SOCIAL SECURITY

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Opinion

It is said that we live in a rapidly changing world and the area of social security appears to be no exception. Evidence of such change is seen in this issue in the case of *V.K.* In that decision a student was denied special benefit and the AAT, perhaps exercising its discretion with the benefit of hindsight, affirmed the rejection of the claim. Of course, such cases are now a thing of the past; full-time students are now ineligible for special benefit following an amendment to the Act.

The decision in *Harvey* may also be of a dying breed. In that decision the AAT faced the problem of balancing medical and social factors in determining permanent incapacity for work under the invalid pension provisions. Recent amendments to the *Social Security Act* (noted in this issue) now require that physical or mental impairment directly cause at least 50% of the permanent incapacity. This seems to discount social factors in such an assessment. On the other hand it could be argued that a 'minor' medical condition does directly cause the 'total' condition of permanent incapacity for work for claimants in particular social contexts. Perhaps the framers of the amendment have misconceived the 85% rule and assumed that it related to some mathematical equation. Back to the drawing board?

Assets test decisions in this issue also indicate the changing nature of social security. In *Cowling* the AAT considered how shares should be valued for the purposes of the Act and in *Siebler* the validity of a deed of charge was examined. That the DSS now deals with such sophisticated matters perhaps justifies its new wide ranging powers to gather information. Of course, as the newly formed Welfare Rights Unit in Melbourne points out, such power is open to abuse. In particular, they argue, the less articulate and the least powerful will be the most likely targets of its exercise.

But we should not come to regard the DSS as an all powerful monolith. In *Hussey-Smith* the field officer had no notes of the interview with the client (although his evidence was accepted); in *Simillis* the AAT accepted that a claim had been made even though the DSS could not find it, while in *Suri* the applicant had to be given the benefit of the doubt when there was no medical evidence to say that he had been incapacitated before his arrival in Australia. Perhaps things have not changed so rapidly after all...

B.S.

In this issue

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