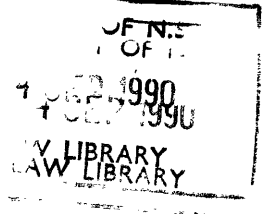


SOCIAL SECURITY

Reporter



Opinion

In this Issue

Inflexible and perverse . . .

Several recent decisions of the Administrative Appeals Tribunal emphasise the inflexibility and perversity of Australian social security law. The decision in *Thompson* (p.737) was that a permanent resident of Australia could not qualify for unemployment benefit on his return to Australia after spending two years working as a volunteer under an Australian overseas aid program. Why? Because he was a New Zealand citizen and so caught by the 1987 Reciprocal Social Security Agreement between Australia and New Zealand, which provides that a New Zealand citizen cannot receive unemployment benefit for the first six months after the person's most recent arrival in Australia.

Special benefit was initially designed to fill the gaps in Australia's social security system; but the narrow coverage of special benefit is illustrated by the decision in *Ruediger* (p.742), that special benefit could not be paid to a woman, who had devoted her time to caring for foster children. Apparently, *Ruediger*'s 'inability to earn a sufficient livelihood' was not beyond her control: she could return the children to institutions and go out to work! The fact that *Ruediger* had undertaken to care for the children following DSS advice that

she was eligible for special benefit (which the DSS paid for 4 years) was not relevant to her eligibility, the AAT said.

The decision in *Kirkman* (p.743) reads like a variant of 'Catch-22': the applicant, separated from his wife, had the rate of his pension reduced because of the value of his former matrimonial home and a home unit. He could sell neither of these properties because his wife had placed caveats on the titles; and his wife was living in the former matrimonial home. But their full value was treated as part of the applicant's assets. There is an element of absurdity in a system which says, in effect, that a person must use unusable assets for his support.

Equally absurd is the situation revealed by *Chaplin* (p.733): in calculating the level of family allowance supplement payable to a woman for her children in a year, the AAT decided that the *Social Security Act* required that her income and the income of her newly-acquired husband in the *previous* year be aggregated, even though she had not met her husband until after the end of that previous year.

[P.H.]

Opinion

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