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BY: LACA

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*Standing Committee on Legal and
Constitutional Affairs,*

Submission No. 119-1

Date Received

Honourable Sir,

Using freely every help I can (as following)
- I refer to article "Navigating the ageing minefield"
& etc. in the "About the House" magazine, Issue
31, June 2007.

The "lack of consistent guidelines and legislation
across jurisdictions in Australia" in relation
to the elderly relates to Federal/State responsibilities
- the Constitution mentioning basic. I believe
that the area of wills and power of attorney and
(allied) have traditionally been State Government
spheres, and I doubt the wisdom of changing this.

"The capacity of elderly people to sign complex
contracts ..." relates, I believe, to medical provisions
in law regarding the judgement of a Practitioner
- Provider No. regarded.

It is important to realise that the "easy
accessibility to do-it-yourself wills and powers
of attorney"- these documents being purchased from
newsagents, etc. in kit form must make mention
of the legality of such documents - even if simply
drawnup - instructions being followed.

In the magazine we also find the proviso that
a patient may lose "legal capacity to make their
own medical decisions" - the word "legal" thus
I find not. What is "legally binding advance care
planning?"

I am not aware that Guardianship Tribunals
can appoint (thus) (?).

Reference is made to "enduring power of attorney"
and (same) with also - "enduring power of attorney
(medical treatment)" being Victorian legislation
specific. Without this I understand - "Guardianship
Tribunals can appoint an administrator of finances
or a guardian to make personal and health care
decisions if an individual loses capacity and has
not appointed an enduring power", BUT only "if
an individual loses capacity" and if he/she has
not, they are legally entitled in relation to input
to the Tribunal.

In closing I wish to refer to correspondence
May this year.

Yours faithfully,

John A. McLennan.