our shores in the last 18 months. The undoubtable conclusion is a softening of policy. I cannot support a new bridging framework, because it does not deter the abhorrence that is people smugglers. Recommendations Nos 2, 3 and 8 describe the view of the majority of the committee that unlawful noncitizens be diverted out of detention before their security and health identification status check is complete. I say with great compassion that this is completely and utterly unsupportable. It is absolute nonsense to suggest that before we know exactly who someone is, what their background is, what their criminal record is and what threat they may possibly pose to community, we are happy to release them into a free society where they can move around unencumbered.

These ex-detainees are to be transferred into the community within a bridging visa framework which entitles them to a basic range of basic income assistance, health care, temporary accommodation and furnishing requirements under recommendation No. 8. Recommendation No. 10 refers to a proposal that these bridging visa holders will also have a range of full working rights. All this will happen before we know who they are. Are we prepared to say to the employers of our nation: 'There are a range of people who have just been released from detention on a bridging visa, and we actually don't know their full background but we are happy for you to employ them'? Are we prepared to accept that risk? Is that

appropriate due diligence for our nation? Are we taking appropriate care of Australian citizens by allowing this to occur? Are we prepared for the repercussions of a dreadful incident—a heinous crime—occurring because we failed in our responsibility in releasing people into the community before knowing fully their history and their background?

The fact is that most detainees do not stay for an extended period of time in secure detention. All detention centres are now either upgraded or in the process of being upgraded. The committee I referred to actually took evidence on 1 May that 47 per cent of stays in detention were for less than one month and 72.1 per cent of the stays were for periods of less than three months. Even processing times for the recent massive surge in boat people are being shortened. One of the more substantial issues that should be included in the debate we have to have, is on the 1951 refugee convention and the 1967 protocol. Our immigration program is one of the most generous in the world. Over the last 50 years this great nation has settled, on average, 12,000 people a year through our humanitarian program. Some commentators are saying that we are the most generous nation in our humanitarian program, per capita, on the planet outside of Canada. Whilst I cannot substantiate the numbers, I can stand here confidently and say that we would at least be in the top five most generous nations. We should be proud of that. Australians should be proud of their generosity in helping those from some of the most dreadful and unfortunate circumstances across the globe.

I am one of the international directors of Watoto, one of the largest non-institutional orphan care programs in Uganda and Africa, with over 2,000 children we have picked up from the pit latrines and the garbage tins of the world. I have seen first hand the horror of the Third World, and the generosity of our humanitarian program is something we should all rejoice in. It is something we should be incredibly proud of. Yet, within that and within the work I do on a humanitarian basis, I remain firmly of the conviction that we should continue to decide who comes to this country and the circumstances in which they come. The only thing we have is a strong sense of policy, and this has been watered down.

Let us look at the signatories from the 1951 convention between us and Afghanistan—between us and half the world away: Azerbaijan, Iran, Kazakhstan,

Kyrgyzstan, Tajikistan Turkmenistan, Yemen and Cambodia—

Mr Laurie Ferguson—What about the other side of Afghanistan?

Mr ROBERT—That is it. Those are all the countries that have signed. Pakistan, Malaysia, Indonesia and all of the countries in between—countries that are notorious for hopping of illegal immigrants—have not signed. There seems to be little indication within these countries' policy platforms that they will. Considering that so many intermediate countries have not signed the convention, and all indications are they may not, we only have one stand—and that is policy. The Howard government introduced a very strong border protection mechanism and policy framework, which included Operation Resolute with the use of our military and Customs planes. Even then, with the great compassionate nature of this nation, we brought back for processing those found on the high seas. Thus, the only thing we have to rest on is a strong sense of policy. And I see that being watered down at every step.

I would encourage the government to move away from looking to self-aggrandisement on the United Nations scene and instead to look to some tangible results—to look at a new framework for the 1951 convention, to revisit it and encourage other countries to sign up and to look at ways that we can encourage the rest of the world to come on board and accept their humanitarian responsibilities in assisting those in need. Until such time as the 1951 convention and its associated protocol is redefined to include the rest of the world and until such time as the rest of the world is encouraged to accept its responsibilities, all we have is policy—nothing more, nothing less. Strong policy combined with the strongest possible integrity in our migration and refugee system is needed. I commend the bill, I commend this strength of integrity, I commend the government to accept the need for the strongest possible policy and I ask the government to review its policy positions and to strengthen them, as that is the only weapon we have against the great surge of boat people.