

deny justice to people who cannot afford to access private legal assistance. The complexity of issues renders multimember and multidisciplinary panels essential to deal with the complexities of legislation. This is very important. Democrat senators receive personal accounts from constituents who have been through the multidisciplinary and two-tiered stage of appeal. And even if the outcome was not in their favour, they do feel that they have been heard and are prepared to accept the finding. I think this bill overlooks that role of tribunals.

I share the particular concerns expressed by Anne Trimmer from the Law Council here this morning and in particular two points she raised: first, worries about compromising the independence of the ART, particularly through the way in which the Minister in charge of a department or departments if there be more than one will be the person responsible for appointments to the respective divisions of the ART; and, secondly, the denial of the right to legal representation. Given that so many people going through this appeals process or seeking access to it are very often disadvantaged, whether that be through the lack of formal education, having English as a second language or simply not being in a financial situation to hire lawyers or seek legal input. This is of great concern. In a political environment where legal aid funding and funding to community legal centres is diminished this concern becomes more acute. I am concerned also about restrictions on the availability of second-tier review. As the National Welfare Rights Network wrote to me very succinctly, in part: 'The effect of compacting two-tier review down to one-tier review is that every review must be conducted in a manner befitting a last opportunity to correct a decision.'

The five main tribunals, the AAT, SSAT, MRT, RRT, and VRB, receive some 40,000 applications each year. Roughly one-third of those are upheld to a greater or lesser degree. And, as earlier speakers have said, in the AAT some 70 per cent of the total number of these cases are conciliated before they reach a formal tribunal process. So the great question is: is reform warranted and if so is this the right model?

The Democrats have yet to be convinced that the changes proposed will bring about the expected benefits of efficiency and economy. We agree that administrative review should never be static and that tribunals and bodies should always be subject to scrutiny and ongoing maintenance. But what is alarming about these bills is that they are dispensing with the more desirable aspects of the current system in favour of a structure which seems to militate against citizens. The cheap and cheerful quality, if you like, of the present structure should not be removed in favour of a process such as that in this bill which denies citizens natural justice. This is very much, if you like, people legislation. More so than so much other legislation, it very much impacts on lives and relationships. It does so through hip pockets, involving money, and it involves personal relationships. That is why absolute care is necessary in dealing with this legislation. This bill may have the effect, even if not intended, of actually disenfranchising people. It has the potential to shake a lot of people out of the system to the point where they do not progress with a claim.

*Senator Andrew Bartlett**

I think the reason why two Democrats are not only here now but have been following proceedings in what I see as a very helpful event today is that we do think this is a particularly significant piece of legislation and it is one that we are paying a lot of attention to. It is extremely important and its consequences are quite far-reaching. Going back to the point made earlier today by the speaker from the Welfare Rights Centre, a crucial driving force from the Democrats' perspective when we are considering this legislation is its impact

* *Senator for Queensland*

on consumers and the people who are trying to use these mechanisms to redress what they see as an injustice.

It is worth emphasising what that can mean for people. Although the veterans community still has concerns about the Veterans' Review Board being left out of this legislation, it was mentioned to me that that may well be an indication of the strength of voice and of organised advocacy that the veterans community has. By contrast, it may also emphasise how little voice people such as social security recipients particularly and, even more so, asylum seekers have in the process. It is worth emphasising that when you are dealing with issues like this in the area of migration, you are dealing with decisions which may mean long-term separation of families; when you are dealing with this in the area of social security, you can be dealing with decisions that may lead to people losing income, which can lead to them losing their housing or to family break-up; and, of course, when you are dealing with refugee asylum seekers, you are dealing with decisions which, if they are wrong, can lead to someone returning to face death. Those are pretty big responsibilities, and it is obviously very important that we make sure that the system works as effectively as possible. It is appropriate to re-emphasise the importance of those issues and the impact they will have on the people using the process.

From the comments the Attorney-General made earlier this morning, I gained the impression that, whilst he always has an open mind, he might need a fair bit to prise it open too far in terms of agreeing to amendments to this bill. But, from our point of view, the Senate's role is to consider legislation. Certainly, if we believe that it requires significant amendment, we will not hesitate to do so, and I am sure the same would apply to the Opposition. Similarly, if we believe that it is too flawed to support, we would not refrain from opposing it. I recognise the ongoing uncertainty about the commencement date of this bill and the structure of it. Those tribunal members here who are involved in that know that that means ongoing uncertainty, which is unfortunate, but the major priority obviously has got to be achieving the best possible system of justice for people including, I re-emphasise, those who are amongst the least powerful and who have the least voice in our community.

At the end of the day, Senate amendments always have to be considered by the government; they may not be accepted and they may be sent back. Often after all this inquiry process, all the submissions, amendments, proposals and debate, it can boil down to the very simple question: is what is being put forward, while maybe not perfect, at least better than the system it seeks to replace, or is it worse? At the end of the day, after the whole process and parliamentary debate, that may well be the core question that each of us will need to answer. Obviously, the Senate inquiry process and the general process of connection with the community will be important in terms of getting the community's viewpoint—and particularly the consumer's viewpoint—on whether overall we are going a step forward or a step back. That will certainly be a core question for us through this whole committee inquiry procedure and the parliamentary debate following it.

