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The government spectators.

After receiving the reply from The Legal Ombudsman I realised that as a consumer of a legal service within the state of Victoria I did not have access to any form of consumer protection under the law and that legal professionals unlike every other profession could not be held accountable because there are no standards to outline how they should behave when dealing with bereaved families whilst they are acting as executors of deceased estates.

Hence I wrote a letter to The Right Honorable Robert Hulls. The Victorian Attorney General, who is the democratically elected person responsible for the workings of the legal profession.

Letter 1 To the Victorian Attorney General.

To The Right Honorable Robert Hulls. 10/06/05
The Attorney General and Minister for Work Cover.
Parliament of Victoria.
Level 1 55 St Andrews Place
Melbourne 3000

Dear Robert,

I am writing to you in your capacity as The Attorney General, regarding some issues that I, and my family, have encountered whilst dealing with the executor of my late mother's estate. The executor concerned is not a family member but is a lawyer and is there only in his capacity as a professional lawyer.

The government spectators

1. *My Concern*

My concern relates to lawyers and estates generally. More specifically my concern is about the gap in the law where lawyers acting as executors are promoting themselves as quality services providers yet they are acting as executors and thus are not bound by any professional standards let alone those applied to lawyers; however they continue to be paid as lawyers.

I, and my siblings, have serious concerns regarding the behaviour of the executor of my late mother's estate and would like to bring to your attention such behaviour, so that you are aware of the need for government to assess the vulnerable position of consumers, when it comes to their protection from unscrupulous legal professionals.

2. *Philosophical underpinnings*

(a) What is a will?

A will is written because the person writing it wants to make sure that their family members or friends are given their remaining property. Wills are there to ensure that the estate is not lost and is passed on to those that the will-maker loves. This is the purpose of a will. The particular vulnerability of the client in the lawyer-client relationship in the case of will-writing is that the client is no longer present to advocate their wishes regarding the execution of the contract (the will). The lawyer-executor is in a mighty position of power.

(b) The value of the family unit.

If one reflects on what is the most important micro-cognitive unit of society, in light of the proper functioning and general physical and mental health of a society, it is clear that this unit is the family. The healthier the family unit the healthier we see the society. Thus the wellbeing of the family unit is of utmost importance to a healthy society. An integral element of family health in a western democracy underpinned by the values of a free market is the right and capability of persons, and therefore families as the core units of society, to make judgments about their own economic wellbeing. As the law

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is the tool our society uses to maintain social harmony and to safeguard fundamental values, the law should protect the family's overriding right to make decisions about its wellbeing and the wellbeing of the extended family network.

(c) The need for quality services particularly in a multicultural society such as ours. First generation migrant families are vulnerable to exploitation by unscrupulous solicitors due to the lack of extended family networks in Australia. The importance of the family unit has particular significance for first generation migrant families such as my own. The family is fundamental to our way of existence because we have shared experiences of a shift from one culture to another. We are each other's basic support network in a society that was not initially our own. This particular reliance and set of shared experiences makes the family unit of ultimate importance in terms of the health and wellbeing of its members. As we have shared our lives together we, as a unit, know better than any other professional, what is good for the cohesiveness of our family and for each of its members.

(d) The effect of quality services provision (or lack thereof) on macro/micro economies and in turn on social and community health. The current situation permits poor quality self-interested untrained service providers to practice in estate management without any quality parameters whatsoever. The chances of an error and thus the incurring of unnecessary expense, delay in transfer of assets and unnecessary disputes and arguments are increased. The effects of such errors by professionals in this area are reduced financial resources for families through a loss in the value of inheritance, lost financial opportunities, loss of time by beneficiaries as well as psychological damage and family breakdown. Psychological damage and family breakdown needs to be minimised as it can seriously impede the family development and is therefore counterproductive both on a microeconomic scale and, where when coupled together in a macroeconomic system, on the broader national scale.