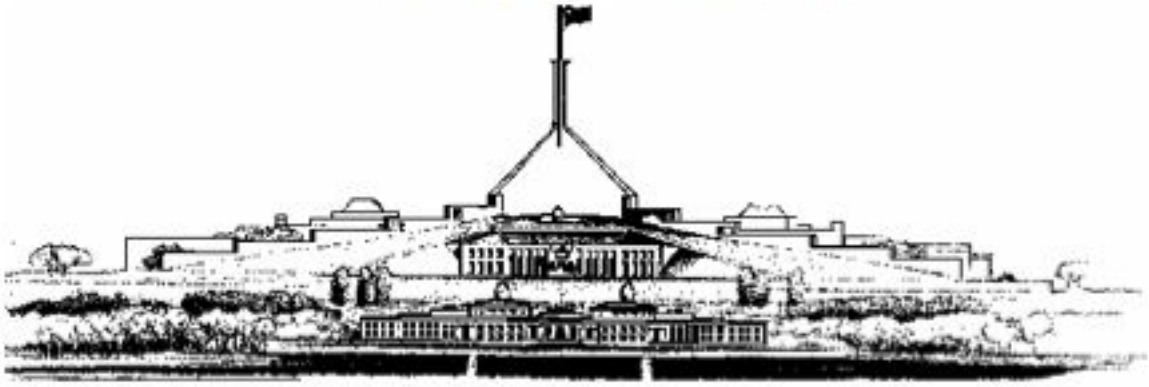
COMMONWEALTH OF AUSTRALIA

PARLIAMENTARY DEBATES



HOUSE OF REPRESENTATIVES

BILLS

Foreign Acquisitions and Takeovers Legislation Amendment Bill 2015, Foreign Acquisitions and Takeovers Fees Imposition Bill 2015, Register of Foreign Ownership of Agricultural Land Bill 2015

Second Reading

SPEECH

Wednesday, 16 September 2015

BY AUTHORITY OF THE HOUSE OF REPRESENTATIVES

SPEECH

Date	Wednesday, 16 September 2015	**Source**	House
Page	10353	**Proof**	No
Questioner		**Responder**	
Speaker	Leigh, Andrew, MP	**Question No.**	

Dr LEIGH (Fraser) (10:50): Foreign investment over the last two centuries has been important to the economic growth of Australia. In the 19th century foreign investment helped to build Australia's wool industry. In 1855 CSR's investment helped to shape our sugar industry. In 1877 we saw Schweppes, the United States firm, set up in Australia. In the 1920s we saw Kraft and Kellogg investing in Australia. Kraft would shortly afterwards buy Vegemite in 1935 and, as David Uren points out in his terrific book *Takeover : Foreign Investment and the Australian Psyche*, without foreign investment it is plausible that Vegemite would not have attained the success that it ultimately did under Kraft. Foreign investment in our beef industry from Britain, the United States and Japan has been vital to developing that industry. Investors like the controversial Vestey family, International Ranchers and King Ranch from Texas were important in building Australian beef. Kodak set up here in 1908, Coca-Cola and Heinz in the 1930s. And one can never discuss foreign investment without recognising the role of foreign investment in our automotive sector. Over the course of the 20th century, cars were built in Australia by a range of foreign automotive firms including General Motors, Ford, Chrysler, Leyland, Toyota and Nissan. The withdrawal of that foreign investment, goaded in part by the Treasurer's calling on Holden to speak out or pack up, has been damaging to Australia. The removal of foreign investment has been damaging, just as the addition of foreign investment has been beneficial.

After World War II we saw a strong inflow of foreign investment into the manufacturing sector, particularly from the United States, with many United States officials in that period noting the benefit of the Australian business climate as encouragement to them to invest. It is ironic, I sometimes find, when you see News Limited tabloids running headlines such as 'It is time to save our farms from foreign investors' because, of course, News Limited is itself a foreign owned firm. Certainly some have argued that the Australian media sector has been one of those which have benefited from foreign investment. Without foreign investment in media there would be fewer journalists employed in Australia.

Australia overall has on one estimate one in eight of all workers employed by a foreign owned firm. We have foreign investment in part because almost all of the past 2¼ centuries has seen us with a current account deficit. While there have been an occasional year or two, as David Uren points out, where we have had a current account surplus, over that period there has not been a decade of current account surpluses. Australians save, and our savings rate has gone up over the past decade. But we are a capital hungry nation. There are many investment opportunities here in Australia and that makes us an attractive destination for foreign investors.

Foreign investment is of a piece with the internationalisation of other parts of the Australian economy. We are a nation where a quarter of us were born overseas and another quarter have at least one parent born overseas. They include my three children because my wife was born overseas. A fifth of the Australian GDP is made up of exports, and imports are a similar quantum. Naturally, Australians are outward foreign investors as well. Our outbound foreign investment has been about two-thirds the size of inbound foreign investment, going to destinations such as New Zealand, Papua New Guinea and Singapore. Overall, in agriculture, around one per cent of agribusinesses, according to the Australian Bureau of Statistics, have foreign or some portion of foreign ownership, and about 11 per cent of all Australian land is partly or wholly foreign owned.

Foreign investment in Australia has been hotly debated over the decades. David Uren quotes 'Black Jack' John McEwen saying:

We want US businesses here with all its magnificent skills of management at all levels but we don't want to be taken over. We will not be taken over.

He also then argued:

It is not good enough for this country to live by selling a bit of its heritage every year. We do not want to see Australia have its industries unduly owned in foreign hands.

McEwen continued to advocate against increasing foreign investment through the 1950s and 1960s. John Gorton, travelling in Britain, argued in 1969:

It has seemed to me that the posture of Australia in seeking overseas capital has been the posture of a puppy lying on its back with all legs in the air and its stomach expose saying, 'Please, please, please give us capital.' Tickle my tummy—on any conditions.

Critics of foreign investment like McEwen and Gorton have their heirs in the parliament today. The member for New England, Barnaby Joyce, and Senator Heffernan follow in that tradition of scepticism of foreign investment that runs strong within the Liberal and National parties of Australia. On this side of the House we have indeed had members who have doubted the benefits of foreign investment, but we do look to those such as Paul Keating, who once said:

I took the view that not only was it imperative that we leave the country open to funding the current account by more than simply portfolio investment but by direct investment as well. Therefore, we had to take a more liberal attitude to foreign ownership of various sectors of the economy. It was for these reasons that I liberalised foreign investment. My general philosophic view of overturning the whole Deakonite legacy, which was my job to do, including tariffs, central wage fixing and the rest, a part of that was dealing with a phobia about foreign investment and more than a phobia a direct retardant to economic growth.

Senator Wong has also spoken firmly in favour of foreign investment. As David Uren notes:

Labor has staked an even more liberal position than that espoused by the Liberals.

Indeed, that difference was highlighted when Archer Daniel Midlands made their bid for GrainCorp, a bid which those of us on this side of the House said, from what public information was available, we were broadly supportive of but which was ultimately blocked by Treasurer Hockey—the first major United States foreign investment bid to have been blocked.

David Uren goes to the history of the Foreign Investment Review Board. The Foreign Investment Review Board flowed out of the Chiko Roll. In 1972, US conglomerate ITT made a bid for frozen foods, and that led the McMahon cabinet to debate the question of whether there ought to be checks on foreign investment. Ultimately from that flowed the Foreign Investment Review Board. The Foreign Investment Review Board has counterparts in other advanced countries, but according to an OECD study by Takeshi Koyama and Stephen Golub, who categorise OECD countries by the degree of restrictiveness on foreign investment, where zero is unrestricted and one is completely restricted, Australia sits at 0.28—higher or more restrictive than the OECD average of 0.15. It means our foreign investment regime is more restrictive than that of Britain, Canada, New Zealand and the United States.

The Foreign Acquisitions and Takeovers Legislation Amendment Bill 2015 makes substantial changes, introducing civil penalties and additional and stricter criminal penalties to ensure that foreign investors and intermediaries do not profit from breaking the rules. It enables the transfer to the Australian Taxation Office of responsibility for regulating foreign investment in residential real estate and it enables the lowering of screening thresholds for investments in Australian agriculture. While Labor do not have a concern with the first two of those—the civil penalties and the transfer of residential real estate to the ATO—we are concerned about the lowering of screening thresholds for investments in Australian agriculture. That is a red-tape burden and sends a troubling signal to our overseas partners.

We can see that if we simply go through the countries that accounted for Australia's foreign investment inflows in 2013-14. At the top of that list is China, with $28 billion of inbound investment in Australia. Chinese investment would be subject, under the preferred approach of this government, to a $55 million screening threshold for agricultural land. Then we have the United States, responsible in that year for $17 billion of inbound investment, which will now be subject to a $1 billion threshold. Moving down the list, the seventh largest investor is Japan, with $6 billion of inbound investment, subject to a $55 million threshold, as is our 16th largest investor, South Korea, accounting for $2 billion of investment, with a $55 million threshold. Then there is New Zealand, our 18th largest inbound investor, with only $1.6 billion of investment and a $1 billion threshold, and Chile, which

is not one of our top 18 investors, with a $1 billion threshold. So the approach of $55 million for some countries and $1 billion for other countries is not consistent with the neutral approach that Australian policy settings ought to be taking, whether they be in immigration or trade or investment.

We are not the only ones to be concerned about the degree of red tape. As Senator Wong has pointed out, the exposure draft and regulations account for more than 170 pages and are accompanied by a 105-page explanatory guide. It has been noted by the one of the Minister for Trade's own investment specialists:

… the new fees have fuelled the narrative around Australia being a high-cost destination to invest in.

The Office of Best Practice Regulation has revealed that the new red-tape burden that is being imposed by the government has been imposed without proper assessment of the increased regulatory burden.

Under the government's proposals, we have 22 different screening thresholds and categories, which vary depending on the value and type of investment and the nationality of the investor, and 33 different levels and categories of application fees, ranging from $5,000 to $100,000. The increase in fees is significant, and Labor will be guided by the response of the relevant Senate committee to these significantly increased fees. They will make Australia a less attractive investment destination. It is hard to see how raising the fees on foreign investments can do otherwise.

A final portion of the bill has a register of foreign ownership of agricultural land. The aim of that is to provide greater transparency around foreign ownership of agricultural land, and Labor support that part of this package. But we need to ensure that this is not being suggested as the sole solution to housing affordability. It worries me that the current Treasurer has made much of forcing the sale of a Point Piper mansion and that, somehow, that might improve housing affordability in Smithfield and Greystanes. If temporary migrants and non-residents are not following the rules, of course those laws should be enforced. But let us not pretend that forcing the sale of a mansion is somehow going to make it easier for struggling families to buy their first home. We need an overall package on housing affordability to deal with what is a significant challenge in Australian policymaking. The government needs to have that strategy rather than suggesting that forced sales of mansions will somehow do the job.

We also need to be a nation which is welcoming foreign investments, and that is why I took some time at the outset of my comments, drawing significantly on David Uren's new book, to talk about the history of foreign investment in Australia and to make the point that without foreign investment in Australia there would be fewer jobs and those that exist would not pay as well as they currently do. The National Farmers' Federation has estimated that for Australian agriculture to reach the capacity needed to meet rising demand, it will require investment of between $1.2 trillion and $1.5 trillion over the next 35 years. That investment will be harder to attract if we make the system more complex and raise the application fees.

It is no great surprise that this bill has been criticised by a number of parties. The Business Council of Australia, the National Farmers' Federation, the Food and Grocery Council, the Queensland Farmers Federation and the Chamber of Commerce and Industry of Western Australian have all raised concerns about the impact of this bill on creating jobs and economic growth in Australia. The government might sloganeer about being 'open for business' but, in reality, we have a government which is making foreign investment more difficult. There are not many coalition policies that you would imagine would attract criticism from the BCA, the NFF, the AFGC, the QFF and the CCIWA, but this policy has done that. That is a concern to those of us on this side of the House who are keen to see a strong relationship with business, a constructive relationship which boosts growth in Australia.

The application of the new rules has led to some bizarre outcomes. One of Australia's largest agribusinesses has been forced to make multiple applications for approval to purchase small parcels of land. In one case, a transaction valued at just $6,000 required a separate application. Every square metre acquired was, they said, 'a big complication'.

We need a government that engages in debate with the Australian public about foreign investment. It is a complicated debate. It is one which requires engagement and careful explanation because it has, over Australia's history, been too easy to engage in fearmongering about foreign investment. Given the benefits that have flowed in the past and the benefits that can flow in the future, we need a foreign investment regime that not only has a strong Foreign Investment Review Board carefully doing its job but has politicians who advocate for foreign investment that is carefully scrutinised under our current system.