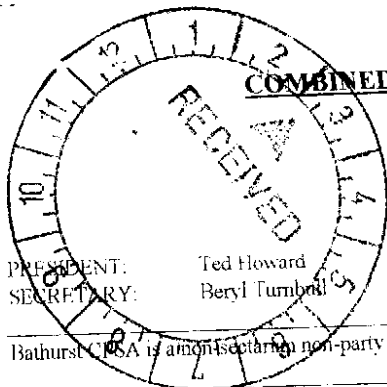




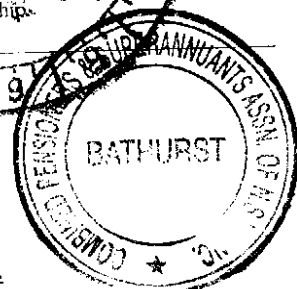
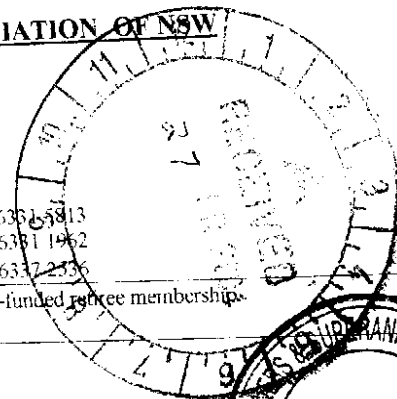
COMBINED PENSIONERS AND SUPERANNUANTS ASSOCIATION OF NSW

BATHURST BRANCH
298 HOWICK STREET
BATHURST 2795

PRESIDENT: Ted Howard 6337 1991
SECRETARY: Beryl Turnbull 6332 1828

VICE PRESIDENT: Margaret Mauro 6356 3813
VICE PRESIDENT: John Slobbe 6381 1962
VICE PRESIDENT: Ross McCourt 6332 2336

Bathurst CPA is a non-partisan non-party political organisation caring for the welfare of its pensioner and self-funded retiree members.



CURRENT MEMBERSHIP ALMOST 600

21st April 2004

The Secretary
Senate Select Committee on the USFTA
Parliament House
CANBERRA ACT 2600

SUBMISSION TO THE SENATE SELECT COMMITTEE ON THE USFTA.

Definition of Free Trade "left to its natural course without customs duties" – Oxford Dictionary
Definition of Free "Not in bondage, having personal rights & social & political liberty; (of State, citizens, institutions) subject neither to foreign dominion nor to despotic government; not restricted or impeded or confined, at liberty (of literary style), clear of obstructions; released or exempt, not subject to tax."

Definition of Trade – "dealing in commodities for profit."

A commodity is "any of the kinds of thing that meet needs or are wanted or can be traded in (e.g. butter clothes, land, skill, health).

However, **The Australian Constitution** (Chapter 1 Part V and partly repeated in Chapter 11) requires the Commonwealth Government to make laws "for the peace, order and good government of the Commonwealth with respect to:-"

...the provision of services such as Postal, telegraphic, telephonic and other like services; Quarantine; Fisheries; copyrights, patents of inventions and designs and trade marks; the provision of pharmaceutical, hospital, medical and dental services;..... (see full list attached)

This raises the question of the right of the Commonwealth Government of the time to trade with any foreign country any of the services listed under its jurisdiction in the Australian Constitution. To do so would abrogate the government's responsibility to the people of Australia without complying with the rules for "Alteration of the Constitution."

Under the USFTA, the term FREE does not comply with the definition above, as its US terms give the US distinct dominion over Australian Government laws, personal and social rights and in some instances, political liberty. It is a deliberate step by one country with a larger economy to interfere in the democratic government and economy of a sovereign country.

The people of Australia were given a guarantee by the present government that the Pharmaceutical Benefits Scheme would not be on the negotiating table, but there it is exposed for all to see, written in for the benefit of the rich and powerful drug companies.

The main reason for the AUS/USFTA we were told was to give our farmers larger and wider access to the US market in farm produce. This has not occurred, and an 18-year wait for its implementation is relegated to the "never-never" of promises. Anyone who believes that it will happen is politically naïve. The whole negotiating procedure should be scrapped and no agreement signed at all. Better nothing than a flawed one-sided trade agreement which caves in to big foreign business pressures, robs us of our Australian traditions, culture (music, film and television), intellectual ownership, and over-rides the Australian Constitution and laws as well as government at all levels.

The Australian Constitution (Chapter IV –p 100) "The Commonwealth shall not, by any law or regulation of trade or commerce, abridge the right of a State or of the residents therein to the reasonable use of

--

the waters of rivers for conservation or irrigation." The privatisation of water is a contravention of the Australian Constitution.

We ask the Senate Select Committee on the USFTA to address the following:-

1. Protect the highly valued aspects of Australian life, such as its society, economy, culture and environment above any supposed gains assumed under the proposed USFTA.
2. All Australian governments should jealously guard and protect our own democratic processes, our right to legislate and regulate in the public interest and not to be compromised in any way.
3. Pharmaceutical Benefits are to remain under our own controls without influence of US drug companies seeking to review PBS decisions. **The Senate Select Committee** should ensure that there is no influence or mechanism that might change our public health goal of affordable access to medicines for all Australians. In particular deny USFTA changes to patent laws that could delay access to cheaper generic medicines.
4. Copyright extensions to 70 years after the death of an author should not be allowed without a public inquiry as recommended by the Australian Property and Competition Review Committee.
5. Australian laws and policies on investment and services at all levels of government should never be allowed to be challenged by the US government or business enterprises on grounds of being restrictive to business.
6. The Foreign Investment Review Board should retain the power to review US investments (and those of other countries) of \$50M or more in every aspect of the Australian economy. A clear statement should be made public about what happens to profits made by investors and their taxation arrangements.
7. Any process which allows US (or other) corporations to challenge laws or sue governments when there is a "change in circumstances" that might affect negatively their investment should be regarded as a negation of our national democratic right.
8. Side letters that allow "escape" mechanisms for US corporations or investors should have no place in the agreement.
9. The US Government should never be allowed to have input into Australian laws and policies on quarantine, or labelling of products, such as genetically modified foods.
10. US government representatives should never have the same rights as Australian citizens to participate in NGO processes for developing standards for Australia.
11. Australian governments must continue to have the right to regulate essential services such as health, dental health, education, water, postal, communications, public broadcasting, energy, environment, quarantine(vide: Aus. Const.) without being challenged on the grounds of commercial competition.
12. There are to be no limits on the ability of the Australian "voice" to be heard through new or existing media. Australian content should never be subject to quotas or capping. Under no circumstances is there to be any limit placed on Australia to continue its public broadcasting through the ABC or SBS or any future initiative in new media.
13. Australian jobs should be protected even if this means retention of tariffs as the US is currently doing, albeit it as an interim phase.
14. Foreign contractors should be required to give preference to local products or enterprises to support local employment.
15. The impact of the USFTA on regional industry and enterprise should take preference over any perceived gains for sectional interests such as agriculture.
16. A comprehensive statement is needed to show how Australia might challenge US laws and regulations if our own are capable of being challenged.

Yours sincerely



Margaret Mauro

Vice President, Bathurst CPSA

Vice President, Central West Area Council of CPSA

PART V.—POWERS OF THE PARLIAMENT.

51. The Parliament shall, subject to this Constitution, have power¹ to make laws for the peace, order, and good government of the Commonwealth with respect to:—

Part V.
Powers
of the
Parliament.

Legislative
powers of
the
Parliament.

Inferred by
No 81, 1946,
s. 2.

Altered by
No 55, 1967,
s. 2.

- (i.) Trade and commerce with other countries, and among the States;
- (ii.) Taxation; but so as not to discriminate between States or parts of States; ¹*
- (iii.) Bounties on the production or export of goods, but so that such bounties shall be uniform throughout the Commonwealth;
- (iv.) Borrowing money on the public credit of the Commonwealth;
- (v.) Postal, telegraphic, telephonic, and other like services;
- (vi.) The naval and military defence of the Commonwealth and of the several States, and the control of the forces to execute and maintain the laws of the Commonwealth;
- (vii.) Lighthouses, lightships, beacons and buoys;
- (viii.) Astronomical and meteorological observations;
- (ix.) Quarantine;
- (x.) Fisheries in Australian waters beyond territorial limits;
- (xi.) Census and statistics;
- (xii.) Currency, coinage, and legal tender;
- (xiii.) Banking, other than State banking; also State banking extending beyond the limits of the State concerned, the incorporation of banks, and the issue of paper money;
- (xiv.) Insurance, other than State insurance; also State insurance extending beyond the limits of the State concerned;
- (xv.) Weights and measures;
- (xvi.) Bills of exchange and promissory notes;
- (xvii.) Bankruptcy and insolvency;
- (xviii.) Copyrights, patents of inventions and designs, and trade marks;
- (xix.) Naturalization and aliens;
- (xx.) Foreign corporations, and trading or financial corporations formed within the limits of the Commonwealth;
- (xxi.) Marriage;
- (xxii.) Divorce and matrimonial causes; and in relation thereto, parental rights, and the custody and guardianship of infants;

- (xxiii.) Invalid and old-age pensions;
- (xxiii.a.) The provision of maternity allowances, widows' pensions, child endowment, unemployment, pharmaceutical, sickness and hospital benefits, medical and dental services (but not so as to authorize any form of civil conscription), benefits to students and family allowances;
- (xxiv.) The service and execution throughout the Commonwealth of the civil and criminal process and the judgments of the courts of the States;
- (xxv.) The recognition throughout the Commonwealth of the laws, the public Acts and records, and the judicial proceedings of the States;
- (xxvi.) The people of any race, other than the ~~aboriginal race~~ in any State, for whom it is deemed necessary to make special laws;
- (xxvii.) Immigration and emigration;
- (xxviii.) The influx of criminals;
- (xxix.) External affairs;
- (xxx.) The relations of the Commonwealth with the islands of the Pacific;
- (xxxi.) The acquisition of property on just terms from any State or person for any purpose in respect of which the Parliament has power to make laws;
- (xxxii.) The control of railways with respect to transport for the naval and military purposes of the Commonwealth;
- (xxxiii.) The acquisition, with the consent of a State, of any railways of the State on terms arranged between the Commonwealth and the State;
- (xxxiv.) Railway construction and extension in any State with the consent of that State;
- (xxxv.) Conciliation and arbitration for the prevention and settlement of industrial disputes extending beyond the limits of any one State;
- (xxxvi.) Matters in respect of which this Constitution makes provision until the Parliament otherwise provides;
- (xxxvii.) Matters referred to the Parliament of the Commonwealth by the Parliament or Parliaments of any State or States,² but so that the law shall extend only to States by whose Parliaments the matter is referred, or which afterwards adopt the law;
- (xxxviii.) The exercise within the Commonwealth, at the request or with the concurrence of the Parliaments of all the States directly concerned, of any power which can at the establishment of this Constitution be exercised only by the Parliament of the United Kingdom or by the Federal Council of Australasia;