



HIGH COURT OF AUSTRALIA

Public Information Officer

4 August 2005

RE SENATOR THE HONOURABLE AMANDA VANSTONE, THE MINISTER FOR
IMMIGRATION AND MULTICULTURAL AND INDIGENOUS AFFAIRS; EX PARTE AMOS
BODE AME

The High Court of Australia today upheld the validity of Australian laws which provided that when Papua New Guinea became independent in 1975 its indigenous people who then became citizens of PNG ceased to be citizens of Australia.

Mr Ame had argued that he had remained an Australian citizen and never become a PNG citizen because he never took steps to renounce Australian citizenship. He was born in 1967 in Papua, which with New Guinea was administered by Australia. People born in Papua after the *Australian Citizenship Act* was passed in 1948 were Australian citizens but under the *Migration Act* required an entry permit to enter or live in Australia. Mr Ame first entered Australia in December 1999 on a three-month visa. Since then he has held a series of visas, the latest a bridging visa that will expire 28 days from today. Mr Ame began proceedings against the Minister seeking writs of prohibition and mandamus and a declaration as he contends that he did not cease to be an Australian citizen on PNG's Independence Day, 16 September 1975, that he is not an "alien" according to the Australian Constitution and that the provisions of the *Migration Act* relating to detention and removal of unlawful non-citizens do not apply to him.

Australia's *Papua New Guinea Independence Act* provided that after Independence Day Australia ceased to have any sovereignty, sovereign rights or administrative rights in relation to PNG. The PNG Constitution did not allow dual citizenship and declared that anyone who was born in PNG and had two indigenous grandparents was automatically a PNG citizen. All four of Mr Ame's grandparents were born in his district in Papua. Under the policy against dual citizenship, children who also had "real foreign citizenship" had to renounce their other citizenship by age 19 or they ceased to be PNG citizens. Australian citizenship acquired simply by being born in Papua or New Guinea was not "real foreign citizenship" so did not need to be renounced. Regulation 4 under the *PNG Independence Act* provided that a person in the position of Mr Ame who became a citizen of the new nation of PNG ceased to be an Australian citizen.

The Court unanimously held that Mr Ame ceased to be an Australian citizen on Independence Day, that regulation 4 was authorised by the *PNG Independence Act*, and that the Act was constitutionally valid. On Independence Day Mr Ame became a citizen of PNG by virtue of the PNG Constitution. In recognition of the anti-dual citizenship policy, Australia, by regulation 4, withdrew Mr Ame's Australian citizenship. The legislation under which that was done was within the constitutional power to make laws with respect to naturalization and aliens.

- *This statement is not intended to be a substitute for the reasons of the High Court or to be used in any later consideration of the Court's reasons.*