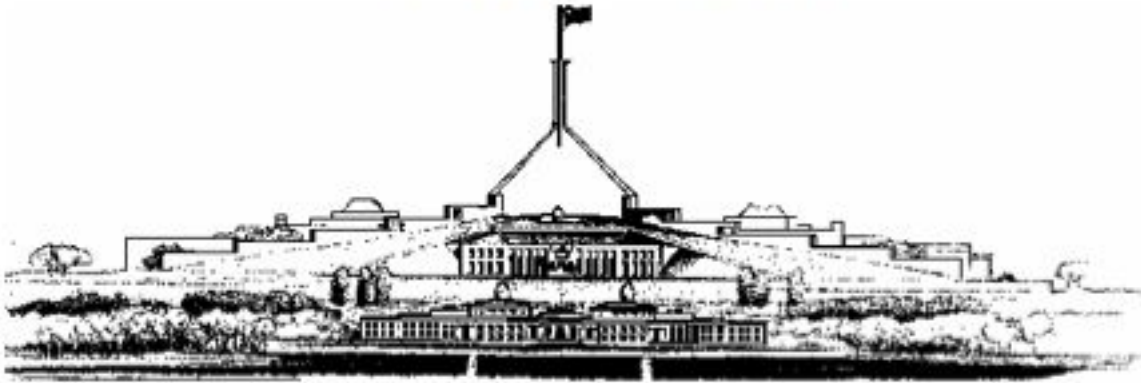




COMMONWEALTH OF AUSTRALIA

PARLIAMENTARY DEBATES



THE SENATE

PROOF

MATTERS OF PUBLIC INTEREST

United Arab Emirates

SPEECH

Wednesday, 19 September 2012

BY AUTHORITY OF THE SENATE

SPEECH

<p>Date Wednesday, 19 September 2012</p> <p>Page 38</p> <p>Questioner</p> <p>Speaker Kroger, Sen Helen</p>	<p>Source Senate</p> <p>Proof Yes</p> <p>Responder</p> <p>Question No.</p>
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Senator KROGER (Victoria—Chief Opposition Whip in the Senate) (13:40): In January 2009, a highly respected Victorian businessman working in Dubai, Mr Matthew Joyce, attended a meeting with Dubai police. He was not allowed to leave this meeting and was incarcerated in solitary confinement by Dubai state security for seven weeks. He did not see the light of day once in this period. The room was two by three metres, with no windows or bathroom, and with a grass mat in the corner for a bed. When he was finally allowed to see his wife a month later, he was white, clammy and weeping, with sores from the cold floor and malnutrition.

Six months after his incarceration, Mr Joyce, Mr Marcus Lee and others were finally charged with bribery offences in relation to a Dubai property transaction involving Sunland Group Limited in 2007. David Brown, a senior Sunland executive then based in the United Arab Emirates, is the chief witness for the prosecution in Dubai.

The Victorian Supreme Court considered the same matter in December 2011, in the matter of Sunland Waterfront (BVI) Ltd v Prudentia Investments Pty Ltd and Others (No. 2). In a judgement delivered in June this year, the Australian court has unequivocally found that Mr Joyce and his co-accused are victims of a false complaint to Dubai authorities by senior executives of Sunland. Justice Croft accepted submissions against Sunland, that Sunland's Mr David Brown's contradictory evidence given during the trial:

... pointed to the "utter unreliability of Brown's evidence..."

and, at one point:

... that Brown's evidence ... became "increasingly nonsensical."

His Honour also accepted submissions:

... that Brown's evidence in relation to the bribery allegations indicates, very clearly, that Brown cannot be taken as a reliable witness of truth.

In relation to Brown's evidence concerning the D17 property transaction which is the subject of the Dubai criminal proceedings, Justice Croft found that aspects

of Brown's oral evidence concerning the D17 property transaction:

... contradicted statements and sworn testimony which he had given to the Dubai authorities in the course of an investigation into the acquisition of Plot D17 in December 2008 and through to 2009.

His Honour also found that Brown's witness statement filed in the Victorian Supreme Court was:

... also inconsistent with the agreed transcript of his interview, conducted under oath, with the Dubai prosecutors on 16 February 2009...

His Honour observed:

... it is clear that, at various times, Brown's personal interests (including the fear of remaining the subject of investigation for bribery by the Dubai authorities), together with his and Sunland's commercial interests, coloured his statements and communications ...

Further, Justice Croft found that at least one document provided by Brown to the Dubai authorities was 'a fabrication' and that Brown's failure to provide other documents was 'deliberate', adding:

This is particularly so having regard to the pressure Brown was then under personally in explaining the Plot D17 transaction to the Dubai authorities in a way that convinced them that it was lawful, together with the commercial consequences for Sunland were they to find otherwise.

The criminal trial in Dubai took almost three years. The trial continued for almost three years on non-consecutive days four to six weeks apart. Each hearing lasted from between 10 minutes to 1½ hours. The trial was adjourned on several occasions because prosecution witnesses did not appear. Joyce and Lee were not provided with all the evidence against them. When that trial finally reached its conclusion, there were no adverse findings. Amazingly, Mr Joyce and Mr Lee now face a second trial in Dubai, after the matter was referred back to the Dubai prosecutor.

In a further Australian judgement on this matter, given last Friday, 14 September 2012, Justice Croft found that 'Sunland commenced and continued the present

proceedings in wilful disregard of known facts and law and also for an ulterior purpose'. He also made findings in respect of 'Sunland's willingness to implicate Joyce unjustifiably'. They are direct quotes from Justice Croft.

Of course, Sunland are no strangers to controversy in their dealings with government. Soheil Abedian, David Brown and Sunland were all named in a 2006 Queensland Crime and Misconduct Commission report entitled *Independence, influence and integrity in local government: a CMC inquiry into the 2004 Gold Coast City Council election*. In that report, there were findings that Sunland improperly made a hidden donation directly to Quadrant Advertising disguised as 'general marketing advice', when in reality it was a backhanded attempt to curry political favour for their Gold Coast property developments. The improper behaviour of companies like Sunland threatens the interests of all Australian companies doing business in the United Arab Emirates. The proposed Qantas-Emirates deal already has enough to contend with without the ongoing imprisonment of innocent Australians like Matt Joyce that is based on false testimony.

Aside from the ongoing imprisonment of Matt Joyce and Marcus Lee, there have been a number of arbitrary arrests in Dubai Airport itself. British charity Detained in Dubai has reported on a number of instances, and I will refer to the case of 32-year-old Australian Sun McKay from Adelaide, who travelled to Dubai from Australia. While transiting through the airport, Sun was roughly grabbed and yelled at in Arabic by a person in plain clothes. Sun was surprised at this harassment and responded with what I could only describe as a typically Australian, 'What the ****?' I will leave it to your imagination what the final word was. Later, the man who assailed Sun identified himself as being an undercover officer, at which point Sun apologised—but this was not enough. Sun was interrogated, his passport confiscated and he was detained for a number of months.

In September 2009 two Canadian tourists, Rocky Sharma and Stephen MacLeod, discovered that, even though Celebrex—which we know is an arthritis medicine—is not banned in the UAE, possession of it resulted in incarceration in a Dubai jail for a month after Dubai airport officials discovered it in one of their bags when they arrived. The lengthy stay was apparently attributed to the Dubai authorities taking that long to ascertain the nature of the drug. In March 2005, Briton Tracy Wilkinson was arrested at Dubai Airport after her urine tested positive for codeine. She was detained in prison until May 2005.

It is because of these random events that I stand here today and express concern about possible dangers for Qantas passengers transiting through Dubai—and, unfortunately, these possible dangers do not stop at the airport. Australian Alicia Gall, 29, had her drink spiked and was raped by four co-workers at the luxury Le Meridien Al Aqah Beach Resort in the United Arab Emirates in June 2008. After she reported the assault to authorities, she was jailed for eight months for having sex outside marriage in the UAE, which we know is illegal. She was finally pardoned and released in March 2009. This does beg the question: what precautions and warnings will Qantas provide unmarried passengers who are single or in de facto relationships? I also refer to article 177 of the Penal Code of Dubai, which imposes imprisonment of up to 10 years on consensual sodomy. Will there be warnings to gay Australians transiting through Dubai?

There are also potential issues for Australians of Jewish decent and for Australian Christians who have made pilgrimage to Israel. As the UAE is a participant in the Arab League boycott of Israel, concerns exist for any Australians that may have the stamp of Israel in their passport. The same concern applies to dual Australia-Israel citizens who carry an Israeli passport.

I have to put on the table that I was delighted to read in the paper of a possible Qantas-Emirates partnership for a connection through the UAE. The increasingly competitive nature of the airline industry means that our premiere carrier must explore all commercial opportunities to remain a commercially successful and viable business. In short, this is good for all Australians. It means more opportunities, more jobs and it is great for the Australian economy. But, as a senator in this place, I cannot put the commercial interests of our premier carrier before the human rights and safekeeping of Australian citizens—which are still under threat today. It is still happening in Dubai as we speak.

My views on the illegitimate detainment of Matthew Joyce and Marcus Lee are well known to senators in this place, and I have reflected on them in estimates and have asked direct questions to the ministers concerned. But, with the impending partnership between Qantas and Emirates, I ask this government to seek the immediate release of Matthew Joyce and Marcus Lee, which will serve to allay concerns that may continue to exist over possible commercial endeavours in the UAE.