



# **HOUSE OF REPRESENTATIVES**

**STANDING COMMITTEE ON LEGAL AND CONSTITUTIONAL AFFAIRS**

**Reference: Aspects of family services**

**HOBART**

**Monday, 11 November 1996**

**OFFICIAL HANSARD REPORT**

**CANBERRA**

HOUSE OF REPRESENTATIVES  
STANDING COMMITTEE ON LEGAL AND CONSTITUTIONAL AFFAIRS

Members:

Mr Andrews (Chair)

Mr Andrew	Mr Mutch
Mr Barresi	Mr Randall
Mrs Elizabeth Grace	Mr Sinclair
Mr Hatton	Dr Southcott
Mr Kerr	Mr Tony Smith
Mr McClelland	Mr Kelvin Thomson
Mr Melham	

Matters referred to the committee:

To inquire and report on:

the range of community views on the factors contributing to marriage and relationship breakdown;

those categories of individuals most likely to benefit from programs aimed at preventing marriage and relationship breakdown;

the most effective strategies to address the needs of identified target groups; and

the role of governments in the provisions of these services.

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HOUSE OF REPRESENTATIVES STANDING COMMITTEE ON LEGAL AND CONSTITUTIONAL  
AFFAIRS

*Aspects of family services*

HOBART

Monday, 11 November 1996

Present

Mr Andrews (Chair)

Mrs Elizabeth Grace

Mr Tony Smith

The committee met at 10.17 a.m.

Mr Andrews took the chair.

**CHAPMAN, Sister Philippa, Executive Director, Centacare Family Services, 23 Stoke Street, New Town, Tasmania**

**KILBY, Reverend Father Clement, Director, Centacare Family Services, 23 Stoke Street, New Town, Tasmania**

**MATUSZEK, Ms Anne Elizabeth, Coordinator—Marriage Education, Centacare Family Services, 23 Stoke Street, New Town, Tasmania**

**CHAIR**—I would like to open this public hearing on aspects of family services and welcome each of you this morning. This is the first day on which we have held public hearings away from Canberra where we have had two mornings of public hearings so far. We have received about 128 submissions to date and there are more coming in, so we have been pleased with the response. I thank you for making yourself available for this hearing. Do you have any comments to make on the capacity in which you appear?

**Father Kilby**—I have been involved in Centacare Family Services since its beginning at the end of 1959. Since 1962 the agency has been an approved agency in the area of marriage counselling and other programs that have come under the aegis of the Attorney-General's Department.

**Sister Chapman**—I am a social worker and have been involved with Centacare since 1975.

**Ms Matuszek**—I have been with Centacare since 1992.

**CHAIR**—I am obliged to inform you that, although the committee does not require you to give evidence under oath, the hearings are legal proceedings of the parliament and warrant the same respect as the proceedings of the House itself. The giving of false or misleading evidence is a serious matter and may be regarded as a contempt of the parliament.

We have received your submission, which is No. 89. Are there any amendments or corrections you would like to make to the submission?

**Father Kilby**—At this stage, Mr Chairman, I would prefer just to have a discussion on what has been written. Other members may like to say something from their specific areas.

**CHAIR**—Could I invite you to make some brief opening remarks on any matters that you would like to in the submission and then we could have a discussion.

**Father Kilby**—We have attempted to answer in a summary way the questions put in the original paper sent out from this inquiry. The effort by government that began with the Matrimonial Causes Act of 1959 when public moneys were allocated for the first time for the work of what was called marriage guidance was an initiative which was well received. It was met with some cynicism by some people at that time—1959—and I think the original amount was £120,000. But, from that, an important service has

developed in the country to assist people in the areas of marriage and marriage counselling, and family.

But it was curtailed in the beginning because the federal government did not want to be involved as such with family and children which were state prerogatives. Therefore, the area of marriage education was excluded, deliberately and quite clearly, by Sir Garfield Barwick at the time because that was coming across into state rights. That was a pity, because it separated marriage itself away from family and from children, and dealt only with the relationship of marriage. That became clarified as time went on and even though the name of the later act, the Family Law Act, did concentrate on family, it took further development before other initiatives were taken which really brought the family into it—children and the care of children as well as the marriage relationship itself. All of these have been good developments, although unfortunately taking so long to be realised, but perhaps that is the problem with the different responsibilities of both federal and state governments.

I believe that an agency such as Centacare that we have here in Tasmania—and some Centacares differ—will share many things which are the same. But the concept that we have is about a multi-service agency, which is called, in professional terms, a generic agency. So for the people coming for assistance or help in one way or another, we do have the expertise, we do have the people present, we do have the programs there that can be accessed by them which are going to meet their needs. So it might begin as a child behavioural problem referred from a school—a mother brings the child along and is seen by one of our workers. What is identified is that the child is reflecting problems at home which are in fact a marital problem. Referral can be made within the same agency to another worker to help sort that out.

If a family crisis conference is needed, we have people there so that this can happen, rather than trying to find access to another agency to have this dealt with. So the idea of genericism is that the family, in all its parts, in its beginnings, as in marriage education, in its continuance, in its changes in the growth patterns for a couple in marriage, for the development of children and the problems that can arise with crisis in family—crisis of death, crisis of relationship difficulties, family disintegration, family blending—can be dealt with within the one agency with appropriate personnel.

Of course, there will be other things where appropriate referral is needed, in terms of medical assistance, health and diagnosis. But I am looking here at the problems that beset families, and our philosophy is about having a generic agency, which is what we have tried to do.

The programs funded under the federal government for marriage counselling, family support programs and marriage education fit in quite well with other programs that we have. We have programs for unemployment and the problems that unemployment bring and how that impinges on families. We try and pick up on all of those. Also, family planning and what family planning is about—natural family planning, family planning in general, unplanned pregnancy, et cetera—all of those things which go to make up the 28 programs and subprograms of our agency are about family. That is a value that we see as important.

One of the difficulties is having to address ourselves to a variety of different departments, both federal and state, and a variety of ministers, about one part of an organisation which is trying to deal with a total picture. That is a problem for us which we try to reflect, just to give a picture of it, to whomever we are dealing with. But often that is not taken into account because the particular responsibility of that department

and that minister is that piece of reality. We are trying to fit that into a larger reality.

**CHAIR**—I might come back to some of those last comments a bit later. One of our terms of reference is the range of community views, but perhaps beyond that, trying to ascertain, on the basis of community views and perhaps the research that is available, the causes of marriage breakdown. We have had quite a lot of suggestions and some are made in your submission. Having been in a fairly unique position of being involved in this area for three decades or more, have you detected that there has been a change in the causes of marriage breakdown, are they the same, or are there new factors at play these days? Can you comment on that?

**Father Kilby**—I would like Sister Philippa to comment on this, but circumstances certainly have changed. I think some of the apparent causes have multiplied. There has been a whole social revolution, I suppose, in these 37 years. I was talking to a colleague of yours, Judi Moylan, only a couple of months ago when she called to see us. She asked me a similar question. I said then that there was a crisis in relation to authority. When I began this work, politicians, statesmen, priests, lawyers, policemen, doctors—there was a status in the community. That can no longer, of itself, win loyalty or respect. In many ways it now has to be earned. The fact that one holds a position and status is no guarantee at all that you are going to get respect; that has to be shown by competence, it has to be shown by compassion and it has to be shown by honesty. Without those, people are going to reject us.

In terms of causation, there have been so many things that have occurred in terms of education, children staying at school longer, a revolution in relation to the status of women within our society, how that has got across, what is said, what is not said, the role of men in society. Within these 20 years the growth in unemployment, since 1976, has brought about changes. But some of the basic causes remain much the same. The factors that impinge on it have multiplied because of changed conditions within our society and the Australian society.

**Sister Chapman**—I would agree that there is no one factor that you could identify; it is a multiplicity of factors. But I do believe, growing out of those changes, that women no longer will tolerate—and appropriately so—the abusive relationships that women in previous generations did. With regard to the culture—I am not even sure if it is an Australian culture, but let us focus on Australia—the acceptance by men of violence, arrogance and a power base as the main driver for them is being challenged. We do a lot of work with men. We are the only agency in Tasmania that runs programs for violent men. We get no funding; we cannot access any funding because there is not any funding available at either a federal or a state level.

The sadness is that it highlights the fact that, generally speaking, men are ill-equipped with communication skills and fall back on violent and dominant attitudes—not that they necessarily want to, but that is what they fall back into, either because God did not make them that way or it is not macho to enhance communication skills. You have got the spectrum of what they call the new age guy, the SNAG, which the ocker Australian would not have a bar of. The new age guys are all really communicative and all that sort of stuff, but they can be away with the fairies, too, half the time, coming from a different angle.

The capacity to reach out and assist men with enhancing communication skills is a real challenge because tensions arise and the children do not have any positive conflict resolution models. To give you an

example—this is only a very simple example—you would be aware of the kit and the game that I produced for communication, parenting and life skills. The game has puppets and the cards that go with the game are to deal with communication and values.

I have found it most interesting—and I did not expect it, although I should have—that, on the conflict resolution ones, which can be quite funny, I have seen men and women, men, women and children; there is a whole different cohort when they play that game. The way in which the men resolve how you are going to deal with a landlord who will not give you your bond back because there is a hole in the wall or something is that, instinctively, the men punch each other up with the puppets, and instinctively the women negotiate their way through to come to some kind of resolution. To me, that very simple example showed that there is a general aggressive way that men have in approaching problem solving.

And, I might tell you, I am completely and continuously scandalised at the way that the Australian people see problem solving dealt with in both federal and state parliaments. The put-down and the abuse that gets hurled is degrading. That is not an appropriate model for coming to a resolution of an issue. It seems to me that that model is there and then it filters right through the country—that the way you solve problems and the way you make your point is to knock the other fellow down, beat him down, knock him down or take him out.

**Father Kilby**—I would just make the point, that I think the commentator made, that in a recent debate on euthanasia it was quite different to what usually had been held in parliament.

**CHAIR**—I am working on that.

**Sister Chapman**—So it is endemic in our culture; it is your attitude. Getting back to the preparation for relationships, the first educators of children are their parents. Schools only build on and give the cognitive educative stuff, but they learn the real values from their parents, enlarged by the wider society. That is why family formation and family support are so important, because people do get stuck.

My other big thing—and I have written papers, books and everything else on it, and I go around the world and spend a third of my year teaching people about it—is that we have a schizophrenic attitude to our people. Why do I say that? Because we have big motherhood clauses: ‘the family is a great institution’; ‘the family is this, thus and so’; ‘children are our greatest resource’. But the family of itself is not an economic, producing unit and our culture is driven by economics and outputs. To get a job, to get anything, you must be skilled and you must have continuing accreditation in your profession or your job or your career or whatever; you go to skilling conferences, workshops, on-the-job stuff and you do not stay around if you do not get and keep up your accreditation. But our culture has not endorsed that kind of accreditation for going into what is the greatest of all relationships—because it is the formation of personalities and the formation of stabilising people.

So I see a challenge in somehow upgrading and endorsing and supporting the concept of marriage education and family formation as a continuing cycle—it is not a this compartment here and a once-off there situation—because it is that continuous working at it, and working at relationships is hard.



With regard to the questions of whether our society is any different now to what it was and how come we have got all these marital breakdowns, another key issue that is coming more to light—and I call it a running sore on the face of Australia—is the issue of child abuse. I have been working as a social worker and a counsellor in this state since 1959. It is only in the last 10 years that women—but not only women, men too—are now talking about the effects on them of early trauma which, of course, impacts on their capacity to make realistic choices in a partner. This issue is not a new phenomenon, it is just that it is now being talked about.

We also deal with men who are survivors of early sexual abuse and the impact on a life is not very different, actually, for the male or the female. We do know that people who abuse children have themselves been abused, but not everybody who abuses goes onto abuse—and I am not talking about the paedophile, that is a different group. So along with the marriage support there is this other that is an offshoot of it and it is like a critical mass.

I work directly with women survivors of sexual abuse and we have wanted to work with adolescent male survivors of early sexual abuse but, again, we have not been able to access funds to put on a male staff member. Most of the men who come, come quite by accident, and it is mostly by accident that I happen to be the counsellor they see. So the impact of early sexual abuse is now being highlighted, but it is a very critical issue that has gone unrecognised for a long time. The characteristics of depression or other kinds of behaviours in women have been misdiagnosed. And I do not think counsellors themselves were as clued up, experienced and skilled in it a generation ago as they are now.

**CHAIR**—There was some research reported—I am not sure if it was in the papers here; it might have been in the *Australian* or at least in the *Age*—by Paul Amato, just a few days ago, which is apparently a paper to be delivered to the next Institute of Family Studies conference. To summarise it, probably inadequately, the thrust of it was that those people who come from families in which divorce had been an aspect of the lives of their parents were more likely to face divorce or dysfunctional marriages themselves. I am just interested in your experience of that. Is that borne out by anecdotal experience?

**Sister Chapman**—Yes, but it is too simplistic to say that because you would therefore have to make assumptions about people who did not have divorce in their family. Some families have stayed together but have been triply dysfunctional, I can guarantee—I am quite emphatic on that. So I would not necessarily say that the factor of the divorce is a good or a bad thing. But what I would say is that, obviously, the choice of partner in the first place may have been ill made. You could draw two conclusions from that. If they have come from a family where there is divorce they can lack the modelling to work through problems. There are cases like that. There are just as many cases where the family was dysfunctional and over here you have those that did stay together and they are triply dysfunctional. It is not an easy question to answer.

**CHAIR**—If I understand your premise, it is that this is something which we need to work on throughout the life cycle, at different stages. I suppose that it is an arbitrary judgement as to what you would call the beginning of the life cycle, but assuming that for any generation the beginning of the life cycle is childhood, then it is the skills, ability and knowledge that are provided to parents which are in some respects the starting point.

I know you are involved in the family skills program. We would be interested in some comments about that and how it is working. One thing I am interested in about the family skills program is how you judge the effectiveness of it. If it is effective then it seems to me that it has a very limited coverage at the present time. I was looking at your statistics where, I note, just to take all three years but to take even the last year, you have 102 individuals, 194 children and no couples. I presume—and correct me if I am wrong—that that means that the program is largely aimed at sole parents. If not, I am interested in that.

Finally, if that is the case, if it is effective, if it is useful, is that the type of program that ought to be expanded more widely? The parenting programs around such as STEP and PET and those types of programs seem to have limited reach into the community and tend to be middle class in their orientation. I am just picking up on the earlier comment about where you begin the intervention and bringing this in.

**Sister Chapman**—With regard to the statistics, perhaps more than two-thirds would be sole parent, female headed families. This program is unique and designed by me. The other family skills programs around the country operate in a way similar to another group program that we have. This program does change people, and I have plenty of evidence for that, and although designed originally as a parenting program it is just as effective with working with groups because it is life changing and it is about cognitive re-structuring and getting people out of negative frames of reference into positive and empowering ones. The groups that I have trained range from therapists, social workers and psychologists down to home helps. I have just returned last month from another tour.

I was invited by the Irish Health Board to train their workers. I did so in Limerick and Galway and then another group in Dublin asked me to do some training for them. They knew of the work through my workshop in Beijing at the women's forum last year. I have now started working with groups of clergy and they have found it equally empowering because it catapults people out of negative frames of reference and gets them into a whole new way of looking at life and approaching the situations.

Prior to going to Ireland I did a camp for families with attention deficit disorder children. They were all couples but not all the men could come because they had jobs and they could only attend some of the evening sessions. This is a residential program and that is why you get mainly female participants. We have tried to access the men at weekends and at other times and there have been some camps where we have done that. We have also used this model with unemployed people and it is just as effective. The problem with getting the men to attend is the weekend issue. Also, men can feel a bit threatened about coming. However, it is not a totally impossible thing. The problem with accessing weekends is we have not got the money to extend the program because at weekends you have got different kinds of staffing issues. It does work. The big deficit—

**CHAIR**—There is increasing research and papers being written now, and there was something in one of the weekend papers, about the problem of a fathering deficit in society generally, that men are not relating to their children and their sons in particular in the way in which traditionally that might have occurred because of whatever changes. If there is some validity in that, which there seems to be, and we accept that these sorts of programs are effective, how do we overcome the difficulty that if they are effective they are being effective largely for women and mothers rather than fathers and men for whom there seems to be an increasing need?

**Sister Chapman**—Yes, I totally agree with that.

**Father Kilby**—We are coming at it from various directions. There are children involved in these camps as well, including boys, and some of the domestic violence is mothers being violent towards children including their boys. What this is doing is changing that dynamic within that one parent family. From the other end we have marriage education where we are looking at couples preparing for marriage and helping them find where there are problems before they arise. So we are trying to be both preventative and remedial. This is also preventative in terms of the little boys, some of whom are showing physical signs of not being able to identify with a male figure who is a father figure there. But these are things we have noted. So we are trying to work across the spectrum. We do not throw things out and say, ‘Well, we have finished with that lot; they are not going to be any good.’ Let us try and do what we can. But, on the other side, let us also try to prevent—

**Sister Chapman**—But to answer your question, we cannot keep up. We get about \$86,000 a year for this program. There are many other groups we could access but we already cannot keep up with the demand. And, yes, fathers and sons is a real issue. It was very significant that the camp we did have for fathers and their sons was very useful and worthwhile. We had one man who travelled from way beyond, from one of the adjoining islands, with his children. There were many problems around. The marriage was breaking down and there was the whole question of access and his remoteness and his inability to access appropriate counselling facilities. In fact, every one of those cases was specific to the men building up the relationship with their children while they were there.

**CHAIR**—You have mentioned money a few times. If you just take, say, the numbers from the family skills program where, over a period of three years, we are talking about a few hundred people—I am not underestimating the importance for those few hundred people—is that just touching the tip of the iceberg?

**Sister Chapman**—Yes.

**CHAIR**—So is it a question of resources to be able to do more or is there anything else involved?

**Sister Chapman**—As far as we are concerned?

**Father Kilby**—When people have been through a program that we have run and have come to a new look at things, a new assessment of self, they themselves become apostles; they speak to others. Most of the referrals we have come from people who have used our services and they are banging on the doors. But we have to limit it because of the resources. So these things grow like everything that is important which often begins in a very small way.

I think that our figures overall reflect very well on the resources we have got. Remember, too, that we raise money ourselves by our own efforts. Out of a total budget for our agency of two and a half million dollars we raise half a million ourselves by public request, by what the diocese gives us, by what we can run. We have a race day coming up in two weeks time. It raises about \$10,000. All of these things you have got to do and got to be at.

I do not think that is a bad thing. I am not in favour of organisations like ours being 100 per cent government funded. I think if they are, they should be government. I think there should be an input, it may be 15 per cent, 10 per cent, but that can be important and significant because, as an agency, we are saying to the public, 'This is what we are about. We are reporting back to you. If you think what we are doing is good, kick in your dollar towards what we are about.' And I do not think that is a bad yardstick of things.

**CHAIR**—You say in your submission there is an inequity in the current distribution of funds to agencies—certainly in Tasmania. Would you like to elaborate on that?

**Father Kilby**—It goes back a long way, Mr Chairman, from the time, I think, when the division of moneys was made. I think just in Tasmania, in comparison, there are only the two organisations—Relationships Australia, formerly the Marriage Guidance Council of Australia—and us and whatever they did in Canberra in terms of that distribution it was not in terms of caseload or work done, it must have been something else. I do not know. But the distribution of moneys here has always been weighted very heavily towards the other organisation as against ours.

I do not want to take anything away from that organisation but I just find it inequitable that we are offering a different sort of service, and in the multipurpose style that I have described, rather than just in marriage counselling, as it used to be. The public moneys available were distributed and it has been said in Canberra, 'Yes, that is true, it is a historical fact. Sorry, we cannot do anything about it.'

**CHAIR**—It does seem to me there is a lack of transparency in the funding process in this area. Is that a fair summary?

**Father Kilby**—Yes.

**Sister Chapman**—Definitely. The other thing that we find difficult is this. The federal government funds 75 per cent, I think. Our client group are poor, generally speaking, so from the client group there is no way that we can raise 30 per cent. You get a bit depressed about it because this is now 1996, and year in and year out we say the same thing and there is no change. But even if the federal government did allocate appropriate funding, I do not know where we would raise the other 30 per cent from.

**Father Kilby**—Twenty-five per cent.

**Sister Chapman**—Twenty-five per cent. It is a lot of money that you cannot get from your client group. It would put an enormous pressure on fund-raising. Twenty-five per cent is a hike—15 per cent maybe, but 25 per cent on an agency basis? Relationships Australia charge, and their client group can pay to make up the difference.

**Mrs ELIZABETH GRACE**—In the submission you say, in relation to marriage counselling:

The needs for counselling are not being met, particularly in rural and remote areas.

We were talking about this before. The submission continues:

Centacare Tasmania could do much more in providing counselling even now if current funding was distributed more equitably in the State.

This is probably following on from what you were saying, but what do you mean by ‘distributed more equitably’. Is it, in other words, that you do not feel you are getting your share of the pie?

**Father Kilby**—That is right but I do not want to say or do anything against the other agencies. We are unfortunately put in that position. Yes, indeed. Sister Philippa was talking earlier about the possibility of reaching down to the Huon and out to the east coast. We could have a worker—given the money to provide for another full-time worker—who could travel. We could meet the costs of that travel and have a station somewhere there at least one day a week.

We have done it in the Huon with a grant we picked up through the primary industries department to assist the Huon. We picked up on that. It was only a small amount, but we shared the facilities down at Franklin at what was formerly the hospital. It is an aged persons centre now. We have got the use of a room there and we have had a counsellor there one day a week. Certainly that provided easier access for some people down in the Huon Valley to the kind of service we had to offer.

They are the sorts of things we would like to do. We would like to have a more regular presence in a place like Georgetown, in Scottsdale and certainly in the far north-west. While we do have a person travelling to the west coast three days a week, the travel of 40,000 kilometres in 14 or 15 months is a lot on one person and I am not sure about burnout or how we would replace that person. They might say, ‘No, I am not going to do that.’ It is asking a lot.

**Mrs ELIZABETH GRACE**—Following on that, the submission also says:

The independent agencies require better and more predictable funding in order to properly fulfil their role in the community.

I find that interesting—‘better and more predictable funding’. Why is the word ‘predictable’ in there?

**Father Kilby**—We go year by year. Currently this is mid-November. In relation to state government funding, I have a letter from the previous Premier promising us moneys. I have no confirmation yet for this current financial year of those moneys.

**Mrs ELIZABETH GRACE**—You are talking 1996-1997 here?

**Father Kilby**—I am talking about 1996-1997, yes. It was to come into operation on 1 July. We have asked; we have tried. That is for this current year. I cannot budget for my staffing. I cannot put on any new person because of that. We are still unresolved in our funding on Wilson Training Centre through the Department of Employment, Education, Training and Youth Affairs. We are to be cut by 50 per cent. We are trying to pick up on that to maintain our infrastructure so that I can maintain my staff to get into operation next year the policies of the present government in relation to the training of people leaving school.

It is part of the MAATS system, and I am still held up. There is wear and tear on our staff, my

people. Young married fellows say, ‘Will I go for another job, Father? Will I apply for that?’ And they are trained personnel. I cannot immediately replace them if they leave. Then at the end of the month they say, ‘All right. We have changed that now; you are going to get that.’ I say, ‘But how do I get my staff back?’

Year by year, we depend on a 12-monthly thing, and we do not get any answer budget-wise. The budgets were brought down federally and in the state and I am still awaiting answers. It is the unpredictability, the uncertainty in terms of planning and the wear and tear on people like me and my managers, who have to carry it.

**Mrs ELIZABETH GRACE**—Would you like to see funding on a three-year or five-year basis, or something along those lines?

**Father Kilby**—I believe that would be very good—a triennium—and that would still be open to further discussion, if circumstances were to change, say within two years. At least there would be the predictable amount over a three-year period, and one can plan far better—far, far better.

**Sister Chapman**—And if there is going to be a change, we would like to see that decisions are made quickly. It is impossible, and losing key staff is a very, very expensive business.

**CHAIR**—Just picking that up, in terms of the funding—specifically the Attorney-General’s Department funding—given that you identify some inequities in the funding which historically has been there, and in a sense given that there seems to be a continuation of that with the latest round of expansion into new areas, I would be interested in your comment on the new system of funding which came in pursuant to the Justice Statement in 1995.

Secondly, should that funding, if we are talking about some more transparency in terms of the funding and predictability in terms of the needs of any organisation or agency concerned, in some way be tied through some formula, for example, to service delivery, which would mean that, first, it is transparent—if you provide the service, then you get the funds—and, second, it has probably got a degree of predicability to it, because you would have some sense of what the historical demand for service is and, therefore, you would be able to make some predictions into the future based on that. I would be interested in your comments about both of those.

**Father Kilby**—If I have understood you correctly, Mr Chairman, you are talking about tying the funding to predictable outcomes, based on what the previous year was, or the year before that. I am not averse to that in itself, but I would like a discussion about the definition of outcome.

I believe in the whole area of family, which relates to the relationship, to children, to the family within its own environment, within its community. That outcome has to be measured with a variety of factors, and they may be good or they may be neutral in relation to the outcome that is there. Hopefully, it is not a backward thing; it is not a backward step within the outcome. But if the bureaucracy demanded for the outcome something highly specific and relating only to one factor, I think that skews the view of what a successful outcome is about.

**CHAIR**—If outcome was limited to attendance in a program or attendance at a counselling session—I was thinking of something measurable like that; I am not talking about outcome in terms of—

**Father Kilby**—Of the results.

**CHAIR**—Of the results, I meant. Because it seems to me, that what you are alluding to, but perhaps being too polite to say, is that the historical imbalance in funding is such that in terms of measuring the service delivery, there is not always the same relationship between the provision of the number of services, or the range of services, and the funding which is applied.

Just before you answer that, we will observe a minute's silence for Armistice Day—Remembrance Day.

### Short adjournment

**CHAIR**—Would you like to make a comment?

**Father Kilby**—Yes, Mr Chairman. In relation to the point you make of having something, as it were, measurable, attendance—the number of persons attending—would be one simple way that might be satisfying to those who provide the money.

The other point you are making, and I think it was true for us, was that we have a variety of services, so the people coming may have been referred on to family planning, to marriage education or to some other section in the past. That then was unfunded, and is for the most part now. We are funded only for the marriage counselling side of it, whereas we had provided there within our own agency a variety of services. That is helpful to the people coming and relates to a successful outcome, but we cannot report on that because it is not part of the responsibility of the department that is receiving the report. How that is overcome, I am not sure. Again it is the problem of a generic agency having these things.

There are two terms that sometimes I get vexed about because they get used without full understanding. One is double dipping. I suppose the department can use the term 'double dipping'. It means that you are counting the same people twice. But if the same people are using different services, I do not see that as double dipping. If they are coming for marriage counselling, but then are moved over into a family support program—a marriage education program—which is funded differently and has different staffing, I see that as two different services being offered and therefore not double dipping from that point of view.

The other is duplication—that there cannot be duplication in the community. By my view of things over these years, I have never seen any duplication whatsoever in terms of the needs of people of the community. The agencies we have got all approach things differently. There are many people and many families out there and problems that we will never be able to deal with—and that all together we will not be able to deal with. Strangely, that does not come up in relation to schools or doctors. Schools are in every part of the city. Why do you not have one school and everybody having to travel to it? Why not just have doctors in one large building and everybody coming into it? Why are they out there? Duplication, I find, too easily

slips off the tongue without understanding what in fact the community needs and what the requests of the community are.

**Mr TONY SMITH**—Father Kilby, with your historical perspective, has the Family Law Act been an effective instrument in preventing marriage breakdown or has it facilitated such breakdown?

**Father Kilby**—I am not sure about facilitating breakdown. It has certainly, by being in existence, given permission, as it were, for things to happen—which was not there before. It has given a kind of community permission that it is okay.

The provisions under the Family Law Act, which were really a replication of what was under the old Matrimonial Causes Act, were not greatly enhanced, except that court counselling was brought in. As I mentioned earlier, but I will say it here, court counselling, to my mind, comes too late in the cycle of things. It may be helpful to couples and to persons who are going through a divorce and a breakup, with all of the anger, the hurt, the disappointment, the problems of the children, et cetera, and the property.

Community agencies can do that as well, and perhaps more cheaply, if we want to put it in an economic frame. More importantly, they may also bring a greater range of things to the intervention that the people need than court counselling can give, because it is very much caught up in a legal system. My first objection to it is that court counselling would be hamstrung by being caught in a legal system which is not geared to reconciliation or to resolve problems, except in an adversarial way.

Immediately following the Family Law Act we had a great increase in the divorce rate in 1976, 1977 and 1978, and all of that has been documented. At that time it was said, ‘Yes, but these are people who have been waiting for years and now, finally, the opportunity is there to resolve their marital difficulties and get out of a bad marriage and, once that is cleared away, you’ll find things will settle down.’ I am not sure what people meant by ‘settling down’ because, in fact, the divorce rate has stayed very high. There are many causes of that and not just the Family Law Act. So I would not see it as really assisting marriage but, in a community-wise sense, it has given permission, whatever the cause, for people to break up rather than to try and do something about it.

**Mr TONY SMITH**—There was, of course, the section—I cannot remember the number—that was put in, after a lot of debate, about recognising the need for married people to stay together and so forth.

**Father Kilby**—Section 43, yes. I often quote that in public lectures.

**Mr TONY SMITH**—I can recall that debate. At the time it seemed to be almost a sop to the objectors to the structure of the Family Law Act. It was almost put in there to make people feel that the government at least was not the reagent in marriage breakdown.

**Father Kilby**—Yes, but I am pleased it is there rather than not there. Even if it is not used or it is abused, it is there and that is important.

**Mr TONY SMITH**—More as an observation, I have reservations about the extent of child abuse.



Personally, I think it is overstated and so I disagree with you a little. I will quote John Mortimer, who practised extensively in the family division of the High Court in England. He said that during those extensive years of practice in marriage break-ups almost everything imaginable was dredged up by one side or the other for advantage, and this was almost rarely—if ever—mentioned. Now, in almost every case, this has been mentioned. My own experience in the Family Court, and that of colleagues who practise there extensively still, is that it is like the atomic bomb: when all else fails you drop the atomic bomb in there, and the moment that happens all sorts of things occur.

In my own legal practice, in nine out of 10 child abuse cases I got acquittals—and I always defended. That does not mean that it did not occur, but I always felt personally it was grossly overstated. It is my own personal feeling of the participants in this thing. It is the easiest allegation to make and it is the hardest to refute. It is very easy to get carried away—and I am not being critical of you—with this issue and sometimes lose sight of what the dynamics of the relationship really are. Is this just a sideshow to bring about an end to a marriage effectively, or bring about consequences which one side or the other might desire?

**Sister Chapman**—I am not talking about the effects of child abuse in marital breakdown when a couple are accusing each other; I am talking about counselling when a 40-year-old tells me he was raped at 12. Going back over the factors in his life, you can see how they have impacted on all his life choices. And I am talking about the woman who is 35 who can tell me that when she was seven she was continually sexually abused by her father.

**Mr TONY SMITH**—Can I just stop you there, because again, I sometimes question—let us say that some of that is untrue. Why is it untrue? Is it untrue because the person will not recognise that they have a responsibility in the break-up. There seems to be an increasing abundance of evidence now of allegations being falsely made, having devastating consequences on the parents, and later found to be untrue. You see my drift, people do not want to recognise responsibility—

**Sister Chapman**—I can see your drift.

**Father Kilby**—We have not been unaware of that at all, both from the legal and the medical point of view. We have talked and I have certainly talked to psychiatrists about this. We do not want to come in on this, as you say, just saying we believe all of this, not at all. But the evidence of it is there, and where the evidence is there, not perhaps in evidence as you would define legally, but the evidence as we would see it. The behavioural patterns of the person have no explanation other than that. But we take great care, great care. We are dealing with very sensitive material here. We are not going to ride rough shod on our white horse and say, ‘All of this is happening.’

**Ms Matuszek**—In many of these cases that are coming up, there is no gain in taking action against a person who abused. It is simply for personal growth in healing that these issues are coming out. It is not an excuse for why the relationship broke down, or a way of blaming someone else, it is really for personal growth.

**Father Kilby**—And even the looking back and thinking that perhaps my relationship with that man who is not here now would have been better if only I had recognised this before, because I was not able to

talk about it. I was not able to reveal it, even to myself.

**Sister Chapman**—When a child is abused, it is always put on the child to keep a secret, but it is not the child's secret, it is the perpetrator's secret. The impact of abuse on the whole personality formation cuts right into their whole self-identity and it is not usually until they gain, eventually, more years of experience in life that they can address it. It can be a very frightening thing to address. To reiterate what Anne was saying, the cases I am dealing with are not for any litigation purposes, they are for personal growth and healing. I hear what you are saying, but I will stand by what I said: it is an enormously endemic thing in our culture.

**Mr TONY SMITH**—There is, of course, that old phrase that judges read to juries, and that is that sometimes experience has shown—I made a note of it here—that people sometimes make false complaints for a variety of reasons, and sometimes for no reason at all. It is just something that juries get read every time in these sorts of things.

**Father Kilby**—But we are not in a court.

**Sister Chapman**—We are not in a court and we are not dealing with the legal side, we are therapists. I absolutely stand on my record that there is child abuse, it is devastating and it does take away the whole persona of a person. It is not always the father, it may be relatives or it may be a teacher. There is plenty of evidence about psychiatrists, doctors and even clergy; it does occur and it is devastating.

**Mr TONY SMITH**—No question about that. One other question: how do you define domestic violence?

**Sister Chapman**—It is a good question, because there are many people who reject the term and call it violence in the home. From a physical aspect—broken bones, broken anything—to verbal abuse and the putting down of people, like, 'You're stupid, you're dumb, you wouldn't know anything.' It also includes taking away people's liberty—it is usually the men who do this—like locking women in the house, or refusing them access to vehicles to get out and do the shopping. Having said that, I am very well aware that violence is perpetrated by women on their small children, which sets the scene for when those children grow up. What do the children learn? They learn that a dominant value is, if you want to assert yourself, you do it through violent means. It is a power imbalance issue, and the person with the power enforces the power by force.

**Mr TONY SMITH**—Is power seen in terms of physical capability?

**Sister Chapman**—It can be financial, and it can be psychological.

**Mr TONY SMITH**—Do you look at the causative factors involved, or do you just treat the end result?

**Sister Chapman**—Causative with regard to social, cultural or within the family unit itself?

**Mr TONY SMITH**—Do you recognise that studies have shown there are differences between men and women in all sorts of areas and that a woman's response can be totally inappropriate, which can bring about a result which is quite awful?

**Father Kilby**—Yes.

**Mr TONY SMITH**—It seems to me it is a two-way street.

**Father Kilby**—Differential psychology is about that, and we are aware of that.

**Sister Chapman**—You mean gender differences of the way they view the world?

**Mr TONY SMITH**—And that something termed abuse can be used by a woman as by a man, but it may be a different way in which it is used.

**Sister Chapman**—We do work at the prison. Father Kilby and I did a session last year. We had a group of 15 or 18 people. Some were there for murder, some were there for petty theft. Some were not going to get out for a few years. Some were due out within the next three weeks. Sadly, violent behaviour was a factor in all of them. The violence that most of that group had learned was from their earliest years.

**Father Kilby**—It was interesting in a way—and you will appreciate this coming from the law—that it took them an hour before they tested us out to see whether we were fair dinkum or whether they could tell us anything, which they did. They found that we responded to that in such a way that real things began to happen.

**Sister Chapman**—I am not thereby saying that only men are violent. Women can use power too. Women can be more cutting and powerful. I am not talking about just in relationships but also in the workplace and the bureaucracy. They can be more difficult to deal with than the men. It is all to do with how the person perceives power and uses it. Culturally, the male has been the dominant factor in the marriage.

**CHAIR**—I would like to mention one case example which I always found quite extraordinary. This chap was absolutely besotted with his wife, and it was a custody dispute by the time it got to court. She would physically attack him. She smashed a mug over his knee and cut all the tendons in his knee and scratched him. Then she would say, 'You have been with a woman again. I can see the marks.' Yet he stayed with her. He followed her all around Australia. She would want to move all the time, so he would follow her. It was an extraordinary relationship.

**Sister Chapman**—She was trying to give him some very clear messages like, 'Stay away.' You have a real victim persona there.

**Father Kilby**—He obviously had needs which were coming through in that sick relationship. He needed help to understand what those needs were.

**Sister Chapman**—He had very great dependency needs. One of the saddest cases I ever dealt with

was where the woman had psychologically emasculated this bloke and almost castrated him. It was a divorce issue, picked up through the court. They were tertiary-trained people. He had a career, and he used to come and see me frequently—weekly. He had weekly sessions for nearly 12 months and was suicidal when the counselling began. At the end of it the divorce did go through much more harmoniously. He loved his children, he wanted custody of them, but it was totally impractical. So violence, wherever it occurs, is degrading.

**CHAIR**—We should be concluding. Can I ask a couple of things briefly? This is to try to help us understand what is the level of services that is being provided. It is part of this difficulty with transparency. Given that these programs sprung up as an ad hoc response over three decades to various perceived needs, whether it is violence or whether it is homeless youth or whatever, one of the things I think important that we try to ascertain in the inquiry is the level of provision of service that does exist, to at least state some sort of factual basis because I think, if we are going to look at where you go, you have got to do that.

If I could just take the marriage education figures, through the Maritus, is there other marriage education provided? Given that, I take it, with most of the couples that come to marriage education, that at least one of the partners is Catholic and that they are most likely to be married in a Catholic church or by a Catholic celebrant, so I can try and get some idea around the level of service delivery—and it is not about your figures so much, it is about what does it cover—is there other marriage education provided through any aspect of the Catholic church in Tasmania, or does Maritus largely cover it?

**Ms Matuszek**—Maritus basically has been set up as an association. The idea behind it was to develop marriage education programs within the parishes, so for the past four years our aim has been to train and recruit and support the educators within the parishes so they meet the needs of the couples getting married within those parishes and regions. They have tended now to regionalise, to become more efficient. We also have couples being referred to the agency, and many of them are couples who have been referred by civil celebrants, who have been referred by friends or are getting married in gardens, so yes, we have primarily set up to meet the needs of the Catholic church but we are also, through the agency, meeting the needs of other couples.

**CHAIR**—Can you roughly give a proportion of what—

**Ms Matuszek**—A very small proportion at this stage.

**CHAIR**—is the non-Catholic?

**Ms Matuszek**—The non-Catholic would be a very small proportion.

**CHAIR**—Right. And do any parishes, or other programs such as evenings for the engaged or engaging encounter operate outside the fold of Maritus?

**Matuszek**—Maritus was aimed to encompass all the marriage education programs, so although they operate independently they do come under—

**Sister Chapman**—There is not a lot of it because we are the only diocese in the country that has been able to form into one unified front.

**CHAIR**—It is useful because of that. That gives us some idea. If we go back to the figures showing the number of marriages and the number of marriages in Catholic churches, yours would therefore be a reasonably accurate figure of the coverage that there is at the present time.

**Father Kilby**—I think there has been contact, too, with other Christian religions and training of personnel.

**Ms Matuszek**—We run the training for the educators with Anglicare. Because we are all living in the same regions, why have two trainers or two sets of training programs? So we do coordinate.

**Sister Chapman**—The biggest deficit in the marriage education arena—and there are deficits in the family skills, like additional staff for working with the children in the family skills area—in marriage education, we have not had the capacity to do a global education media drive about the importance of marriage and relationships because the service delivery is one level, but getting at community attitudes, as you know, is a continuing question. There are lots of things that we would like to do with regards to high schools and colleges, but we do not have the manpower or person power capacity to do the general back-drop promotion, plus coming up with new ways—because it is a marketing issue too—to address the younger people and the adolescents that are in that sexual experimentation phase of their lives, to get it into that arena.

**CHAIR**—Just on the civil celebrant, is it a fair statement to say that referrals from civil celebrants are almost non-existent?

**Ms Matuszek**—That is a very fair statement. I think in Hobart we have one civil celebrant who refers. With the rest of the state, we have tried to initiate contact and we have had a number of meetings where we have tried to meet with them to talk about the programs provided, but we have had very little contact.

**CHAIR**—So the effect of the ‘Is love enough’ promotion to civil celebrants is hard to detect?

**Ms Matuszek**—Yes.

**Mr TONY SMITH**—I will just ask one question. I am not a Catholic, by the way, but I have a belief that Catholic teaching is a very positive thing in marriage. Is there any evidence to suggest that that has a positive effect on keeping couples in their marriage?

**Ms Matuszek**—I think so. A lot of the marriage education program is in fact a secular program. There is very little religious content in the program. One of the issues that does come through very strongly though is their belief that Catholic marriage is a covenant rather than a contract, and it is a commitment for life. So that is reinforced prior to the marriage, prior to the wedding by saying, ‘Are you making a lifetime commitment?’

**Father Kilby**—I interviewed a couple the other day, both of whom had been married previously. Their marriages had been looked at and, as far as the church is concerned, they are free to marry. They are in their 40s—she had no children; he has children and access to—and they want to make sure that all is well. So having interviewed them and filled out papers and worked with them, I then pass them over to Anne who does a focus program with them and tries to identify any areas that have not been perceived. We are still working on that.

**CHAIR**—I thank you very much for your attendance this morning. Obviously we could have gone on for another hour and discussed a whole range of issues, but that is the nature of these inquiries. Hopefully, if we speak to enough people around the country, we will get a reasonable picture. Also, the additional things in your submission which we may not have picked up we will certainly take note of. We appreciate, firstly, the time and effort in making the submission and, secondly, your attendance this morning to give us some more of your experience in the area. Thank you.

**Sister Chapman**—Mr Chairman, I feel very confident that you are chairing this committee, knowing your own interest in this field for many, many years.

**CHAIR**—We will see how we go.

**Father Kilby**—Thank you, Mr Chairman.

[11.35 a.m.]

**CAMPBELL, Mrs Mary, National President, Catholic Women's League Australia, PO Box 239, Sandy Bay, Tasmania 7006**

**SMYTH, Mrs Eris Mary, National Secretary, Catholic Women's League Australia, PO Box 239, Sandy Bay, Tasmania 7006**

**CHAIR**—Mrs Campbell and Mrs Smyth, welcome to the inquiry. I am obligated to inform you that although the committee does not require you to give evidence under oath, these are hearings which are legal proceedings of the parliament and warrant the same respect as the proceedings of the House itself. The giving of false or misleading evidence is a serious matter, and may be regarded as a contempt of the parliament. We are in receipt of your submission, No. 123, which we thank you for. Is there anything that you would like to say by way of an opening statement, or any particular comments you would like to make in relation to what you have dealt with in the submission?

**Mrs Smyth**—No, there is not. Because the Catholic Women's League is not involved in any service delivery, most of the things that we are going to say are motherhood statements, if you like, and are more or less wishes of what we would like to see. We have been concerned, of course, with the state of the family and the general position in society, especially with regard to youth. That has been one of our main concerns. We would like to see optimal conditions for motherhood, because the Catholic Women's League consists, for the most part, of family women who are concerned that their children and, in many increasing cases, their grandchildren, have maximum conditions for the formation of families. We do not really see that that is happening in today's society.

One of the things that we consider is that the government seems to lack a real conviction for any normal family view, that they are more concerned with individual rights, as against the rights of the family unit. This has led to quite a number of problems, in our perception anyway, because the formation of family is seen as an individual right, not having of children as an individual right. Children are not associated with sexuality, they are just seen as something like an object that can be disposed of or welcomed, according to how the individual, not the family unit, feels.

That has brought in its way, quite a lot of society's problems—increasing crime, homelessness, youth suicide, various things like that. It is not the only cause of these, of course. But it is certainly one of the manifestations. So we would like to see governments introduce policies with the family as the unit, not individual rights as projected by the various groups. Most of the groups are not seen as a totality, they are pushing their own individual wish, and we do not think the government in a way has taken up this general view of society.

**CHAIR**—If we could just go back to that. In terms of the observations of your members, what do you consider to be the causes of marriage breakdown?

**Mrs Smyth**—They are so complex. I do not think there is one general cause. I do not think that you can say that the Family Law Act in itself has brought a lot of these about. But one of the things that we did

say is that we should not concentrate on divorce, we should really look at the causes of marriage breakdown. And it does not seem to us that there is enough done at the actual key points. For example, the arrival of the first child can be quite devastating for that couple—not that they do not welcome it, but because it is total change in their lifestyle. Your life is never again the same after the first child arrives, and then even the sleep patterns are the never same; you do not get a decent sleep for many years. And that can cause tensions and strains. There is not enough done to assist those new fathers in how they can cope.

**CHAIR**—Do you have any ideas about that life change, the arrival of the first child?

**Mrs Smyth**—We believe that instead of concentrating on all the breathing, sitting down and squatting, that the father should be educated in his post-birth role. It seems to us that a lot of birth education concentrates only on the actual birth and not necessarily on what happens later when the child comes home, nor the new role that the man has to take.

These are things that have been said to you before so there is nothing original about that. But in the International Year of the Family there was some very good work done by Professor Barclay from New South Wales. She did quite a lot of work on the role of the new father, and we did try to get the reference. Professor Leonie Barclay travelled around Australia. We have been trying to get the document to submit it but things seem to be thrown out after those international years.

**CHAIR**—Do you know which institution she was at?

**Mrs Smyth**—I think she was at the University of New South Wales.

**CHAIR**—We can follow that up. So what you are advocating is that we ought to be looking at some programs that surround the birth of the first child. As you say, birthing education consists largely of preparation for the birth itself rather than looking at the relationship and the changes that the birth will cause to the relationship. You say that we ought to be developing programs around that that are relationship oriented rather than birth oriented, if I could put it that way.

**Mrs Smyth**—Yes, there may be some but we do not know of them. They are mostly done within the hospital context and naturally they concentrate on what they see as important. I have just had two daughters in the last fortnight who have had their first children so I am familiar with what they have been doing in birth education, being advised to stand on their heads and things like that, but there was nothing to prepare the father.

**CHAIR**—I suppose that is analogous to marriage education. If marriage education was simply about preparing for the wedding it would not do much for the relationship.

**Mrs Smyth**—We have always advocated that marriage education should be compulsory in submissions to the parliament going back for some time. But when we look to see what they would be saying about marriage, we were concerned that there is a certain impermanence attached to it now. As we said in the beginning of our submission, impermanence is seen as a characteristic of marriage today, you can just opt out if you wish. There is nothing there to make sure that people realise it is a pretty firm commitment. There is



also the question of choice. People have lots of choices today, harking back to the individual choice and the group choice as against the public interest choice.

**CHAIR**—I understand that in all the Catholic dioceses in America, pre-marriage education is compulsory for couples wishing to marry in the Catholic church, and it may well be for some other churches as well.

**Mrs Smyth**—Yes, but it is not here.

**CHAIR**—What do you think would be the reaction to a suggestion that it be compulsory?

**Mrs Smyth**—I do not see why anyone should object, frankly, because things are compulsory in so many other areas. You cannot do this or that without going through some sort of training. To get married is a pretty big decision. If you catch people at the right moment they are often very enthusiastic about knowing about it.

**Mrs ELIZABETH GRACE**—Just following up on that, the group before was saying that they had tried to target marriage celebrants to get them to refer people to pre-marriage counselling of some sort, or pre-marriage classes, and they were having difficulty in doing this. You were making the statement that everybody should have marriage education before marriage. How do you see a way around that problem where we have the civil celebrants not prepared or unwilling or finding it all too much of an effort to move their clients to a marriage education program? How do you think we can overcome that?

**Mrs Smyth**—Frankly, I really do not know, but what I would suggest is that some of the celebrants whom we know in our work and who are actually members of the Catholic Women's League would be more than happy to undertake the training but they do see that they need it. I think in exactly the same way as you cannot get married until you are a certain age and you are required to give so much notice except in exceptional circumstances, that they would be quite happy to do that for the most part.

**Mrs ELIZABETH GRACE**—Do you think a couple should have some sort of certificate or something like that to say, 'We have been to these educational classes, now will you marry me?' Do you think that that would be one way around the problem?

**Mrs Smyth**—I think that they should be able to give some evidence that they have done it. You can take the horse to water but they may not listen to what is happening and they may see it as boring and all of this, that and the other. That is fine, but at least they will have had to satisfy technically something that they had been. It need not be arduous or anything.

**Mrs ELIZABETH GRACE**—A bit like getting a driver's licence, proof that you have—

**Mrs Smyth**—I think that is fair enough. You only learn to drive after you have got the licences and it is only really a permit to develop your driving skills, and I suppose it could be something like that.

**CHAIR**—The other suggestion that is sometimes made in this context is that the notification period

you have to give to get married is, as I recall now, between one month and six months prior to the wedding. That is, you cannot give notification more than six months prior to the wedding but you have to give it at least one month before. I think it used to be one month and three months. There has been suggestions made that that notification period ought to be extended on both scales: why should people not be able to give, say, twelve months notice prior to the wedding?

I am not sure what it is like in Hobart but in Melbourne if you want to book a reception centre you probably have to give two years notice to get in, unless you do it on a Wednesday evening when no-one else wants to get married or something. Perhaps we can pick this up with some of the marriage education agencies and some of the celebrants but the giving of the notice is something which is done through the celebrant. Maybe that is a trigger mechanism or could be a trigger mechanism for people doing marriage education.

I wonder if you would like to comment on that, and, secondly, on whether the one-month period as the minimum period ought to be extended again as a trigger mechanism to providing something else. Extending them in themselves does not seem to me to achieve anything, but if it was tied into something else it may be useful.

**Mrs Smyth**—With the education which we have asked for or suggested ought to be compulsory, you are going to be pretty hard put to get it all in in a month. We have not really thought of this, I had better say, so any time that we would give would be more or less off the cuff, but I would see three months as reasonable in every way. There are all sorts of things to do to get ready for the wedding and in three months a couple of nights out or five or six nights out or days or what have you for the education, because sometimes they do have the weekend, the three months would enable that to be done.

**CHAIR**—Again I do not know about Tasmania but, as I understand it, in many other places it can often take three months to get into a program because of the waiting lists, so even three months could be quite short.

**Mrs Smyth**—That could be seen and if there was such a spate of requests maybe they could, provided you had some time to train the people concerned so that they were not giving odd advice. I think that is one of our concerns. You can have marriage education which can only lead to the breakdown of it if the education itself is not based on some sort of principle.

**CHAIR**—Yes.

**Mr TONY SMITH**—Just a couple of things you raised from your submission and just a comment. You talk about legal charges facilitating—

**Mrs Smyth**—That should be changes—that is an error I typed. I am sorry about that.

**Mr TONY SMITH**—That got me excited.

**Mrs Smyth**—I should have said that right at the beginning. Legal changes.

**CHAIR**—Were there any other changes? I did not ask.

**Mrs Smyth**—No, that was the one we picked up that we were a bit concerned about.

**Mr TONY SMITH**—You go on to say:

Free exit is seen as an attribute of marriage, both in fact and law (clearly reflected in the Family Law Act—

**Mrs Smyth**—We think it is, because one partner can say, ‘I’m off.’

**Mr TONY SMITH**—Is this a good thing, do you think?

**Mrs Smyth**—No, I do not think it is a good thing. I think at that stage, if you like, there should be some better facility for saying, ‘There’s got to be some reason.’ One of the things that concerns us is that you can be bashed almost to death by your husband within the first week of marriage and yet you have to wait for a year, and at the same the trivial things that ought to be able to be sorted out can lead someone to walk out. It is not altogether satisfactory in every way. But, again, we have not suggested any solutions. We have left that up to you.

**Mr TONY SMITH**—You mentioned that ‘practical measures such as taxation levels should favour family formation’. At present, a couple can both be going out to work and collecting, say, \$20,000 each, but where one person only is going out to work and collecting \$40,000, he or she pays more tax than the two individuals. Is that what you are talking about?

**Mrs Smyth**—Not really—they pay less, as I understand it. The individual—

**Mr TONY SMITH**—The sole—

**Mrs Smyth**—Yes—pays more. One of the things that really annoyed us in our organisation was the change from the dependent spouse rebate, transferring it into the family allowance. There was absolutely no recognition that that woman needed to be fed and clothed and given shelter. The \$2.85 was quite an insult. I think the current federal government is improving that situation, at least to some degree. But that person had no recognition at all as an individual.

We believe the concept of motherhood should be optimised. There is no recognition by the government that women themselves have specialist knowledge in child caring. It is almost like secret women’s business. It ought to be given some recognition by the government, because they have a whole cultural tradition of caring for children in all sorts of ways and that is given no recognition at all. So when we are talking about the optimal conditions for motherhood that is what we would like to see—not simply the \$2.85 a week given to look after her, but a lot more. At least the tax free threshold ought to be given in every way to her as well as this child-care allowance.

**Mr TONY SMITH**—On pre-marriage training, nothing is fail-safe, but are you saying that if we had adequate pre-marriage training technically we would almost have no divorce?

**Mrs Smyth**—No, not at all. At least it is doing something to enlighten people as to what they can expect. The Catholic Women's League itself does not run any women's shelters. But Mary and I—and I have been on it for a long time—are attached to some women's shelters, and to pregnancy support and all sorts of other things like that. One of the things that has struck us is the wish of so many of those young single mothers for normality. This is why they go out with all these unacceptable males that they drag in from somewhere, because they are really looking for a lifetime partner. They are almost addicted, in some cases, to these dreadful men. It is a form of addiction sometimes.

We cannot understand how they keep returning to a situation which is dangerous for them. But they are addicted to the men—that is the only explanation—and you cannot cure the addiction unless the individual addresses it in some way. Sometimes these young girls are addicted to this romantic vision of marriage which seems to be almost innate. It is just phenomenal how they will arrive back to show off their latest man.

**CHAIR**—So you are saying that despite some of the messages that the modern media give us about being individuals, there is a sense within human nature to want to socialise and form relationships?

**Mrs Smyth**—In spite of my individual belief that it was not the case, after 18 years of association with a woman's shelter I am reluctantly forced to say that there is. I am saying reluctantly, because we see so much disaster, especially in relation to the children of these so called unions. But, that seems to be the case, really. It is good in some ways, but in other ways it can be disastrous for the children. It is the children that often suffer very much.

We would like to see the government pinpoint, if you like, through studies and research, the critical points. And yet, in so many ways—Pregnancy Support is one of the organisations that we are both associated with and their funding has been significantly cut. Yet when the family is going through a crisis because of a new pregnancy, there is minimum help given to the family.

I would like to stress one other thing, and then we do not have much else to say, and this is this idea of the romantic relationships in schools. We have had a lot to do with a particular youth survey, and, again and again, most of the relationship education is concerned with contraception and being safe and not becoming pregnant. An awful lot is concerned with that and there is nothing in that to tell them how to handle this great surge, if you like, of romance that they feel in their lives. There is very little to tell them how to handle that. We would like to see more group friendships, rather than this concentration, today, on the individual friendships, which, in so many cases, become so intense that when they break off there is a lot of sadness and a lot of devastation to the individuals.

**CHAIR**—So what you are saying is that you would like to see relationship education in schools, and not just sex education?

**Mrs Smyth**—Yes, that is really what we are saying, I suppose; you have put it better than we have. That is really what there needs to be and yet, in the Catholic schools and everywhere we have made inquiries, that seems to be the general sort of thrust of it, rather than—

**Mrs ELIZABETH GRACE**—It is like the American model, is it not, where from a very early age you identify yourself with somebody of the opposite sex to give you that—I do not know what it is—kudos, is the word, or importance of having this partner. They are talking about 10 years of age in America and things like that, which I think is tragic. I agree with you: we need to be building the idea that you are better in a group of your peers rather than in that individual relationship. We seem to have started to follow that American model somewhat.

**Mrs Smyth**—Yes, that is true.

**CHAIR**—I have a question arising out of Mr Smith's first question about divorce. One of the suggestions that is floating around in the United States at the moment, in relation to divorce, is that it is said that we ought to be making it more difficult for people to obtain a divorce when there are young children in a relationship. One of the suggestions I have read from one research institute or another is that there ought to be an element of fault in divorce where there are children, say, up to five years of age or something like that. I am interested in whether you have any comment about that.

**Mrs Smyth**—A few years ago we did produce a submission from the Catholic's Women's League, but we are looking at the reality of the situation and I do not think that the key clause that people can walk out is going to be changed in the Australian Family Law Act, frankly.

**CHAIR**—So are you saying that the community attitude is so strong that—

**Mrs Smyth**—No, I am saying that the parliamentary attitude is such that they will not come out against it. I do not think that any party is going to be game enough to do it, if you do not mind me saying so. I had better not use the word 'cowardice' with so many parliamentarians—but, nevertheless, I think that you are going to try to reflect what you see as—

**CHAIR**—You can say what you like, here, because I think what you say is privileged.

**Mrs Smyth**—Anyway, I just do not think there is going to be the political will to change it.

**Mr TONY SMITH**—So the community will, you believe, is out there?

**Mrs Smyth**—I believe that there is a lot distress among people, especially the person who is walked away from. I think that if you did put up something so that the preschool child could be protected in some way, then you might get an upsurge of support. But I don't really see it happening, because many times I think the Family Law Act has been revised and reformed and all of this and each time that key concept has been kept—that people can just walk away from it. I think I mentioned earlier on that people can bash one another up quite badly and still have to wait for the year. There is no cause in there at all.

**Mrs ELIZABETH GRACE**—Do you think we would gain anything by extending that year—making the separation period longer than 12 months?

**Mrs Smyth**—Yes, there could be some merit in that. But then you are going to have the situation

where it is going to extend the really bad marriages—

**Mrs ELIZABETH GRACE**—Where there is—

**Mrs Smyth**—Yes. Perhaps you could look at it and say that you should extend it except in particular circumstances such as violence, et cetera. I don't really know.

**CHAIR**—Can I just ask one final question? I am, in a sense, being a devil's advocate, but can I ask you this question in general terms: is the church doing enough for families and marriage?

**Mrs Smyth**—We think in some cases that the basis of what they are doing is not necessarily—we do not think that they are pushing the permanence of it. We believe that in the Year of the Family they certainly did support the concept of all sorts of family types. We have a much narrower view in the Catholic Women's League. We accept that these different family types exist, everything should be done to assist them, but nothing should be done to really help their formation. So, to that extent, we think that, in spite of what the Pope says is right, they are picking up the reality of what is happening. So I think the church could do a lot more in lots of ways to ensure that there is better understanding.

**CHAIR**—So are you saying that the church's rhetoric ought to be stronger in support of families?

**Mrs Smyth**—Yes, and their actions as well, in some ways. I know that was the last question, but one of the things that we would really like to stress is that the government is not funding the right groups with reference to mental health problems. They are still treating the mental health problem as an individual problem and not in relation to the families. And the same with substance abuse. They are not looking at the repercussions for the families. They are taking the individual addicts, such as the substance abuse addict, into detox and all of this and not looking at the families.

**CHAIR**—Thank you very much. Thank you for both your submission and your time in coming here this morning. We appreciate it. Thank you.

[12.03 p.m.]

**KEANE, Mr Gregory John, Secretary/Treasurer, Australian Federation of Deaf Societies, c/- 237 Main Road, Derwent Park, Tasmania 7009**

**LOVETT, Mr John Michael, AM, Member, Australian Federation of Deaf Societies, 237 Main Road, Derwent Park, Tasmania 7009, through Ms Karen Clare, interpreter.**

**CHAIR**—Do, you have any comments on the capacity in which you appear?

**Mr Lovett**—I work as manager of community services at the Victorian Deaf Society. I grew up as a deaf person.

**CHAIR**—I am obliged to indicate to you that, although the committee does not require you to give evidence on oath, these hearings are legal proceedings of the parliament and warrant the same respect as proceedings of the House itself. The giving of false or misleading evidence is a serious matter which may be regarded as contempt of the parliament.

**Mrs ELIZABETH GRACE**—Mr Chairman, before we proceed. May I have it clarified please: does Mr Lovett have hearing?

**Mr Lovett**—No, I am profoundly deaf. I have access through Karen, who is interpreting.

**Mrs ELIZABETH GRACE**—Thank you.

**CHAIR**—Does Mr Lovett lip-read?

**Mr Lovett**—I do lip-read, yes, but not in this situation.

**CHAIR**—Thank you. We have your submission, No. 43, from the Australian Federation of Deaf Societies. Firstly, are there any changes or corrections you wish to make to the submission? If not, is there an opening statement that you would like to make to the committee?

**Mr Keane**—Yes, Mr Chairman. Firstly, thank you on behalf of the Australian Federation of Deaf Societies for the opportunity to address the committee. I would like, if it is okay with the committee, my colleague John to explain to the committee why deaf people feel comfortable with Auslan and why they use Auslan. Then I would like to share a few case examples that will bring out some important issues that the committee needs to consider. I have a few brief case examples and one that is a little bit more detailed that I have actually photocopied, so if we do not have time at least there is a copy there. And then after I share some case studies, John and I would open ourselves up for questions. Is that okay?

**CHAIR**—Thank you, yes, proceed.

**Mr Keane**—So I will hand over to John.

**Mr Lovett**—Thank you for this opportunity. First of all, you see that I use sign language and you did ask me whether I do use lip-reading to communicate. Yes, I do. But my experience is shared by a number of deaf Australians. There are about 30,000 deaf people in Australia who use sign language. In Greg's submission you may have read that in 1991 there were 15,100 people in Australia who used sign language and they are actually identified. But in general there are about 30,000 in Australia.

I was born deaf. I developed language through my vision because I cannot hear very well—actually, I cannot hear anything at all. So I had to learn English and that was through reading, writing and also lip-reading. But my cognitive processes are quite different from others.

I attended a deaf school, the Victorian School for Deaf Children, and I had access to education there through sign language, because it was a visual language. Then after six years of attending the deaf school, I had to learn some lip-reading and some speech skills. I then went to Brighton Grammar School, which is a regular school, and I was one out of 400 boys there—the only one being deaf.

I continued my education at Brighton Grammar School through reading, writing, communicating with the teachers, but I found it very difficult. Often the teacher would write on the blackboard and I would be looking at the back of their head and I could not lip-read what they were saying because they would often talk into the blackboard.

Often at playtime, or before school started, we would have a number of boys standing around on a Monday morning having a bit of a conversation together, and we would be talking about the football or the cricket and so on and I would be lip-reading with the boys in the circle. I would be looking at one boy talking about the football. When he had finished speaking I would have to then turn around and try and identify the next person speaking, and then I would be often way behind in the conversation and that caused a lot of frustration to me—trying to access a communication. That seemed to be a real barrier to me.

So I decided that, on leaving school, I would go into the deaf community because I could actually access language and communication through sign language. I would call myself bilingual. I have access to English through lip-reading, and I can lip-read quite successfully on a one-to-one basis and speak to you one on one. But in a group situation, I find that quite inhibiting.

I have a deaf wife and we have two hearing boys who are now grown. I think we are a well functioning family. My two boys are both hearing but they are both skilled in Auslan. Auslan itself is actually recognised at both federal and state government levels. At the federal government level there is recognition in the national language policy, and that was in 1989. Jo Lo Bianco was the person who wrote that policy. There are also interpreting services.

The National Authority for Accreditation of Translators and Interpreters, NAATI, has actually recognised it as a language. At the state level it tends to vary but in Tasmania you may be aware of Claremont High School. They have a bilingual program and a bicultural program established in that school. So there is recognition here in Tasmania as well.

You might think, 'What is Auslan? Is that just signing in English grammatical order?' No, it is not; it



is quite different. It is a visual language. It is really based on what you see and the order in which you see things. Maybe you would say, 'I am going to the shop,' and that is how you would write it down. Deaf people would just say, 'I go shop go,' which also shows future tense. So it is not really a shortened form of English by any means.

It can be very descriptive. It is going to be very difficult if I do something extremely descriptive for the interpreter but I can talk about going for a drive up in the hills, the colour of things, the setting and so on. So it is actually recognised as being a language of its own with different grammar which is actually based on vision.

Deaf people feel very, very comfortable using that language. Deaf people using that language often have not been given the opportunity to use English, and do not use English very well because they use Auslan. First of all, many of them have been taught signed English, which is totally different from Auslan. It is not a visual language at all. They have been taught lip-reading as well. Often these people become dysfunctional in terms of trying to communicate in English. There are many deaf people who have difficulties in writing because they have had lip-reading imposed on them. Often, when you actually write down some English, they do not understand it because it is not related to their vision.

So a bilingual program, which is what is happening at Claremont High School, gives them access to both Auslan and also written and spoken English. We have seen some developments there. We feel that if, in the future, we encourage such projects, such as a bilingual and a bicultural education system, it will allow more access for deaf people into the community.

**CHAIR**—Thank you.

**Mr Keane**—Mr Chairman, when I complete reading these brief case studies, I also have a sheet here with a couple of recommendations that I will pass to members. The first case study comes from New South Wales. This case involved a deaf woman, Sue, who was married to a hearing man, and there was also a hearing daughter aged around six years of age. The couple had been divorced and the mother had custody of the child; the father had regular access visits. The family ended up in the Family Court in Sydney when the mother tried to stop the father's access visits after she strongly suspected the child was being molested whilst on access visits with the father.

The court ordered that the family have counselling and a psychologist was asked to assess and report on the child's relationship with both her parents. The report showed the mother in a very negative light, claiming there was minimal communication between the mother and daughter. Fortunately, the interpreter felt the situation was becoming unjust, and that the mother was being discriminated against without reason. The interpreter was able to offer advice and suggest that the court involve a worker from the Deaf Society of New South Wales.

I was called in and became involved in further observations of the mother and child's interactions, both in the counselling session of the court and at their home. The interpreter actually found that there was a very good level of communication between mother and daughter. It was just not in English but, rather, their own combination of Auslan, lip-reading and gestures. There was nothing in their interactions that was

restricted because of the different way they communicated. The court later called the Deaf Society staff member to give expert evidence on the child's communication and that of other families in the deaf community.

The worker was also asked to comment on some gestures the child had shown to her mother after an access visit in an attempt to describe what had happened to her. The mother told the worker that she was immediately distressed when her daughter told her these things. The signs were very explicit and not what you would normally expect a six-year-old to know. The worker's concerns with the situation is that a wrong conclusion could have been reached by the court using experts that knew nothing about deafness, or the deaf community.

In the end, the court found that access should be withdrawn from the father. We would strongly recommend that court staff, including judges, be made aware of the existence of the deaf community, its language, Auslan—which John has just referred to—and culture, and of the existence of organisations such as Deaf Societies, and that they should be contacted before proceeding to make wrongly informed decisions about people's lives.

Here is another situation. In dealing with the Family Court in Parramatta, the Deaf Society of New South Wales on numerous occasions has found out that the court often accepts family members as interpreters instead of arranging and paying for professionally qualified interpreters. How can the court be assured of fair treatment for people who cannot use English if it is prepared to use family members who may have a personal bias towards one side of the relationship, or the matter before the court?

Further on this issue: if the deaf person books an interpreter to accompany him or her to the court, the court refuses to pay for the services of the interpreter on the grounds that the interpreter was not booked or requested by the court. This is when the court will either decide to book an interpreter, thus requiring the deaf person to go through the process of an unnecessary adjournment of a number of weeks before having the matter finalised or, alternatively, make do with a family member as the interpreter so that the matter can be dealt with on the day.

Why should a deaf person have to be inconvenienced and lose two days off work while other people in the community only have to take one day off to attend court for the same matter just because the court has to decide if an interpreter is required? Surely, it is the deaf person who knows whether he or she requires an interpreter. For example, a deaf couple's divorce was delayed a month because the court decided on the day that an interpreter was needed which, in turn, delayed the decree nisi.

Here is a second example. Another deaf couple's divorce was also delayed several weeks for the same reason. When the matter finally came to court, the wife had to request special permission for the divorce to be granted immediately as she was pregnant with another man's child and was almost full-term. She did not want her husband at the time to be seen legally as the father of her child as she was now in a relationship with the child's natural father.

We recommend that there be a clear policy for the use of interpreters for members of the deaf community. This should include use of NAATI accredited interpreters, no use of family members, and a

budget to pay for interpreters when, clearly, it can be seen that they are needed irrespective of who booked them. That recommendation was from New South Wales.

This example is from Tasmania. On Family Court counselling, a deaf couple separated following a long history of extreme domestic violence. The wife received custody but, some years later, the husband instigates proceedings to claim custody himself. His lawyer wrote to the ex-wife with an appointment time at the Family Court counselling. The Family Court booked an interpreter appropriately, but there was a need to inform the woman about the role and function of Family Court counselling, which the Deaf Society community worker did. The interpreter undertook to briefly inform the counsellor of interpreter procedures with deaf people.

The gaps in service in this instance were: firstly, the deaf client's prior knowledge of Family Court counselling; secondly, the counsellor's lack of awareness of deaf culture and appropriate intervention strategies; thirdly, the deaf client, the wife, did not request a separate interview on the basis of domestic violence history and subsequently was left distressed, concerned and determined to stay away from that service. She was not aware of that option. A better service could have been provided if the Deaf Society had been involved in awareness education of the counselling staff or directly with the couple.

As to family mediation, a deaf couple, following separation, were having problems negotiating arrangements for weekend visits for their two-year-old son with the father. Both were profoundly deaf with high levels of dependency on their families who were intervening in the process and complicating the situation further. Deaf Society staff, community workers who understood this couple's linguistic levels and history of interaction, undertook to mediate between them. A workable solution was found, utilising appropriate linguistic cultural methods. The community worker was mediation trained.

Here is an example of adolescent mediation with referral from the family of a deaf teenager. The family was distressed over his behaviour and unwillingness to accept school or parent authority. They were referred by a community worker to the adolescent mediation service and then contact was made with the service by the Deaf Society to advise regarding booking of an interpreter and a visit prior to the counselling session by the community worker and interpreter to discuss with the counsellor the interpreter's protocol and brief deafness awareness and appropriate intervention strategies.

The next one is from South Australia—a profoundly deaf woman in her early 20s, a sole parent of two small children aged six years and two years. Background issues on her include domestic violence, alcoholism and being raised in a non-signing home environment. Her literacy level was low. The issue of child abuse was reported to family and community services concerning her daughter of six years of age. Supports put in place in regard to those reports included keeping families together and, failing this, family connections. Neither program proved to be successful as the child was eventually removed from her mother's custody permanently. These programs span 12 months. The overriding factor impinging on the success of these programs was the lack of effective communication between the service providers and the client, even with the use of interpreters.

Recently, similar issues have arisen surrounding her second child. Family and Community Services, having realised the ineffectiveness of programs used in the past in this case, are currently looking into

directing their funding towards the use of a deaf woman worker to support this particular family unit.

Thank you, Mr Chairman. There is another good case study from Queensland that is a bit more detailed, and I would be happy to provide a copy of that.

**CHAIR**—Is it the wish of the committee that the documents, the case study from Queensland which has been tabled and also the page of recommendations from the Australian Federation of Deaf Societies, be incorporated in the transcript of evidence? There being no objection, it is so ordered.

*The documents read as follows—*

**CHAIR**—Thank you very much for that addition to your submission and the case studies which we will all look at. Can I just ask some general questions at the outset? Can you roughly give us some idea of what proportion of deaf people would form relationships with or marry other deaf people? Is there a tendency for that to occur?

**Mr Lovett**—We do not actually have data with regards to how many deaf people actually marry other deaf people or those that marry hearing people. I think, roughly, I would say 90 per cent of deaf people would marry another deaf person, and 10 per cent of those would actually marry a hearing person. It is really difficult, actually. We do not exactly have the data for that. That would be just a rough guideline, though. About 90 per cent would marry deaf and 10 per cent would marry hearing partners.

**Mr Keane**—I think, Mr Chairman, that perhaps in some regional areas, or places like Tasmania, there may be a higher incident of deaf and hearing marriages, but generally deaf people socialise together and look for relationships within the deaf community. There are certainly areas where there is a higher incidence of deaf and hearing marriages.

**CHAIR**—Yes. We have a lot of evidence about the causes of marriage breakdown, which I suspect are as relevant to deaf people as they are to those who are not. Are there particular strains or stresses or causes within the deaf community on relationships?

**Mr Lovett**—If there was a marriage between two deaf people and it broke down, it would not be because of their deafness or because of their communication. They would be in the same situation as other people, whereas in a deaf and hearing marriage there could be a breakdown because of a communication difficulty because there would be great difficulty in the two of them communicating. For example, we might have a young deaf girl who has grown up using sign language, being in a very oppressive situation with her family who have not used sign language. She may have been involved with a hearing community around her own suburb and married a hearing man, perhaps had a child and has become very isolated in a hearing community. That has maybe caused some frustration.

It is possible that that young girl has then decided to go back into the deaf community and has actually found another partner, or perhaps the young man has met another woman at work and is not at all interested in his deaf wife anymore. It varies. But if you had a deaf couple, I think their marriage breakdown would be for the same reasons that two hearing people would have a marriage breakdown. There would be no real difference there.

**CHAIR**—Are there any specific services provided by way of relationship education or marriage education to members of the deaf community?

**Mr Lovett**—We have a deaf association that does provide that. They have relationship and marriage programs through the Catholic association, but it is only very occasionally run. It is not something that is an ongoing thing. It is very ad hoc. The numbers that they get there are ad hoc.

**Mr Keane**—There are certainly no structured programs like that in Tasmania. It is mainly the community workers at the Deaf Society. We are funded as an information service and often other work takes

priority. But I think that is a vital area that needs more attention from deaf societies around the country. Often interpreters will be called in when a problem has developed. But pre-marriage, during marriage and issues to do with parenting, there is a need for a lot more support.

I notice that in the Attorney-General's 1994-95 annual report, the actual expenditure in terms of marriage counselling grants was just under \$22 million. As far as I know, none of that money is being directed to deaf societies, who are working with a specific linguistic minority group. I think there is a strong case for that to be looked at.

**CHAIR**—In the case of the deaf communities, are you suggesting that there ought to be program funds directed to the deaf societies and that that would be preferable to program funds going to the other agencies that provide the interpreter services?

**Mr Keane**—I think it is good for deaf people to have a choice. I am not suggesting that all of the funds need to come to the deaf societies, but what is happening is that the generic services are floundering. They are receiving the funding and they are calling the deaf societies in to help, and it is often an ad hoc attempt to give them information and there is a deadline to meet. So maybe deaf societies, as in the recommendations there, through the federation, could be funded to be involved in some public awareness campaign and some deafness awareness training programs for either legal aid and family services staff, programs run directly by the government or other agencies.

One other recommendation, the second one from the bottom, is that support workers be available to work with families. There may be a situation where we could look at a pilot project where we could have a family support worker directly employed by a deaf society.

**Mr Lovett**—Just to add to that, to date the Victorian Deaf Society has been providing community services, and we do have some actual case management work that we do. There are actually two entry points, or entry levels, to our services.

First of all, most deaf people come to the Victorian Deaf Society if they have a problem. It might be a crisis in their marriage. A deaf girl might come in and say, 'My husband has taken off with another, hearing, woman; what am I going to do?' We then look at this case, and think, 'Maybe they need marriage counselling or another organisation may be able to assist them.' We might have someone else come in. Maybe the family health centre in someone's local area, perhaps in Broadmeadows, had rung and said, 'Look, I have got this deaf girl who has just turned up. She is having marriage problems; what am I going to do with her?' They often refer their client to us.

In each state there is a deaf society which is recognised as being, I suppose, a main contact point for that state. And, as Frank has already said, we are not really looking at money to go to the deaf societies, but that is where deaf people go for assistance, either directly or indirectly, that is where they go for support. I suppose we are seen as being experts in the field in providing services for deaf people.

**Mr Keane**—It seems it does not matter who we are, all people go to some agency where they feel comfortable communicating. A lot of deaf people are communicating at deaf societies. With interpreters, they

can access generic services.

**CHAIR**—Have these problems been put to the Attorney-General's Department before? Are they aware of the sorts of the things you are saying to us?

**Mr Keane**—I know that the Deaf Society of New South Wales has put submissions to the Attorney-General's Department of New South Wales, but not on a federal level, as far as I am aware. We saw this as a good opportunity to communicate with the department.

**Mr Lovett**—I have been in consultation with the Family Court for the past couple of years for the provision of interpreters in the Family Court, and I feel that the resolution has not been effective. I then had to go to the Attorney-General's Department in Canberra, and contacted the minister in the end. I think it was Minister Duffy at that time, I am not sure. I would have to do a bit of research on that. And he made a decision that they must provide official interpreters.

We were concerned about family members having to interpret in a number of cases in court. So that has been approved, but I do not know whether that is actually a written policy. But there definitely was a commitment there that they would provide professional level interpreters for all Family Court hearings, and any other activities which were ordered, or relevant to, the court process, such as counselling or mediation processes. Often, the court will make a decision that the person will go to mediation, but then they do not provide interpreting services. The whole process would stop at that point. So we are really hoping our submission to you will actually assist our case.

**Mr TONY SMITH**—It struck me that a family situation for a hearing impaired wife, for example, with a young child that can hear would be very difficult. That would put stresses on the family, for the young child then has to learn the dynamics of that family, and overall those stresses that could ensue in the whole family could lead to breakdown. Is that something you see?

**Mr Lovett**—From my own experience, and having worked with other deaf people, it really just depends on the family itself; it really varies. Some families have very good communication with their children right through their life.

I think if the mother was hearing, then she may have difficulties with a hearing child anyway. A CODA, which is a child of a deaf adult, would be quite proud of their identity, and being able to see that they have two languages; they are bilingual. Sometimes they see it as a burden because they have to interpret. For example, I was at a conference at about two days ago in Adelaide. It was an annual general meeting of a deafness forum. There was a hearing child of eight years of age who was forced to interpret for his mother when she went to the doctor. She was having female problems and there is a lot of stress there for an eight year old to interpret for his mother. When my wife went to the doctor, I refused to allow her to let my boys interpret for her. She had to use pen and paper to communicate with her doctor. So, it really just varies from family to family on the situation.

For deaf children of hearing parents it is a slightly different situation. You may be able to read some of the cases studies where you might have a hearing mother who has a deaf child and she feels quite guilty

because she has had a deaf child. It has created tension in the marriage and a lot of friction between the wife and her husband. Maybe, no-one wants to take responsibility for the child; the mother goes off and tries to learn sign language to be able to assist the child in communication and, maybe, the father does not take on that responsibility. So, it really goes both ways. Interestingly enough, 90 per cent of deaf children actually come from hearing families. Ten per cent of deaf adults will have a deaf child themselves.

**Mr TONY SMITH**—I gather from what you are saying that the provision of counselling facilities in the court structure, as well as interpreting facilities, are fairly deficient at present and that seems to be inequitable, having regard, certainly, to the migrant interpreter service. I am well aware from court cases I have been involved in that there seems to be ready provision of those sorts of interpreters for migrants. So you are saying that there seems to be a lack of a proper service for people in this category?

**Mr Lovett**—Yes. There are a few interesting case studies, actually. Funnily enough, the interpreter and I flew in this morning and, in the car coming here, we were just talking about interpreting and various situations, such as a counselling session. You might have a counsellor who is a very experienced counsellor, but that person does not know how to deal with people from a different language or cultural background, and with deaf people because they rely a lot on their vision to communicate.

They behave slightly differently from those that use hearing or oral languages. If you want to interrupt someone, you might cough, or say, 'Excuse me.' Deaf people will not do that; they will tap on the table to gain someone's attention. A counsellor does not know that. So when a counsellor comes in and tries to mediate between a very explosive husband and wife who are arguing, often the counsellor says, 'Can you just please stop arguing?' The interpreter is interpreting this and no-one looks at the counsellor and the counsellor really does not have the knowledge to know to bang on the table to gain the deaf couple's attention. It says, in effect, 'Can you please look at me,' and it gains their attention that way. That is the real difficulty. So, often it really does not resolve things.

**Mrs ELIZABETH GRACE**—Is Auslan the universal language of the profoundly deaf, or are there are other languages being used?

**Mr Lovett**—Australian Sign Language, Auslan, is used in Australia. There are, what you call dialects. There might be some signs in Perth which may be slightly different from those in Melbourne, or in Sydney, because of the schools that deaf people attended in those states. But basically, it is uniform. It is a national language. We have a auslan dictionary by Trevor Johnson which was printed some years ago. It is quite thick—about that thick. It is very heavy reading. You would not want to try and learn sign language through reading the book. We also have videos which have been made more recently. They were made in cooperation with the Victorian Deaf Society, and one of them is called *Understanding Auslan* which is actually a good resource.

Sign language in other countries is not the same as ours. Auslan is a derivative of British sign language. About 130 years ago we imported teachers of the deaf, and they were all from England and Scotland. So those teachers brought British sign language out, and the students used that sign language which then evolved into our own sign language.



Swedish sign language is totally different from our own. If you meet a Swede who uses their sign language and I use mine, we cannot communicate but we can use gestures and what we call international sign. That is facial expression, gestures, body language and so on. We would not actually need to have an interpreter to communicate between the two of us.

**Mrs ELIZABETH GRACE**—That would make the appointment of counsellors somewhat easier; the fact that there is a national language in use in Australia. My concern was that, if there was a different language in different parts of Australia, it would make the appointment of counsellors somewhat difficult. If it used nationally, we would not have that problem.

**Mr Keane**—I would like to comment on Mr Smith's and Mrs Grace's questions about counselling. The issue in counselling is whether there is the use of an interpreter or whether the counsellor can communicate directly with the couple or individual. In order to experience the therapeutic conditions basic to successful counselling and to communicate at least with the deaf client, the counsellor must understand certain facts about deaf people, be aware of the special problems experienced by the deaf, know the impact of these problems so that their impact on the counselling relationship may be minimised, be able to communicate with deaf people in their language and be aware of the ways that deaf clients can be helped to better express themselves.

Casework services with the deaf through written communication can be successful but are available to a limited number of highly intelligent deaf persons. Just as hearing people prefer oral or spoken communication to written communication, almost all deaf people prefer sign language. Few counsellors or mediators are trained in the skills necessary for helping deaf people with personal and family problems. As we have discussed before, deaf societies have the skilled staff and the structure to reach the deaf community to support clients with marriage relationship counselling or education. However, as previously mentioned, deaf people do need to have a choice of services.

**Mrs ELIZABETH GRACE**—So, ideally, you would have someone who had not only the knowledge of the language but also was a trained counsellor or mediator or both. In that way, you would not need to use a third party.

**Mr Keane**—Yes.

**Mr Lovett**—I think the ideal situation is that you would have a deaf person with the right qualifications to do the counselling themselves, because that person would have life experience as a deaf person. They already know what it is like to be a deaf person. It is easy to learn about sign language, to learn about deaf culture, but it is about internalising and understanding it. In an ideal world, what we would have is a deaf counsellor.

**CHAIR**—Why do you not have any deaf counsellors?

**Mr Lovett**—Because of access to education. Up until recent times, deaf people did not even have access to secondary education. It has only been recent times, and with the progress in the last 10 to 15 years, that they have even gained access to tertiary education. At the Victoria Deaf Society, we have appointed one

deaf person who is working as a community worker. She is not a qualified counsellor, but we are hoping in the long term she will do some part-time study specifically in the area of counselling. We have a deaf psychologist who is working in Queensland but not with the deaf society. She has another position. So there is a growing number, and there are possibilities in the future to have a deaf counsellor.

**Mr Keane**—There are a few deaf people in Tasmania who have gone on to higher education. One is a deaf young man studying aquaculture in Launceston. Even though next year he will be in the final year of his course, we are still battling to have the university fund interpreters. We have a meeting in a few weeks time. It is a real issue to have funding for support services or for the university to recognise that interpreters are needed.

In our original submission, one of the points we made was that funding for training for deaf people as counsellors in the marriage and relationship area was needed. Some deaf people who have been trained in that area have tended to go off into administration roles. Maybe there needs to be some incentive for them to stay in the human services area.

**CHAIR**—In the latest round of funding from marriage and relationship education over the triennium, I note that funding is apparently earmarked for novel and new applications. It may well be that there is a possibility there. I hear there is the demand for it from the community but, if there were also people who could be trained in that field, there may be some funding available through that program in this current triennium. That is something you might wish to pursue with the Attorney-General's Department.

**Mr Keane**—What is the name of that program?

**CHAIR**—It is the marriage and relationship education subprogram of the family services program, and it is administered by the Office of Legal Aid and Family Services Program within the Attorney-General's Department in Canberra. The First Assistant Secretary is Dr Margaret Browne.

**Mr Keane**—Thank you.

**CHAIR**—Is there anything else you would like to add that we have not covered before we conclude?

**Mr Keane**—If there is any supplementary information that our members want to provide, is there an opportunity to provide it?

**CHAIR**—Certainly. If anything arises from today's hearings that you would like to add, or if there are any other matters that your members would like to supplement to your submission, you can forward it to the secretariat.

**Mr Keane**—Thank you.

**CHAIR**—I thank you very much for your submission and for your appearance today. It has given us an insight into one aspect of this whole area that we would not have otherwise had, and we appreciate that.

**Mr Keane**—I would like to thank Clarissa for her help in planning today.

**Luncheon adjournment**

[1.42 p.m.]

**GUNNING, Ms Karen Anne, Family and Child Mediator, Community Mediation Service Tasmania Inc., 11 Liverpool Street, Hobart, Tasmania 7000**

**WISENBEEK, Ms Carla, Mediation Manager, Community Mediation Service Tasmania Inc., 11 Liverpool Street, Hobart, Tasmania 7000**

**CHAIR**—Welcome. I am obliged to indicate that, although the committee does not require you to give evidence under oath, the hearings are legal proceedings of the parliament and warrant the same respect as proceedings of the House itself. The giving of false or misleading evidence is a serious matter and may be regarded as a contempt of the parliament.

You have presented a submission to us this afternoon, dated 11 November. Is it the wish of the committee that the submission from Community Mediation Services, Tasmania, Inc., dated 11 November, be received as evidence and authorised for publication? There being no objection, it is so ordered.

Would you like to make an opening statement to the committee, particularly given the fact that we have not had a chance to read the submission yet?

**Ms Wisenbeek**—I will start with a general opening statement and then Karen will give some information as well. This report was, as it says, a combination of information from me as a parent adolescent mediator for the last five years and manager of the Mediation Service, Lyn Newitt, who has been a relationship counsellor for 11 years and a family and child mediator for six, and Karen Gunning, who is a family and child mediator with us and she has legal qualifications.

Community Mediation Service was started five years ago by 40 people from the community and we were doing mediations for people who had disputes in the neighbourhood, workplace, in the community, and it is only since January 1996 that we have been funded by the federal government to do family and child mediations. Up til then we were doing some family and child mediations, but on a very small basis. But since we have had the funding in January, we have a program that centres on family and child mediation. Karen is one of our staff mediators and so is Lyn Newitt. She is a staff mediator with a social science background.

We have just written a submission of our experiences. We have not ever done marriage education or pre-marriage education so we do not have much experience of that—just what we have found out by dealing with people. What we have mainly found in talking to people who have come to us with relationship problems is that, in the beginning, when people first fall in love everything is rosy and they often do not want to look at marriage education. What they are sometimes willing to do is to look at a pre-nuptial agreement or a cohabitation agreement, to sit down with someone who is impartial and to talk about what agreements they would like to make before they are actually married or live together.

Often, having an impartial mediator there, they can talk about things that are a bit uncomfortable to talk about with just the two of them. One person might not want any children in the marriage but finds it difficult to approach that with the other person. We have found and have heard that, with a mediator, a pre-

nuptial agreement is a very effective way of making some agreements so both parties know before they go into a relationship what the expectations are of each party.

**Ms Gunning**—I would certainly second that. In the area of pre-nuptial agreements or cohabitation agreements, what I think is actually happening here is that people have the opportunity to address their needs and also to learn good communication skills. It may, in these situations, enable some people to realise that their needs are not going to be met in the relationship, especially with regard to having children. People make assumptions that they will get married and, maybe in a couple of years, will have some children. This is an issue that can be raised and clarified. It gives a party the opportunity to say, ‘Wait a minute, I really thought you understood that my needs are not to have children.’

It may be a way, instead of the actual pre-marriage education side of it, of still targeting that group and still doing the same thing. It also will help people communicate more effectively. So this is an area that needs to have some sort of focus with regard to communication skills and also needs so that it enables people to make up their minds whether they do want to get married or not.

I have been practising as a family-child mediator now for nearly five months, I am fairly new at the game. But the bottom line, as I see it, in many of these marriage breakdowns is lack of communication and not having needs met one way or another. This may be able to target a group, pre-marriage, to look at those issues and deal with them in an effective manner.

Also we have written in our report general comments from people at the coalface and what we have experienced. But with regard to some of the factors, certainly a lack of communication—I would say a relationship factor—with couples creates many difficulties. A person feels that their partner is not listening or, if the partner is listening, there is this defensive or aggressive response. It just creates and exacerbates problems. Again, I keep coming back to the importance of educating people in communicating effectively and having good listening skills, which can come into prenuptial and cohabitation agreements.

Also, as a family-child mediator, I have seen other aspects that add to the problems or exacerbate relationship breakdowns, and some of these social problems we have actually written down. Certainly, we have a very mobile society now, with people moving round a lot, so the lack of any sort of support system of extended family is another factor that

exacerbates conflict in relationships. In these times of difficulty with regards to jobs, unemployment is another stress factor adding to relationship and marriage breakdowns.

There are other aspects with regard to relational, social, and economic factors, but I will not go through those because you can see them for yourselves. On the point of effective strategies and the people involved, we think the categories to target are not just the people entering relationships or marriage but also the younger people as well, people as young as school children or adolescents, and also older couples: all couples at any stage. The three groups that we think need to be looked at are people who in relationships or entering relationships or marriage, the younger groups of school children and adolescents, and then couples who are already in existing relationships.

One of the strategies, as we have mentioned before, is pre-marriage education programs. As Carla has said, generally such programs are not supported by quite a few young people, who feel that everything is rosy. I have spoken to quite a few people involved in Family Court areas and they have collaborated on this, too; they basically have similar views to ours. The pre-nuptial agreements I have spoken about are an area that could be effective in helping deal with relationships. Looking at younger people, school children, we think that extending a relationship education program in the school curriculum, including specific matters we have listed here, such as assertive communication, listening skills and conflict resolution—and I know that in some school curricula they do target some of these areas, but they could really be looked at in a lot more detail—may enable us to capture this group and help them for their later years as well, if they have got these skills in place in their younger years.

It is important to offer relationship education for all couples who express a need at any stage of their life cycle. So it is not just for people entering relationships or for young people but also for people in existing relationships that we need to be able to provide some sort of program to help them in their relationships.

The other important aspect, because we are dealing with mediation, is to provide mediation for couples or families who have conflict, before separation takes place. I know for myself, from some of the mediations that I have been involved in, that some of these people are really coming along to see if they can deal with the conflict in their relationship rather than because they really want to separate. Again, if you can help them address their needs and learn how to communicate more effectively through mediation, you can target this group to rescue or save relationships and marriages.

I have also just written about the importance of government here. I think that the government certainly does have a role in funding the services that are existing at present to provide education and mediation for couples in dispute before, as well as after, separation. So mediation for us is not just something that we see as a valuable tool for people to separate effectively with a sense of self-empowerment but it certainly can be used to help people in relationships with problems before they even reach the stage of separation.

I also think that it is important for governments to fund a wide range of supporting services. These days, when we have families made up of stepchildren in step-parenting situations, it is important to have services to provide an educative role as to step-parenting, counselling, and those matters. It provides forums and frameworks for couples to explore relationships' issues. And I think that is the bottom line: to have something in place where people can explore relationship issues and deal with conflict, whether it be through counselling, or mediation services or even, as I said, pre-nuptial cohab type agreements to get them before they actually get into strife or difficulties. I think that that is probably the very general idea of what we have been experiencing in the last few months.

**CHAIR**—Thank you.

**Ms Wisenbeek**—The good thing about mediation is that it allows couples to talk about what their concerns and needs are, then look at how things can be different in the future, and make agreements on that. In that way, there is something that they can walk away with. They have got an agreement that at this time, we will do this or that. It clarifies things for them, and it is something to work on for both of them.

**Ms Gunning**—The model that we use is effective in that you can divide it in two, if you like. You look at the past issues, at things that have actually caused the problems in their lives and, as Carla has just said, the area of need and concern. We are not counsellors and we are not acting as lawyers, but there is a therapeutic component in the sense that we acknowledge the feelings, the anger, et cetera. Often, just in that acknowledgment, people will actually resolve that anger and the conflict, and focus on future possibilities and agreements, and there is a movement forward, a focus on the future.

I think that is the other thing in providing things like counselling and mediation. Often people just want someone to acknowledge and listen to what is going on for them. Then they want to be able to move forward with the help of facilitators to help with communication skills or to help them reach agreements. A sense of self-empowerment, I think, is really important in anything that is put in place for people. They need to feel that they are the ones in control, that they are the ones that can actually take control and move towards some sort of solution.

**CHAIR**—Your funding then is under the family mediation program, or do you have some under the parent adolescent—

**Ms Gunning**—Yes. It is family—

**CHAIR**—It is family mediation. I was just wondering about that. So, what proportion of your clientele would be involved in mediation around separation and divorce versus the proportion involved in mediation which involves the continuation of the existing relationship?

**Ms Gunning**—I am just dealing with divorce and separation. Last month, we had 20 cases dealing with parenting matters—parenting agreements to be put in place—and divorce separation. We have a counselling service. I am not quite sure of the numbers. Again, we have what is called ‘pre-mediation’, and on intake, we assess whether we feel that person is appropriate, for various reasons. I think that we have had 54 cases since the beginning of the year, and it is only in the last couple of months that things have picked up. Out of those I have probably referred three or four to the counselling section of our area to see if they can deal with some of their matters and maybe resolve the conflict and save the relationship. It is very difficult for me to answer that question.

**CHAIR**—In broad terms, is the division between mediation and counselling largely that mediation is the process which encourages a couple to resolve their differences, with one of the end points being the separation, whereas if there is a prospect of reconciliation they are referred to counselling? Is that a fair divide to make?

**Ms Wisenbeek**—It just depends on each couple. Some men do not like the idea of having counselling so we do not encourage people to divorce or separate. If they say, ‘Look, we are not sure if we want to divorce or separate, but we are having a lot of trouble communicating,’ we will talk in the mediation process about ways they could communicate with each other more effectively. We will have sessions on that. In cases we say, ‘If things still are not working out, please come back and we will look at what you want to do next.’ We just treat each case differently, but we do advertise our service as helping people who want to divorce or separate with their parenting plans and property settlement. If we have a couple who say, ‘We have only been having problems and separated the last few weeks and we’re not sure what we want to do,’ we would work on what the problems are and how things could be better.

**CHAIR**—If they were open to counselling, you would tend to refer them to counselling, but if there was some impediment to that you might continue with the mediation process.

**Ms Wisenbeek**—That is right. We have had a few cases where people have only been separated three or four weeks. It being so new they have not been ready to sit down to talk about divorce, they have still been very mixed-up. We refer them to counselling. Then when they are ready, they can come back if they want to and have a mediation and sort out more what they want. Often people are not quite sure.

**Ms Gunning**—I have done a couple of cases where people were on the brink of separating but have decided to come along to see if there is any way they could save their relationship. As I said, in the intake we explain what mediation is about. We say we are not counsellors but we are here to facilitate communication and also help people reach agreements if that is what they want.

In one case in particular where the couple did not separate, they learnt to put in place some sort of strategies and drew up an agreement and said, ‘All right, let’s see how we go with this. We won’t separate, we have an agreement, we’ve got strategies. If we have any problems we know that we can go back to mediation and see if we need to maybe follow up a few more strategies and put a few more skills in place.’

Our brief is basically for divorce separation mediation, but couples come along saying, ‘We’re not quite sure, we’re having difficulties.’ They also like the idea of a model—quite a few people have said that to us. Counselling is much more free flowing. In mediation, there is an idea of problem solving for men, plus the emotional content for women as well. They can see that they are working through a model and that right there is



a possibility of strategies being put in place in order for them to get to a solution. So it is effective. It can be effective if there is the goodwill and motivation of people to say, 'We want to try and save our marriage. We don't want counselling. We feel that we're rational, reasonable sort of human beings. We don't need to delve into those areas, but we need some help—we're not communicating correctly or effectively. Could you give us some skills?' So we do.

**CHAIR**—So where does your clientele come from? What is the source of referrals?

**Ms Gunning**—At the moment, in family mediation, we have been getting quite a few referrals from legal aid and we have got quite a few from just advertising—you know, on the back of buses, on TV. It is pretty much a cross-section.

**CHAIR**—Does the Family Court provide mediation here?

**Ms Gunning**—No, they do not.

**CHAIR**—So do they refer out?

**Ms Gunning**—Yes. The Family Court refers. We actually have one of the counsellors who has done the family mediation course who does some work with us, so yes, we have been getting some referrals from the Family Court as well.

**CHAIR**—Who else provides mediation in Tasmania?

**Ms Wisenbeek**—Relationships Australia, and we sometimes get referrals from lawyers as well, or from people who have seen our brochures—from GPs; there is quite a wide section of the community we get referrals from.

**CHAIR**—You may not be able to answer this—as I understand it, this service as it was funded only started this year—but I am interested in whether there has been increased demand for mediation since the introduction of parenting orders and parenting plans.

**Ms Gunning**—Since the introduction?

**CHAIR**—I think it was in June or July last year.

**Ms Gunning**—I would say definitely yes, during this year.

**CHAIR**—This year, sorry.

**Ms Gunning**—It is quite interesting what has happened, and I am getting feedback from lawyers and people at the Family Court. People will come along. You have got the

two stages. You can do a parenting plan, and that can just be basically a plan between parents, so they have got something concrete and tangible; then they can move on to the next stage to make it legally binding as a parenting agreement—getting it registered, et cetera. It seems that with a lot of people, and I have heard this from court people and legal practitioners, rather than filling in the pages that are required to be filled in for the agreement—with their agreement in place, plus the bureaucratic things—many lawyers are just drawing up the agreement as consent orders. I am just wondering what is actually happening here.

The parenting agreement, from what I have heard from people, does not seem to be really taking off that much. That does not mean, though, that people are not continuing mediation; they are coming along to say, ‘I want to put a parenting agreement in place’, and they work on that agreement and then often when they go back to their lawyer they will not sit down fill in the actual agreement. The lawyer will say, ‘Okay, we will draw this up as consent orders.’ But there definitely has been an increase, yes—parents wanting to put something in place.

**CHAIR**—And an increase in referrals from the Family Court?

**Ms Gunning**—I would not say that, no. I would say probably just people themselves wanting to put something in place, and also from legal practitioners, but not the court as such, no. The court will refer for mediation with regard to property divorce separation issues. Referrals I have had from the court seem to be just from practitioners—or people just hearing about mediation from the advertising we have done or the fact that they have been to lawyers or they have been to legal aid, et cetera. There is an educative program going on and I think it really is having an effect on the community as to mediation.

**Mrs ELIZABETH GRACE**—In the briefing statements made by the Attorney-General there is possibly going to be the Family Court counselling and mediation. In Tasmania this is obviously happening away from the court. Do you expect to pick up on some of that work, and if so have you got the facilities in place, or have you got the access to the staff if that builds up for you?

**Ms Gunning**—I certainly think that it is building up. I heard the Attorney speak at the AGM of Relationships Australia last week and there is this push to have community based type services in place. I think people do like to get out from the courts. I think it is a service. Certainly we are new, but we have the potential and we have a lot of people who run family training courses. People with the prerequisite qualifications have done those and we use sessional mediators. I would think that yes, we could certainly do it without difficulties.

**Ms Wisenbeek**—At the moment we are working nowhere near the amount of cases that we can take on, so we have got the facilities and the people to take on a lot more

cases.

**Ms Gunning**—It has certainly built up. The last two months I have noticed a big difference in the number of cases coming through, and there are a lot of enquiries as well.

**Mrs ELIZABETH GRACE**—Are there any mediation counselling services at all within the Family Law Court or does everything come out into the community?

**Ms Gunning**—They are not doing mediation in the Family Court here.

**Mrs ELIZABETH GRACE**—There is no-one there.

**Ms Gunning**—No. It all goes out to the community.

**Mrs ELIZABETH GRACE**—It comes to—

**Ms Gunning**—Yes, Relationships Australia or ourselves, yes.

**Ms Wisenbeek**—In Tasmania it is still quite new mediation. There is still a lot of education to be done and people to—

**Mrs ELIZABETH GRACE**—People know the difference between mediation and meditation?

**Ms Wisenbeek**—A lot of people do not. That is what we are finding, yes—and counselling. A lot of people think mediation is counselling, and I think when they have a problem a lot of people still—this is where Karen said it needs to go in the schools—will go to a lawyer or go to the police. They do not think of resolving it themselves. For some people it is confronting to sit down and try and resolve it. We have been having quite a few referrals from the Magistrates Court, and in those cases where people do not want to sit down together we will do shuttle mediation.

**Mrs ELIZABETH GRACE**—So the two different parties are separate.

**Ms Wisenbeek**—That is right.

**Ms Gunning**—That is our program as well. We have certainly been getting out into the community and educating the community. We did a training course with the magistrates. We have gone out to many services and provided information about the community side of mediation and also about the family divorce separation side as well. We are spreading the word, if you like, and I think it is starting to really filter through for people.

**Mrs ELIZABETH GRACE**—One concern that has been expressed, and it is

coming from a different angle possibly, is that, by having the mediation or counselling within the Family Law Court—in other words, being referred from the court to the mediation, and that actually happening within the same complex—there is a certain amount of authority attached to that. In other words, people say, ‘I feel I must go because I have been told and it is taking place within the law court building.’ Do you think that same authority or that same ‘must go’ type attitude is still there if they come outside the court and go to a group like yourselves. Do you think people still go with that?

**Ms Gunning**—I certainly do not want to put the Family Court down, because I believe in it, but I suppose what happens is that when people go to court it is stressful and there is that sense of authority vested in it. We have had a couple of court ordered meditations—I have got one at the moment—but generally speaking they are initiated by the people themselves, so the fact that we are in a nice comfortable building where people do not feel pressure from the regalia of courts, et cetera probably has some effect, even if it is not on a conscious level. And also I think the bottom line is that people are taking charge of their lives and deciding the problem is theirs. As I say to people, you may say the problem is within, but also the solution is within.

That does not mean that they cannot speak with lawyers and make that communication. As I have said to people, we dovetail. It is very important that you are informed negotiators when you come to mediation about your rights and obligations. We also have a little pamphlet that we ask people to take to lawyers. Again, we are educating lawyers—though most lawyers know about mediation—in moving people from that entrenched position to be much more flexible. It applies to lawyers as well, knowing that in most situations they negotiate anyway—with out of court settlements. I do not know if I have answered your question or not.

**Mrs ELIZABETH GRACE**—I think there are some cases that will always have to go to court. There are some men that will not listen to anything but a court system. The idea of mediation is to get people away from that adversarial system. In a lot of cases people have children, and they will in the future still have to communicate. By going through a mediation process, it is saying, ‘What are we going to do?’ It is deciding together what they are going to do with the property and what they are going to do with the children, but not putting one against the other.

Probably what I am trying to say is: do you think it is going to work as well as or better than a community thing, or should we concentrate on putting it into the court system and using it from the court system, or should it be the other way around? Does it look as if one is going to work better than the other, or should there be a mix of both or something like that?

**Ms Wisenbeek**—I think in the majority of cases, it should be in the community. But in cases where there is a history of domestic violence and where a man or a woman will not take notice of anything but a court order, I think the court has a very important

part.

**Ms Gunning**—I listened to the Attorney the other day in his press club speech. He said he did not want to duplicate services, but then at the AGM he was also talking about the importance of mediation in the community and also funding for community based services, and possibly even the private arena. He also spoke about the Family Court. I think it is a difficult one. Generally, people do like to move away from the court. It is much more relaxed, and if you have got professionals there and there is confidence and trust and you build up that relationship, I think they feel really good about it.

With regard to the Family Court, again, I do not know. Maybe there is a place also for mediation within the Family Court. I do not know if it has to be a ‘them and us’ sort of scenario.

**Mrs ELIZABETH GRACE**—That is what I wanted to know—whether you felt that there would be a place for both or whether we should be looking at just one.

**Ms Gunning**—I do not really see why we should just be looking at one. I think people like choice. If they choose to use the community based services, I think that is fine. But if they also have an option to use a Family Court base, I think that is fine as well.

**Ms Wisenbeek**—But I think it is encouraging people to try and sort it out. I was talking to a lawyer the other day and he said that a lot of the cases that were coming before judges were very trivial. I think that is the danger of too many cases going to the Family Court. Often people do get into that adversarial system and they do want to win. They do not want to lose. In a lot of cases they want a judge to say that they are right and the other person is wrong. Any encouragement of that sort of thinking is detrimental. I think the important thing is to get people empowered to make their own decisions, not to rely on a judge to make a decision for people. Statistically they say that if people make their own agreements, they are more likely to keep them than if someone imposes an agreement on them.

**Ms Gunning**—There is a commitment. But I also feel that you have a great number of skills in the Family Court—people with counselling skills. Many of these people are also now doing mediation. They have mediation skills. Within the court system itself, to be able to provide mediation because of these multi-skilled people is something that is important and needs to be recognised. But I also think community-based mediation services are important and I think a lot of people do like to move out of the court system. They see the court as representing certain things and community-based services probably represent other things to them.

**Mr TONY SMITH**—You have some very positive things to say here. The

teaching of listening skills is a very important facet of communication.

**Ms Gunning**—These have universal application. Mediation as such, I think is a tool that is effective in teaching people to relate more effectively and communicate more effectively.

**Mr TONY SMITH**—It seems that it does focus a little bit on the individual, more than any of the other points. I have an old saying that stress is what you make of it. We are hearing a lot of reasons for breakdowns but, really, it gets back to you. All of these things are impacting on people—work pressures, society generally, unemployment, education and various things. But, ultimately, if the relationship is strong, it gets back to the individuals involved in the situation. If there is this notion of ‘Well, yes, I can survive as a single parent because society will support me’, then there is a lack of focus upon commitment because the backstop is, ‘Society will support me, the taxpayer will support me.’

In the pre-nuptial and cohabitation agreements, you said you are legally trained. I take that to mean you have practised as a solicitor.

**Ms Gunning**—No, I have a law degree.

**Mr TONY SMITH**—Are you admitted as a solicitor?

**Ms Gunning**—No, I am not.

**Mr TONY SMITH**—I am not sure of the status of the enforceability of these agreements. I have never been involved in litigation involving them, but my last memory of them is that they still have a somewhat grey area status as far as the court is concerned. So you have enforceability problems straightaway here.

**Ms Gunning**—This is something that is being looked at though, is it not?

**Mr TONY SMITH**—I think it is, yes. With these agreements, it helps people to get away from the beer and the skittles and focus on what really is going to happen. Is that what you are saying?

**Ms Gunning**—Yes, in a way, ‘Okay, if we put this into place, we know that if it falls apart then you have this, I have that, et cetera.’ In the sense of actually focusing to say, ‘This is the relationship. We know we want to do various things but we need to also be able to talk about those things and ground ourselves.’ In doing that, often people are looking at their needs—‘What we actually need from this relationship’—and probably have not even thought about issues like that before. Which then raises that possibility of, ‘Gosh, we don’t seem to be communicating too well here. Gosh, I thought we were on the same wavelength or level.’ It may then enable people to either stop and say, ‘Look, there

are a few problems here, we've got to work on this', or 'Hey, I don't think this relationship is going to work.'

So it will stop people getting into relationships that are not going to work and it will provide the tools for people who may be having a few difficulties to say, 'We need to work through this and make sure that we can communicate effectively', thus giving them skills.

**Mr TONY SMITH**—So if you think a first relationship is complex, let alone a second relationship, especially if there are children around on either side—

**Ms Gunning**—There is a 50 per cent chance of failure in the second relationship.

**Mr TONY SMITH**—Yes. In the educative process, that needs to be strongly emphasised to the first-timers, if they are thinking they can easily walk out of this.

**Ms Wisenbeek**—Yes, it is not all rosy out there.

**Mr TONY SMITH**—You talk about the Family Court and the notion of it not being good to have orders or comments by judges that someone is right and someone is wrong. I am not convinced about that, to be honest. One overriding thing about the Family Court is that, unfortunately, in Queensland anyway, it is a very discreet area. They used to refer to certain practitioners who went there as 'The club' and if you were not part of 'The club' going there, you had a difficult time. Down at the Family Court there were recognised practitioners. Consequently, the draw of expertise is much more narrow and, I must be frank, some of the quality of judicial officers in the Family Court, from my perspective, is very ordinary in comparison with, say, the district and supreme courts which draw on a far wider source of people. It may be when you are saying that it is not good to have orders, it is certainly not good to have orders made by people who you or your legal practitioner do not respect, because that is quickly communicated to your client. But the good judges there are really good judges—my experience is that that is the case.

Is there not a downside to mediation? There are people who just cannot be mediated. I do not know what the percentage is, but probably no more than 10 or 12 per cent actually get to court. Generally, those people are almost beyond discussion. They want their day in court and that is it and those people have to be recognised. They want that order and that is it. But the downside that ought to be recognised is that sometimes mediations can go horribly wrong. I heard of a case in the wider civil area where everyone thought they had an agreement and they did not and the mediators and everyone else were dragged into court. In this particular case the mediation ran for several weeks. It went horribly wrong, cost a fortune and it went to court anyway, with the mediator being required as a witness and so forth. So I do not know where that leaves you. I do not know whether that is applicable in your form of mediation.

**Ms Gunning**—We are very aware. We have policies in place and procedures. We have what is called pre-mediation—our intake where we assess whether we think this person or people are appropriate for mediation. These are various issues like violence and power imbalances and those factors. I think that we are also very aware of the importance that people, as I said before, are informed negotiators. We have a co-mediation model, so there is always a person with a legal background and someone is normally there with a counselling background.

We cannot give advice, but we will certainly alert people to the fact that they need to go off and check this with a lawyer. This is said constantly. Draft agreements are drawn up—‘It is important that you check this out with your lawyer to see if this is equitable or fair or whatever so that it will actually be registered in the court’. So there is that in the sense that they have got that protection. If it is not fair or reasonable, it is going to be chucked out of court anyway.

**Mr TONY SMITH**—At the consent order stage.

**Ms Gunning**—At that stage. But I think here—I can only speak of what is happening here—the mediators are very, very aware of the seriousness of what is involved and certainly—

**Mr TONY SMITH**—So that if you appear to have an agreement, and you people sign something—this is a legal question, really—and people go away and say, ‘Look, I didn’t really agree to that’—

**Ms Gunning**—It is not legal then anyway because it is their mutual agreement at mediation. They will take it off to their lawyers to get checked, and a lawyer can say, ‘Look, there is no way this is going to be passed.’ So there is that stage, if you like, or that protection built in.

**Mr TONY SMITH**—Who pays for mediation?

**Ms Gunning**—The clients themselves. We are funded, and what we ask people—unless something comes through legal aid—we ask clients for one per cent per \$1,000 gross annual income. So if someone is earning \$20,000, they pay \$20 an hour; someone earning \$40,000, \$40 an hour. So it is based on gross annual income. We certainly don’t turn anyone away.

**Mr TONY SMITH**—Does that cover the solicitor as well as the counsellor?

**Ms Gunning**—No, that is just the mediation.

**Mr TONY SMITH**—But there is somebody legally trained there, you are saying.



**Ms Gunning**—Yes, there is someone legally trained. There is a lawyer.

**Mr TONY SMITH**—That is covering that fee as well as the counselling fee.

**Ms Gunning**—It is covering the mediation itself.

**Mr TONY SMITH**—Full stop.

**Ms Gunning**—Full stop. I am employed, but if we have a sessional come in they are paid \$25 an hour. That is their rate.

**Ms Wisenbeek**—But they are still not giving advice to the people—

**Ms Gunning**—They are not giving advice.

**Ms Wisenbeek**—We encourage them to go to their lawyer to look at the draft agreement first, before it is actually made into an agreement.

**Ms Gunning**—Our role is not as a lawyer or as a counsellor. We are impartial; we are neutral. It is not our role to give advice, so for someone to say, ‘Look, this went wrong’, is not really the mediator’s role. We advise people constantly at various stage of the process: ‘There are a lot of issues here. I advise you to go and talk to your lawyer about what you are wanting with regards to the property settlement, whether this is fair and equitable’—dah, dah, dah. This is, as I said, like the dovetail between mediation and the role of lawyers. We advise people, refer them to lawyers, to check out whether this agreement is a fair, equitable agreement that will get to court and will not be thrown out.

**Mr TONY SMITH**—Is it the case that the evidence adduced at a mediation is inadmissible?

**Ms Gunning**—That is right, yes. Because there is a question of confidentiality and full disclosure in all of those issues. One of the requirements of mediation is full disclosure of all relevant financial information. If that is not disclosed, we just do not continue with the mediation. So we require full disclosure and, if we were hauled off to court, there would be that problem that people would not disclose—and also the question of confidentiality.

**Mr TONY SMITH**—The full disclosure point is an important one. I spent three days in the Family Court last year about a non-disclosure point. People are not compelled to make full disclosure on oath before a mediation, are they?

**Ms Gunning**—Not on oath, no, but it is a ground rule. We have what is called a private session within the mediation where we check with people and ask, ‘How’s it going? Is there anything that you’d like to talk about?’ I have not experienced this, but if

someone said in a private session, ‘I didn’t tell you that I’ve got a bank balance of \$25,000 locked away somewhere,’ our guidelines and our services policy says that we would say, ‘We are unable to continue with this mediation because one of the requirements of mediation is full disclosure,’ and that is it.

**Mr TONY SMITH**—That means the whole thing would be aborted.

**Ms Gunning**—It would be aborted.

**Mr TONY SMITH**—They both would have to go elsewhere.

**Ms Gunning**—Yes.

**Mr TONY SMITH**—And there would be no cost penalty there? That person who failed to disclose—there is no power, of course.

**Ms Gunning**—No.

**Mr TONY SMITH**—It is interesting, isn’t it?

**Ms Gunning**—Yes. It is important and we are aware that if mediation is going to be received well in a community there certainly needs to be some protection for people. I think confidentiality is a requirement. I also think full disclosure is very important.

**Mr TONY SMITH**—Would you prefer there to have been an affidavit of documents of assets?

**Ms Gunning**—You have to be careful here because we are not acting as lawyers. This is why it is important that we give them a list. Say it is a property settlement, they come in and we give them a couple of sheets listing assets: superannuation, liabilities et cetera. They go away and do their homework. They go to lawyers as well, so they can say, ‘I have written this down; this is worth that; superannuation; nominal value; et cetera.’ They can get some information.

We ask them to do this, or I certainly ask them and my colleague does too. You are really wasting your time if you come to a joint session of mediation where you are just going to sit down and say, ‘We want to talk about our family home and this and that.’ They need to get some information from lawyers so they can come back and say, ‘I’m aware of this; I’m aware of that.’ Then they can start negotiating. But they are moving in and out the whole time with lawyers. They are not making decisions without the aid of legal practitioners. Certainly in our service they are not.

**Mr TONY SMITH**—Would you see more people who have not started the process rather than people who are in the process and then going to mediation—the court

process I mean?

**Ms Gunning**—There have been a couple of people who have started their court process, yes. Certainly there have been quite a few people with regards to parenting matters who have found that they have had problems in the legal arena so they have decided to address the parenting issues in the mediation area. I have seen some people who have settled their property and have said, ‘No, we just don’t seem to be able to get anywhere with the parenting matters, it’s come to mediation.’ Quite a few now are also saying, ‘We want a property and a parenting agreement.’

**Mr TONY SMITH**—Given the comments you made about the formality of the court and so forth, why do you think the Family Court went back to wearing wigs and gowns?

**Ms Gunning**—Yes, I know. It is interesting you saying this because sometimes I have wondered. As I have said, I have only been working for five months and I am impartial, neutral and non-biased in all of those things, but sometimes I worry about a nutter thinking, ‘It’s all her fault or his fault.’ But, the bottom line is that we know that what we are doing is certainly not providing advice. Everything is in their sector. They are the ones who are deciding what the issues are, they are the ones deciding what options to take and they are the ones deciding what agreements to make with the aid of lawyers.

**Ms Wisenbeek**—You are saying that going back to the wigs and gowns gives it more power, or is seen as more—

**Mr TONY SMITH**—The appearance of it being a court. The problem appears to be that over the years the Family Court has laboured under the impression that it was not really a court, that it was really a family gathering as such. I do not know, but maybe that is the reason. The court itself chose to go back to that and the act was amended and so forth. I think that came from the court actually rather than the—

**CHAIR**—It came from the court.

**Mr TONY SMITH**—Certainly, for breaches of orders, I can tell you that in the Family Court a breach of a Family Court order is treated incredibly leniently. A breach of a Supreme Court order means jail!

**Ms Gunning**—It is a friendly court in the sense that you are dealing with the relationship and emotional content side of people. It is special. I do not think you can compare it to the other courts.

I think people generally, when they are dealing with issues with regard to divorce and separation, are in an incredibly stressed state of mind. We, as mediators, acknowledge that. We are not just dealing with substantive issues, we are dealing with whole people—

real people who have flesh and bones and emotions. We acknowledge needs and concerns. Even just by saying, 'I can see this is really difficult, this must be a very difficult time', the shift is amazing—I call it 'magic'. But it does happen that, where you acknowledge that people are hurting and are in pain, often that is what some people just want and they can then move on to focus on the real stuff like dealing with the house and the kids. There is that balance of substantive stuff, but real stuff—people.

**Mr TONY SMITH**—It may be even that the mediation process—again I am being a bit of a devil's advocate here—is better in the sense that people are more able to make rational judgments than in the tightly focused milieu of Family Court proceedings. In many cases I know that people just want to get out of there as quickly as possible and often say, 'Well, here it is', sign it over and are gone because they want to get away. Whereas what you are saying is that it is a little bit more relaxed, a little bit more considered, a bit more rational.

**Ms Gunning**—It is. As I said, it is addressing not just issues with regard to the future—monetary issues—but it is dealing with people and acknowledging the emotional side as well. It is a holistic approach. I think people actually are wanting and needing that. Certainly, we are very aware of the importance of the decisions they are making, that are affecting their lives, and how important it is that they are very much aware of consequences and that they have information. Lawyers do play a very, very important role in the mediation process, in family mediation.

**CHAIR**—If that is the case and the lawyer who is the co-mediator does not give legal advice, why have a lawyer involved?

**Ms Gunning**—Because your antennae goes up. It alerts you to the fact—for example, a wife might say, 'I don't care about his superannuation, that's not really mine, it's his.' Most people would know that anyway. But one of the co-mediators or a mediator in that, being a lawyer, certainly would make not just an observation, but would alert the person to the fact that this is an important aspect that they need to consider and discuss with their lawyer with regards to a property settlement.

**CHAIR**—So they do not give specific advice?

**Ms Gunning**—No.

**CHAIR**—But they help define the parameters, is that right?

**Ms Gunning**—Yes, definitely, because it is anathema to mediation if you are acting as a lawyer. It is your knowledge and expertise that you can bring to the fore to alert that person that this is an aspect that you need to talk to your lawyer about. That is what I mean, having those skills. People with counselling skills dealing with children's issues can also be very helpful.

**CHAIR**—Can I just change the subject slightly. You refer to pre-nuptial agreements. Should everyone sign a pre-nuptial agreement?

**Ms Wisenbeek**—That is a good question.

**Ms Gunning**—Yes, that is a good question.

**Ms Wisenbeek**—We always say that mediation we would like to keep voluntary; it is hard to force people to do things. Are they going to do it in the spirit it is meant for, the spirit of talking about what is important to each person and their values? I do not think you can force people to do that. If you force people to pre-nuptial agreements and pre-marriage education a lot of people will not get married; they will just go in de facto relationships.

**CHAIR**—Should we do something one step short of that? Should we at least do something to encourage them to talk about pre-nuptial agreements even if they are not compulsorily entered into?

**Ms Wisenbeek**—I think you can sell it to them in the way that we all are brought up differently and we have different views on how we want to bring up our children, whether we both work—all these different things that are important in any sort of relationship—and that it is important to talk about it before you make any sort of marriage contract or live together in order to know where you both stand on important issues.

**Ms Gunning**—I also think that, if you make any sort of important investment in life, you need to seek as much information as you can. This may be a package or a tool in providing that opportunity for young people to gain information. But if there is a hard sell I think you would lose a lot of people.

People invest a lot of time when they are buying a house or when they are buying a car, and it is important to get the focus that this is the most important commitment you are going to make in your life, living with someone or relating with a special person in your life. It does not just happen. So what are some of the ways we can help you to make the right decision and have the skills to make that relationship become effective? I see it as a tool. As I say, it is an investment.

**CHAIR**—But if people at that stage are looking through rose coloured glasses and their attitude is to say, ‘There might be a high rate of divorce but it will not happen to us’ which, I suspect, is fairly prevalent, how do you encourage them?

**Ms Gunning**—Again, by educating people, with mediation as is happening now. A couple of years ago there would not have been so many people—it was much more a middle-class way of dealing with relationship breakdowns. Now it is really across the board and you can see more and more people getting involved. I think the same could

apply with pre-nuptial type agreements, an educative thing, just getting the information out into the community. There is a filter effect and it just starts filtering through. Someone does it, someone else does it, and they think, 'Yes, this seems to be good, it works'.

**CHAIR**—Do you think it would be desirable if pre-nuptial agreements were enforceable?

**Ms Gunning**—Yes, I do, but I see it basically as an educative thing in the sense of sifting out for people that this is not really going to work. It gives them that opportunity before they make that leap. It also puts in place something if it does not work—that is the secondary response, if you like. If it does not work we have got some kind of protection here. I focus on the positive first.

**CHAIR**—I am not doubting it. I think the law has enormous educative value which is underplayed. It seems to me that in the last 200 years we have forgotten the educational value of the law and we have just seen it as a series of commands, which is totally inadequate. But if it is going to have that educational effect, it seems to me that if you were taking this as an example it does need to have some degree of enforceability.

**Ms Gunning**—Yes.

**CHAIR**—To have it, but not to be able to rely on it, seems to me to be the worst of all worlds.

**Ms Gunning**—I would agree with you.

**CHAIR**—If people go through the process of coming to some agreement, but it then has no standing at all should their relationship fail, they would have to ask, 'Why do it?' And the educational value of that is that there is no point in doing it.

**Ms Gunning**—You may capture a market, in a sense, of people saying, 'We are going to protect ourselves by doing this, just in case, so we know where we stand.' And in going into it the positive may come through in that they may say, 'This is not going to work. We can see our differences are so great or we are not communicating effectively.' So you can get that effect as well, that the positive side may come through in relation to what they have not been looking at, whereas initially people may be just looking at the enforceability aspect.

**CHAIR**—That is, if they do not go on with their relationship, it is better that they discover it at that point before they have got the mortgage, a car, two dogs and three kids, or whatever.

**Ms Gunning**—Yes. There is a lot of positive stuff in the notion of prenuptial agreements, but it has to have some clout to actually get people interested.

**Ms Wisenbeek**—There is also the education part. A lot of women, especially nowadays, are looking at going to a lawyer for a prenuptial but then being too scared to bring it up with the other person, thinking it looks as though they do not believe it is going to work. There has to be the education to say to people that it is a good thing to do. Because each person nowadays come into a marriage with a bit of property or money it is good to try and sort out beforehand what happens if it does break down—who gets what, and so on. In that way it has to be enforceable by law.

**CHAIR**—When you say women are going to lawyers in those circumstances, is that general? Is it first marriages or second marriages? Can you elucidate?

**Ms Wisenbeek**—In a lot of cases it is second marriages. But there are young women who are marrying later and when they are looking into a relationship they are already paying off a house, and they have got a car and savings, so they are wanting to protect that. But because that education system is not there, once they leave the lawyer they are often too scared to ask their partner, or their partner says, ‘Don’t worry about it. Things will work out. This won’t happen to us.’ But it makes for less problems later on, if they do break up, if there is something in place saying, ‘I brought this into the marriage. We agreed that that would still be mine,’ and there are more clear guidelines.

**CHAIR**—It is actually being the mediation forward, to prior to the marriage, rather than after it if something goes wrong, isn’t it?

**Ms Wisenbeek**—That is right.

**Ms Gunning**—I also think people should have more options. Instead of people saying, in a marriage breakdown, ‘Right—off to the lawyer we go,’ they will say, ‘What are our options?’ I know that in talking with the police, for example, they have said, ‘We did not know what options there were. There wasn’t anything else available for people.’ So if you are offering something like mediation or if you are offering another option, such as prenuptial agreements, people will stop and think.

Again, it will take time, but it does get through to the community that this is an option we can think about, because it is out there, it is not something that is pie in the sky, it is not something that means that our relationship is not important, but it is reality based—and the reality is that we need to check this or protect it, or whatever it may be. The more options you put in place for people, they will look at them.

**CHAIR**—Are you suggesting, in effect, that there is no reason there could not be a parallel system in place? That is, people could be subject to the Family Law Act as it is now if they do not take any steps to come to some agreement but that there could be, presumably subject to certain implied terms or conditions in relation to children especially, enforceable pre-marriage agreements? Are you suggesting people could choose one or the other?

**Ms Gunning**—Yes, I cannot see why not. As a result of getting out there into the community and talking to various services, I know that when people become aware that they have a choice, that there is an alternative, they take notice. If there is no alternative being offered then people just are like lemmings, they just follow the leader. However, if there is an alternative then a lot of people will stop and say, ‘Wait a minute, have we thought about this? Have you thought about it? Maybe this is something that we need to check out.’ I think it is positive.

**CHAIR**—I do not think we have any more questions. Can I thank you very much for your submission and for coming along today and participating in this hearing. It has been quite useful for us. This is only the first day of hearings outside Canberra so it is our first opportunity to hear from people such as yourselves who are involved specifically in the field of mediation.

**Ms Gunning**—Thank you.

**CHAIR**—Thank you for your attendance. Before we conclude I also thank *Hansard* for today.

Resolved (on motion by Mr Tony Smith):

That this committee authorises publication of the evidence given before it at public hearing this day.

**Committee adjourned at 2.51 p.m.**