

Submission No. 61
Date Received

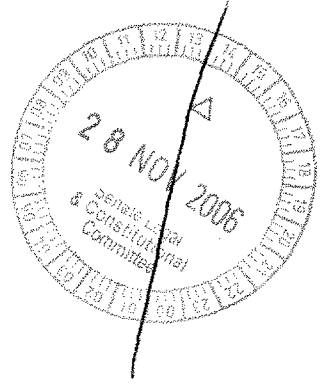
RECEIVED
02 DEC 2006
BY: LACA

Mr. James Bruce Redner

November 24, 2006

NH.

Jackie Morris
Committee Secretary
Senate Legal and Constitutional Committee
Department of the Senate
PO Box 6100
Parliament House
Canberra ACT 2600
Australia



Dear Committee Secretary Morris,

I wish to lodge the following minor submission with regard to the committee's deliberations on the legal issues facing older Australians.

I am making this submission as an individual citizen. I am a 58 year old migrant whose working life in Australia includes 7 years in aged care service management, in both rural and urban Western Australia; as well as a community development and tertiary educator. I hold the following degrees: B.Arts - legal history, B. Theology - pastoral care, M. Business - Human Resource Management, M. Theology - pastoral care. Politically and economically I am a moderate. Over my lifetime I have had the opportunity to work in 5 cultures, observing their treatment of seniors. I consider that this background provides me with a valid personal, professional and philosophical perspective on the issues.

I would like to begin with a general comment on the effects of ideology and rising expectations on Australia's ageing Baby Boomer generation. Then I shall address each of the six subject areas in turn.

In my opinion:

The rising material expectations of the Baby Boomer generation regarding retirement and ageing options are the product of our own success at marketing a consumer society. The Baby Boomers are the 'Spoiled Generation'; expecting their post-retirement lifestyle to reflect their pre-retirement ones. This unrealistic expectation influences emerging seniors' responses to the six areas under review by the Senate Legal and Constitutional Committee. I urge the honourable Senators to take the contextual influence of the media in its power to influence opinion and expectation

formation into consideration; along with the purely legal aspects of the review.

With regard to ideology and ageing, I can only speak in dismay at the social and economic effects of the policies of government of the day. The Social Darwinian mindset of economic rationalism is a short-sighted path to social fracturing on a national scale. The copying of the American socio-economic model has led Australia from sovereignty to suzerainty, and soon to outright slavery to the USA. An Australia devoid of a functioning middle class, and split by rising economic division cannot avoid a catastrophic social upheaval. Our laws should protect our aged citizens, not pauperise them and diminish their potential contributions to the commonwealth.

I. Fraud: I have observed clients and peers devastated by the effects of fraudulent behaviour. Whether they have been the victims of corporate fraud, the shenanigans of individual fraudsters, or of their own greed and naivety, current legal redress is too slow and too costly for most. I would urge the consideration of special court processes and organization especially for the needs of seniors seeking redress. Certainly, current laws regarding redress are weighted in favour of the rich and powerful. I would urge the consideration of non-adversarial processes, such as binding mediation, which would allow seniors to have redress quickly and less expensively. Equally I would prefer to see the institutional bankruptcy laws changed to prioritise settlement with the small or senior creditor before the demands of large creditors are met. Because easy credit is a factor in the incidence of fraud, I would also urge consideration of regulatory limitations on access to consumer credit as people age.

II. Financial abuse: Only recently the aged care organization I work for lost a client due to the family's abuse of that person's pension. Psychologically, an abused person is disinclined to speak up; for fear of further abuse or victimization; or seek aid against family members. I would urge the consideration of legal remedies that third parties may access, as a friend of the court, rather than only as a legal guardian. At the very least, courts should be able to assign abusers of seniors to long-term counselling.

Because financial abuse can occur most readily when the senior is disabled or suffering some significant level of dementia, any medical diagnosis of those conditions should trigger a reporting protocol that requires an official financial review process so that the senior is protected before they can be exploited.

III. & IV. General and Enduring Power of Attorney/Family agreements: More care under the law must be given to correctly assessing the suitability and integrity of those seeking such power over a senior. Regulation of such powers must be active rather than merely judicial.

V. Discrimination:

- 1) Media: The codes of advertising conduct and program content with regard to the image of senior Australians are much too fluid. The media tends to portray seniors in a way that denigrates, demeans and mocks ageing. It makes the minority of frail and disabled seniors appear to be the majority. Social attitudes are clearly linked to advertising and program content over the long-term.
- 2) IR: While I think that 'political correctness' has reached farcical heights, I do feel that because age-discrimination and ageism strike at the core cohesion of our society there must be a strengthening of all discrimination laws with reference to age discrimination. This is particularly so in the Industrial Relations sector. If seniors are to have access to appropriate employment options as they age, thus better meeting the government's agenda of self-funded retirement; then those rights must be actively promoted as well as actively policed.

VI. Barriers to older Australians accessing legal services.

- 1) Lack of access because of unavailability and waiting lists due to chronic hyper-underfunding of such services by governments.
- 2) Social resistance to accessing what are perceived as services geared to the criminal underclass or 'dole bludgers'.
- 3) Lack of culturally appropriate legal services, ones suitable to the various subcultures within the Baby Boomer Generation.
- 4) Lack of appropriate information flow.

In conclusion I would urge that the constitutional separation of state and federal jurisdictions not be violated, in principle or precedent, when recommending changes that affect the rights of seniors. I would however urge that the several states and territories consult on the adoption of uniform changes and additions to relevant laws. A national approach from the grass roots, rather than usurpation and imposition by the federal government.

Respectfully submitted,

Mr. James Bruce Redner