This pattern continued through 1985 and 1986, although in 1986 the daughter did not receive TEAS and had to rely on part-time work and a loan from her sister in addition to the applicant's assistance. There was also evidence of other items being provided by the applicant throughout the relevant period, including clothes, food and furniture.

The Tribunal referred to *Grech* (1981) 3 *SSR* 28, *Mrs B* (1984) 22 *SSR* 246 and *Al-Halidi* (1985) 25 *SSR* 303. In the first two decisions the test formulated was 'whether the applicant's daughter is in all essential features dependent upon her mother for the satisfaction of her financial needs.' According to *Grech* the meaning of 'substantial' was not to a 'great degree' but to a 'greater degree'. In *Al-Halidi* however, the test was formulated in terms of a 'significant degree'. Dependence was in that decision to be assessed absolutely and not relatively.

The AAT concluded that on either of the above tests the applicant's daughter could not be described as a 'dependent child'. She was largely independent of her mother and the assistance provided was only a small proportion of her total income.

Formal decision
The AAT affirmed the decision under review.

Age pension: evidence of claim

SIMILLIS and SECRETARY TO DSS (No. N86/739)
Decided: 19 February 1987 by A.P.Renouf, J.H. McClintock and H.D. Browne

The applicant had been granted the age pension from 1 February 1985. She claimed that the commencing date should be 6 September 1984 on the basis that she had first claimed the pension on 4 September 1984. The DSS refused this claim and the applicant asked the AAT to review the decision.

The facts
The DSS said that they could not find the claim that the applicant alleged she lodged in September 1984. The applicant said that she lodged the claim when she went to the DSS office with her husband to lodge his Entitlement Review Form in respect of his pension. The applicant's accountant supported the applicant's account of events by stating that he had assisted the applicant in the preparation of the claim in September 1984. He had also accompanied the applicant and her husband to the DSS office and had himself enquired as to the progress of the claim before Christmas 1984. He was told that it was held up due to industrial action.

The DSS argued that the authority to grant a benefit under the *Social Security Act* was dependent upon the lodgement of a claim and that no claim could be found that was lodged prior to February 1985. Also the evidence showed that the applicant had ticked a box in the claim of February 1985 (which was lodged when the applicant was informed that her initial claim could not be located) that indicated that she had not previously made a claim for the pension. The DSS thus submitted that on the balance of probabilities a claim had not been lodged prior to February 1985.

Benefit of doubt
The AAT did not accept that submission. While there was some doubt that the applicant had made a claim at the earlier date the Tribunal said:

> '... in view of the impression of credibility Mrs Simillis made upon us, in view of the corroboration of her evidence by [her accountant] and in view of the beneficial nature of the Act, we feel bound to give the applicant the benefit of the doubt and find in her favour.' (Reasons, para. 6)

Formal decision
The AAT set aside the decision under review and directed that the applicant was entitled to age pension from 6 September 1984.

'Permanent home'

CLARK and SECRETARY TO DSS (No. N86/400)
Decided: 4 November 1986 by B.J. McMahon

The applicant had qualified for invalid pension in March 1973 but the rate of pension was assessed at nil having regard to the combined income and property of the applicant and his wife. In May 1985 the DSS affirmed that decision and the AAT was asked to review that decision.

The facts
At about the time the applicant qualified for invalid pension the applicant learned that an expressway was to be built through his property. He had lost two previous homes in the same manner. He had attempted to ensure this third property would not suffer the same fate. When he was told that this home was to be acquired he was upset and immediately placed it on the market. The applicant and his wife then moved to a flat on the coast. Subsequently they bought a block of land and erected a garage on it in which they lived until they could build a house. They could only do that when their house was sold.

The house remained on the market for four years. In that time the applicant's daughter stayed in the house and paid an amount towards the cost of rates and repairs. The applicant was happy to have her stay in the house as caretaker. The personal effects, clothes, photographs, and furniture of the applicant and his wife remained in the house. These arrangements continued up until the time the applicant qualified for age pension, that is the period with which the AAT was concerned for the purposes of the decision.

The legislation
At the time of the original decision s.18 of the *Social Security Act* provided that 'income derived from property' means income derived from property owned by the person other than income which consists of an annuity or which is derived from property that is the permanent home of the person.

Section 30 provided that in calculating the value of property owned by the person there shall be disregarded the value of the permanent home of the person, any charge existing over the property and if for any special reason the Director-General so directs, the value of the whole or any part of the property of the person.

'Permanent home'
The issue was whether the DSS had calculated the value of the 'permanent home' of the applicant when assessing his income under s.18 or the capital value under s.30.

There was no detailed discussion of the phrase 'permanent home' as it appeared in the Act. The Tribunal referred to *Lin Ho* (1984) 17 *SSR* 179 which considered the meaning of the phrase 'residing permanently'. In that case Fox, J said that one was looking for 'a relationship to the country of some closeness' and 'that the phrase was something akin to home'.

In the case of the applicant the AAT concluded that he had a 'relationship