



# HOUSE OF REPRESENTATIVES

STANDING COMMITTEE ON LEGAL AND CONSTITUTIONAL AFFAIRS

**Reference: Aspects of family services**

**MELBOURNE**

**Tuesday, 12 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*

MELBOURNE

Tuesday, 12 November 1996

Present

Mr Andrews (Chair)

Mr Barresi

Mr Tony Smith

Mrs Elizabeth Grace

The committee met at 9.07 a.m.

Mr Andrews took the chair.

**MESSENGER, Mr Dally Raymond, President and Administrator, Australian Federation of Civil Celebrants Inc., 4/168 Lennox Street, Richmond, Victoria 3121**

**CHAIR**—I would like to open this hearing of the committee's inquiry into aspects of family services. I welcome the witnesses and any members of the public who may be present. This is the second of three days of public hearings away from Canberra this week, and I am pleased the committee is able to come to Melbourne today. We have now received over 128 submissions and more are promised and on the way. I would now like to call on Dally Messenger to give evidence.

Although the committee does not require you to give evidence under oath, I should advise you that 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 contempt of the parliament.

We have received your submission No. 90. Are there any amendments that you would like to make to it? If not, would you like to make a short opening statement to the committee?

**Mr Messenger**—I did consult the staff, Mr Andrews, and I did have some other things to table, if you are happy to receive them. I wanted to impress the committee that there are celebrants who are trying to improve the standard of wedding ceremonies. We have put a couple of books out along these lines and we have got some copies there. Also, I was invited to give a talk for the Australian Broadcasting Commission's *Ockham's Razor* on the subject that the committee is addressing itself to, or part of it—'The Meaning of Ritual'—and I would be pleased to table that, too, if you would accept it.

**CHAIR**—Yes, thank you.

**Mr Messenger**—I have notes on what I wanted to say in a short opening address. You could have those later.

**CHAIR**—Before you go on, we will formally accept these documents.

Resolved (on motion by Mr Barresi, seconded by Mrs Grace):  
That the documents tabled are accepted as exhibits for the inquiry.

**Mr Messenger**—I wanted to amplify a few of the remarks made in the submission; I suppose we could call them a number of fears we had from reports in the press. I do not know what level of credibility they have, but it was mooted that the Notice of Intended Marriage—I know this is only a legal point, but it is an important one—be lengthened from one month to longer 'so that young people would not rush into marriage'.

All the statistics with which you are well familiar from the Australian Bureau of Statistics indicate out that young people are not getting married these days. That is the anecdotal experience of all celebrants. I counted the last 25 weddings at which I have officiated, and 23 of the 25 gave the same address. These days

there is a very clear tendency for people—the great majority of them—to live together for a number of years before they actually go into a cultural and legal marriage. I would like to clearly point out to the committee that young people are not getting married. Seventy-three per cent of first time brides—table 11 of this report—are 25 years and over and, in general terms, bridegrooms are one or two years older than that.

The first reason that I would suggest that the committee not go into any kind of quick fix regarding the Notice of Intended Marriage is simply because it will not be effective, and I am quite sure that it would be counterproductive. The reason I say it would be counterproductive, is that we are experiencing even with the one month's notice a number of people who would like to get married, who have lived together for many years, who have decided to get married, and everything comes together for them, who then cannot get married because they have to wait the month.

Generally speaking, we are adjusted to that but, every now and again, you meet people whom you know should be married, who want to be married, who give it away and put it in the too-hard basket. Suddenly, their parents are in town; they have a promotion in a job, or unexpected holidays have come, et cetera, and when the moment is right, they have to wait the month. Some of them fly to New Zealand to get a two-day marriage. But, generally speaking, I think that even the one month has been counterproductive. What you would do if you lengthened this would be to discourage people from marrying, and bring the institution of marriage into further disrespect.

The other point I would like to make on this, which I think is an important one, is that in Western civilisation and the culture generally, and I include all the Christian churches in this, it has always been considered a human right to be married. Once you cross that line of a month, I think you are going into taking away people's rights when they want to be married. For example, under the Code of Canon Law of the Roman Catholic Church, the most the waiting time has ever been in history is six weeks—the context is that if a couple cannot get a priest to marry them within six weeks they can marry each other—and that is the longest I have ever found outside the context of the normal three weeks waiting period in churches to have a notice of intended marriage. So I urge the committee not to go into that quick fix mode with a notice. I do not think it will have any effects except bad ones.

The other matter that has been mooted in the press lately, and I was asked to give a comment on it, was this business of compulsory counselling. As I would imagine like most of you here, I value counselling. But we are dealing with people now in their late twenties and early thirties and older and, if it was made compulsory, they would consider it an intrusion into their private lives by government. Resentment would ensue and counselling would come into disrespect too, apart from the fact that it would be a great waste of taxpayers' money.

I should add the modifier that I am totally in favour of constant and sensible advertising of counselling services, because my personal belief is that people, and I have struck a few like this, suddenly feel the need for counselling and they do not know where to go. But if it was before them all the time that the counselling services were available, they would know where to go. I suggest the most sensible funding for government to involve itself in would be the advertising—where counselling is available, when it is available and what its costs are. Sometimes the need for counselling comes after two, three, four, five, six, seven years of marriage or later. Some people feel the need for it before marriage; not very many. For

example, to every person who comes to me I give a sheet with counselling services on it. I send it out to them. I would say about one in about 30 take notice of it and go along to a counselling course, a preparation for marriage course. I think it is a little bit beyond celebrants anyway to practically do more than that. That is my suggestion anyway.

Another matter was mooted actually by the present Attorney-General when he was a backbencher and we have been discussing it since. There is a misconception, both on the part of the public and celebrants themselves, that when a celebrant is made a celebrant, unfortunately some of them think they are automatically qualified as counsellors as well. Sometimes they go into this mode with disastrous results. I pointed out in my report to you that there are 1,700-odd celebrants in Australia. Some of them are excellent, some of them are not, but they have not been screened, they have not been trained, they have not been briefed and references have not been checked. One of the points that I would like to make to the committee is that the bad administration of this program has brought the marriage ceremony and the government and the institution of marriage into great disrespect.

So I would like to suggest to the members of the committee that they take an interest in the marriage celebrant program. I believe marriage celebrants are doing over 50 per cent of the weddings now. The marriage ceremony, as symbolising marriage, has great cultural, social and psychological effects on people. I am here talking to members of parliament and you are going to ceremonies all the time. I think it is a ceremony every day—you open parliament, you are at graduation and citizenship ceremonies, you are at the opening of this and the opening of that. But to most people there are only three or four significant ceremonies in their lives which make a great and indelible impression on them—especially the marriage ceremony, obviously, but there are others as well.

Consequently, I would like to persuade the committee that ceremonies in themselves are a great and important connector among people. I do not want to make any comment on the paradigm shifts in society, but it is quite obvious that the churches are not catering for a lot of people in this area. Marriage celebrants, and celebrants generally, are doing their best, but they need a lot more interest and a lot more leadership and encouragement. They need training and they need the interest of our elected leaders.

My next point of concern relates to the fact that it is absolutely indisputable that the best kind of marriage is the lifelong, happy monogamous marriage. I have seen the latest films of Jane Austen novels—I saw *Emma* on the weekend—where they do get married and they are supposed to live happily ever after. That is very deeply into the consciousness. But in our support and encouragement for this most desirable situation there is a great danger that we do not support those who, sometimes through no fault of their own, are divorced and remarried and who take on new families so there are step-parents and stepchildren.

We must accept that this is going to happen, probably for the reasons I have given in the submission which I do not want to repeat now. The causes of marriage break-up and society's adjustment to that will be with us for another 50 to 100 years. I think we now have to put our mind to supporting second marriages, to supporting step-parents and stepchildren—we are working on ceremonies for it—and consequently strengthen society and its social and cultural infrastructure.

The other thing I wanted to say is that I hear reports about the Family Law Act, but I think it is one



of the most wonderful things that ever happened to Australia because I saw what the old divorce laws were like. They were dreadful, they were hideously expensive and they were an offence against human dignity. The Family Law Act was an enormous contribution to the sum total of human happiness. My thoughts to the committee are that it needs modification, it needs constant monitoring, and I think that is the way to fly.

I have a couple of final points. The wider picture is the big picture. The big assaults on the family now come from job insecurity, with enterprise bargaining, excessive hours of work, exhaustion on the part of both breadwinners, et cetera. I do not know how a committee like this can affect the parliament as a whole, but I think there has to be a balance between balancing the national budget and protecting the family. If we erode too many of these protections and freedoms, we will suffer more deeply for it.

The same thing applies to welfare. I see unemployment benefits as the last bastion of defence of a civilised society. I would like to put to the committee as my final point that the dole, as we call it, has preserved more families than can be measured. Especially in these days of mass redundancies and sackings, with people having to find their feet again, it is a great mark of a civilised society to have this welfare system and the other systems we have in place to help people re-adjust.

**CHAIR**—Thank you very much. Can I just take up a few matters that arise from your submission. As the terms of references indicate, one of the things which we are interested in is how we can support families and marriages which, as you indicate, there is a continuing aspiration for people to enter into. We have evidence before us in submissions, and also from various agencies providing marriage and relationship education, that those programs are effective. Yet, according to your own anecdotal estimate, I think there was one in 30 that go along to attend a program, and that seems to be consistent with other evidence we have. Of the 20 per cent, roughly, of couples who attend programs, it seems that almost none of those are couples who are being married civilly, rather than through some church structure.

If we accept, for the purposes of the discussion, that the programs are effective, then the question we have to address is: what do we do in terms of encouraging those couples who are being married by civil celebrants to attend programs? I know, for example, that the Attorney-General's Department had that pilot project 'Is love enough' and I would be interested in your comments about that. Apart from that, can you make any suggestions as to how we can encourage couples to spend a bit of time looking at their relationship in some form of education program prior to the wedding?

**Mr Messenger**—I agree with you that, if there were some way that I could persuade every couple to go through a preparation for marriage course, I would. I totally support that contention. I think that we can never learn too much about human relationships and how to love properly and the importance of monitoring relationships, and so on. The difficulty is that people come along to get married and they think that they know everything and—

**CHAIR**—Particularly so, if they have been living together.

**Mr Messenger**—Yes, particularly so then, as I said. Twenty-three out of the last 25 couples have been living together for two or three years. I do not really know whether, after they have come along to get legally, officially, culturally married they could, perhaps, get a letter some years afterwards. I have this deep

gut feeling that the wedding time is the wrong time, and I did say to one of the marriage counselling services with which we conferred that if the Attorney-General's Department were to give permission we could release the names and addresses of people that we married two, three or four years ago—currently, the information is confidential, of course—and then they could get a letter if these names and addresses were released, saying, 'Now that you have been married four years, maybe you are feeling stresses and strains.' That might be the time. This requires research. That is one suggestion I have.

The other one I gave you is an advertising campaign of the availability. That is very important. I am talking about the consistent advertising that people see in something that is well read, for example, a small ad in the same place all the time in a daily newspaper. When the counselling thing comes, when a mother, or a mother-in-law, or a grandparent, or a husband, or a wife says, 'Perhaps, we ought to try counselling,' then the person could say, 'There is an ad that always occurs in this.' That is going on a bit of my publishing experience, I suppose.

I am not quite sure whether you are aware of this, but by law we hand out a pamphlet to every couple that comes along, with the complete list of counselling services. I am unhappy to tell you that I think it is a waste of money. I post it out to everybody so that they read it before they come to me and my impression is that it goes straight into the garbage—

**CHAIR**—And the 'Is love enough' campaign?

**Mr Messenger**—My colleagues, I have to tell you, did not think that that video was very good but I thought that it was excellent. As a matter of fact, it moved me, and I thought it was an excellent production. I was part of the pilot project. I gave it to six or seven couples and the feedback went directly to the department. I received very little personal feedback and I am not quite sure whether—as I said before—it got through to anyone.

**CHAIR**—Do you continue to use it?

**Mr Messenger**—No. It was just a pilot project for some time. It was obviously very expensive to give a video to everyone. We asked people to bring it back and, of course, half of them did not bring it back, and all that sort of thing.

**CHAIR**—What length of time, on average, before a wedding do couples approach you?

**Mr Messenger**—I would say an average of three to four months.

**CHAIR**—So, presumably, at that stage they have booked their reception arrangements and their cars and their horse-drawn carriages, or whatever else they book.

**Mr Messenger**—There is a great variety in the types of marriages. I have a reputation, I hope, for doing my best at the ceremony. I think the marriage ceremony is the most important part, so that is the belief around. So I attract a clientele of people who like a nice reception centre; they do go for it all, the trimmings that enhance the importance of their commitment psychologically. So my average would be three to four

months. But sometimes the last person they come to sometimes is the celebrant, because, even though there is a month's waiting, and it has been around since the time of Mr Ellicott, people are not aware of this. They still think they can book a celebrant at a moment's notice. They have never taken any interest in it.

So that is where it sometimes becomes very inconvenient, where people have booked a reception centre, booked cars, booked flowers, booked wedding cake, booked everything. And then you say, 'Sorry, you have to give me a month's notice,' and they say, 'Well, it is next week.' This happened to me this very week. That is why I am urging you not to extend the notice, because communicating this is difficult. Even the one month is difficult, and it has been around a long time. Does that answer your question, basically?

**CHAIR**—Yes. Just on the length, I understand what you are putting about the minimum period. Can I ask you about the maximum period, which was extended from, as I recall, three months to six months. Do you have any comments about extending that to, say, 12 months?

**Mr Messenger**—Thank you for asking that. We extended it to six months. What happens in practice, sometimes you book two years ahead. As you are probably aware, 70 per cent of weddings take place on a Saturday. Of those 70 per cent, most people want 5 o'clock in the afternoon. So, if you want the best reception centre, somewhere like Buttleigh Wootton in Melbourne, for example, you have got to book it two years ahead. What happens is the people come along and they want to tidy it up two years ahead, the careful ones. So you have got a notice of intended marriage in front of you that you cannot officially take till six months before the wedding. I take it, get them to sign it, witness the date, and I say to my secretary, because of the strict interpretation of the law, 'Give me this six months before the wedding.' I suppose that is the legal outlet I use, but really it should be two years, and it would be, I think, in accord with this committee's general aims and our general aims too if they could give it two years ahead. It would stop us resorting to legal stratagems, put it that way.

**CHAIR**—Thank you.

**Mr TONY SMITH**—Just a couple of things. Do celebrants depend on the work that they do for their income entirely? Are there celebrants who do that?

**Mr Messenger**—Yes, there are, and we encourage this. But only a small group. I would say you are talking about five per cent of celebrants. They earn their living professionally from celebrant work. I might add that some of them do namings and funerals and other ceremonies now. So in the Australian federation our brief is hopefully to connect society at all levels, and so we encourage our members to involve themselves in all sorts of ceremonies. And, as I said in my report, and a little proud boast that I intruded there, we have the best funeral celebrants in the world here in Melbourne that really give funerals great meaning and dignity. And so, in the context of your question, they are not earning their living fully from marriages but from a range of ceremonies. Some of them are good at it and love it.

**Mr TONY SMITH**—Is there not a danger in that, in that really there would be some people who would come along who really should never marry? And that might be very apparent to a priest or a religious person, who might attempt to dissuade them from marrying, because of obvious difficulties that appear, whereas there would be some self-interest involved in the civil celebrant not looking at that. And that is

getting to the point of people who are going to be in the divorce courts in due course, perhaps.

**Mr Messenger**—Two comments on that. First, it does not happen that way. People come to you when they have decided to get married. That is when you see them for the first time. They have made that decision and, as I pointed out before, if a celebrant judges that the couple should not be getting married, he is ultra vires. He is not qualified, there is no training program, there is no screening for celebrants, and any celebrant who tells a couple that they should not be getting married is out of his depth and out of place.

I might add that there is nothing different in this. People go to the registry office as they did before and the registry office official does not start summing up whether they are worthy of being married or not. But I see the point of your question and I appreciate it. I think the same goes for my clergy friends as well. Once people have decided to get married, if a clergyman or a celebrant starts making noises that they should not get married, they simply go somewhere else. It is their business, it is their decision, and they judge that celebrants are not qualified to tell them and, from what I know from the clergy, they judge the clergy to be the same in many cases.

**Mr TONY SMITH**—My last question is: are there any reliable statistics from people who have had short marriages and who have been assessed as a result of their break-up after a very short marriage, and are there any statistics to suggest that they are saying, ‘Well, if we’d had a greater notice period, we wouldn’t have got married—we married in haste’, in other words? What I am saying is they would be the most reliable statistics on that area if they were in existence.

**Mr Messenger**—I can honestly tell you in 23 years of being a celebrant, and 6,000 weddings or so, I have never ever heard anyone say that. I have never heard in Australia anyone who has felt they have rushed into marriage, and it is becoming less and less of a possible issue because people are getting married later and later and obviously of much more mature age.

There was an excellent article in *Time* magazine about genes and the evolution of loving. You do have people who are relationship junkies and they go into marriage—or mostly into relationship after relationship. They get a buzz out of relationships, they fall madly in love; when that goes, they want all the buzz of falling in love again so they go to someone else. It usually does not take place in the context of legal marriage. I am just thinking of one experience I have in my mind, and it is purely anecdotal, but a lot is to do with our genetic make-up. It is a lot to do with the chemicals that are produced when people fall in love, so the *Time* magazine article says. So in that context it has very little if anything to do with any other context like notice of marriage or anything.

**Mr BARRESI**—Throughout your submission you make a big point about the ceremony itself as being an important part of the success, and the government’s lack of attention to the ceremony and other things associated with it. Similar to Tony’s question, do you have any statistics that your federation has collected in terms of the success of those who have been married through your celebrants. I ask that question in terms of getting some background because I am concerned about putting so much importance on the ceremony itself when I think about some of the religious groups out there—particularly, say, the Jewish religion where there is quite a lot of ritual involved prior to getting married, particularly if orthodox—yet their success rate is no greater or lesser than the average in the community, so I am just thinking about that ceremony aspect. You

have put a lot of importance on it. Can you back that up with statistics, even if it is anecdotal?

**Mr Messenger**—Yes, I can back it up with quite a bit of anecdotal evidence. I pondered this for many years myself as to whether my job has any worth as a celebrant: is there any point—and this is your question I am sure—in me doing a beautiful ceremony with the finest music, the loveliest poetry, organising it properly so that everyone feels that something beautiful and meaningful has taken place? The anecdotal evidence is that people meet me 15 or 23 years later and tell me, ‘You did a wonderful job of our wedding.’ All I can say is it means something to people, and I am quite sure that psychologically a good wedding ceremony strengthens a relationship. Statistically, we have not got statistics. It would be wonderful to have statistics.

**Mr BARRESI**—I have trouble accepting that. I know it gives us all a great inner glow at the time of the wedding; it makes our family very happy and there are smiles all around, lots of backslapping, and it is a fantastic ceremony and all those sorts of things, but does this ceremony itself create that everlasting relationship, or contribute to it? I have some doubts about that, and I have not seen anything which sways me against that view.

**Mr Messenger**—Can I give you another example outside the marriage context? My colleague who is with me today, Lyn Knorr over there, did an introduction to adolescence ceremony for a 13-year-old boy. What happened was that one of our adviser celebrants worked out a ritual whereby the young boy sorted out all his toys into what he had for childhood and what he had for taking into adolescence. He left his teddy bear behind; he took his skateboard and his walkman with him—he was 13—and then at some stage everyone made a wish for him for the future, for his ceremony. He was taken outside and he lit a fire unaided, and a little speech was made as to how he was now accepting new responsibilities because he was a teenager, et cetera.

He gave a talk to our conference—and this is kind of a la secular bar mitzvah, I suppose you would say. His teachers noticed in the ensuing three or four months that he had new confidence, he had new reassurance, there was a spring in his step, he was doing better in his school work, and they asked his mother whether there was any particular change. The boy felt that he had a wonderful feeling of support because all his relatives and all his friends had gathered around to say, ‘Look, you are getting to a new stage of life, you have new responsibilities, we support you, we love you’, and he felt connected by this ceremony to a network of people who were very, very supportive. Through the ceremony they expressed their love for him, their support for him, their understanding at the tough times he was to have.

Now I feel that should happen with every ceremony. There was a teacher on *Life Matters* a couple of weeks ago who said the trouble with young people in her classes in school is that they do not feel connected, they feel distant from society, they do not feel part of the community. This boy does not; he feels part of it.

Ceremony is the human way we express a lot of things. You are well familiar with naturalisation or citizenship ceremonies when a person gets a bit of paper after being a refugee for years and years, and in the ceremony we tell them—that is our human way of telling them—that they are now a citizen, we accept them and they are part of us. That has profound and deep psychological and lasting effects.

Now your question to me is about the marriage ceremony. Every time you talk about marriage ceremonies, people bring up Charles and Diana, and the most wonderful wedding ceremony in the world falls on its face. However, all the evidence is that we are behind the eight ball culturally, that we should take ceremonies, a whole range of them, much more seriously, and I am sure the psychological and cultural and social effects, if the ceremonies are well done, are profound. And this is the realisation we are trying to get across from our federation.

Vis-a-vis your statistics for the Jewish religion, I do not know what to say about that, except that I feel a lot of church religious services sometimes are very stereotyped, very ritualistic. A lot of the clergy now are liaising with us about bringing in more meaning. They are using my book that I just gave you to give people personal choice of ceremonies. Lionel Murphy's idea was that if people personally choose the words, personally choose the music, personally choose the symbols, it must have more meaning. And all the anecdotal evidence I have is that it has an effect on people.

What the statistics are, I do not know. I would love to get my statistics and tell you they are better than everyone else's, but I just do not know. My observation is that we would not have ceremonies unless we felt that they had some effect. You would not have a ceremony to open parliament unless you felt that it was important.

One point I must make is that if we do a good job of ceremonies, if the right people are chosen as celebrants, if they do a good job, esteem in the community for marriage must increase. It shows that the government and the community are showing they think this thing is important. Until now there has been a lot of evidence that it is not important.

**CHAIR**—You mentioned Charles and Diana. Isn't the lesson of Charles and Diana that Archbishop Runcie has said since that he had extreme misgivings about the suitability of those two individuals to marry each other, yet for whatever reason he did not say to one or both of them—or to the family concerned—that he had those misgivings and sent them both off for a bit of counselling about whether they ought to be marrying each other.

I appreciate the difficulty in that circumstance of doing so, but isn't that the lesson of Charles and Diana? We have had this 10 years of tragedy which seems to go on and on. But when there was a key moment to do something, when the person concerned felt intuitively that this was not going to work, that was when the opportunity was lost.

**Mr Messenger**—Yes, that is true. But the question is whether, if Archbishop Runcie had said anything, they would have taken any notice. The other point is that it was an arranged marriage, and I think she was far too young. The kind of marriage we are facing in Australia is not that sort of marriage. People tend to be a lot older now and I think she was far too young. And, generally speaking, as you say, the context is very different. It really was an arranged marriage. He was in love with somebody else and it was a real first-class mess, wasn't it?

**Mr BARRESI**—Can I just pick up on that point about whether or not if he had said anything they would have taken any notice. Let us move to the Mr and Mrs Joe Average—or Ms and Mr Joe Average—

when they get married. Surely that still does not absolve the celebrant or the religious clergy from identifying the pitfalls in that relationship, if the people may actually be blind to it. There is a role there for the celebrant to play in counselling—not necessarily to say, ‘Do not get married,’ but ‘These are some of the areas of concern.’

**Mr Messenger**—Mr Barresi, I appreciate your point, and I have to say with some misgiving, actually, that the clergy are qualified; clergy do go through courses of preparation for this kind of thing; clergy do have pastoral care courses and counselling courses. I am ashamed to tell you that the civil celebrant program has been so badly managed that we have never even had a briefing; we have never even had a letter from the Attorney-General saying, ‘Please do your job well.’ We have had no training, not even a week’s course or a weekend seminar or anything. People, volunteers like me, have to pick up the slack and try to do this. I am a qualified counsellor, but I would not dare intrude with advice to a couple I have met for the first time and who did not come along to me as a counsellor. One reason is that counselling is something that has to be very carefully handled and you have to be doing it all the time, and your mind has to be fully on it to do it well; otherwise we can have a repeat of what has happened in the civil celebrant ranks; people have had disastrous advice from unqualified people.

So, with due respect, I must say that the clergy do have some training—we do not. Maybe your concerns could find effective fulfilment if, in the future, this committee, the Attorney-General and the government in general start screening celebrants carefully, start training them and taking an interest in the role. Once there is some level of qualification there then at some level they can buy into giving people advice. But right now it would be dangerous in the extreme.

**CHAIR**—You talk about the need for a thorough examination of applicants, short listing, interviewing and training. Can I just ask you who should do that?

**Mr Messenger**—The Victorian University of Technology spontaneously have just started a graduate diploma. I informed all my member celebrants about it and there have been 40 applications already to do the course—and there are only 20 places. So, the first university has suddenly picked up the challenge.

**CHAIR**—So you are suggesting that in order to be appointed as a civil celebrant in future an applicant should have to do something like a graduate diploma?

**Mr Messenger**—I would hesitate to go that far because it is a graduate diploma—at least a certificate course that is open to everybody. I do not think they have to be graduates—

**CHAIR**—I do not want to get you fussed on what the course is but the thrust of your suggestion is that there ought to be some certification by some independent educational body prior to a person being approved as a civil celebrant?

**Mr Messenger**—I will stick my neck my neck out here and say yes.

**CHAIR**—I thank you both for the submission and for coming along today. We appreciate that.

**Mr Messenger**—Thank you for the hearing and the opportunity. Would you like a copy of these notes?

**CHAIR**—Yes, thank you.



[9.49 a.m.]

**FOARD, Mrs Gwenda Elizabeth, Vice-President, Association of Civil Marriage Celebrants of Victoria Inc., c/- 33 Outlook Road, Mount Waverley, Victoria 3149**

**ROSS, Mr Robert Hamilton, Immediate Past Secretary, Association of Civil Marriage Celebrants of Victoria Inc., c/- 33 Outlook Road, Mount Waverley, Victoria 3149**

**STEPHENSON, Mr Robert James, President, Association of Civil Marriage Celebrants of Victoria Inc., c/- 33 Outlook Road, Mount Waverley, Victoria 3149**

**CHAIR**—Welcome. Although the committee does not require you to give evidence on oath, I should advise you that the hearing is a legal proceedings of the parliament and deserves 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. We have received your submission, which is No. 38. Is there anything that you would like to change in that submission? If not, would you like to make a brief opening statement?

**Mr Stephenson**—Thank you, Mr Chairman. Firstly, if I could make one correction, my name is spelt with a 'ph'. Secondly, I have an apology to make to the committee: there was a document that was not attached to our submission and I wish to table that now for your information.

Mr Chairman and members of the committee, I would like to briefly reinforce the views of my association that the roles of a counsellor and of a celebrant be kept completely separate. My association believes that marriage and relationship counselling is most important and that the role of the civil marriage celebrant is to encourage couples to enrol to attend these workshops. Celebrants are required by the Marriage Act to hand to the parties the brochures, *Happily Ever . . . Before and After*, and *Organisations offering programs of marriage/relationship counselling, mediation and marriage education/enrichment*.

Couples may be discouraged from attending due to the cost and my association would recommend that consideration be given by the Commonwealth to subsidising these workshops. My association does, if requested by approved organisations, distribute brochures to our members advising dates of workshops, where they are held, et cetera, and couples are encourage to attend these workshops.

With regard to civil marriage celebrants, my association strongly supports the training program for new celebrants and ongoing training for established celebrants. A program would need to be universal. At present, my association provides training for new and established celebrants. We have held a number of regional, professional workshop seminars throughout the state and in Tasmania, as well as a professional development seminar at Melbourne University last year.

The association sought funding to conduct these programs, as well as for the financing of an appropriate civil celebrant training manual. No reply was received to our request and the seminars were financed from association funds. It is believed a more appropriate manual other than the handbook obtainable from the Australian Government Publishing Service is essential. A former officer of the Office of Legal Aid

and Family Services recommended that we obtain a copy of an interstate manual with the view of adapting it for our members. Unfortunately, the manual contains out-of-date forms and erroneous information and is completely unsuitable. My association now intends to review our original manual with the aim of providing our members with a comprehensive, up-to-date and user-friendly publication.

Another point that we wish to have considered is that future applicants as civil marriage celebrants should be interviewed by a subcommittee in each state. The subcommittee should consist of a representative from Legal Aid and Family Services, the Office of the Registrar of Births, Deaths and Marriages, and the Civil Marriage Celebrant Association. Like most celebrants, I was very surprised that there was no interview process required when I applied to become a civil marriage celebrant.

The aspect of being appointed to provide a service to the community, rather than to make money, seems to be changing as some celebrants think that to make money is their first priority. Of late, there is too much emphasis on the role of civil marriage celebrants being an industry rather than being individuals who will make a positive contribution to the establishment and maintenance of marriage and the family in the Australian community and be suitable persons to represent the Commonwealth in this role. We believe that there is more leadership required from Canberra. Basically, all we receive is a letter of appointment, and nothing else.

I have also had several complaints since the introduction of the new system of obtaining stationery. When celebrants make application for the stationery, it is unavailable. I can assure you that I get regular calls on this matter, and that position needs to be reviewed and a remedy found. I am not sure whether I am in the position to do this, but in the brochure that we received on the inquiry into aspects of family services, my association would be very interested in point 4, which states 'family services funded through the Attorney-General's portfolio' and it mentions 'marriage celebrants', and we would like to know what that funding represents, if it is possible.

**CHAIR**—That is a question for the Attorney-General's Department rather than the committee, I am afraid, but you are suggesting that there is not?

**Mr Stephenson**—Our association does not see any funding. I am not sure what other organisations or associations receive funding but, as far as I understand it, there is no funding whatsoever. I was just interested when I read this publication to see what that did represent. I will take your advice and write to the Attorney-General's Department and make some inquiries. Basically, they are the comments that we would like to make and, certainly, we are prepared to take questions.

**CHAIR**—I will take up a couple of matters, and we thank you for your opening statement. At the end of Mr Messenger's evidence, I was asking him about training, and you have mentioned training, as well. Can we take up that matter with you? The suggestion was made that there should be some level of training required in order for a person to be appointed—whether it is a certificate, or a diploma, or whatever, is probably not the point at this stage. The general proposition was that there be some prior educational experience and expertise shown. Do you have a comment about that?

**Mr Stephenson**—Previously, there was a peak council established and I understand that at one of

those meetings of the peak council there was discussion regarding training programs and human resource development. That was done through the Canberra Institute of Technology. It is not for me to determine what organisation or authority would institute that training. All we are saying, as an organisation, is that we believe that some form of training is required for new celebrants, and ongoing training for established celebrants. I am not sure in what category that should be. I do not personally believe that it should be a graduate degree course. I do not think that is necessary.

One does not have to be a Rhodes scholar or an academic to be a civil marriage celebrant to carry out the responsibilities of that role, but there needs to be a basic training so that a person is not thrown in at the deep end without any experience whatsoever. Let me just qualify that: as an association we are happy to make ourselves available to new celebrants and that happens on lots of occasions. We will get a phone call from a new celebrant who says, 'I have just been appointed. What do I do?' We take that person under our wing—as all celebrants will do—and we take the person out with us and give him or her our experience of how to conduct services or ceremonies and from that the person goes his or her own way. And, if there are problems, the person either contacts an experienced celebrant or the local registrar's office for information.

**CHAIR**—If there were a requirement for some period of in-service training—if I can describe it as that, every year, or three years, or something like that—can you comment about that? Would you support that?

**Mr Stephenson**—We would find that favourable. We think it is necessary that the process is ongoing because, once you are appointed, you have to keep updating yourself and keep abreast of changes. I think it is very important that it be on a regular basis.

**Mr BARRESI**—You are saying that the counselling side and the marriage side are separate. What skills are these new celebrants required to learn and what skills do they need to add, say, every two or three years? How much changes about the ceremony?

**Mr Stephenson**—I cannot really answer that.

**Mr BARRESI**—I just wanted to get some sort of feeling for how people are being trained when they go on these training programs.

**Mr Stephenson**—No two marriages are the same. As an established celebrant of some six years, something always comes up that you have not faced before. I think it is basically a communication program to celebrants or an ongoing updating of the experiences you have come across—that is, how to conduct ceremonies, what facilities you use, how you operate, what you do at home, how you keep your records. Unfortunately, some people do not have the ability to keep good records. We all operate differently. But I think an ongoing training program is about reinforcing what we started out with. It is repetition but it is also making people aware of their responsibilities and what is required of them as a civil marriage celebrant. Otherwise, people can become complacent, and I think it is very important that that does not happen.

**Mr Ross**—I will take up that point a bit more. Maybe those programs could be more along the lines of an apprenticeship, with a person being attached to another celebrant. Also, the course might be on a

weekend or in the quiet time of the year for weddings. It could probably involve a bit of role play, where excellence is demonstrated to less experienced celebrants. Hopefully, they would pick up on that.

**CHAIR**—Let me take up one other point in your submission. You say in reference to the ‘Is love enough?’ project that it is a disaster. Could you elaborate on that.

**Mr Stephenson**—Only from the comments that we have had from people who were about to be married. I must say that I thought the publication that was put out was excellent. But, unlike Mr Messenger, the comments that we got about the video not only from our celebrants but also from couples were that it was a complete waste of resources and funds. The publications were excellent. They were presented in a folder and the information contained in them was excellent.

**Mrs ELIZABETH GRACE**—You said that you felt that there should be some leadership from Canberra. How do you envisage that happening? What are your expectations for the government to take up this role in leadership for civil celebrants?

**Mr Stephenson**—Probably just more direction from legal aid and family services. Since I have become a celebrant, I think there has been considerable changes in that department. It is not ongoing, you get new people coming in and they seem to have different ideas. You get a change of government and the government seems to have different ideas.

As I indicated earlier, the only letter that I have had from Canberra is my official appointment. There may have been one or two notices since then regarding deregulation but we have had nothing else. I think celebrants would appreciate hearing more from Canberra. After all, they are representing the Commonwealth and they are under the control of the Attorney-General. Just to be left, in the areas where they are, without any communication, is not in their interests or in the interests of the Commonwealth.

**Mrs ELIZABETH GRACE**—Let me just qualify your statement on forms and stationery availability; it does not just happen to civil celebrants. I have also had churches chasing me for them. So there was obviously a breakdown there at some stage.

**Mr Stephenson**—Let me give you an example. When I applied for those brochures that I mentioned earlier, I asked for 50 and I got five. You apply for wedding certificates and envelopes, and you get wedding certificates and no envelopes. It just seems strange that in an organisation such as the Australian Government Printing Service the facilities are not there to have enough stocks for when celebrants make application for them.

**CHAIR**—Do you have to get them from Canberra or can you just go to an AGPS sponsor?

**Mr Stephenson**—No, you can go to a Melbourne office. I usually write to Canberra because I think I will have more hope of getting them from there. I had a celebrant ring me from Kerang yesterday saying that he went into the city—he was down this weekend to conduct a wedding for a relative—and he wanted some envelopes to return the forms to the registrar’s office and they were not available. He was told to just use a plain envelope. He thought he had to use a prepaid one until I informed him that they are no longer prepaid

and that he can use a plain envelope.

**CHAIR**—Thank you for coming along this morning and for the submission.

[10.07 a.m.]

**BROWN, Dr Carole Anne, Principal Director of Court Counselling, Family Court of Australia, Office of the Chief Executive, 97-99 Goulburn Street, Sydney, New South Wales 2000**

**GLARE, Mr Leonard George, Chief Executive Officer, Family Court of Australia, 97-99 Goulburn Street, Sydney, New South Wales 2000**

**HARRISON, Ms Margaret Mary, Senior Legal Advisor, Family Court of Australia, 570 Bourke Street, Melbourne, Victoria 3000**

**MUSHIN, Justice Nahum, Judge, Family Court of Australia, 570 Bourke Street, Melbourne, Victoria 3000**

**NICHOLSON, Chief Justice Alastair Bothwick, Chief Justice, Family Court of Australia, 570 Bourke Street, Melbourne, Victoria 3000**

**CHAIR**—I welcome Chief Justice Nicholson and other officers of the Family Court to give evidence. You will appreciate that I am obliged to say this and you will understand the reasons. The committee does not require you to give evidence on oath. I should advise you that the hearings are legal proceedings of the parliament and deserve the same respect as proceedings in the House itself. The giving of false or misleading evidence is a serious matter and may be regarded as contempt of the parliament. We have received your submission.

Resolved (on motion by Mr Smith, seconded by Mrs Grace):

That the submission from the Family Court of Australia be received in evidence and authorised for publication and two documents, *Appendices 1-4* and *The effects of marital separation on men 10 years on*, by Peter Jordan, be accepted as exhibits.

**CHAIR**—Chief Justice, as we have just received the submission and have not had time to read it, would you like to make some opening comments and then we could have some discussion.

**Justice Nicholson**—Certainly. I must commence with an apology that we have only just produced the submission at this stage. It has required quite a lot of preparation and work and really the midnight oil was being burnt to produce it this morning. The submission was produced as the result of the work of a committee chaired by Justice Mushin. The other members of the committee were Ms Harrison and Dr Brown, as well as Mr Ibbs, a mediator, Ms Ralph, a counsellor, and Ms Anna Boymal, a registrar, although the last three are not formally giving evidence. We tried to get a wide ranging group together to deal with the various issues contained in the terms of reference. The final result has been approved by me with the assistance of Mr Glare to put it into its final form. I would like to take the opportunity to thank those members of the subcommittee for the work they have done. It has required quite a lot of work. I think you will see when you go through it that it is quite detailed in some of the research and so on.

I apologise, also, for the absence of an executive summary but we propose to produce an executive

summary which may be of assistance and submit it later. I thought it was better to get it in at this stage.

The document addresses the terms of reference in order. In particular I refer you to term of reference one in relation to the questions of marriage and relationship breakdown. I should, perhaps, commence by making it clear that so far as the Family Court is concerned, its ethos, while I have been associated with it and before, has always been very much that we regard the preservation of marriage and relationships as extremely important and, indeed, vital to the community.

On the other hand, we are faced every day with the fact that these relationships do break down and it is necessary for us to cope with the breakdown of those relationships as and when they occur. It is perhaps worth mentioning historically, though it does not appear in the submission, that I am informed that in the early days of the operation of the Family Law Act the counselling service used to engage in quite a bit of reconciliation counselling as well as the crisis counselling that it now conducts. That was done in conjunction with some of the organisations that were then called, I think, the Marriage Guidance Council and the Catholic Family Welfare and so on.

However, as the years went on and the pressure on the court grew, the court felt that it was unable to continue to offer those services. Also, there was the practical effect that the people who come to the court tend to have come after the separation has occurred and some distance down the track because, after all, a divorce is not available until there has been a separation of 12 months. Although we do see people before then with children disputes and sometimes property disputes, we usually see them at a stage where it is pretty difficult to do much about putting the relationship back together again.

For that reason, and also because of the pressures of work, the court has tended to concentrate in its counselling on what could be called crisis counselling, which is to try to assist people to resolve problems in relation to the children and work through those problems and their property rather than attempting to pursue the goals of reconciliation.

Having said that, if it does emerge that there is a reasonable prospect of reconciliation then our counsellors can and do refer people in those circumstances back to the relevant agencies such as Centacare and Relationships Australia and so on. We see it as important to try to do that if there is any real prospect of a reasonable relationship being re-established. But, as I say, there are limited opportunities for that.

It will be of some interest, perhaps, to look at page 6 of the submission under the heading of 'The Incidence of Divorce'. The submission talks about the aberrant year of 1976 because that was the year when a lot of people who could not get divorces previously were able to get them as a result of the Family Law Act. But then if one looks at the figures they have remained relatively constant. It was 2.7 per 1,000 population in 1993. It is of some interest to note in comparison with other countries that, perhaps not surprisingly, we are about the same as New Zealand, slightly behind the United Kingdom, a long way behind the United States of America and a little bit in front of Sweden and France.

It is also important when one looks at those figures not to forget the recent phenomenon of *de facto* relationships because we do not really have any figures as to the extent of those relationships nor of the extent of breakdown, so it is probable that the divorce rate remaining steady still masks a greater breakdown

in relationships, I believe, in relation to de factos. You will see that according to the figures we have de facto relationships represent about eight per cent of all couple families and unmarried couples tend to be young and frequently childless and may precede or serve as an alternative to marriages in due course. But we have the phenomenon of 23 per cent of children being born outside marriage.

We discuss in the course of the submission why relationships break down. I thought it would be of interest to provide you with some material that we released last week, produced by one of our counsellors, Mr Peter Jordan. It is interesting because it is a study of men and their reaction to divorce. It is a longitudinal study over 10 years. He took the first group of men by random selection in the Brisbane registry of the court and dealt with them. The group was selected from those who divorced in 1983, and they were first interviewed in 1985. A substantial proportion of those have been re-interviewed in 1995; and, together with those, there is a further sample group that was selected in 1994. It is quite an interesting survey of attitudes of men to marriage breakdown and it contains some quite troublesome figures. The high degree of anger and resentment that was still present 10 to 12 years following the marriage breakdown was one of the surprising—or, perhaps, not so surprising—figures: one would have expected it would have eased off over that period, to an extent more than those figures suggest.

The other feature, which of course is borne out by all of our other statistics, is the fact that about two-thirds of women, as against one-third of men, actually terminate the marriage relationship. We have suggested here that that is an area that perhaps should be examined further in a research sense, because it would be useful to find out why that figure is as high as it is, and what the factors are that bring that about. The fact that it is the women that have terminated the relationship may, perhaps, have some relevance to the bitterness that is often felt by men in those circumstances—but that is more in the realm of speculation, and that is why it would be useful to have some proper research in that area. I should mention that the Family Court, within its limits, maintains a research program, and we have put out over the years quite a bit of research. In fact, there is a summary of it which might be of interest to the committee, which I will make available, if that is of any use.

We go on in turn to discuss, under term of reference (2), the categories of individuals most likely to benefit from programs. We conceptualise prevention into three areas: primary, secondary and tertiary. The primary prevention would be to aim at reducing the incidence of new cases in the population and strengthening the ability of individuals to cope with stress. The secondary prevention would be reducing the prevalence of disorders or dysfunctions of relationships. The tertiary prevention, which is really where the court's expertise lies, is in reducing the after-effects of marriage breakdown.

We discuss each of those areas and, although we do not claim a particular expertise in relation to primary prevention programs, we do feel that an earlier approach to relationship education in schools on a more structured basis would be a possible solution in the future to some of the difficulties that emerge. I do not mean this party-politically, but one of the difficulties about that sort of process in schools is that it often tends to create some kind of division on the basis that the schools are stepping outside their function and into the function of the family. So there is that problem; but at the same time we are now faced with the situation where the churches are not performing the same role as they did traditionally in this area, and it does seem that more attention should be paid to educational efforts in relation to childhood and teenage years.



We refer also to pre-marriage education programs, which of course we think are desirable; but, again, they have a limited impact. Where you have the fact that over half of all recently married couples have previously cohabited anyway, it is somewhat difficult to steer those sorts of people into a marriage education program. I am not saying it is impossible, but it presents a difficulty. We go on to discuss very briefly secondary programs which, although they are very important, we freely concede are properly very much the province of the non-government organisations such as Relationships Australia; and we then deal with our primary role, which is in the tertiary area.

We discuss the effects of family breakdown on children. I am conscious of the time and I do not want to spend too much time over these matters, but there is, of course, great concern about the effect of family breakdown on children. But, as is pointed out at page 16, the overall prognosis is not overwhelmingly negative. One of the more negative areas is family violence, which we deal with at page 17, and issues such as child abuse. At page 19, we discuss the various subcategories of people with whom we deal.

It is worth remembering that about half or possibly more than half of divorcing couples never come near the court other than to get a divorce: they make their own arrangements in relation to children and property. Of the other couples, a very high percentage resolve their disputes, either at pre-filing counselling or in court ordered counselling or in conciliation. We have always taken the view in the court that that is a desirable situation: if we can encourage people to arrive at a reasonable resolution of the problem, one which is acceptable to both of them and appropriate for the children, without the expenditure of moneys, that is highly desirable.

One problem sometimes emerges in this whole area of counselling and, in particular, the court's counselling. I would like to stress that the importance of this issue is that it is sometimes seen as an either/or situation and, more recently, there have been a number of statements which suggest that that is so, and that counselling should either be in the court or in the community, or should not be in the court and should be in the community. We would see that as a short-sighted view, for the reason that we think there is a need for both forms of counselling and that it is very important that there should be, freely available in the community, organisations such as Relationships Australia, Centacare and the like. We have been trying to work quite closely with them so that we do not overlap in the roles we perform.

So far as our role is concerned, however, it is interesting to note that, with our voluntary counselling, many people—the percentage is how much, Carole?

**Dr Brown**—It is 47.7 per cent.

**Justice Nicholson**—Yes; 47.7 per cent of people who have been to voluntary counselling have been to other forms of counselling first. So we see ourselves as performing a complementary role to those other forms of counselling. In other words, the people have tried counselling out in the community and, that having failed, they really often come to the court via solicitors for the purposes of considering legal action. We have found that the legal profession itself has been quite cooperative in sending its clients to voluntary counselling at the court before they issue—what is the percentage?

**Dr Brown**—It is about 61 per cent. The survey is contained in the appendix.

**Justice Nicholson**—Yes, it is in the appendix. My memory for the detail is not quite there, but a very substantial proportion of solicitors will refer clients to counselling, and we do manage to resolve about three-quarters of disputes at that level without the need for any litigation at all. I think that that is a valuable role that we perform.

The third term of reference, with which I have already started to deal, concerns the most effective strategies. We have concentrated in our submissions on what we do rather than on what others do, for obvious reasons. It is interesting to see the statistics at page 27 for the Family Court of Australia and the Family Court of Western Australia for 1995-96. There were 49,666 divorces, 52 per cent involving children under 18, with nearly two children, on average, in each family.

It is interesting also to look at the fact that 67,500 new files were opened in other areas, of which 12,500 were guardianship custody. These really should be read together with the access applications—and I use the old terminology for present purposes because that is what they were. So you have got something like 26,000 children's matters raised in the court. There were 11,500 property applications, and the other matters fall into different categories. It is quite interesting though that the last figure of 'other categories' of 20,000 deals often with consent orders—the bulk of that is consent orders—which are matters that have been resolved and probably have been resolved in many cases through counselling or through the action of solicitors at that time.

I think that those figures give some picture of the workload of the court. We deal, at pages 28 and following, with simplified procedures and the litigation pathway. I will not go through all that, but it is useful to give you some idea of what occurs. We come then to the issue of primary dispute resolution and early intervention strategies. You can see that under community education and liaison our counsellors and registrars do a lot of work in that area. We calculate that there were 3,500 hours during the 1995-96 financial year.

As far as information sessions are concerned, we held 1,800 of those sessions during the financial year. The sessions are mandatory once parties have filed an application, but we do encourage people to come on a non-mandatory basis. When I say that they are mandatory, if people do not come, you cannot drag them there, but we say that it is a requirement and we get a pretty high response rate. We have found that the information sessions have been well received because they explain issues such as the separation process and the pathway of matters through the court. Also, it is often helpful to people—we usually have a counsellor and a registrar involved in this exercise—to know something about the effects on children of separation at different ages, and the counsellors will deal with that. Often the access dispute is fired by the child saying, for example, that he or she does not want to go with father, and then going off with father and saying that he or she does not want to go back to mother, or vice versa. It is a very natural reaction and people do not always understand that. Once those things are explained, it sometimes helps to take some of the heat out of the dispute. So we regard that as important.

Then, on the following pages, we go on to deal with the services we provide—again, I will not go into those in any detail. I think that it is important to see, though, that the court does not operate in a vacuum. The judges do not just decide cases; there is an interaction at various stages of cases being sent backwards and forwards into conciliation services. For example, an interlocutory application may come on before a judge or a traditional registrar early in a case. The judge or registrar will order counselling, or some

step to be taken which may well have the effect of resolving the case. It is difficult to divorce the operations from each other, and we regard that integration as very important.

At page 40, we discuss property conciliation conferences and, again, these have a fairly substantial success rate. We also—as is mentioned at page 41—offer mediation. Again, I will not go into the details of that—that is all there—but we have found mediation a useful extra tool in resolving these disputes in the sense that it is entirely voluntary. We use a model usually of a counsellor and registrar trained in mediation working together. The disputes are often property-children disputes—either mixed or straight property disputes. But where there is a property-child dispute the dual system is quite effective. We found it a useful adjunct to our operations.

At page 44 we go on to discuss the fact that we are currently piloting a program at Parramatta which we think will make the court more user-friendly in terms of people coming to it. Broadly, it is based on the needs of the client, rather than professional disciplines. We have a central intake and we stream clients to particular services which we think are most suited to their needs, including litigation if necessary.

Then the submission deals with particular strategies in relation to Aboriginal and Torres Strait Islanders and people with non-English speaking backgrounds. I do not want to dwell on those areas, but I do suggest they are of considerable importance. We found with the Aboriginal community that it rarely used the court services, basically because there was an element of distrust about courts generally in those communities. We have found that since we have employed Aboriginal family consultants, which we have in the Northern Territory, and since we have developed a greater degree of understanding of Aboriginal cultural issues, we are getting requests for assistance, particularly in the counselling area, much more than we have had before. I think that is something that is to be pursued.

Similarly, with regard to people with non-English backgrounds, you will see at page 46 that we conduct regular hearings of divorces for people who speak Mandarin and Cantonese, we have run programs with the Turkish community, and Justice Mushin is chairing a committee of the court that deals with non-English speaking people and issues relating to them. They can provide very significant problems in the court because different cultural approaches to marriage and, in particular, to children can be quite troublesome.

We discuss the significant issue of family violence. I will not go into detail about it, but the allied issue of security at page 48 is something that, regrettably, has to be taken into account in this area. There are a number of cases where people are at risk physically and we have been very conscious of that. Our court designs are aimed at avoiding difficulties and we have particular policies in relation to violence so that people are not brought together who are in fear of each other. I think the extent of that problem in this area is sometimes not fully appreciated.

Finally, we turn to term of reference 4—the role of governments in the provision of services. You will see that on page 53 we take issue with statements made recently by the Attorney-General. The real thrust of what we are saying is that we do not think that the Family Court should be looked at simply as having a core function of deciding legal disputes in courtrooms. We feel that is too narrow a prism to look at the issues with which we are dealing. The submission goes on to discuss the reasons for that. Much of the rest of the submission deals with arguments and discussion in relation to those issues. I am sure I have probably taken

too long with my opening statement, but I wanted to broadly go through the nature of the submission and I would invite any questions from members of the committee.

**CHAIR**—We appreciate the fact that you went through it in that detail, Chief Justice, because it has given us an opportunity to grasp the overall direction of it, so I thank you for that. I should say at the outset that, given that we who are here and other members of the committee who are not here today would like to read it in detail, I suspect we would probably like to invite you back at some stage to take up some of the specific points. Perhaps we can regard today as simply an opening discussion, rather than one that gets into the detail.

The main thrust of the inquiry seemed to me to be somewhat peripheral to the work of the court, although there is some obvious integration because we are all dealing with relationships at one stage or another. Perhaps I could take that up at this stage. In general terms, as you point out in considerable detail, when couples come to the court the relationship which they come to the court about has either—to use an expression that some do not like, but it is the easiest one I find to use—broken down, is dysfunctional in some way or is in the process of that occurring. The couples decide that they do not wish to remain legally in that relationship any longer and in fact factually they may not be.

Given that, obviously the court comes at the end of a process and therefore our focus on what we can do about relationships in the first place is somewhat outside the experience of the court. But the reality is also that most of those couples who come to the court then go on in one form or another to form other relationships. The question that has always been in the back of my mind is: does the court have some role to play, given that reality that this is one stage where one relationship is ending and others are forming. In fact others may well have formed by the time any couples come to the court. Is there a place for the court in that or not? I am not sure, but I would be interested in your comments about that.

**Justice Nicholson**—Yes. I might ask for a comment from one of the others. I do not know if you would like to comment on that.

**Dr Brown**—I will start the comments off and other people no doubt will join in. There certainly is a role for the court. The point we make in our submission is that in carrying problems from the first relationship and marriage into the future people put at risk their second relationship or marriage. They also put at risk their children in terms of the impact that that will have on them and how those people will approach marriages or partnering when they grow up and form those liaisons. Much of our preventative work in terms of the impact on families is along those lines.

Quite often in counselling issues will come up to do with current relationships, et cetera and people will be steered in the direction of a community agency, such as Centacare or Relationships Australia, if they are experiencing problems. As you can imagine, with all the difficulties surrounding the dissolution of one marriage—and people by this stage have already got into a second relationship—those sorts of problems severely impact on that new relationship. You cannot divorce any of these issues. We see it as a continuum in which people present with different problems at different stages and they are not divorced from each other. In going into the future what we do with people here and now is very, very important.

**Justice Mushin**—The new partners are also relevant to the relationship under present decision making. From my point of view as a trial judge, a new partner of a party to a dispute might often be relevant—sometimes extremely relevant—to the resolution of the present dispute. They may be involved in contact arrangements and they may be the partner of the residence parent who is the primary parent. Our role in formulating answers to the present problem involving the new partner is also very important.

**CHAIR**—I note over a period of about 20 years the rate of remarriages has halved, if you measure it per thousand roughly. Do you think there are any particular reasons for that? Do people learn anything from the process of counselling and mediation which they go through as part of the court process? Are there skills or knowledge that people pick up as a consequence of that or are you not in a position to say?

**Justice Nicholson**—Margaret Harrison might like to comment on that.

**Ms Harrison**—It is very difficult to say. As the Chief Justice said before, only a percentage of our clients actually do make use of our conciliation and mediation services. That remarriage rate is an international trend and it is a very interesting one. People are much more cautious about entering into a new relationship. It does not mean they are not living together, of course. The other aspect on the issue of educating for second relationships is that conciliation and particularly mediation do also encourage problem solving skills. That is one aspect where we are trying to encourage people not to rely on the counselling and mediation services entirely but to learn something through the experience and to be able to take it into a successive relationship.

**CHAIR**—Has there been any research about that, as to whether people come out at the end of the process—if I can put it that way—with some increased skills?

**Ms Harrison**—No. Mediation has only been going in the court for about four years. The only work we have done on mediation is to look at the extent to which the agreements that people make in mediation are durable and they are. But it is more difficult and takes a bit longer to actually assess what people can actually learn from the process in terms of their capacity.

**Justice Nicholson**—It is interesting, and again it is anecdotal, but I get quite a lot of abusive letters in court. Mediation is one area where a lot of people do write expressing satisfaction on the basis that they have learnt something from the process. They have often expressed themselves in terms of having been involved in quite serious litigation previously with their partner and have expressed the view that this has given them an opportunity to work through it in the future. Of course I do not claim that as evidence, but it is just interesting as a response.

**Justice Mushin**—I might refer you to the bottom of page 43 of our submission where we have referred to the definition of a successful mediation. There is a difference between halting the battle and actually resolving outstanding and ongoing issues. As we point out there we would argue that particularly in mediation we are giving people the skills to settle issues, rather than halt that battle so that it has a longer term effect. We would say that that is a very significant part of the mediation process.

**CHAIR**—There was a cynical view expressed by some that the push towards more mediation was in

fact an economic decision, that is, that mediation would be less expensive overall than litigation. Would you like to comment on that?

**Justice Mushin**—I see mediation as being substantively quite different as a dispute resolution process from the conciliation process. The mediation process is more of an empowering process for the parties which is how you lead on to that. In terms of the economic side, I am not able to talk about that. Others may well be able to. But in terms of the nature of the process, what it produces and the greater confidence in long-term results of resolution, not just to the immediate issue but the teaching of later skills I think is extremely important.

**Justice Nicholson**—In relation to the introduction of mediation in the court, I became enthusiastic about it not because of economic reasons, but quite early after I became Chief Justice. I actually visited the Family Court of New Zealand. The Family Court of New Zealand does not have any in-house counsellors, nor does it have any qualified registrars, so the judges have to do everything. They farm out the counselling, but the judges take on the normal role that registrars do in our court. In fact the judges were engaged in mediation as well as determining cases. I was quite impressed with the effectiveness of that process, even though I did not think that the judges were necessarily the best people to do it. It was a bit variable. Some were quite good and others obviously were not as suited for it.

It struck me that it had a part to play in family law matters. We came back and piloted the Melbourne pilot as a result of that, using our counsellors and registrars, because we felt that they probably would have better skills than the judges in this area anyway. I think that was the impetus. Some legal aid commissions though have looked on mediation as a way of reducing their costs. That may be legitimate. I am not saying it is not and I know that in England the Lord Chancellor was looking on it in that very way.

**Ms Harrison**—The other issue is that many of our clients cannot afford to litigate. They cannot get legal aid. They have no capacity for continuing with a dispute and it is the court's responsibility to provide as many avenues as it can for skilled people to assist them. It is an economic argument to some extent and I think the court is actually providing a service for people who cannot go any further.

**Mr TONY SMITH**—Are you talking about custody matters there or are you talking about matters generally?

**Ms Harrison**—Children's matters are predominantly the most important in that sense, but for enmeshed matters people cannot afford to litigate anything.

**Mr TONY SMITH**—Of course, property matters seem to be generally undertaken on a speculative basis these days anyway.

**Justice Nicholson**—It depends on the attitudes of legal aid commissions. I think that is right.

**CHAIR**—The other big issue which has arisen in a sense since this inquiry started is the one which you have commented on in relation to the fourth term of reference. We would like to read in more detail what you have to say about that, but perhaps at this stage would you care to comment on the tentative proposal—if I can put it that way—which has been advanced by the Attorney-General in terms of the

function of the court?

It seems to me this touches on not just the question of counselling, but on the question of mediation itself and whether those sorts of services should be provided in the court. Counselling perhaps is more difficult than mediation, but it seems to me that maybe mediation is something which is now being provided both in the court and in some places not in the court. For example, in Hobart yesterday we were told there was no mediation provided in the court but there was mediation provided by other agencies, so there is a variety of ways in which that is approached. Perhaps I will stop there and let the Chief Justice speak.

**Justice Nicholson**—Perhaps I should say that one of the difficulties about getting involved in this sort of discussion is that it might be thought that one is trying to preserve turf and that is really not what I have in mind. In fact, it would be a lot easier to administer a court that just decided cases and did not have to worry about anything else. But when I look around other parts of the world where that situation develops or has developed and we have not had this integrated approach, I do not think you get nearly as high quality of service so far as the community is concerned. It does seem to me that the thing that distinguishes the Family Court in Australia, and to an extent New Zealand, from other areas is its specialist concentration on the resolution of disputes not just by means of a judge sitting down and deciding them.

It seems to me that one of the things that we really have to do in family law is to try and steer people away from that final litigious resolution. Some cases have to be decided by a judge and no-one is suggesting otherwise, but to confine the operation just to them—just to the operation of the court and just to those cases—would mean in effect that we would be operating with our hands tied behind our back. We would not be able to identify cases and, if we could identify them, we have to send them off somewhere else. We would not have any control over what happened to them, whether appointments were ever made or whether they ever attended counselling appointments. It would seem to me that we would lose a lot of our effectiveness.

If you look at other courts, such as supreme and district courts these days, they are very heavily into developing alternative dispute resolutions just to cope with their workload. If you look at the district court in New South Wales it has arbitration and mediation arrangements running with it. The Supreme Court of Victoria has been doing the same for some years. It seems to me that it is the modern development in courts generally that they will attempt to operate in these areas.

In family law you have an additional problem because of the emotions associated with it and because of the specific problems associated with children. Perhaps I could illustrate what I am about to say by saying that I sat on the Supreme Court of Victoria for five years and at that time the court had jurisdiction over children of unmarried couples. It was a very difficult exercise indeed to deal with those cases, because you had no specialist counselling services available to you. You often felt if there was some way of getting off the bench and sitting down and talking to these people in a non-litigious environment you could probably sort it all out, but you could not do it. I must say that the approach of having available to the court people within it who were able to go in and deal with these problems as they emerge is absolutely vital to the operation of courts in this area.

There are other arguments. I can understand the sort of purist legal argument, and it has often been approached in relation to courts generally that they should not operate outside those areas, but it does seem to

me to be an argument that is not in accordance with the way modern courts are operating both here in this country and elsewhere. It would be a very retrograde step so far as the court is concerned.

New Zealand has its counselling services outside the court but our studies of New Zealand—and we did look at that when we reviewed the court some years ago—have indicated a number of problems about that. There is not much cost control over the counselling and there is also not much quality control over it. We formed the view that it would be much more expensive to operate that sort of system and that it would not be as effective. I think Dr Brown was a member of the group that made that study in New Zealand.

**Dr Brown**—Can I just make one point by way of clarification and draw the committee's attention to the definitions on page 26 which speak about conciliation, conciliation counselling and mediation. From my perspective there is a lot of confusion in the community about what counselling in the court is, and counselling in the court is not what counselling in the community is generally seen and known to be. The Family Law Council produced a nice little definition in their paper on family mediation which is quoted on page 26 and it says:

Family Court counsellors assist parties to reach practical parenting agreements by methods which work with emotional distress of clients to achieve a resolution of underlying family relationship disputes. In addition, counsellors are required to maintain a focus on the best interests of the children and to educate parents accordingly.

In other words, it is problem solving, it is dispute resolution, much as conciliation conferences with registrars in property matters are, and much as mediation in the court and other agencies is as well.

**CHAIR**—Are you saying the confusion is that a distinction between reconciliation counselling and conciliation counselling is not understood generally?

**Dr Brown**—Yes, and relationship counselling, just helping people with their everyday life problems as distinct from disputes which arise as a result of separation. We are in the business of disputes that arise as a result of separation, more so. I am not saying that we do not assist parties to adjust to their feeling and to the consequences of that separation—we do—but our primary focus is on dispute resolution, and as a way to achieve that objective we assist parties with some of the emotional problems that they are experiencing as a result of that separation.

**Justice Mushin**—We sometimes use an alternative phraseology. You might divide the area into prevention of relationship breakdown and management of the consequences of that breakdown. We are into the latter primarily as Dr Brown says, although we do not walk away from the former where it is appropriate for us to do that. But we see the former, the preventative work, as being primarily outside of the court area.

**Mr BARRESI**—Thank you very much for your submission. It is extremely thorough. It is probably going to take me a week to read it and to understand it because I am not a lawyer, so I apologise for that. I have a general question in terms of where we are going as an Australian society. I am absolutely shattered that there have been 49,600 divorces in the last year; I am happy to say that I am not one of them. Are you concerned that we are going into a slide in terms of relationships and marriages?



**Justice Nicholson**—That is a very difficult question. On one view, you would say that the rates have remained remarkably constant over the years, even though the numbers are high. Obviously it is not something that anyone is happy about, but I would be more troubled if the numbers were going up proportionately at a greater rate than they are, so it may be that we have hit something of a plateau in this area. It would be really difficult to forecast the future in relation to that. I would ask Margaret to comment on that one.

**Mr BARRESI**—The reason I asked that is that I am concerned as to whether or not that increase is due, perhaps, just simply to our own perceptions and acceptance of divorce, or whether it is due to the fallibility of our legal system.

**Ms Harrison**—It is due to a lot of very complex things, some of which, of course, are structural changes in society, which our submission tends to deal with. There are a lot of stresses on families, and a lot of stresses on individuals. I am afraid the other side of that coin is that the marriage rate is also declining so you are getting a contrast between the high divorce and the low marriage.

**Mr BARRESI**—Yes, I noticed that.

**Ms Harrison**—The legal system plays a reasonably small role in this because I do not think that people are looking at legislation to end marriage. They are separating and then they are looking at what the provisions might be. But it is a very complex area. We are, as the chief justice said, in the middle of that spectrum of international rates, and our society is extremely complex, as are those societies where the pressures are just enormous. People put a lot into a relationship but when it fails they tend to accept that they may, perhaps, have to go on to another one.

**Justice Nicholson**—It is sometimes thought and it is sometimes said that divorce is too easy to obtain and therefore people will approach marriage too lightly. But that certainly does not accord with my experience nor with the experience of most people in the court. It is a pretty shattering event in people's lives and counsellors certainly bear that out. It is not something that any of them look forward to. Very few people would go through a divorce with a cheerful casual air about it, and, where children are involved, it is a major wrench for both of them.

So my own view is that the legal system and the method of getting divorces do not really have much influence on the tendencies, whichever way it goes. You still have to, after all, separate for 12 months before you can get a divorce. There are some exceptions of separation under the same roof, which are rare, but that is a fairly significant period. In fact, it is interesting in Britain where they have introduced separation for 18 months, is it?

**Ms Harrison**—If there are children it is 18 months, and 12 months if there are not.

**Justice Nicholson**—In Britain they had preserved a grounded divorce. In fact, there were some complaints from people because in the past you could get a divorce if you could prove adultery: that was sufficient to establish a breakdown of the marriage and you could get a divorce in three months. Now it is 18 months. The point I am seeking to make is that that 12 months, or whatever period it is, is a very real period

in terms of allowing people to think about whether they should resume a relationship. You do often see in cases that we deal with attempts at reconciliation occurring during that period. It is not as easy to walk out of a marriage as perhaps the popular image suggests.

**Justice Mushin**—In the practising profession in family law both before and after the introduction of the Family Law Act, I would say that there is no evidence to suggest that the law, and particularly the Family Law Act, has in any way demeaned the status of marriage or made it any easier to obtain a dissolution of the marriage. I think the issues are still the same; they are as heavy; they are looked at as seriously by people. I agree with the general statement that the state of the law comes after the relationship breaks down. I do not think the state of the law has got anything realistically to do with the actual breakdown of the marriage at all.

**Mr BARRESI**—The other one is that there is a 1992 national study of 1,923 participants in a pre-marriage education program. There were a lot of very positive comments about that study. I know that it is only four years since that 1992 study, but has there been a follow-up to that in terms of whether those who have undergone that education program are still married, or still together, whatever it may be? Is it proposed that there be a longitudinal study?

**Ms Harrison**—It is not our study. It is a study that we were referring to as illustrative of the studies that have been carried out in the area. One of our concerns is, perhaps, that there should be a bit more rigorous evaluation of some of those programs because I think that you do need some longitudinal or long-term effects of the success of the interventions. So, it is not a court study, but we were describing what was going on in the secondary and primary areas. I would personally very much welcome some of those programs being evaluated because I think that they have got a lot of strengths.

**Mr BARRESI**—Finally, you mentioned the primary, secondary and tertiary interventions and the fact that the Family Court gets involved mainly at the tertiary level. Is there a role for the court in the primary area, particularly in the school system? Are you involved there at all?

**Justice Nicholson**—In the sense of education, yes. Our counsellors do visit schools from time to time. In fact, I do from time to time, too. I think that there is probably room for more to be done in that area. Would you agree with that?

**Dr Brown**—Totally. The difficulty is getting a state department to put a framework in place so that this is a part of the curriculum in schools. And, as the Chief Justice said earlier, most departments in the various states are retreating more from those wider roles. Once, these were carried out by churches, family, et cetera but now, as a society, we rely more on schools to provide these sorts of programs. We would endorse that and the Chief Justice and the Chief Executive Officer are on the record on previous inquiries.

**Mrs ELIZABETH GRACE**—It has been suggested that the human relations course, the sexual education courses that are in schools, should lean more towards relationships, not just sexual relationships, but whole relationships. That is one area in the curriculum where we could probably start to introduce modules for children. It has also been suggested that it should start from about six years of age up, and be an ongoing thing through the school. That is one thing that has come up during our inquiry.

**Dr Brown**—On page 10 we add our thoughts to that, too.

**Ms Harrison**—I think that our concerns are that expectations of relationships are so unrealistic and that some of them are actually doomed to fail.

**Mrs ELIZABETH GRACE**—Yes, that is right with the soap operas and *Mills and Boon* and things like that. One of the things that I have found quite interesting—and I think it is a whole new area that we are going to have to look at—is that you were talking about the high degree of anger that is still around in males, in particular, after 10 years of divorce. That terrifies me. I think that there is something there that has to be really looked at. Again, we have got to be looking at relationships and why people feel like this at the end of that length of time. We have to look at why they are carrying that much anger for so long. That is just an observation on my behalf.

The other one that you commented on was that it was difficult to get couples to pre-marriage counselling, particularly if they had been cohabitating and felt that they knew it all. Do you think that, perhaps, we should be looking at a change of name and direction, but doing a similar sort of thing? I know that that sounds totally contrary. Perhaps pre-marriage is not the right word; perhaps it should be relationships; perhaps it should be not counselling, but something else—a rose by any other name type of thing. It gives them a feeling that they are doing something useful. They are not doing something that is all a bit ho hum and they know all about it. Would you like to comment on that?

**Justice Nicholson**—Often terminology is important and it may be that marriage education would sound a little bit forbidding to a lot of young couples whereas, if some different terminology were used and a different approach, and it was sold in some kind of an attractive way, that could well be of benefit. In this area, of course, we deal on a substantial scale with cases involving ex-nuptial children and one aspect of this troubles me. Often the children are being born almost while the parents are at school or very soon thereafter, and so that is what has sort of brought me to think that we have got to pay much more attention to relationship education at the school level than we have in the past, because it is not being realistic to just concentrate on marriage education as such, when it is almost too far down the track. I am not saying it is not a good thing, but—

**Dr Brown**—It is a bit like conciliation counselling in the court. These days we do refer to marriage and relationship counselling, but I see your point: how do we get people to focus more on the relationship rather than on the marriage aspect of it?

**Mrs ELIZABETH GRACE**—I just feel that it may help get more people to a counsellor or to someone that can point out some of the possibilities or some of the things they need to know about.

**Dr Brown**—One of the problems, just to make the matter even more complex, is that quite often I found as a counsellor that men would come to conciliation counselling at the court once the marriage was over to resolve a dispute about children or whatever, and sit down in my office and say, ‘I wish I had gone to counselling when she had suggested it to me.’ I would love a dollar for every time that has happened in my counselling sessions. So it seems that women are the barometers of the relationship. They say things to men. It is unfortunate that men then take a long while before they recognise the need to do something about

the relationship too.

**Mrs ELIZABETH GRACE**—Those suggestions are probably made in a hostile situation or a degenerating situation, so therefore ‘anything I can do to make life difficult I will do’ comes through in that type of thing. Just one other question. Does the court provide any counselling services in rural and remote areas?

**Dr Brown**—Yes. In our appendix we list the visiting services—I think it is appendix 4. There are 56 visiting services to remote and rural areas, and that is in addition to the 21, I think it is—we have closed a few places recently—existing permanent services, which are in each major city, the regional cities and some of the smaller regional locations.

**Justice Nicholson**—We regard that as quite important actually because the people in those areas are often not properly serviced in this regard. I think, and Carole may like to comment on this, sometimes in the remoter areas the demands on counselling extend a bit into the earlier stages too because there are no other counsellors, so people will—

**Dr Brown**—Yes. I was dealing with a complaint recently because a counsellor had actually continued with a child, offering supportive counselling to that child in a very remote location. It is not something that we would normally do because we do not get into long-term assistance with families. We would usually refer that to another agency that specialised in that work, but, because this child was in an area that did not have any other agencies, our counsellors had to pick that up. We find that in places like Alice Springs and the areas around Cairns and Townsville. We are the only people who provide it.

**Mr BARRESI**—Just one last question from me. With the proliferation of gambling right across this country, not just Victoria but in all states, there have been a lot of counselling referral centres being established. I noticed in your profile of voluntary clients to your counselling service in chapter 3 that there are a number of issues of concern to those voluntary clients, and gambling does not figure in any of them. Is this simply because, once again, it is too recent a phenomenon in Australia, or is it caught up in amongst some of these other issues? You have got alcohol and drug problems, but not gambling. Do you have a comment on that?

**Dr Brown**—Not unless people specified it in ‘other reasons’. These were the main factors that usually came up when clients were seen by counsellors, so these were the specific factors listed and responded to by the people who completed the survey.

**Justice Mushin**—Just anecdotally, at my end, which is the final part of it, the trial judge part of it, the gambling factor has just started to show up in the last few months as being of significance in some matters—both financial and child related.

**Justice Nicholson**—It sometimes comes up in another way. It is not uncommon for someone who claims that they have not got any money left to claim that they have lost it in the casino, or something like that, and that is not always—

**Mr TONY SMITH**—I stress that I have not had a chance to really study the very lengthy submission, so I would like to reserve a few questions until after I have had a look at it. But there are a couple of things I would like to raise initially before I turn to page 54. The first thing that struck me as fairly common amongst the profession is the failure to observe, other than in a most perfunctory way, the duty provisions in, I think, section 14 or 16A of the act where there is a duty cast on legal practitioners which is a statutory duty. It is one that I suspect is rarely followed and it ought to be followed since it is in the statute. Perhaps that leads on to page 54 because you say there:

The Court, on the other hand, sees its role as attempting to divert people away from its courtrooms.

With respect, I would suggest that it is more the role of the legal profession than the courts. The court does have a role but, in my view, not the same role as the statutory role of the legal profession.

**Justice Nicholson**—I will ask Justice Mushin to comment on this, but I would have to say that it is a very mixed situation from the profession's point of view. I think the profession gets a lot of abuse on the basis that it does promote litigation in family law disputes and, in some cases, that criticism is valid. But there is also a big proportion of practitioners who go the other way. As I mentioned before, a very large proportion of our counselling referrals come from the profession, which does not suggest that they are neglecting their role there. But, certainly, there are some who do. Justice Mushin, would you like to comment on that?

**Justice Mushin**—With respect, I very strongly disagree with the proposition that was just put, speaking from personal experience—first, as a solicitor for some 10 years, then at the bar for nearly 11 and now on the bench for about six. As a general statement, I think the legal profession is constantly and very significantly involved in attempting to find answers to the problems which are extracurial. Although the suggestion that the legal profession promotes litigation is peddled by a lot of people, I think it applies to a very small minority.

Certainly, over half of our referrals to mediation, for example, come from the legal profession. They are referring people as soon as they come into their offices. It is a constant practice of the legal profession that the moment they get clients they usually ring each other and arrange round table conferences. They are, on the whole, a highly experienced and very professional group.

**Mr TONY SMITH**—Yet I find it contradictory for the submission to say, on page 54, that the court sees its role as attempting to divert people away from its courtrooms. I can assure you that in my legal practice there is no way anyone got to court unless there was absolutely no possible way of diverting them.

**Justice Nicholson**—We are happy to have the assistance of the profession. All I am saying is that we often do. But sometimes the profession cannot do it all by themselves. I think one of the advantages of our conciliation conferences is that you have got someone coming in who is associated with the court, who is independent of both parties and who is able to bring some kind of independent assessment to bear.

So, with respect, I do not see that as necessarily inconsistent. We take the same view, I suppose, as all other courts—that the fewer cases that actually have to be determined by a judge, the better from everyone's

point of view. I agree that the profession have a role to play there, but I do not think it is fair to say that they do not perform it.

**Justice Mushin**—There are a number of cases in the defendant area where it is later clear that the lawyers have given particular advice to the clients, who have not been prepared to accept it and who have wanted to hear it from a judge. But, from the moment they hear it, even in the first couple of hours of a trial, they know that all that is happening is that the judge is confirming what the lawyers have been telling them for a long time. But there is no doubt the lawyers are constantly involved in that, in my view.

**Mr TONY SMITH**—It is certainly good for the court to make an observation, as they always do in a TFM case, but I still feel, if I may say so, having regard to page 54, that nonetheless people who get to the court do not want to be told constantly to go out and settle the case or go out and talk about the case.

**Justice Nicholson**—I agree with that.

**Mr TONY SMITH**—I sadly had experience last year of a case I was involved in where that happened, by dint of the judge keeping us waiting until 3 p.m. for the case to come on, and there was no way that it settled. It turned a one-day case into a three-day case—which made everybody, not the least of whom were the lawyers, extremely upset. That leads on to the point you make, that the Family Court is—and should be—much more than a courtroom. There is a strong argument the other way of course, is there not? Really, is that not what you are there to do: to decide these issues, to judicially consider whether you accept a particular witness, and whether you—

**Justice Nicholson**—I do not disagree with that, but I think there is a distinction. Once you get to the courtroom, then fine, I agree with you that it is a mistake for judges to be constantly sending people out to go and see if they can settle it. Normally, the approach I take at that stage is to proceed. Of course, sometimes the profession will ask you for a few minutes to have some discussions, and that is a different issue; at that point, I think you should give it to them to see if they have got something they can explore. But there is no doubt that, when you get in there, you are there to decide the case, and there are some cases that should be decided.

There are some cases where the whole of the conciliation process is a waste of time. For example, if you have got serious allegations of sexual abuse of a child, or some matter like that, the whole issue of conciliation becomes quite unacceptable. And, at that point, the view that I take is that the case should be streamed straight into court. The thing that worries us—or me, anyway—is the number of cases we get that do get close to the court doorstep and are then settled after running up enormous costs. If you can intervene earlier in the thing and settle it earlier, those people are going to be a lot better off financially. That is what I am talking about when I say the court should be something more than a courtroom. Once the proceedings have started—or, as we argue, before the proceedings have started—if we can offer a means of resolution that works, then everyone, including the taxpayer, the court and the parties, is going to be better off. That is really what I am talking about.

**Justice Mushin**—I agree with your basic proposition that there are certainly cases where there is not going to be settlement, and they have simply got to be heard and decided as expeditiously and efficiently as

possible.

**Dr Brown**—I would add that 59 per cent of all the cases seen by the court counselling service, for example, are seen prior to the filing of an application. Of those cases, 61 per cent are sent along to us by lawyers, solicitors, and that is what the survey in appendix 2 demonstrates.

**Mr TONY SMITH**—Is there any evidence to suggest that, where the ‘usual order for counselling’ is made, those cases end up in resolution: the quarter to 10 type of cases? What are the figures on that?

**Dr Brown**—Post-filing, if we see them before the directions hearing, it is 73 per cent. If we see them after the directions hearing, it is 59 per cent, and those figures are contained in our submission as well.

**Mr TONY SMITH**—Judge, taking up your comments about de facto relationships and your experience on the Supreme Court, was there a provision in the Children’s Services Act in Victoria in relation to the provision of counselling?

**Justice Nicholson**—No. There was nothing.

**Mr TONY SMITH**—There was in Queensland.

**Justice Nicholson**—Yes.

**Mr TONY SMITH**—I hope you will not take offence at this. From my perception of 13 years of legal practice, the first six in the Family Court and then a bit of a spell away for a while—deliberately, I might add—one of the problems was that the court was never seen as a real court. I witness one example: there was a particular fellow who twice breached custody and access orders. On the first occasion, he was given a bond for 12 months. The moment the 12 months ran out, he breached it again.

I informed my client that he would definitely go to prison as a result of that, given my experience in the other courts, and he then received another bond. Then, to my horror, recently I noticed a decision of the full court which quashed an order for imprisonment by a judge, at first instance, where a similar thing had occurred, and the full court imposed a bond whereas, in the Supreme Court where a person refused access, Mr Justice Connolly said he proposed to give access that weekend, and asked what her attitude was. She said no; he issued a writ of attachment immediately, and she was imprisoned that night. The matter came back on Monday and there was never another problem with that particular case. She granted access and away it went, and it flowed. And there was respect, because that is what happened. In the other situation, there was no respect at all for the court’s orders.

**Justice Nicholson**—It is difficult for me to comment about cases I do not know anything about, but I understand that this is always a problem in this jurisdiction. You can quote, if you like, the quality example; but there is another problem about this, and this is one of the difficulties when you are dealing with children. It seems to me that there is a different test. When you are dealing with a case in the Supreme Court, normally—and the one you have given as an example obviously was not normal—you are dealing with people who, if they breached an order, okay, they had breached it, and there was not too much problem about

dealing with them. It is sometimes not so easy when you say to a custodial parent—I am using the old terminology, but the term is ‘residence parent’ now—‘Okay, if you breach an order, you will go to gaol.’ You send them to gaol and, every time that child goes on access thereafter, the custodial parent says, ‘Yes, you had better go because, if I don’t send you, Dad will send me to gaol.’ That is not exactly how to promote a particularly satisfactory relationship between the child and the parents.

I am just saying that it is not as easy as black and white, in many cases, to be able to take that fairly strong approach. There are some who say that it should be done, in some cases. Obviously, judges will vary in their approach: some will be tougher than others, and that applies to sentencing of criminals, as well as to decisions in the Family Court. One of the greater problems about enforcing orders in the court has always been that it is such an expensive business to get to the enforcement stage. And, of course, if the results are not what the applicant wants, it is pretty frustrating. But perhaps Justice Mushin might like to comment on that.

**Justice Mushin**—No; again, from the trial judge’s point of view, the concept of putting parents in gaol when there is a breach of child orders, particularly contact orders, is very complicated.

**Mr TONY SMITH**—Or ‘breaches’, plural.

**Justice Mushin**—Breach or breaches. I accept that. Fining is rarely an option, because that takes money away. Putting on a reconnaissance to obey orders of the court can be an answer early on, but there is a limit to how long you can do that. His Honour the Chief Justice has commented on the practical problem of putting that parent in gaol. This is one of the most difficult areas of our work.

**Justice Nicholson**—I would like to follow that through and give you an example of the difficulties. I made an access order in a case where the mother had agreed that she thought she could probably persuade the child to see the father. We provided for counselling so that the path could be smoothed. The fact was that it was an 11-year-old child who just dug her heels in, and not only did she dig her heels in but she was also in a state of abject terror. I eventually required that an interview take place with the father, in the presence of counsellors, but I was sorry that I had done that because it did not solve the problem. The father still thought that we should enforce orders on a much higher level than they were and yet the effect on the child was so troublesome that it was a matter that I certainly would not have. I discharged the access order at that point because it was quite clear that that child should not be subjected to that problem. The problem is thinking of the child as a person as distinct from the warring parties. I give that as an example of the sorts of problems we have.

**Mr TONY SMITH**—I guess you both accept the proposition that the court ought to be held in the highest respect in the community.

**Justice Mushin**—There is no question about that.

**Mr TONY SMITH**—And do you see that there is a level of disdain in some quarters for the court?

**Justice Nicholson**—I could answer that two ways. My own view is that, within the legal profession,



the status of the court has increased considerably in recent years from a very low point. However, it is also clear that there are a significant number of males, particularly, in the community who are very critical of the court and for some of the sorts of reasons you have just referred to. Also I think we get some of the blame for the child support scheme. There is no doubt about that. The level of anger amongst males in the community is a matter that troubles me. I do not pretend to have the answers to it but I agree that there is that problem.

**Mr TONY SMITH**—Could this level of anger be associated—I do not know whether there are any figures to suggest this—with a perception that they did not get justice in the court?

**Justice Nicholson**—It is a perception that they have that they did not get justice, certainly. A client who has not succeeded in a case in this jurisdiction to the extent that they want often regard themselves as not having got justice. A certain element of male domination also comes into this on occasions. That is not in every case but I think some men think that they have the right to have the child when they want, that they have the right to control the property and that if they get a result that they do not like that is an injustice. That is a generalisation but there are certainly some in that category, and some women for that matter.

**Justice Mushin**—I think there are a number of people who do not appreciate how exquisitely difficult a lot of these decisions are, especially when you get into the areas of family violence and of abuse. Firstly there are the findings of fact and then what you should do as a result of it can pose some insurmountable problems in coming out with the decision which is in the interests of the child. That is what the legislation says we have to do and quite rightly so, if I may say. There is not enough understanding of how the competing issues relate to each other and what the balancing acts are to really come out with those best interests. The fact situations are sometimes appallingly difficult. The dysfunctional nature of the families that are coming before the court, particularly at the trial end of things, is absolutely amazing. The level of violence and abuse and other dysfunctional behaviour is very high indeed—that is at the trial level—and that produces difficulties in making decisions which I do not think people really understand.

**Dr Brown**—There is some research—admittedly it was done in the United States but by a very reputable researcher—that shows that conciliated and mediated agreements are far more satisfying for people than having to go through the process that you have just been talking about for the last ten minutes. There are no two-ways about it: if people can have solutions tailor-made to fit their needs and their children's needs they are more satisfactory in the long-term and the court recognises this.

**CHAIR**—Is that research referred to in your submission?

**Dr Brown**—Yes.

**Ms Harrison**—I think the law is a very blunt instrument and there is a large amount of shooting the messenger about some of this too. We are dealing with people who have had some very damaging experiences and they do not respond very well, as the Chief Justice has said, if the outcome that they desire is not available.

**Dr Brown**—By the same token we do not try to keep people out of court either, if that is the

direction it is heading in. We refer to the synergy between the two services, the litigation process plus the alternatives.

**CHAIR**—I suspect this conversation could go on forever. I am going to exercise my prerogative to end it now. Can I say, Chief Justice, and others, that we appreciate not only your coming along this morning and enabling us to have this discussion but also the very detailed submission which you have presented to us. We will go away and obviously read it in more detail. I would expect that on another occasion, possibly in the New Year, we would appreciate the opportunity of having some further discussion about aspects of that submission and other aspects which will be raised in the course of the public hearings. I thank you on this occasion and we look forward to some further discussions.

[11.37 a.m.]

**CAMPBELL, Mr Alan Douglas, Director, Noble Park Family Mediation Centre (Inc.), 367 Princes Highway, Noble Park, Victoria 3174**

**EDGAR, Ms Meridith, Executive Director, Anglican Marriage Education and Counselling Service, 227 Collins Street, Melbourne, Victoria 3000**

**GRIBBEN, Ms Susan Elizabeth, Executive Director, Victorian Directors of Family Services—Relationships Australia (Victoria), Suite 307/1 Princess Street, Kew, Victoria 3101**

**HEARNE, Ms Rosalie, Coordinator of Counselling, Branch Manager, and Community Development Program, Manager, 3 Wingfield Street, Footscray, Victoria 3010**

**HUNT, Mr Michael William, Director, Family Mediation, Relationships Australia (Victoria), 46 Princess Street, Kew, Victoria 3101**

**MELVIN, Mr Terence William, Manager, Family Violence Prevention Program, Relationships Australia (Victoria), 46 Princess Street, Kew, Victoria 3101**

**CHAIR**—I welcome you all here. I will not go through all the organisations you represent. The committee does not require you to give evidence on oath, but I should advise you that 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 contempt of the parliament.

We have received a submission under the title of Relationships Australia, No. 96, and also a submission from the Family Mediation Centre, No. 65. At the outset, are there any amendments or changes you wish to make to those submissions?

**Ms Gribben**—No, except that the title should be under Victorian Directors of Family Services rather than under Relationships Australia. There is a separate submission under the national organisation Relationships Australia. This is a combined submission on behalf of all the Victorian major service providers, so I would rather it was under that title, if that was possible.

**CHAIR**—That is right. We will take a note of that in terms of the *Hansard* record. Is there a short opening statement that you would like to make?

**Ms Gribben**—Yes. I suppose the first thing I would like to say is that we are all the major service providers in Victoria. Each of us here at this table has at least 15 years experience in providing couple and family relationship support services, so we bring a considerable amount of expertise. I have prepared a brief summary sheet—and I have five copies here—which can be either treated as an appendix to the submission or for your own information. It sets out a little bit about who we are and what services we provide, so you can get an idea of the breadth of the services we are providing through Victoria.

We are very pleased this inquiry is being held and with its preventative focus. We believe that family relationships are of fundamental importance to the wellbeing of the individuals and communities which make up our Australian society. We have been very concerned at the lack of interest in this area. We are pleased to have an opportunity to present our views on how people can best be helped to have better relationships.

We decided to put in a joint submission because we were very much of one mind, although, as we discussed it, we were surprised to find how very united we were in our views. There was no disagreement whatsoever. We also were aware that other organisations with greater resources, like the Family Services Council and some of the peak bodies, were going to be putting in major submissions which referred to the research. So we were concerned really to give an overview of what we believed was going on, and from the service providers perspective.

With your permission, Mr Chairman, I would like to just give a very brief outline of some of our key concerns and then some of us will speak in more detail to different parts of the submission and then perhaps allow at least half an hour for your questions at the end of our time.

The key things we are saying are that the causes of relationship difficulties and breakdown are very complex. They are not easily understood and yet everybody, including the people involved in the difficulties, want simple answers and simple solutions. But it is not that way, unfortunately. Family services need to be provided for people at all stages of the life cycle and to accommodate enormous social and cultural diversity, which is another problem to address.

We also want family relationships to have support from broad general strategies which are designed to identify and reduce stress on families. I will say some more about that in a minute. We believe that the best prevention is early intervention and that this needs promotion, but not compulsion. There needs to be greater community awareness of the need for early intervention, and we have got something more to say about that.

We also see community development and provision for both integration and flexibility across subprograms as vital for the delivery of relevant and effective services. We want the services to be backed by solid research into family relationships and evaluation of strategies and service delivery models.

Finally, we are concerned that if court ordered alternative dispute resolution services for family law disputes are moved from the court into the community sector, the focus on prevention in the community services will be even more eroded than it currently is. So that is a concern that would need to be addressed if that occurred.

What I would like now to do is to move on to say a little bit more about the factors that contribute to marriage and relationship breakdown and why there is this complexity. What we see happening time and time again with the people who come into our agencies is that there is a search for a simple explanation of what is problematic. Usually people say, 'He is the problem,' or 'She is the problem,' or 'It's because he won't talk,' or 'She never comes home.'

What we then need to do always is to unpack that further. Those are really symptoms rather than causes of what is going on. So the notion that to improve their communication skills will solve everything or

to improve their problem solving skills will solve everything, or if only they were taught good conflict resolution in schools that somehow they would have better relationships, is to oversimplify what is going on.

When we start to unpack what has happened we find that there are very strong family of origin patterns that they have learnt very early on that are affecting how they are relating to one another. They have often had past traumatic life experiences which have led to them behaving now in a particular way with each other. There has usually been some pretty traumatic precipitating crisis or life stage issue which is why they are where they are now. Unless they begin to understand that, they are not going to find any solutions to their problems.

We also are aware that early intervention is vital. A lot of the time people come too late for too little help when really they should have come earlier for more help. If only we could get across to the community that relationship difficulties are predictable and normal, and that relationships have many more pressures now than they once had. Just living, the stress of daily living, is enormous on people.

I think also there are higher expectations about relationships. It is not that people do not value their relationships; it is the contrary. They actually have very high values of their relationships and are intensely disappointed when they are not met. So somehow we have to assist people to see that relationships difficulties are predictable and normal but that there is help available. For example, if there was something wrong with their car then at the first sign of trouble they would have it into a garage. Why is it different with this most important area of their life? What is the reluctance?

It seems to have a lot to do with somehow believing that there is a stigma associated with relationship difficulties. There is a belief that, firstly, it is a sign of failure if you seek help; secondly, that there will not be any help anyway and so why bother; finally, when they do come, they need so much help whereas had they come earlier it would have been easier.

I have sat in a mediation session many times and heard a couple talking who thought they could not talk about how they would separate, divide up their property and share their parenting responsibilities. When they first arrived they had been sitting in separate waiting rooms but by the end of a first or a second session they would be saying, 'If only we had been able to have this kind of help, even mediation help, earlier on, we might not be here.' That is a very sad thing to hear, and yet it is now too late. One of the things we explore in mediation is whether it is too late. At the beginning of the session we always explore how definite is the decision. Is the marriage over for both of you or is it only over for one of you? What does it mean if it only over for one of you? We discuss a number of things like that.

Coming back to the factors that we think need to be addressed, we think that people do need to understand the complexity of forming and maintaining relationships and why it is that it is not easy to come to solutions. We want to see some community education about relationships, about their importance and about the fact that relationship difficulties are normal and about the fact that services are available. We want a community awareness campaign.

However, we do not want that campaign to be launched without thorough research about how effective it might be and what might be persuasive. We have been aware that there have been community

education campaigns that have not been successful—we are aware of others that have been—and we want to see it very well thought through.

We have noted the success of the ‘Violence is ugly’ campaign in Victoria in getting greater numbers of men and women seeking help with violence in relationships. If you want to ask a bit more about that, Terry Melvin can say a bit more about that later, and also about how those families can be helped.

The other thing that is often missed is that relationships are dynamic, they are not static, and people move in and out of a range of intimate relationships over their life. What we are aware of is the lack of longitudinal research about what happens to relationships over time and what happens to people as they move in and out of relationships over time. It is not all bad news. We want to know how people are managing that, we want to know a bit more about what makes for healthy relationships and good relationships and satisfying relationships that are mutually respectful in this country, as opposed to other countries. We feel that the research agenda has been focused too much on the other end of the spectrum, and we want to see that occurring.

We also think that the community awareness campaign needs to address the important Family Law Act changes that came in this year. It is one thing to make those legislative changes, which were specifically designed to bring about greater cooperative parenting models, and we see one of the best things that can equip people to form better relationships in the future is to have those, to minimise the destructive consequences of divorce and not have that conflict that we were talking about earlier. The Family Court was talking about the 10 years of anger post-divorce. That is probably one of the most destructive things on children. Those children in 10 years time are forming their first couple relationship. When we look into what are some of the factors that are causing relationship breakdown, they are around that sense of hopelessness about relationships and the sense of bitterness and unresolved conflict between their parents and between themselves and one of their parents or both of their parents. That is one of the major factors.

So, we want to see some community education around promoting the value of cooperative parenting post-divorce. That legislation on its own is not going to do the trick. I have heard many of the legal profession somewhat cynically saying, ‘Oh, you just translate—guardianship and custody now are shared parenting or something.’ They have just done an exact translation of the terms in the act, and I find that needs to be addressed as well. So it is not just education of the community, it is of the profession.

With that, I think I will hand over to Meridith now to say a bit more about some of the interventions that we think are appropriate through the life cycle.

**Ms Edgar**—I plan to pick up three areas that are interwoven through the submission, and the first one I want to address is the issue of the critical nature of there being the concept of life cycle and life stages underpinning policy development in this area. The second matter that I would like to highlight is that I would like to argue against the concept of making relationship education in any way compulsory, and the third area that I would like to focus on is related to issues of integration and flexibility between the different service strands.

To me, the first one is the most important one, and Susan has partly touched on it already. Our view

is that the policy framework or the policy concept that is really critical to underpin service planning, policy, thinking and service provision in this area is a family life cycle or life stages. As Susan says, family needs, relationship needs, are very dynamic and as people and as parents I guess we all realise that we just get a set of behaviours together and think we have got the bag of skills right, and then relationships change, ages and stages of children change, and we actually need another set of behaviours. Those discoveries go on right through life.

So I think if programs have a policy view that acknowledges the dynamic and the ever changing needs at different stages of the life cycle, we are helping and supporting people to adapt and learn and seek support throughout the life cycle. So young families, young relationships, have a set of needs, middle sort of relationships have another set of needs and learning issues, and similarly in later stages of relationships there is another set of needs. Such a framework acknowledges that relationship breakdown is a reality at any stage of the life cycle; too often it is seen as more likely to occur in the early stages. A life cycle model makes it normative that we have different needs for learning and skills at different stages of the life cycle.

That also is an important concept in terms of picking up the notion of early intervention. Early intervention must be seen as a concept that is relative to the issue. Often early intervention is about ‘if we get them early’—like at school or early in the relationship. That is seen to be more effective intervention. That is too simple. Some people need help early in their relationships and have difficulties then, but many other people need help much further into the relationship. Other people need help later in their relationship when they are quite past middle age and when they are dealing with other matters. Relationship breakdown is a potential at any stage of a relationship’s life cycle and interventions, in terms of preventive interventions, need to be made available relative to the relationship.

The second area I wanted to focus on is the area of compulsion in relation to, particularly, education. I know there is a view that everybody ought to have relationship education. Although I happen to believe that everybody ought to have access to relationship education, and I believe we all do, it is very counterproductive to, in any way, make that compulsory. What we do know from educational psychology is that people are most likely to benefit from support services of any sort, therapeutic or educative, when they are motivated to use them. Compulsion, we know, reduces people’s motivation to learn. It is very counterproductive to learning.

Successful behavioural change—and that is what we are talking about in relationship education and in counselling—requires very positive learning conditions and it requires that the person wants to learn and that the person wants to change. That means that we need to have conditions where our clients are highly self-motivated and not compelled to partake of these sorts of services. It would be very regressive to have these sorts of services under any compulsion.

In terms of motivating people and ensuring that we have a community that is highly motivated to adjust and learn and adapt at different stages of the life cycle, we have a terrific community education task to address some of the issues that Susan outlined: notions that relationships are complex, that successful relationships demand continuous learning and continuous behavioural change, and that most of us need specialist help and support at different stages to help us do that. Yet it is very critical that the motivation comes from within us and is not seen in any way to be in the context of failure.

The fact, as Susan said, that many of us need help at different stages of our relationship must be seen as a much more normative thing in our communities than having the connotations of failure that seeking help seems to have in many places now.

I would like to move on to the issue of integration and flexibility of services. I think this is true in all of the services that are provided for families in the Attorney-General's portfolio. As you will note, our paper addresses a bit the issue of the one-stop shop notion, but we would argue very strongly to reduce the arbitrary divisions between the different program strands.

When we were preparing our submission, we talked a lot about how unhelpful it is to have very arbitrary divisions between the education and the counselling programs particularly. Increasingly, in our education work we are acknowledging that we probably will have about 20 per cent of the group actually needing some individual counselling as a result of the educative process, or really because of the issues they bring to the group.

I think it is important that there be that recognition that very often people who have very severe relationship difficulties will enter our services through the non-threatening education program, develop a relationship with staff, recognise how relatively normal those difficulties are and then feel less threatened about moving into getting professional counselling. If that is the way some people approach seeking help, I think that is fair enough—they are going to learn a bit initially and then get some specific help in solving some of the specific problems.

Again, as our paper highlights, that seems to be particularly true for certain cultural groups. To seek support in an educative context is socially acceptable, whereas to pursue help in the form of counselling and/or mediation is much less acceptable. So we value multi-service agencies where those program divisions are fairly flexible so that clients can, at different times in their relationships in relation to their issues and problems, use the services that are most appropriate for their need at the time.

They are the three areas that I particularly wanted to address. I think each of those issues has some currency in relation to the civil celebrants that are also, in some ways, gatekeepers to some of these services and I believe do not have some of these concepts. I will hand over to Rosalie now to say something about community development.

**Ms Hearne**—Probably I did not say at the beginning that part of my role and presence here is because I have managed what was a successful pilot program in the west, which was a community development program and the first one that was a LAFS funded program. Those issues of flexibility and integration seem to come alive with that kind of direction.

The challenge to us at that time was to bring together three organisations which had not traditionally worked together in order to share resources, but also to target people from non-English speaking backgrounds and people who were unemployed in the region and that that project was successful and is now being replicated in all the states of Australia.

When we get to question time I will be happy to talk some more about the issues that came up in that



process but at this stage I want to say that I see community development as a very important part of the process of community education and building the sorts of networks into communities that facilitate the kind of service that we would want to offer which is culturally appropriate and responsive to the clients that we see.

**Mr Campbell**—Just turning to discussion of the government's role, first of all we would like to confirm and support the strengthening of the existing system which involves really a partnership between the federal government, the Family Court, community based organisations and then private practitioners. We believe that this partnership has assisted in keeping the divorce rate steady, although it seems quite high. It has been steady over the past 20 years compared with other Western nations and we believe that this is a positive achievement.

We think the government's role should be, firstly, to develop and implement national strategies to support and enhance relationships; secondly, to promote, coordinate, support and monitor family and relationship policies and research; and, thirdly, to ensure the provision of high quality relationship support services for all Australians. We do urge the continuation of, and a strengthening of, the partnership involving the provision of service across community, private and public sectors. And as has been stated, we urge the continuation of programs for individuals, couples and families across the life cycle stages, which seems to be very important.

We believe that these programs should include development, education, counselling and mediation in an integrated approach. One way of looking at the integrated approach that we suggest is to look at relationship counselling and education being provided away from court systems by community organisations and private practitioners. Services aimed at resolving family law disputes prior to filing an application in court—those would include mediation and counselling—should be provided both within the court and outside it.

We believe that post-filing services including court ordered counselling and the preparation of family reports are best provided by the court itself for a number of reasons. One of them is because such services require close liaison with the court and the capacity to respond quickly and effectively to things like court ordered counselling, the preparation of family reports, and looking at things like supervised access and things of that nature. We believe that if these particular tasks were devolved to our organisations, this may jeopardise the view of counselling and mediation as an alternative process and not a court process. We believe that our services should be seen as the first port of call rather than the last and prior to the perception that the marriage is on the rocks.

There is a difference between wanting to change and develop a relationship, which we think that community organisations try to achieve, and needing to contain a conflict which we believe that the court emphasis is basically concerned with through crisis intervention and damage control. We think that those differences should be maintained allowing more effective intervention for both kinds of service. Court ordered cases typically involve intensive intervention with the use of considerable resources. Again, we think that should these cases be sent to community organisations our resources will be diverted from preventative, therapeutic work through to sort of containing activities leaving effective early intervention in jeopardy. At the same time, court ordered cases often involve a greater risk of violence and we believe that the court has

well defined and effective means of managing potential violence that is not currently available in our community organisations.

To sum up, we recommend that the government ensures that a range of relationship support services are readily available to all Australians within a nationally developed and coordinated family policy framework which includes general strategies to support family relationships. We also recommend that relationship education and counselling services be provided by community based organisations and private practitioners. We recommend that prior to filing court applications people should be able to access services that assist in the resolution of family law matters, including counselling and mediation, both through the Family Court and community based organisations. Finally, we suggest that court ordered counselling and family reports continue to be provided by the Family Court and not required of community based organisations.

**CHAIR**—Thank you. I was interested in your comment about research and a lack of longitudinal research and that the research agenda seems to have concentrated overly—I cannot remember your exact words—on the other end of the spectrum. It has been my observation—and I am interested in whether you agree with it or otherwise—that, for example, much of the focus in the Institute of Family Studies has been on the other end of the spectrum. We have virtually had no research in this country about what makes healthy relationships in the first place.

**Ms Gribben**—I would agree with that. Research has also focused a lot on children and on families rather than on the couple relationship. There have been one or two exceptions but I would like to see more research on couple formation, on the maintenance of the couple relationship, on how best to maintain a parenting relationship post separation and on the effect on the re-partnering and the re-formation stage too. Like it or not that is happening and we need research on how that can best be helped.

**CHAIR**—You, along with a lot of others, have put forward some reasons to why relationships and marriages fail. I am just interested to know what factors you think do contribute to healthy relationships. In a sense maybe that should have been our term of reference but the opposite is there so I think we ought to look at it.

**Ms Gribben**—Everybody can have a go at this one. Firstly, I think that learning is important: having a good model, having somewhere an example of a reasonable couple relationship that is working. It is important to have a good parent-child relationship. After all, the first intimate relationship that we have that works for us, we hope, is our relationship with our mother and/or our father and if those are not good we carry unresolved issues from those relationships into our adult intimate relationship. So there are two things: what we learn about a couple relationship from how our parents relate and what we learn about an intimate relationship from how we relate with our parents.

**Ms Edgar**—I will add to that, if I may. I think there are a number of communication issues that are fairly critical in healthy relationships. I think the range of communication skills is very important but particularly so, I think, is a view about conflict and a view about the role of conflict in a relationship as well as accompanying skills for dealing with relationships. I think many relationships get absolutely freaked out when the first sequences of conflict occur.

In my 35-year-old marriage, after the first few issues of conflicts, we realised, in retrospect anyway, that there are potential growth points in a relationship. I now realise that many other people think that too. But, very often, they are not seen in that way. They are very threatening points of relationships; people do not often have the skills to negotiate through those barriers of conflict to come out the other side with some new understandings, some new foundations, and some new positive views about the role of conflict in an enduring relationship. There are some basic communication skill matters that are fairly critical too.

Realistic expectations are key in this area, as well as some understanding of close relationships being about the importance of both individuals being able to develop within the relationship. But it must be acknowledged that there are going to be, inevitably, developmental lags in that process. Recognising those lags, having a view about them, and having some skills about addressing them are some of the really important things that are all very learnable if people are given resources and support in those learning processes.

Our community services have a lot of knowledge in those areas, so communication skills within relationships, although that might sound simplistic and a bit corny, are very important ingredients, and we have spent some time talking about that.

**CHAIR**—There seems to be an underlying cultural belief, if you like, that somehow conflict is not part of relationships.

**Ms Edgar**—Absolutely; or something to be feared.

**Mr Hunt**—We need to, somehow, foster the idea that conflict is okay, and trying to eliminate it is not okay. Conflict is certain to arise in any kind of relationship for a whole host of reasons. It is how we handle it when it occurs that is absolutely critical, and all too often we have too much blame, or there is a ‘mad, bad’ concept that creeps in. It is all around us: it is very hard to have differences, to value differences, without somebody being labelled ‘mad’ or ‘bad’. We see it all around us, don’t we?

Somehow or another we do not value that it is okay to have a difference in the way we perceive something, in the way we think about something, or in the way we might do something. All too often we jump to blame. It is all around us in our culture.

**CHAIR**—It is estimated that something like about 20 per cent of couples attend pre-wedding marriage education programs. How many of those couples, do you think, would attend if there was not some persuasion on the part of the celebrant?

**Ms Edgar**—Clearly, fewer. Our experience is of great interest to me, having argued against compulsion. I know that probably about half our clients would not be there if the priest had not said something like, ‘Yes, certainly I will marry you, but I require you to do some education first.’ As probably you know, our evaluations show that at least 70 or 80 per cent of them come rather reluctantly. Then the evaluations are quite positive: they say that not only did they end up enjoying it, but that they actually learnt an enormous amount, and take into their relationship much more realistic expectations of each other and the relationship, and take into the marriage some emerging skills that they realise that they need.

**CHAIR**—So, if we do not have compulsion, how do we increase that figure from 20 per cent to 50 per cent, given that it has not increased for 10 years?

**Ms Gribben**—Persuasion. I do not think we have addressed it significantly, and the other thing is that there has not been a massive availability of these. People have not been made aware that these services exist. We have not been able to advertise it. It has come under a church heading for a lot of people, so that is not an attractive way in. We have only recently most of us changed our names. I think there was earlier discussion about whether marriage education was an appropriate name, and for many people it is not. You have the problem of answering people's questions before they ask them.

So whatever you do has got to be tailored to where they are at this minute. If they really do not see a need for something you are labouring uphill to give them a service that people do not want. That is why it is important to keep offering and keep persuading at all different points in the life cycle. It may be at the child health centre with the birth of the first child: 'Look, you should realise that, far from being the thing that binds you together, the birth of the first child can be quite traumatic for your couple relationship.' An education session down at the health centre could be an opening up into promoting relationship education and other services at a later point.

**CHAIR**—Leaving aside those that do not get married in a church, and I understand the argument there, but for those who are married in a church, which is about half, as I understand it, for example, every Catholic diocese in the United States makes attendance at a marriage education program compulsory. Are there problems with that approach? Why would they do that if the advantages did not outweigh the disadvantages?

**Ms Gribben**—The last time I asked a Catholic priest about that in the UK he said that their statistics were no different from the rest of the population. That might be a reflection on the effectiveness of their pre-marriage education program, but it does have to be asked whether it is not a massive resource being offered with not necessarily—the question has to be asked as to whether it is an effective use of resources.

**CHAIR**—One other matter: you were talking about reducing the arbitrary divisions between the strands of the subprograms, and you gave an example of education and counselling. I could not see what the impediment is now, that is, if someone comes to an education program, to take your example, and is somebody who is appropriate to refer to counselling, is there some impediment now to that? I was not quite sure what you were saying.

**Ms Edgar**—Some agencies do not have both program strands is one difficulty and a key one, I think. Some programs do not have the other program strands, so that is another. Local networking is not always as strong as it ideally could be and issues of competitiveness and agency territoriality sometimes do not help integration and flexibility. I must say I guess our joint submission is a bit of a testimony to our attempts to collaborate in those areas and on one level we certainly are competitors but we are also collaborators.

**Ms Gribben**—The other one is the government. The fact is that if you have to deliver this service with this pot of money under this heading regardless of whether it is appropriate for those clients and this service for this bit of money, there needs to be a greater flexibility across that.

**Mr Campbell**—There is another issue as well, and that has to do with what you consider to be education and counselling. I think that when I have been running relationship education courses in the past often the boundaries between what you are doing blur a bit because you will come up with an issue within the group that needs a bit more counselling approach to it. So being able to offer, I guess, part of the group as a counselling approach as well as education is important.

**CHAIR**—Are you saying you cannot do that now?

**Mr Campbell**—You can but the funding comes for either one or the other and you need to be accountable for that.

**CHAIR**—I have a question on the funding, and this relates back, partly, to attracting people along. Why shouldn't we adopt a different approach to the funding, one that enables the expenditure to be determined by the couples and the individuals concerned? At the moment, all the money is being given to agencies in the hope that we will attract the people along. Taking into account your point about needing to advertise, and others have made that point, why don't we have a variation that puts some of the funding directly into the agencies, as it is now, but puts more of the determination of the use of the funds into the hands of the people concerned?

**Ms Hearne**—Let me respond to that with a particular group in mind. My area of expertise is with community development. There would be a problem with targeting, say, the Vietnamese community because they have no cultural understanding of counselling at all. I was struck by this in the last session when you talked about a rose by any other name. In our submission we talk about the fact that people who come from a Vietnamese background may talk about preferring education to counselling. Anybody who has done anthropology will know about cultural ideals and that whatever happens on the ground is often very different from the cultural ideal.

In terms of experience, what we actually do under that program, because we do have some flexibility, is offer things called education but which very often become counselling. If people have no experiential understanding—and counselling is an experience—of what it is that is being offered to them, they cannot make a choice. They do not know what it is they are buying. So this long process that we have gone through in building up a substantial network with the Vietnamese community is functioning at about 10 different layers at this point in time across that spectrum.

One of our Vietnamese workers who worked in an industrial setting would describe himself as a teacher, not a social worker, because no-one would come to him as a social worker. I said, 'Do you do anything different?' He said, 'No, I don't; I still use my skills as a social worker.' So that is the issue. If you are thinking Anglo, if you are thinking middle-class, if you are thinking people who have had a certain kind of education, and if you are thinking people who understand something about counselling, then the answer would be yes.

Part of the submission is about needing government to be able to do something at a macro level that helps people to understand what this is. There are nights when I do not sleep too well and I sit up and I watch late night television. I watch all of these people who are invited to ring other people on the telephone

and it goes on for hours. I think this is just about putting this person and that person together for whatever purpose. With the kind of work that we do, the dearth of information about that, against what is going on at that level, is huge.

**Ms Gribben**—I would like to add that there is a need for careful assessment because relationship difficulties are now complex, because the causes of the them are complex and because, to emphasise Rosalie's point, the middle-class have difficulty understanding what is going on and choosing an appropriate intervention. To fund organisations that are going to be able to look at this couple or this individual or this family as the unique couple, individual or family that they are, and make an appropriate assessment of what they need—it might be range of different things over time—is what is required.

**Mr BARRESI**—You would have heard Chief Justice Nicholson's comments about the role of the court and court counselling. I notice that you have made quite a few comments about that in your submission. You seem to support his view that there is a role for court ordered counselling but not voluntary counselling. I was taken by one of your comments—I am not convinced about the others—concerning security. I actually had not thought about that, but I must say I agree with you in that respect. Can you elaborate on some of the reasons why you believe there is a role for the court in counselling—putting aside the security aspect.

**Ms Gribben**—We have worked in partnership with the court since its establishment in 1975, so we have had a very long working relationship with them. We see it as a continuum. I was involved in the training of mediators and that included the training of Family Court counsellors and registrars in mediation over a number of years—all registries around Australia. I was also involved in the training of our own counselling staff—not just Relationships Australia, but other organisations—in mediation when it was being pioneered. I quickly became aware that the sorts of cases that were being dealt with in the Family Court are at one end of a very tough continuum. You might like to consider it as the couple who have just got into a relationship and are having the first difficulties through to the couple who have been fighting for 20 years and have been in battle for two years over their children and are now in the court. That is a continuum. It is appropriate to have the court offering services at that end of the continuum. People come into the court and they value the counselling. They also value mediation in court—

**Mr BARRESI**—You would be seeing clients at the other end of the continuum as well, wouldn't you?

**Ms Gribben**—We are, but we are offering them a complementary service.

**Mr BARRESI**—They may not have been ordered by the court; they could very well be coming to you voluntarily.

**Ms Gribben**—Yes.

**Mr BARRESI**—So how does it differ? If you are already seeing couples at both ends, what does it matter if you take on a greater role?

**Mr Campbell**—I was at one stage a counsellor in the Family Court of Western Australia and I am

aware that the Western Australian Family Court is different from the Family Court of Australia. One of the things that I think was important for us was that, first of all, we could respond to the court's requirements pretty quickly. Secondly, we had the support, the back-up, of other infrastructures within the court system that would not be available in a community organisation. Thirdly, one of the other things that is important to note is that often the kinds of clients who go to Family Court counselling are the ones who are at the end and have done everything else—it is a last-ditch effort. I think that you only get a one-off go at those people, so it is quite intensive. You have got to get them at that particular point in time or they go off the boil, as it were. You have got to really be able to get to them there and then. I think that is where the Family Court counselling service has an edge over the community organisations because they are there, they can do it then, they have the back-up, the infrastructure of the rest of the court, they respond more appropriately and they are more in tune, if you like, with the issues of what is going on within the court system.

**Ms Gribben**—I would like to make one other point. The purpose of our service is primarily geared to the relationship. The purpose of the Family Court service is primarily geared to the resolution of the dispute. That does not mean that we are not each doing a bit of the other. But that would be the primary purpose, I think. The only exception to that would be in the area of divorce mediation where we are offering a complementary service. But it is not a court ordered service, it is a voluntary service.

**Mr Hunt**—I am talking now as a mediator. When people come to us they need to be clear as to what it is exactly they are wanting. All too often they are wanting something that the mediation process for instance cannot provide. Now if they are seeking vindication at a public level, mediation certainly is not going to provide that. If they are seeking retribution, mediation certainly is not going to provide that any more than counselling will.

It comes down to an individual's basic need satisfaction. Some people need the court. That is the only way they are really going to get a resolution to it. It is fanciful to think that education is going to somehow or another change that kind of mind set. I have heard a lot spoken here today about education and its value perhaps in prevention of some of these difficulties. I think it is like a good bottle of red. You cannot hasten its maturation; it has to go through a process and it takes time. I think there is a place for the court for those people who have an incapacity to deal with it at the kinds of levels that education would assume that they could. Often there is something illogical going on and we cannot neutralise that with education.

**Mr BARRESI**—Picking up on the point that Kevin raised about compulsory educational intervention, you are not supporting that and I can understand that from a learning perspective at the pre-marriage end, but you have it here as well at post-marriage. I would say that, because of the nature of the male ego, often they will not come to counselling on a voluntary basis. There is enough evidence now to show—and we have had a number of people make these comments to us—that once they have been taken to counselling and dragged along screaming and kicking, often they do benefit from that. That was through compulsion and therefore surely there is a role for compulsory education in that post-marriage phase.

**Ms Gribben**—I can remember when compulsory counselling was introduced in 1961 under section 44. We are saying that has really been exceptionally counterproductive. It was just a waste of everybody's time really. We have a good very record at our organisation, and I am sure it is true of the others as well, that once one partner comes—and that is often the woman—the other one comes. It is an invitation; it is not

a compulsion. I think that that is still the way we should be proceeding. Although there may be some men who will respond to the compulsion, there will be an awful lot where it will actually be counterproductive; it will turn them off and sabotage it.

**Mr Melvin**—Could I make a comment on that? From the family violence point of view, the distinction between the perpetrated programs here in Australia and those in America is that American perpetrated programs are largely mandatory, that is compulsory, whereas the Australian experience is that we work on a voluntary basis. It requires two different kinds of programs. Your intervention and response to compulsory clients is very different from those who are there voluntarily. To mix them up leads to a very difficult outcome in terms of the education process, because you are dealing with two different sets of clients. If you are requiring people to attend a program with those who are there voluntarily, you are going to have a very different outcome.

**Ms Edgar**—And different learning sets, therefore the programs need to be designed in very different ways.

**Mr Hunt**—I would like to comment on that further if I could. The difficulty we often have in the kinds of clients that seek out Relationships Australia is to get people to get the necessary legal information or knowledge, considering we are working within the shadow of the Family Law Act. We have a difficulty in having people approach the legal system. Some time back legal aid had a program where they were suggesting that, before funding was available for legal services, people tried mediation. Those people were coming to mediation but in a sense they were seeking a legal solution not a mediated one or one that they worked out for themselves. They had the opposite problem. It was difficult to engage those people in the mediation process by comparison to those who were self-referred.

**Mr BARRESI**—I have two more questions. You are one of the few groups that has come before us and actually put gambling in your submission as one of the issues. I asked Justice Nicholson that question and it was more anecdotal evidence that Justice Mushin commented on. Do you have anything of substance in terms of backing up this proposition that gambling is in fact becoming an issue?

**Ms Gribben**—We are only starting to collect statistics and I have not got statistics for you. You will see from Relationships Australia's profile that we provide a break-even problem gambling counselling service for the Grampians region under our banner. We are looking to do some research on the interface between the impact of marriage and relationship difficulties leading people to gambling and vice versa, that is, problem gambling leading people to marriage and relationship difficulties. We think it goes both ways. That is our understanding.

**Mr BARRESI**—My concern is that gambling in Victoria has taken a high profile these days and a number of organisations have set themselves up in terms of doing research into gambling, the effects of it and the counselling side. All of a sudden we are going to have statistics generated and it is going to be compared against an era where there were no statistics gathered. Based on that, it is going to look as if there is an enormous problem. I am concerned about that being used as a ploy by the anti-gambling sector of our community.



**Ms Gribben**—Our concern is more the rapid expansion and promotion of it, rather than the fact that it exists. It has always been one of a number of factors that contribute, such as drug and alcohol addiction. There is a whole range of them. It is only one.

**Ms Hearne**—If you think of it as an addiction and put it into that bag.

**Mr BARRESI**—By that comment I was not siding with the gambling industry, but more in terms of let us be fair about it, objective and look at what the issues are.

**Ms Gribben**—The reason we put it in as an issue was simply that we wanted to indicate that it was one area where there perhaps was not enough research on what the rapid expansion and promotion would do to whole communities and to families. It was an example, but there could have been one of many.

**Ms Edgar**—Some of the welfare agencies are in a good position to give preliminary impressions in this area. I do not know if the Children's Welfare Association is submitting, but certainly they would have some information on the impact of gambling on families and some information on the impact of gambling on family relationships in a way that we perhaps do not yet have.

**Ms Hearne**—We have a Vietnamese unit in our agency and it is certainly a major issue for them. They are continually asking for training around this area. I actually sat here thinking, 'Am I going to say this because it is going to go on *Hansard*?', because the last thing I would want to do is to isolate that community and suggest that it is a special problem for them. We are trying to tease out questions such as: what are the migration issues, what are the traumas, what are the depressions, the unemployment and so on that are feeding into that, versus other factors. I do not know, but it is an issue.

**Ms Gribben**—It is more complex than just one thing.

**Ms Hearne**—It is more complex than just one thing.

**Mr TONY SMITH**—You mentioned before in the mediation session that you explore whether or not it is in fact too late. How is this done? What is the methodology to determine that? I do not want a dissertation on it, but basically are there just some basic points? For example, how could you possibly do that without having the legal consequences explained? You could not really do that, could you, because you are not qualified?

**Ms Gribben**—Some of us are qualified. About half of our mediators are legally trained and with family law experience, nonetheless they are not giving legal advice as part of their mediation process. But the way you would explore it would be to ask firstly, 'What are you hoping to achieve by coming to mediation?' And then they say 'Well, we are separated or we are about to separate.' And then you ask, 'Well, how did the decision to separate get made? Was it a decision by both of you or only one of you? If it is only one of you, what degree of acceptance of that decision is there?' If there starts to be some ambivalence in one or both of them, then that will be explored.

**Mr TONY SMITH**—What about financial consequences? Is that not a highly relevant matter which

would be part of identifying whether people really want to be apart?

**Ms Gribben**—What they have often come to mediation to do is to explore what will be the financial consequences. Michael can say something about this.

**Mr Hunt**—Firstly, a couple will often say, ‘This is the first time we’ve ever had a look at our financial situation.’ It is the first time the assets and the debts of the relationship have ever been known or discussed before, or the details of their income and expenditures. All too often the couple will say that, so it is quite educative in that regard.

A basic principle of any well-trained mediator is that they are sensitive and on the look out for a reconciliation of the relationship. So I think it ought not to be just assumed that a mediator will just assume that this couple are going their separate ways.

The other point is, of course, that most experienced mediators will say that only one part of an agreement might be agreed, but it is subject to the whole package. So a good mediator is going to suggest that the parties be well informed. That means that they have good legal advice, they know what the range of costs of going down the litigation path are, and they know what the likely outcomes are before they actually make their final decision. And the same thing then applies to the financial issues in that no decision is actually agreed until the total package is seen and has been thoroughly discussed.

**Ms Gribben**—We get a few coming who are not yet separated, who want to explore what it might mean and some of those decide not to separate and instead return to counselling. We have a percentage, but I have to say it is a low percentage of five to 10 per cent.

**Mr Hunt**—Yes, it is about that. So the therapist will send those people to us who want to explore the practical consequences: what a separation would look like in terms of the effects on the children; what the parenting schedule would be; who would live in the family home; what would happen to the other assets of the relationship; how and when they would separate. Those things would all be considered.

**Mr TONY SMITH**—And the cost of child support, one would think, as well.

**Mr Hunt**—And the cost of child support, all of that, absolutely.

**Mr TONY SMITH**—Invariably, in my electorate it is the man who is far worse off in terms of child support than the woman. Many women are far better off with a separation because of the support of the state and child support. And so, in a sense, there is inequality of bargaining power in a relationship that could perhaps be repaired. The state is saying, ‘I will support you and I will make sure that I get the money off him. So you are right.’ I think it is rather an unfortunate situation.

**Ms Gribben**—I am not sure whether that is the case, but what we have argued is that—

**Mr TONY SMITH**—What is the case?

**Ms Gribben**—We have argued that the Australian Institute of Family Studies should do a revisit post the Child Support Act, because I do not think we know enough about who is benefiting now in the new situation. My understanding was that the institute was looking seriously at doing that.

**Mr TONY SMITH**—I think no other issue in my electorate comes across my table more than child support.

**Mr Campbell**—That is true. I wonder whether financial gain or whatever really has anything to do with the actual separation. Is that what you are asking?

**Mr TONY SMITH**—What I am saying is that there are a lot of people who would not separate, surely, if the state was not there to say, ‘Here you are, here is a guaranteed pension and a guaranteed enforcement mechanism for maintenance.’

**Mr Campbell**—That should also be the subject of some research, but from my point of view there are other things going on in the relationship. Once the decision to separate has been made, then we talk about financial considerations. It is a bit chicken and egg-ish, but, from my own experience as a practitioner, it is more likely that other variables within the relationship lead to the separation, and then financial issues come up because the partners now live separately.

**Mr TONY SMITH**—Do you expend resources on same sex couple counselling?

**Ms Gribben**—Do you mean homosexual and lesbian relationships?

**Mr TONY SMITH**—Yes.

**Ms Gribben**—We see some, but they are very few: only about one per cent, or so.

**Mr Hunt**—We do see same sex couples in mediation.

**Mr TONY SMITH**—It is a very small percentage, across the board?

**Ms Gribben**—Yes.

**Ms Hearne**—Some of them have children. Often the themes are the same and the issues are very similar.

**Ms Gribben**—Yes.

**Mr TONY SMITH**—In matters of general financial issues: as far as people coming to your organisation and seeking counselling—leave aside the mediation for the moment—how do you determine their level of contributions? They do not all pay the same, do they? They have different levels. How do you determine that?

**Ms Gribben**—We all do it a bit differently, but it is based on a sliding scale according to family income.

**Mr TONY SMITH**—How do you determine their income?

**Ms Gribben**—We ask them.

**Mr TONY SMITH**—Is that all it is?

**Ms Gribben**—It is an honour system. There is nothing else we can do.

**Mr TONY SMITH**—That is a little loose, having regard to the fact that you are spending public money.

**Ms Gribben**—We actually find out about their finances in the course of the mediation, and we occasionally find out that someone has understated their income, in which case we attempt to renegotiate the fee. But most of us would be concerned that our fees were too high, rather than that they were too low. We constantly feel that we are asking people to pay more than they can afford, rather than less than they can afford.

**Mr TONY SMITH**—They will always understate their incomes though. That is the experience of legal aid, anyway.

**Ms Hearne**—It is an interesting observation, because if you have a couple in the room and you hand them the sliding scale and they have not had any opportunity to look at it, it takes a pretty bright couple to quickly do the footwork necessary—they have to look at it together and think about it together and they usually go up and down and decide where it is. They are usually people in pain and I am sure there is probably some who deceive but—

**Mr TONY SMITH**—It seems to be a very loose thing, nonetheless. Everyone going to legal aid generally has a dramatic matter going on, but they frequently understate their income. When it comes to public moneys, and that is an area that we are looking at, that could be looked at a little closer.

**CHAIR**—The allocation of the funding which began with the justice statement and is now continuing in the round of funding which was announced in the latest budget is based on the identification of regions, by the department, which are said to be lacking in services. I have not yet heard from the department how they identified those regions, but leaving what they did aside, I would be interested in your comments about the efficacy of that means of doing it. It seems to me that there is some artificiality involved in that, namely that, particularly in metropolitan areas, it is fairly difficult to say that we are going to deal with a group of clients between X road and Y river.

**Ms Gribben**—We will both make a comment on that first, and then others might like to. I have welcomed the LAFS needs based planning. I think it has introduced some rationality into what was previously not terribly rationally based funding at all. One thing I have noticed is that, for example, at our

Kew centre about one-third—somewhere between 25 and 33 per cent—of our clients come from across the Yarra from the northern suburbs.

If we opened a counselling service in the northern suburbs, where there is only a tiny Anglican one—there is practically nothing in the northern suburbs—I would be amazed if that changed, and yet I know that that new service would be swamped. We have proved that time and time again. There are some people who will travel out to a service. Some people will have difficulty in travelling certain distances. Geographical positioning can be a barrier to a lot of people.

**Ms Hearne**—There are assumptions about people choosing an agency because it is within the geographic region that they live in. If both people are working, then they are most likely to choose an agency that they can both get to from their work. Those kinds of issues are much more complex than putting geographic boundaries in there.

**Ms Gribben**—It is important to make sure that there is a demand and an appropriate level of service reasonably spread around, acknowledging that these are specialist services not general family counselling, so you cannot have them as available as you might have other services. But I would argue for that.

I know that there was an enormous amount of research went into the needs based planning. Nonetheless, they had limited information about what state based funded services were available. That was not integrated into it and it would be very useful to have that further refined.

**CHAIR**—Thank you. Thank you all for coming along today and discussing these matters with us and for your submission. It is proposed that the exhibit received today be accepted as evidence to the enquiry. There being no opposition, it is so resolved.

[1.02 p.m.]

**DUNS-LOWE, Ms Angela Audrey, Team Leader, Family Education, Bethany Family Support, 1 Gibb Street, North Geelong, Victoria 3215**

**GIGGINS, Mr Frank Stephen, Coordinator, Relationship Education Program, Bethany Family Support, 1 Gibb Street, North Geelong, Victoria 3215**

**CHAIR**—Welcome. Although the committee does not require you to give evidence under oath, I should advise you that 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 No. 103. Are there any changes or amendments you would like to make to that? If not, I invite you to make an opening statement to the committee.

**Ms Duns-Lowe**—We have no changes but we will make an opening statement. We appreciate the opportunity to speak to the committee about this inquiry. I will just clarify who we are and where we come from. Bethany Family Support is an independent, non-profit organisation with no political or religious affiliations. We offer a range of professional family services in the Geelong region, which is a rural area in Victoria.

We have the philosophical base whereby we like to assist family members to value their strengths and skills, and overcome difficulties and make choices for their futures. The programs that we offer include family counselling, relationship education, parent education, emergency housing and support, in-home family support, case management services for people with intellectual disabilities and their carers or families, problem gambling counselling and community education. So we speak from a broad base of interaction with families in the region and quite a high level of consciousness of some of the issues that affect them.

In our submission, we have acknowledged the complex contributors to relationship breakdown and we have outlined a number of areas that collectively reflect some of the issues affecting relationship formation and ongoing relationship development. We have noted patterns of relationship formation and how they are changing. In our fairly recently developed relationship education program—it began in June this year—we have noted that 64 per cent of couples coming into that program, who are living in a current relationship, are in de facto relationships. So that reflects some of the changing structures.

We have also noted a trend away from religious based services and ceremonies. In fact, I think the current change between civil and religious ceremonies is 50 per cent. Almost 50 per cent of people referred to relationship education courses at Bethany are separated or divorced. They are often looking for support to help them deal with this and sometimes it is up to 10 years after the separation has occurred. So that is a strong presenting issue in relationship education.

We have also drawn out the impact of the cost of living for couples and how that has put demands on families and impacted on relationship breakdown. It often means that families feel some obligation for dual income and that that limits the amount of time they can spend together. Out of all the couples who have

attended relationship education programs so far, a common complaint is that they just do not have time to pursue minimum relationship requirements or even to fulfil some of the tasks that are set. It is a constant theme. That may be about how they prioritise their time but, for many of them, it is a very real and valid challenge.

In relation to that, we would raise the role of the media and suggest some active strategies to challenge the prevailing culture around the priority of relationships. In fact, quite often the media can portray the opposite. We have also raised the related issues of couples coping with differing roles and expectations in some of the structure shifts in our society and the need for access of families to flexible and accessible support services, given some of these shifts and changes in a social context.

We have also raised the issue of some of the changes in the traditional family structures and that sometimes there is an undermining, or devaluing, of women who choose to stay at home. We have also identified the people whom we see as most vulnerable or at risk in relationship breakdown, and Frank is going to address that.

**Mr Giggins**—We have seen the issues associated with relationship breakdown of themselves are not related to a particular homogeneous group. But we have picked up that families on low or limited incomes are particularly vulnerable in that they do not generally have the same level of resources in accessing appropriate supports, particularly around counselling when that is required. They are struggling with the constant pressure of trying to make ends meet, which does not always facilitate, or is conducive to, strengthening and developing positive family and couple relationships. So there is an increase of dissatisfaction, resentment and lack of security within many families on lower or limited incomes.

We also identified young people as another group particularly at risk. Given that they are forming patterns for future relationships, the models that are available to young people considering the notion of resilient, enduring relationships are not always readily available. Young people particularly are also very vulnerable to the kinds of images portrayed throughout the media with regard to their notions of what constitutes good, effective, positive relationships. So we felt that they were a group that were at risk.

We also identified couples who are entering marriage and the post-marriage period—up to 10 years after marriage. Looking at some of the statistics around the deterioration of marriage within that period, we felt that that represented a priority group requiring a lot more post-marriage supports over that time, particularly dealing with couples looking at forming families and entering into mortgages with increased financial commitments. That was a period of increased pressure and there needed to be identification of those issues for families and appropriate supports provided for them.

Couples remarrying or entering step-family situations with the complexity that presents for families need appropriate supports, both in preparing for what entering into a new family situation will mean and also in ongoing supports after the formation of a step-family relationship. We also identified the needs of other select groups, such as people from non-English speaking backgrounds, who proportionately do not represent a high rate of participation in either marriage education or relationship counselling.

People with disabilities and particularly, from our experience, people with intellectual disabilities or

hearing impairments need select and particular processes of intervention and support. With homosexual couples there was not a high proportion of participation and there was some question about how well people from a homosexual relationship would integrate into mainstream supports, particularly relationship education programs. So there may be groups in the community that require particular interventions and supports that are more culturally relevant to where they are at.

We moved on in our submission to try to look at possible strategies of what we can do. This has been built on our belief in the importance of supporting the positive development of relationships and families as the cornerstone of our community, and the need to acknowledge some of the issues that are impacting on families and determine some strategies by which we can address those issues.

The first area that we looked at is the importance of some congruence between the development of affirmative family policies which strengthen and support family and other areas of government policy. Particularly we identified the importance of family infrastructure, infrastructure that supports families. I guess we are reacting there to the loss of relevant family infrastructure in the closure of schools, kindergartens, child maternal health centres. The rationalisation of that community infrastructure ultimately has an impact on family support and family cohesion and it may mean additional demands on families, which ultimately places additional pressures on family relationships and couple relationships. So there needs to be a close assessment of the impacts that those changes have on everyday family life.

We felt that the government indeed has a key role in shaping the framework in which families live and operate and that there need to be policies in place which give families access to the kinds of security that they require, and particularly relating to the need for a buoyant and sustainable growth in our labour market. We are also looking at equality within our taxation system that acknowledges the burden for families.

We identified for many families the importance of dual incomes, but the issues that that raises for families in trying to balance work and nurturing of family life. It demands, we believe, within the area of industrial policy that there are, I guess, family friendly working environments that take into account the needs of parents and the needs of relationships, but also seeing the net cost-benefit for industry where you have employees that are operating from a positive, effective and healthy family environment.

We identified the need for preventive program approaches, and I guess we would concur with some earlier statements that I overheard, that positive intervention at an early stage is far preferable than trying to deal with issues that have become entrenched at a later stage. More resources and a focus on appropriate preventive programs we believe are quite critical. In that, we believe that the funding of peak resource bodies is also important. Particularly as an agency operating in Geelong, we value highly the opportunities that we have to network with other agencies both here in Melbourne and across the state. It has been very important for us to be in a position where we can learn from the experience of other service providers, that we can participate with other service providers in our staff support and training opportunities and to compare best models of practice in delivering our services. So we would believe that that needs to be strengthened and upheld.

We looked also at the role of government in terms of the legislative and regulatory controls and particularly as it relates within the Marriage Act, the role of celebrants. We felt that obviously for couples



who are entering into marriage relationships the role of celebrants is quite critical in linking couples into particularly pre-marriage education. But we felt that perhaps the regulations that refer to the responsibilities of celebrants in that way could in fact be strengthened so that we could perhaps address some of the barriers that seemed to be apparent which restrict or prohibit couples taking greater opportunity of participating in pre-marriage education in particular. We also saw that relationship education was a critical part of the life development process and therefore appropriate relationship education needs to be offered at various stages throughout the life stage development and pick up particular relationship issues.

Another point that we identified is that program development needs to be flexible and responsive. Whilst we support the development of best practice models of program provision, we felt that that should not stifle innovation and creativity. We felt that that should be encouraged as an important feature of program development and program provision.

We thought that there could be far greater utilisation of the opportunities that schools present in trying to target appropriate relationship education for younger aged people and, particularly, where young people are not exposed to positive models of relationships, there needs to be more education provided for young people in the skills required to develop positive relationships which, hopefully, they can take on further in their own lives. We also thought that school communities offer a positive opportunity for contact with families and parents of the children involved, once again, to offer relationship education supports and other sorts of family supports.

We raised the particular needs of rural or geographically isolated people, and that is a particular interest that we had. Often issues of personal privacy, isolation and restrictions in resources become significant factors for people living in isolated rural communities. We thought that the possibility of a creation of a model of a regional family support resource centre may be one mechanism by which more isolated people could tap into appropriate resources and supports.

We felt that the provision of relevant support and education based programs needs to be strongly couched in principles of social justice so that there was some sense of equity, access and participation for all people in the community. We felt that the access to appropriate marital and family counselling services needs to be increased. For instance, in the area in which we operate in Geelong, there is currently one approved counselling service, and we find quite often that there are extensive waiting lists and waiting periods for people to access that counselling service. The fees charged by private counselling agencies are often a prohibitive factor for couples accessing alternative services. So we felt that there need to be some additional resources directed into that area.

**CHAIR**—Thank you very much. One thing that I am interested in is this: having started a new marriage and relationship education service, how have you gone about attracting clientele to that service? What are some of your experiences of that? Are there particular difficulties? Are there things that could be changed that would make that easier, given the overall attendance rate of about 20 per cent of couples getting married? After all, you are someone who is starting out afresh in a particular geographical area which has certain parameters that can be defined.

**Mr Giggins**—It certainly has been a very interesting experience. We have found that initially we have

had to put large amounts of resources into the promotion of the program—the fact that it is available for couples and what it offers. There is often a misconception around relationship education that it is for couples with problems and not necessarily for couples who are looking developmentally at their relationship in order to develop skills to enhance what may already be a positive relationship.

We have also identified the importance of mainstream media in getting that message across. That is another aspect we raised in our submission. We felt that the use of media in changing people's perceptions, in giving them the information about what is available and picking up particular relationship issues is critical. We have found that, with increased rates of referral, most of the people now coming into the program have heard about it through advertising in the mainstream media. So that link in promoting what relationship education is about and what the programs are through the media becomes quite important.

**Ms Duns-Lowe**—We are also in the process of looking at a project worker to address some of the specific needs of particular target groups. At the moment we are attracting—even in the early stages—mainstream participants. That promotional phase has been quite successful and we are now looking at the possibilities of attracting those select target groups and at processes to make that happen more effectively.

**CHAIR**—You raise in your submission the possibility of extending the notification period from the current limits. Do you see any problems with that? Let me put to you the contrary view that was put this morning by one of the civil marriage celebrants who, without overstating his argument, was virtually saying that we should not have any notification periods at all because, in some cases, couples fly to New Zealand because they want to get married tomorrow. That was the contrary view and I am interested in the reasons you would give for extending the notification period.

**Mr Giggins**—We are endeavouring to try and work with people looking at getting married, and creating an opportunity by which an extended period may lead to couples taking some more considered steps towards preparation for entry into a marriage relationship. Extending the notification period of itself is not going to achieve that. But extending the notification period and strengthening the role of celebrants in linking that to appropriate relationship education and preparation programs, or other kinds of supports, becomes quite critical. I would say that the extension of notification is not of itself going to achieve a great deal unless it is linked to a strengthening of the role of celebrants and the availability of relevant programs.

**CHAIR**—Presumably, in establishing a new program one of the things you have done is gone out to celebrants and notified them of the existence of the program. I am interested in any observations you may wish to make about the attitude of celebrants. Could I ask you about not only the attitude but also the practice in terms of referrals.

**Mr Giggins**—It has been very mixed. We have had a small proportion of celebrants being very supportive, very interested and, in some instances, taking the initiative to say, 'How can we work together in using the resources that your program has to offer?' That has been very positive. With by far the large proportion of civil celebrants we have had very little response at all, and with the church-based celebrants we have had a fairly mixed response. I think that can be partly attributed to the celebrants already utilising programs that relate to their own denominational structure, or they take responsibility for their own marriage preparation with the couples that are coming to them, or the issue is not seen as terribly relevant, given the

proportion of couples that they are actually marrying.

By and large, the comments back from most of the church based celebrants have been very positive and supportive, but our linking with them has been quite limited. I am particularly interested in the role of civil celebrants. At this stage a very small proportion has actually been supportive of the program and can see the value and importance of the program for the couples that they are marrying.

**Mr BARRESI**—I was impressed by the exhaustive list of reasons why we are having breakdowns these days—the social trends and changes impacting on marriage and family breakdowns is fairly exhaustive, particularly when we look at things such as a multicultural society, the creation of a social environment marked by individuals, competition and co-habitation. I do not want you to comment on any of those. I just thought it was very interesting to see some of the ones that you have listed.

The one that I have picked up on is co-habitation. You mentioned that 64 per cent of those who attend Bethany had been through some sort of co-habitation phase in their relationship. I am surprised by that. I would have thought that co-habitation may be a substitute for pre-marriage education to some extent—you try it, you sample it, you work out whether you can work together or not and if you do then you get married—but you are saying that there is still a breakdown that takes place. Why is that the case? Or are the ones that are seeing you not breaking down but simply coming for relationship counselling?

**Ms Duns-Lowe**—It is relationship education.

**Mr Giggins**—I think there is sufficient evidence to indicate that co-habitation does not necessarily lead to, I guess, a process that provides a stable relationship. The couples that we are seeing are already in a de facto relationship and it may well be that that relationship is functioning quite well. But, generally speaking, co-habitation is seen as not necessarily contributing to the development of a positive relationship. Quite often, particularly for couples that have co-habited and then moved on to marriage, it is the case that the couple has reached the stage in their relationship where problems may be evident but the course that the couple chooses to address those problems is to say, ‘Let’s marry,’ believing that will somehow fix them.

**Mr BARRESI**—It is like saying, when we have problems, ‘Let’s have a child. That may fix the problem.’

**Mr Giggins**—That is a fairly common part of the process—instead of saying, ‘Look, there are issues here that marriage, in fact, is not going to fix and we need to identify those issues and take more appropriate action that addresses the particular issues that are evident in the relationship.’

**Mr BARRESI**—Thanks for that. Looking at the impact of government policy, particularly strategies, you talk about working out strategies to strengthen family marital structures on the one hand and you mention the closure of kindergartens, et cetera, on the other. I guess that is a comment about the current scene in Victoria at the moment. But marriage and relationship breakdowns were occurring even in the pre-Jeff Kennett world order. I am just concerned that you may be trying to link the impact of government policy in terms of what is happening out there at the moment with a solution to overcoming relationship breakdowns. I do accept your proposition that it needs to be assessed and looked at, but no more than that at this stage.

**Ms Duns-Lowe**—I think that is the primary point: that it does need assessment because the long-term impact of that is still not clear. I guess what we are seeing, both through family counselling and the education programs, is the anecdotal impact of that. We would like to see that assessed carefully.

**Mr Giggins**—All we are saying is that we believe there needs to be some congruence between economic policy and social policy. We are certainly not implying that that is a contributing factor to marriage and family breakdown—and that needs to be closely assessed—but we are saying there needs to be some congruence between them.

**Ms Duns-Lowe**—Some awareness, yes.

**Mr TONY SMITH**—It is probably putting it a bit too simplistically, but it would seem that 50 per cent of couples were meant to marry and 50 per cent were not. Should we not be targeting the 50 per cent who should not have married? We should load the front end rather than load the middle and back end, as we seem to do now?

**Mr BARRESI**—Which 50 per cent are you in, Tony?

**CHAIR**—How do we identify the 50 per cent?

**Ms Duns-Lowe**—Yes, that is the tricky part.

**Mr TONY SMITH**—Putting it another way: if people had the right counselling, they would not marry. They would know intuitively—

**Ms Duns-Lowe**—They may not marry.

**Mr TONY SMITH**—Let me put it another way: they may not marry and therefore you may weed out 25 per cent of that 50 per cent, which would bring that \$3 billion figure back enormously.

**Ms Duns-Lowe**—That is a very strong argument for pre-relationship education and some of the formal processes that are set up to screen quite objectively some of the factors that are going to make relationships work on a long-term basis. That is the strong link towards integrating celebrants' awareness of the value of pre-marriage education. We would agree that that is a strong area.

**Mr BARRESI**—In a submission we had this morning, celebrants said that they do not want to see themselves playing a counselling role in pre-marriage education.

**Ms Duns-Lowe**—I meant through referral to pre-relationship education courses.

**Mr TONY SMITH**—Backing up Phil's point, I get the drift from you as well that perhaps of the two branches of marriage celebrants it seems that it is more likely than not that the religious celebrants have either a program or some training, whereas celebrants, it seems, can get their badge reasonably easily and go out and start marrying people willy-nilly. We seem to have a lacuna in the system, do we not? Do you think

that area has to be addressed a little further?

**Ms Duns-Lowe**—Absolutely. I do not think we actually raised it in the submission, but perhaps there could be some kind of ongoing professional development required to maintain registration as a celebrant. It is something we have certainly discussed.

**Mr TONY SMITH**—I find it almost horrifying to learn that some people are making a living out of this. I am almost certain that when Senator Murphy, as he then was, introduced that concept it was never intended to be an occupation.

**Mr Giggins**—One of the issues that we have discussed with some of the celebrants in terms of their reluctance to be a little more proactive in encouraging couples into pre-marriage education is that they do not want to jeopardise the financial interest that is there for them if the couple chooses not to want to pursue that course of action. The celebrants quite clearly will not push the issue of pre-marriage education with couples if it is going to undermine their financial interests as a celebrant.

**CHAIR**—I think you were here when we had the discussion with the previous group about compulsion. I must say I was not convinced by the argument against compulsion. When you have celebrants officiating at the weddings of something like 50 per cent of the population and when, out of their own mouths but also on the statistics available as a matter of fact, they refer very few couples to pre-marriage education—if we accept that there is an advantage in all of this, whether it be an advantage in terms of the avoidance of emotional trauma or the enhancing of healthy relationships or just trying to reduce the \$3 billion a year that society has to pick up when people demand government intervention when things go wrong—why shouldn't we say that the very least we expect of them, if they are going to get married, is their attendance at one of their programs or the equivalent?

To get a driver's licence, you have to go through more. In fact, as I recall, in Victoria you now have to give 12 months notice to get a driver's licence. So with something as mundane as a driver's licence, we virtually require a person to go to a driving school and to give all of this notice, yet with something as life changing as marriage, we say we are not worried. That is a longwinded way of asking where you stand on compulsion.

**Ms Duns-Lowe**—On the fence. It is something we have certainly talked about quite a lot. Do you want to comment on that hard issue, Frank?

**Mr Giggins**—We have not taken that position and I guess we have not taken it more from the aspect of the outcomes of adult education. It is preferable that people enter into the process of education and skill development from a voluntary basis, and we know the difficulties involved in that. We know that people are very reluctant and reticent about entering into that process but, in terms of outcomes, it is probably preferable. We also know that, statistically, from the evaluations that have been done on pre-marriage education, even though people are quite reluctant to begin with, they can identify tangible positive outcomes in participating in those programs.

I guess we have not gone the step of saying that these programs should in fact be a mandatory part of

the process towards marriage but we feel that there may be some mechanisms that could be employed to at least strengthen the encouragement to couples, rather than taking that further step. It is probably preferable for couples to make, and feel empowered to make, some voluntary decisions about how they can see this as having some inherent value to them in their future relationship so that they own the process rather than having it imposed on them.

**Mr BARRESI**—Apart from subsidising their pre-marriage education, how would you do that?

**Ms Duns-Lowe**—I think it has a lot to do with marketing and putting resources into media. Some of the campaigns that we have had over recent years—the TAC and also the violence is ugly campaign—have had demonstrable responses whereby people have actively sought support services and have actively made behaviour changes. That is a very costly way to go but we believe it would outweigh and counterbalance some of the costs of breakdowns. Just challenging the culture and the beliefs and myths around relationships, and the value of learning skills before it gets too late is, I guess, one way to go.

As we have mentioned, there is also the issue of training celebrants and educating them about the value of pre-relationship education and linking it in such a way so that they understand that it will not undermine their income or financial benefits. There need to be some changes around those levels, and particularly challenging the culture about relationships in the media as it is presented.

Some of the messages in the media about the boringness of long-term relationships are extraordinarily powerful. I read an article recently in the *Good Weekend* about an actor. The comment was made that he has been married 30 years and has two adult children and then the comment after that was that that was about as exciting as a sponge cake without icing.

The message is that long-term relationships are boring, unexciting. That is what happens on a lot of the soaps and we cannot really tackle that. But I think it needs an active campaign to challenge some of the beliefs and myths and some of the values that are out there and that the media perpetuate all the time: constant transient relationships and constant romanticising of the transient relationships—of course, there is romanticising of marriage too, I guess, and long-term relationships—rather than picking up on some of the realities of long-term relationships and framing those in positive and constructive ways. They are some of the strategies, I think.

**Mr BARRESI**—Did you read or hear Senator Nunn's speech—Senator Nunn is from the US Senate—back in February this year?

**Ms Duns-Lowe**—No.

**Mr BARRESI**—He gave a speech at a Clinton function. A reporter asked him at the end, 'What's been your greatest contribution or achievement after 25 years in the Senate?' I think it was 25 years. His answer was, 'Keeping my marriage together and raising my children.' At that, all the reporters laughed and scoffed at him.

**Ms Duns-Lowe**—That's right. That is what we are dealing with.

**Mr BARRESI**—That sort of story, that sort of role model, is—

**Ms Duns-Lowe**—Laughable.

**Mr BARRESI**—That is right. It is laughable rather than celebrated.

**Ms Duns-Lowe**—Yes, that is right. I think that really needs to be challenged—in constructive ways.

**CHAIR**—Thank you very much for coming along today. Thank you also for your submission, which we will take note of. The suggestions that you have made in it will help us in our deliberations and in coming forward, I hope, with some recommendations.

### **Luncheon adjournment**

[2.06 p.m.]

**BLANDTHORN, Mr Ian John, National Assistant Secretary, Shop Distributive and Allied Employees Association, 5th Floor, 53 Queen Street, Melbourne, Victoria 3000**

**CHAIR**—I reconvene this public hearing of the Legal and Constitutional Affairs Committee inquiry into family support services, and I welcome Mr Ian Blandthorn. Although the committee does not require you to give evidence under oath, I should advise you that 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 are in receipt of your submission, which is submission No. 28. Is there anything in that submission that you would like to amend? If not, would you like to make a brief opening statement to the committee?

**Mr Blandthorn**—There is nothing in the submission that we would wish to change in any way. We approached putting the submission together firstly on the basis of considering that it was important that the committee not look at the terms of reference per se, but try to look at them within a broader framework. It seemed to us that only half the contents of the terms of reference would be dealt with in dealing with the terms of reference as such. We felt that it was also important for the committee to take a broader, longer term, deeper look at some of these issues, because in our view there are not only short-term issues involved but also very much long-term issues. That is why we stated in our submission from the point of view of saying that there are certain fundamental principles which we believe should guide the committee and help form a framework for the committee in its deliberations.

We set those out in our submission. They go to the issue of a standard of living consistent with human dignity as a fundamental right of all people. Poverty is abhorrent and completely unacceptable. The family is the fundamental group unit of society and should in fact receive strong support from governments and parliaments to carry out its functions. All families are entitled to respect for the various choices they make in respect of work and caring for the family members. It concerns us that often in this day and age that is not the case: that, to use a political cliché, there is a politically correct view about what is appropriate for members of families to do or not do. In particular, those families who choose to have one parent at home on a full-time basis are often denigrated and, indeed, held up to ridicule. We think that is wrong.

We do not think it is beyond the terms of reference of this committee to address those sorts of issues. We think there should be easy access for all families to the various types of support open to them and we believe that all support provided by governments, direct and indirect, should be on the basis of need.

When we looked at the terms of reference of the committee, it seemed to us, as we set out in our submission, that there were four fundamental issues that affected the functioning or led to the dysfunctioning of families. They can be summarised as financial, communication, health and unfriendly workplaces. We do not think it is coincidental that in this day and age the largest single group living below the poverty line are in fact single income families. We do not think it is coincidental that the rise in unemployment in recent years has also been accompanied by an increase in the overall work force participation rate. We believe that that very much has arisen from the fact that more and more families are in the position of needing two incomes to survive.



When we looked at the issue of those most likely to benefit from preventive strategies, it seemed to us that there were two groups in particular that the committee should be concerned about: firstly, those entering into relationships; and, secondly, those responsible for maintaining relationships. We were concerned, when we dealt with the issue of strategies, to suggest to the committee that, as I said earlier, a long-term as well as a short-term approach should be taken. That is why we have gone to some length in our submission to talk about the need for a national family policy.

We would suggest that a national family policy should be something supported by all the parties in the parliament and it is something that we would like to think could be formulated on a bipartisan basis. We do not see a great value in a national family policy that changes every time the government changes or every time electoral factors impinge upon it. We would like to see all the parties in the parliament commit themselves to working together to achieve a national family policy. We think that is fundamental to dealing with the sorts of issues that are the subject of the terms of reference of this committee.

We would like to think that a national family policy that might be established should be enshrined in legislation. It should encourage respect and support for families and for the various functions of families. It should provide a basis for governments to ensure that in their actions they do not undertake or initiate or support those things which would undermine families. We have suggested in our submission that a national family policy would address issues such as strengthening the support of families and marriage and the value of marriage as the fundamental underpinning of families, effective education for marriage and parenthood and continuous education for family life and recognition of the contribution to the gross domestic product of persons who choose to be full-time homemakers.

On a shorter time frame, we believe that the issue of financial support for families continues to need to be addressed by governments. We point out in particular that it is large single income and low income families that are struggling to make ends meet. At a similar income level, the larger the family the more likely that family is to be close to or below the poverty line. There have been various attempts by governments over the years to address that but the fundamental problem still exists.

The second issue that we have addressed is that of family counselling. We think, and we would encourage the committee to think, that young people marrying for the first time or entering into relationships for the first time should be able to undertake some sort of education process that allows them to have some idea what the future holds for them. We supported the coalition's decision to increase funding in this area but we still believe that that is an area that is grossly under-funded.

We have also given strong support to the concept of providing this type of education to students in the secondary school area. We think there is an important role for governments to support organisations providing education to secondary school students about marriage and families and relationships generally. And again, organisations attempting to do that, and often doing very good work, are grossly under-resourced in attempting to do it.

If the government was to provide or increase funding in these areas, we would suggest that it should be done under strict guidelines. Those guidelines should go to the issues of providing funding only to those organisations which are supportive of families and family relationships. We want to emphasise that we think

that overall funding in this area needs to be greatly increased. We do not think it is of great value, it is better than nothing but it is of no great value simply to rearrange the deck chairs. Unfortunately, while funding in some areas was increased in the last budget, in other areas it was decreased. We would like to see an overall increase of funding to these areas.

The final area that we addressed was the issue of unfriendly workplaces. We do not believe these days that you can draw a clear line between work and broader social relationships. Whilst we understand a lot of this area is beyond the terms of reference of this committee, we do suggest that support from this committee for international conventions and covenants that the Australian government and the states have committed themselves to is not beyond the terms of reference of this committee. And support from the government, for example, for ILO convention 156 which deals with workers' and family responsibilities, would certainly strengthen families and help workers who have got to balance work and family responsibilities.

**CHAIR**—You make the point about the need for a national approach to families. Given that support for families is—and excuse the pun—a motherhood statement, that all political parties to some extent support families and you often see election initiatives that are aimed at that object, what I am curious about is why we have not had a national family policy given that background. Do you have any comments about that?

**Mr Blandthorn**—One of the problems in this area is that all political parties tend to look at things in a very short-term way. Perhaps the time has come when parties need, apart from looking at the next election, to look at a longer term basis. Instead of introducing something that they think is a quick vote getter for the next election, they should look at longer term fundamentals. If the parties were prepared to look beyond the next election then I think there is some chance of achieving it. Unfortunately, we have not had that.

**CHAIR**—Do you think that there is any real chance of bipartisanship in relation to a national family policy?

**Mr Blandthorn**—The attempt has got to be made. If we do not try, we really do not know. Compared with a decade ago, there has been significant movement by both major political parties in this area. A decade ago families were not really on the agenda in terms of elections. The fact that, as you said, at least now parties recognise they have to address the issue is a recognition that times have changed and families are important, and people do vote according to the needs of their families. I think the time is better and more opportune now than for some time in the past.

**CHAIR**—The other thing I am interested in in relation to this is that it seemed to me that the 1960s and 1970s in particular were decades of an increasing focus on the individual, maybe into the 1980s as well—I am not sure—but at least for some period of time. Do you detect that there is any change away from that and back towards a greater sense of communal institutions, whether they are families or organisations in the community, given your union has got a very large membership and therefore presumably you have a considerable sense of what those people are thinking? Has there been any change there?

**Mr Blandthorn**—I think there has been a very fundamental change in the community in terms of the attitude towards families, not necessarily in terms of attitudes towards community organisations. But in the 1960s and 1970s, and, I suspect, at least in the earlier part of the 1980s, 'family' was almost a dirty word.

Now that has changed, and that is why I said before I think the time is more opportune now than for some time in the past. We have not rediscovered the 1950s—I am not suggesting that—but I do think that there is a general view out there in the community and a general concern about family wellbeing.

**CHAIR**—Just one last point from me, and it is a specific. You say, in terms of a national family policy, it would address the following matter: the return to accountability for human behaviour in divorce legislation. I would be interested if you could elaborate on that.

**Mr Blandthorn**—Again it goes back in part to your previous question in that in the 1970s the whole issue of accountability effectively went out the window. Now we are not suggesting that we ought to return to the old situation pre the introduction of the Family Law Act, but what we are suggesting is that perhaps we have gone from one extreme to the other and that perhaps we ought to try to move back a little bit towards a middle ground and recognise that, whilst it may not be the sole factor, it is a factor that ought to be taken into account, particularly when issues like property settlements and so forth are being considered.

**CHAIR**—Do you think there is community sentiment for that sort of move?

**Mr Blandthorn**—I think, if it was handled sensitively, there is support for that sort of move.

**Mr BARRESI**—Mr Blandthorn, you mentioned—as have one or two other submissions today—the significance of making workplaces more family friendly. Can you tell the committee what the SDA's experience is in that regard and whether or not through the union's work you can actually point to some successful examples?

**Mr Blandthorn**—What we mean when we talk about family friendly workplaces is that workers have to balance family responsibilities and work responsibilities. It goes back in part to the point I made earlier that increasingly we have dual income families. More and more families are in the position where they cannot survive on one income; so roster arrangements, family leave arrangements and parental leave arrangements that on one hand address the employers' needs but on the other hand also take into account the commitments that workers have beyond the workplace are very important.

Now my organisation is involved, like all other unions, in enterprise negotiations with various retail companies. One of the things that we have done with a number of large retailers is negotiate arrangements for paid family leave, and most major retailers are now providing, in addition to parental leave and sick leave on a negotiated basis, an agreed basis between us and them, paid family leave that allows workers the flexibility to have time off to meet particular family emergencies and crises and needs that arise. We have also been able in a number of cases to negotiate enterprise agreements whereby companies have committed themselves to try and ensure that in roster arrangements they address the family needs of workers as well as their own needs to have staff on deck at any point in time.

**Mrs ELIZABETH GRACE**—I have a personal theory, and I do not know whether you think it is workable or not, but I feel that unions should take more responsibility for their members. Listening to you today, this is probably one area where they can take more responsibility for their members. Do you think it is feasible and possible to set up some sort of counselling service based on your union organisation where your

members could use that counselling service for the pressures, for the tensions, that come within families and come within relationships, even to the stage where they could be using that service right up until, if necessary, having to go to court? Do you see that as a possibility within your organisation?

**Mr Blandthorn**—To some degree we have already done that, and we have been doing it for quite a number of years. On a referral basis, we have been using certain organisations to provide counselling advice to members on a whole range of issues. So, yes, I think it is more than feasible. I think it is certainly open for unions that want to do that to do it and, as I say, we have done it on quite a major scale and a lot of our members have utilised those sorts of services.

**Mrs ELIZABETH GRACE**—Yes. As I say, it is just a personal thing that I would like to investigate and pursue a little bit further because I feel that it puts unions in a better light as not being the aggressor too. People always say—it does not matter what organisation you belong to—‘But they never do anything for me’, and these types of things will provide something, and something tangible that members can hang onto and say, ‘Yes, but this is available if I need it’, that type of thing.

**Mr Blandthorn**—We were probably one of the first unions to set up a form of social welfare referral system and we have operated that now for probably 15 years and, as I say, a lot of members have availed themselves of that over the time.

**Mrs ELIZABETH GRACE**—I am very pleased to hear it. It looks like I will be able to pursue the idea further, thank you very much. Just following up on your national family policy, what benefits do you see in implementing something like that?

**Mr Blandthorn**—I see the benefits of making governments more conscious, more aware, on a longer term rather than a short electoral term basis, of the real needs of families. We have, over a period of time, moved. We have a different situation now on a whole range of legislation: there are environmental impact statements, there are financial impact statements, but there is no real consideration given to how various pieces of legislation might impact upon members of the community as families, and I could see that one of the benefits would be the same sort of benefit that comes from a financial impact or environmental impact statement.

**Mr TONY SMITH**—I just have a sort of technical matter—unless I missed it—which is the reference to Judge Murray’s comments shown here as footnote 29. I could not find any bibliography of footnotes. I just want to know where that is.

**Mr Blandthorn**—If we did not provide that, we can certainly provide that to the committee.

**Mr TONY SMITH**—Yes. I was just wondering what context the statements were made. Going to a couple of points, you said in your remarks that people need two incomes to survive. This is not a criticism; it is really a point of clarification. Do you mean to get on or to get ahead, rather than merely surviving?

**Mr Blandthorn**—We did a survey of our members in 1995, which we commissioned an outside consultant to undertake, that we very much ran on a hands-off basis because we wanted to get a real feel for

a whole range of views that our members had. One of the sets of questions went to why they were working. Overwhelmingly, the answer that came back was that they were working in order to make ends meet economically. There were also other reasons why they were working, such as to meet school costs.

At the end of the day, the reason our members overwhelmingly gave for working—and, remember, many of these people are second income earners—was for their family to have a reasonable standard of income. But we have over 200,000 members. Very few have a family income of over \$700 a week. Most of them, as a family, with both spouses working, are earning less than that. I certainly accept there are lots of other reasons why people work as well, but I do suggest there are a lot of families out there where two people are working for the very basic necessities.

**Mr TONY SMITH**—Do you see, having regard to the comments you have made, some inequities in the tax system where, for example, a single person, supporting a family on \$40,000, pays more tax than two people on \$20,000, both working?

**Mr Blandthorn**—There are a lot of inequities in the tax system and in the social security system. If one looks at the social security system, you would be better off earning \$300 a week than you would be earning \$450 a week, in the levels of government support you would receive. The withdrawal rates are such that families are actually worse off in gross disposable income—earning more, in many cases, than earning less. Yes, single income families are certainly disadvantaged in the tax system. There are a whole lot of problems with the tax system.

I thought at one stage the coalition was going to bite the bullet in the last budget and deal with the child-care cash rebate, for example, which in my view is a gross inequity in that it provides the greatest benefit to those on the highest income. In my view, the previous government made a dreadful mistake in introducing it. I hope the current government, at some stage, has the guts to deal with the issue.

**Mr TONY SMITH**—Middle-class welfare is what you are really talking about.

**Mr Blandthorn**—The first page of our submission suggests that all financial support provided by government should be on the basis of need, and we hold that very strongly.

**Mr TONY SMITH**—Reading between the lines, you are really saying that if there was more encouragement to single income people, it may be that fewer people would have to go to work to provide those necessities of life and perhaps the unemployment situation might be eased a little bit too.

**Mr Blandthorn**—I do not think it is even between the lines; we would suggest, quite bluntly, that that is the case. There is a very clear link between the work force participation rate and the unemployment levels.

**CHAIR**—It seems you are also saying that we have now got into this conflict which is very difficult to get out of in that for many families two incomes are necessary in order to maintain an existence. Yet the consequence of the costs of having two earners in the work force is a diminution of available time and effort to nurture family relations.

**Mr Blandthorn**—That is exactly what I am saying; I absolutely agree with that.

**CHAIR**—Thank you very much for both the submission and for coming today and discussing these matters with us. If you could provide that reference that Mr Smith was asking about, we would appreciate that as well. Thank you.

**Mr Blandthorn**—Thank you very much.

[2.35 p.m.]

**SUSS, Mrs Miriam, Director, Social Work Services, Jewish Community Services Inc., 25-27 Alma Road, St Kilda, Victoria**

**CHAIR**—Thank you for coming along. Although the committee does not require you to give evidence under oath, I should advise you that the hearings are the 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 No. 81. Are there any amendments or corrections that you would like to make to it? If not, would you like to make a brief opening statement to the committee?

**Mrs Suss**—Thank you for the opportunity to speak to my submission. We, at Jewish Community Services, felt it was important to bring to the attention of the inquiry what we believe is a special community with particular problems and which really demonstrates the multicultural nature of the Australian community.

Some of the pressures and stresses that impinge on families in our community, although they may be known by some people, may not be common knowledge. It was felt by us who work in the agency and who are part of its management that it was a worthwhile process to bring these issues to the attention of government, to attract government's attention not only to our work but also to issues that apply generally to ethno-specific communities in Australia. That is the reason for the work that has been done.

I also stress that we worked hard to make this a participatory process and to involve in the discussions people that we felt had some experience and expertise in working with families in our community. So it is not just the work of certain professional staff, but a wider effort than that.

**CHAIR**—Thank you for the submission, which is obviously detailed. We can see from reading it the effort that was involved and obviously the input of a variety of people involved in putting it together. Speaking for myself at least, it is a very useful submission for the committee because it does deal with one particular ethnic group and background and highlights problems which otherwise—I am not sure about the other members of the committee—I would not have been aware of specifically because of that.

I was interested in exploring a couple of things with you. The primary thrust of the committee's reference is to look at the factors which lead to marriage and relationship breakdown and the ways in which we can deal with those. In one of the strategies available, mainly the pre-marriage education courses, I noted that there was nothing, at least to date, in specific programs conducted within the Jewish community, although as you point out, some may go to other programs and some rabbis may conduct their own programs. Correct me if I am wrong, but those programs seemed to relate more to the formalities of living the Jewish life according to the precepts of the Jewish culture and religion rather than to aspects of relationship education in communication, conflict management, finances and all the rest of that. Could you elaborate a little more on that for us?

**Mrs Suss**—You are right, certainly within the orthodox section of the community, that that kind of

premarital work where they are prepared in how to live a true Jewish lifestyle with the relevant religious requirements and so on is probably all that is covered in preparation for marriage. Some courses are conducted by the Union of Progressive Judaism and I think I mentioned that also. They use a couple of programs that have been developed in the United States, the prepare and enrich programs, off-the-shelf written programs, which I believe other organisations also use.

The union is probably better resourced than some of the more religious orthodox sections of the community. So they are possibly in a better position to buy those packages and to train their rabbis in conducting them. I would also assume that many people within the more orthodox community would have ideological problems with applying an off-the-shelf program where they are very concerned about religious issues. So they need to develop programs that are more suited and have been specially written to respond to needs.

We tried 20-odd years ago to help that section of the community develop premarital education programs. We were not successful, unfortunately. There were no generally available resources at that time. There was no government funding that enabled us to afford to develop the programs. Our efforts became bogged down in the religious differences of various rabbis. In fact, it became so difficult to develop a program that would satisfy the needs of each individual rabbi that it was not successful.

I think that 20 years down the line, we are better placed to address this again. We have applied for funding to the Attorney-General's Department as part of the currently available marriage education funding. We have not had an answer yet but we are hoping that we may develop some programs. We have certainly put some ideas on paper to try to help us do something more appropriate, more culturally sensitive now, to address some of the issues. As you have seen in the paper, there are many more orthodox families with lots of problems which ideally place us to help them.

**CHAIR**—It is often said, but your submission seems to argue against this, that closed communities have strengths that the more secular society does not have. One of the strengths of the Jewish community was that policy of not marrying out, the reluctance to or the pressure not to, however you like to put it—I am not trying to make a value judgment. The result was that you had a community which was more integrated and much stronger. The impression I get from reading your submission is that that might be the superficial perception from the outside but in fact many relationship problems, at least, are not adequately addressed.

**Mrs Suss**—One of the reasons for conducting this exercise was to address some of the many myths—myths that exist in other ethnic communities—that there is a strength of family, that everybody looks after everybody else, that the community will take care of itself. To some extent that is true. Certainly, our experience is that people feel comfortable in seeking help within the community, whether that is from family or from agencies such as ours. However, I guess what we were trying to draw attention to was the fact that there are certain stressors within our community that are special, that may not exist so much outside it, but that require our attention. To some extent the myths are still based on fact, but some of them are really myths. People expect everything to be hunky dory but it is not.

**Mr BARRESI**—Can you break down the results in terms of the orthodox Jews and those who perhaps are not so orthodox? You do give a breakdown in terms of the numbers that come through your door



but I was thinking more in terms of the severity of the problems. Like Mr Chair, I would have thought that the orthodox Jews, the six per cent, if they are going through relationship breakdowns or difficulties, would keep that within the family. Against that there are those who are a lot more assimilated into the mainstream. Is that experience reflected in terms of those who come through your door and eventually go all the way through to a divorce situation?

**Mrs Suss**—Certainly, they try to keep that within the family and often in the early stages that works. They might seek counselling from a rabbi, they may go to extended family members to get emotional support, or they might get home help or informal foster care arrangements for their children through their family and social networks. But quite often the pressures go beyond that and it needs to break out of that system, and it does. I guess that is when we hear about it.

While the problems are not severe enough to warrant further intervention from an agency such as ours, or even from an agency such as the department of human services, where protective services sometimes come into play, sometimes it can be contained, but there are families within the orthodox community where there are protective issues and where the tendency for their relatives and their friends to prop up a dysfunctional situation eventually falls apart.

**Mr BARRESI**—This morning we heard a submission from the civil celebrants federation and one of the witnesses was making a big play for the ceremony itself. He was basically saying that beefing up the ceremony and the image of the ceremony itself would help in terms of keeping marriages together. I made the point, hopefully not naively, that if that is the case then how come the Jewish community—which has a very defined and highly respected ceremony within itself as well as a ritual of the divorce, which can be fairly extensive—has a divorce rate that is no less than the rate in the rest of society? Was that a correct understanding?

**Mrs Suss**—Yes, you are right.

**Mr BARRESI**—So the ceremony itself is not a bonding factor?

**Mrs Suss**—No. One of the comments that was made by one of the rabbis that we interviewed in the process of preparing the submission was that, fortunately, at the point of marriage there are lots of stars in everybody's eyes. It is a time of celebration, of positiveness, of optimism. Therefore, that is not a really good time to say to people, 'Look, there are lots of pitfalls and lots of potential problems here.' That sort of thing should be said a little before that at the time of marriage preparation, marriage education programs, or perhaps a little after the marriage itself when some of the pressures are coming to bear.

I think you are right, that the ceremony itself is often held at a time when there is such optimism. It is a time when one is not really clear about the problems, it is a time when one is very positive about the opportunities and the positives of getting married. I do not think there is a real understanding of what this is all about in practical terms.

**Mr BARRESI**—But pre-marriage counselling does take place, does it?

**Mrs Suss**—Usually. Even orthodox rabbis conduct either one or several interviews prior to the marriage. But again, I believe that these rabbis need more training in some psychological issues that would help them to take up potential problems at an early stage, and at least alert couples to them.

There is a bit more work done, I think, in liberal Judaism, where many couples are actually encouraged to participate in those preparation courses. So there is actually a difference in the kind of experience a couple would have, depending on what kind of rabbi they went to. Sometimes the interview with the rabbi is very practical—about the wedding itself and so on.

**Mr BARRESI**—And just to follow on from that, are the pre-marriage counselling sessions compulsory? Is the experience within liberal Judaism far more positive than in orthodox in regard to the end results?

**Mrs Suss**—Yes, I suppose it is compulsory in terms of needing to see a rabbi before you get married. If you are to be married by a rabbi, he needs to actually ascertain that you are Jewish in order for him to be able to marry you according to Jewish ritual. That is compulsory because, if you do not get that imprimatur, then you are not going to be successful in getting there and you may, in fact, need to approach a celebrant in order to have a civil ceremony rather than a religious one.

That would apply in both liberal and orthodox circles. We had a participant in our process at our meetings, who is actually a counsellor for the Family Court and had, in fact, participated as a prospective husband in a progressive synagogue marriage preparation program, and he was very positive about the process. He felt that he and his fiancée were alerted to a number of issues that they would not have thought about before. There were some role plays, and there was the opportunity to think about issues that in their excitement they had not thought about.

**Mr BARRESI**—The other one I wanted to raise is the high risk groups. I find that intriguing. I am glad you commented on new migrants, particularly the Russian Jews that have come out here and the difficulties that they are experiencing. But there is one group that you have not mentioned—maybe it is because they really are ostracised—and that is those who have intermarriages. What is your experience with them, particularly in terms of the success rate of that group?

**Mrs Suss**—You are right, and I must admit we did not spend the time to discuss the issue of intermarriage in the community, although I have recently been involved in another arena actually preparing a paper on that and discussing it.

**Mr BARRESI**—Sorry, the only reason why I mentioned that is because in the submission of a previous witness—Bethany—they actually listed as one of the underlying issues of breakdown—and they are the only ones that have done this so far—reverting back to family values and origins. With your group having such strong family values and origins, I was just wondering about its effect.

**Mrs Suss**—It is interesting, because one of the stresses that was mentioned by our consultative committee was the differences in values when people have different cultural backgrounds within the community, but I think you can extend that. One of the interesting things about the Australian Jewish

community is that they are so diverse. People are sometimes seventh generation Australian and sometimes brand new migrants. They are sometimes English-speaking and they are sometimes Russian-speaking and so on. Given the small numbers in our community, people do marry into different cultural groups within the community, and one of the discussions that we had concerned the stresses of being in a family where your background is perhaps very much an Anglo-Australian type experience in relation to being from a family where you are of a European background, Holocaust survivor parents, et cetera, and the difficulties in balancing those cultures. I think that issue extends, that the more difference there is and the wider the dichotomy is between the kind of experiences that you are used to from home and the kind of experiences your partner is used to, the more likely there are to be problems in relationships.

**Mrs ELIZABETH GRACE**—In your submission on page 9 you say, on the pre-marriage education courses:

The particular need of young men in this community to participate in such discussions was stressed by both the Advisory committee and the Rabbis. The drive for material and career achievement, for meeting parental expectations, and the generally acknowledged lack of relationship skills, particularly amongst 2nd and 3rd generation Holocaust survivors, makes young men particularly vulnerable.

Would you like to elaborate on that side of it, please, because we keep getting a theme about the male all through the inquiry and I am just interested to see it from your perspective.

**Mrs Suss**—In our discussions it became very obvious that it was young men, particularly in Holocaust survivor families, who really missed out on the kind of emotional development and sophistication that they needed to become effective marriage partners and effective parents—that in the process of being brought up by parents who were often dysfunctional themselves, often grieving for losses that happened umpteen years ago, they were perhaps less emotionally involved in their parents' experiences, more driven to be successful, to achieve in terms of academic success, career success, or financial and economic success, later on. There was not an opportunity for their psyche to develop in the way that that needs to happen in order for people to become functioning, participating, sensitive adults.

There is another theme in here about daughters in families where there are elderly parents who are frail and not coping. It is often the daughters who have the job of managing, of juggling, of running and doing it all, and the men get out of that for exactly these reasons, because really they have not been emotionally prepared for it, and they see it as their role to be the breadwinner, even in a multicultural society, even in a situation where we are supposed to be sharing those roles. But I think that the people that we are talking about in migrant families and in second generation holocaust families really have not had the preparation that enables them to do that effectively. We were told by our advisory group that there needed to be more attention paid to the emotional needs of such men and, whether or not we have parenting groups for fathers, or groups for men to develop better coping skills or better communication skills, this is something we felt was very important to mention.

**Mrs ELIZABETH GRACE**—So there is some awareness and some thought that perhaps there needs to be some training, some counselling, some sort of classes in that area?

**Mrs Suss**—Yes. We have put here some information, some material, about group support and self-help groups in 5.2. I have put there 'Parenting for Fathers'. There is a lot of work that needs to be done. We have found that group work—and we have conducted groups before at JCS—is a very effective way of

involving numbers of people. It is very cost effective because one-to-one is more time consuming and more costly. Also normalising the experience and having other people help the person to share and understand that these are the usual sorts of feelings and problems can often be very helpful.

**Mrs ELIZABETH GRACE**—As this is coming down through the generations, it is fairly important to stop that spiral and start levelling things out, is it not?

**Mrs Suss**—Yes. We would really like to intervene.

**CHAIR**—On that point, the evidence that is coming from marriage educators is that, whilst your situation may have some special characteristics, each generation is affected by the relationship or lack thereof with the previous generation. That is what the key to the whole process is really about.

**Mrs Suss**—When I was making some notes for today I wrote down that people in this community have the usual stresses that we all have. They are the usual stresses of ethnospecific communities, but there are also special stresses of Jewish people. That was one of the things that we wanted to make very clear. There are all those problems and they exist, but there are more as well.

**Mr BARRESI**—I have a brief observation and perhaps you can talk to it. Just about every submission today—and I do not know about yesterday as I was not there—has made comment about the need for community awareness programs and referring to the TAC or violence programs. Do you really believe that will have an impact on the success of relationships or is it one of those things that creates an awareness for those in that particular generation or for that particular moment only?

**Mrs Suss**—It was certainly covered as you read in our submission. It came out as one of the first points that was made in terms of effective community education for people struggling with family issues. It comes up wherever I speak about these issues, because it is probably one of the most effective community education strategies that most of us have seen in a long time. The thing about the TAC ads is that they really grab your interest because we are all vulnerable to motor car accidents. They cannot be more graphic than they are. I must say that domestic violence ads were also very effective and what we are suggesting here is a campaign or something like that that would address family issues and would sensitise the community to the need to pay attention to what goes on in people's families.

**Mr BARRESI**—Perhaps even discourage people from getting married? There is the possibility that we will have more de facto relationships and cohabitations.

**Mrs Suss**—One of our participants was a family lawyer who said that she could not understand all the distress about families breaking down. Most of the ones she saw needed to break down, so there is the other side of the story as well. We are talking about community education that works and that is why we all cite these TAC ads.

**Mr TONY SMITH**—I have picked up a couple of things in your very comprehensive submission for which I am very grateful. Pardon me for being a little bit short of a gallop—as they say in racing parlance—for not having digested it totally. One of the things I am interested in is whether or not you see or have seen

in your research any suggestion that people adhering to the ultra orthodox lifestyle have less family break-up than people living the more liberal lifestyle?

**Mrs Suss**—I would say that traditionally there has probably been less divorce within that community. If you made comparisons of figures, you would find the proportion lower. However, it needs to be stated that there is the allowance for divorce in Jewish tradition.

**Mr TONY SMITH**—I am sorry?

**Mrs Suss**—Jewish tradition allows divorce.

**Mr TONY SMITH**—Yes.

**Mrs Suss**—We are not talking about the kind of religion that actually places a taboo on divorce.

**Mr TONY SMITH**—It used to be just a simple declaration, was it not?

**Mrs Suss**—Yes, I think you needed to say three times, ‘I divorce you,’ and that was it.

**Mr TONY SMITH**—Is that still followed?

**Mrs Suss**—No.

**CHAIR**—There would be a lot more divorces if that were the case these days.

**Mrs Suss**—In fact, a great deal of stress is placed on the need for people to work hard on their marriages. I can remember 25 years ago that there was a lot of stigma attached to orthodox families that broke down, where they separated and divorced. However, it has become more socially acceptable now within our community, within Victoria at least. It has been recognised that there are cases, for instance, of domestic violence where women, in particular, but sometimes men, should not be subjected to a subhuman lifestyle where it is inappropriate to insist that marriages stay together when obviously people are not matched and where it is much more healthy both for the couples and for the children to be able to get out. Certainly, we see that the numbers have increased and that is possibly because it has become more socially acceptable.

**Mr TONY SMITH**—Do you think that people in your faith should be given the choice to marry according to your faith’s dictates if that were possible—this is hypothetical—rather than the state’s dictates in terms of—

**Mrs Suss**—I am speaking as a social worker so I am all for self-determination because that is my ethos and that is my value base, and I think our agency would see it that way too. I am certainly not speaking here as an individual. We are actually addressing problems that happen when things go wrong and trying to prevent problems before they occur. We really do not have a position on the pros and cons.

**Mr TONY SMITH**—What I am trying to say is: if that choice was open, do you feel that perhaps marriages may not break down as frequently?

**Mrs Suss**—That choice is open, basically.

**Mr TONY SMITH**—Except that the state does intervene.

**Mrs Suss**—I think I am struggling to understand what you are asking.

**Mr TONY SMITH**—Upon separation there are certain legal consequences that flow as far as the state is concerned. You cannot, in effect, divorce yourself from the state.

**Mrs Suss**—No.

**Mr TONY SMITH**—Whereas what I am positing is a possible situation where you ought to be given that choice to divorce yourself from the state, marry according to your faith, have your separation and divorce and all of those things according to your faith.

**Mrs Suss**—I guess our situation within the Jewish community is that those rituals go very much according to the legal requirements of the country because our marriage celebrants are actually registered as marriage celebrants, even though they are rabbis and religious leaders. There is an interesting thing about divorce because, as well as getting a civil divorce, one needs, in order to remarry, to get a religious divorce.

There are some problems around that in Jewish tradition because the man needs to release the wife from the marriage in order for her to be able to marry again. That is something that is different from the state laws and that is something that feminists within our community are working very hard on because it is an inequity and some believe it is iniquitous, so that is another issue. But basically there is not much discrepancy between the requirements of the law and the requirements of the religion in terms of separation or marriage or divorce.

**Mr TONY SMITH**—But what about in terms of arbitration? You cannot exclude the Family Court for example from—

**Mrs Suss**—No, and people do not. People sometimes go to a rabbi whom they would use as a mediator and they may be able to negotiate arrangements through that person. Sometimes that works and sometimes that does not work and then they will go the next step. There are quite orthodox families that go all the way through the Family Court, including through custody, property and all sorts of other issues.

**Mr TONY SMITH**—Thank you.

**Mr BARRESI**—Just on that feminism issue, we heard this morning—I think the people from the Family Law Court mentioned it—that at least two-thirds of separations or divorces are being initiated by females. Is that also reflected within your community?

**Mrs Suss**—I do not have a figure on it.

**Mr BARRESI**—Is it still very male-dominated?

**Mrs Suss**—No, I think it would probably be women initiated more than men initiated but I do not have a proportion. I just know from our own case records that most of the people who approach us for counselling regarding separation and divorce are women. I cannot tell you the proportion. I do not know that there is such a discrepancy within the Jewish community.

**CHAIR**—I thank you and those who worked with you to prepare the submission. I think, as all of us have indicated, we found it most interesting and most useful for the inquiry. Thank you also for coming today and for providing some further insight to us. I am sure your submission will be quite useful for us, by way of a case study, in the preparation of our report on this matter. I wish you luck in developing your services.

**Mrs Suss**—Thank you.

[3.12 p.m.]

**FINDLAY, Mr Bruce Malcolm, 18 York Street, Strathmore, Victoria 3041**

**CHAIR**—Welcome. Do you have any comments to make on the capacity in which you appear?

**Mr Findlay**—I am appearing as an individual but with a background as a psychologist and as a marriage educator.

**CHAIR**—Although the committee does not require you to give evidence on oath, I advise you that 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. We have received your submission, No. 113. Are there any corrections or changes you wish to make to it?

**Mr Findlay**—Only a couple of spelling errors which I noticed on re-reading but I think the meaning is fairly obvious.

**CHAIR**—I now invite you to make an opening statement or provide an overview to the committee?

**Mr Findlay**—I think my overview is in the summary—that is, that existing marriage education services are doing a reasonable job but that the coverage is relatively small as a proportion of people getting married. I am concerned that the stage at which we reach couples—when they are engaged and their marriage is imminent—is not the best time to educate people about relationships. I would like to see it happening at a much younger age but there are enormous difficulties in doing so. I would like to see something happening at the school level. I would also like to see government involved in the area of awareness raising and attitude change amongst people about the acceptability of relationship education. I think that is pretty much my summary.

**CHAIR**—What do you think are the impediments? There is evidence that when couples attend pre-wedding marriage education programs they tend to do so in the last two or three months before the wedding. You, I think, and others have expressed a desire that that happen somewhat earlier. Why do you think it is left until that stage? Also, do you have some suggestions as to how we might encourage earlier attendance?

**Mr Findlay**—I think it is left to that stage because couples do not think it is very important. Typically, in my experience as a marriage educator, the referral comes from clergy at the point where couples turn up to book a church or wedding. If the clergy person is doing a good job, they are persuaded to go along to a marriage education course. Couples typically leave it to almost the last minute because to them the practical aspects of organising receptions and dresses and cakes and photos and things seem to be of more immediate concern. I think that is a pity.

What this means in practice is that when couples do get to a marriage education course they are usually within three or four months of getting married, often less, and they are pressured by the immediate necessities of organising lists of who is coming and who is sitting where and last-minute things like dresses and cakes.



As far as relationships are concerned, they are still in that idealistic stage of seeing each other through rose-coloured glasses. It is very difficult, in the time that most educators have with them, to get people to seriously look at relationships in a way that will make a great deal of difference. We think that we do a moderately good job but it is very hard to persuade people who are locked into a relationship that perhaps they should take a longer look at that relationship before committing themselves to what most of us believe should be a lifelong relationship.

**CHAIR**—One of the suggestions made earlier today by Bethany was that perhaps we ought to be looking at longer notification periods. Would you like to comment on that?

**Mr Findlay**—I am not confident that it would make a great deal of difference because, typically, people who want a reception in one of the popular reception places have to book that a year or more ahead anyway so they tend to know the length of time before their wedding. Yet the average length of time before the wedding at which our couples turn up would be only three months or so. So I am not confident that that would make a great deal of difference. People would still leave it to the last moment.

**CHAIR**—You talk in your submission about a more market oriented method of funding. In fact, you say that funding appears arbitrary and the process needs to be more transparent. You repeat again in the body of the text:

The present method of funding agencies needs to be more transparent, to convince practitioners that it is equitable, or at least effective.

I might stop there and ask you to elaborate on that before I go to the other part.

**Mr Findlay**—My position as a marriage educator is that I am a sessional educator—that is, it is not my main occupation. I run three or four or five courses a year for the Anglican marriage education people. From talking to other people in the agency and from talking to people from other agencies at the national conference, there is concern at how government money is distributed. The system seems to have been changed several times in the last several years. Some agencies get pretty much what they ask for, others get dramatically different amounts from what they have asked for, and it is not clear to the people that I have spoken to how those decisions are made.

**CHAIR**—Presumably, the amount of funding provided could be measured by some scale which would be applicable to all agencies. That is, if an agency gets a certain amount then presumably it is delivering a certain service that relates to the funding.

**Mr Findlay**—Yes. I would expect that agencies would certainly have to account for how they spent it. There would need to be some equity in that.

**CHAIR**—The second point was following on from that where you say:

If a more market-oriented method is considered desirable, how about making a voucher available to late adolescents, which is redeemable by any recognised agency when the individual attends one of their courses.

Can you comment further on that?

**Mr Findlay**—Several people that I have spoken to amongst the marriage education agencies have expressed concern about pushing particular ideological barrows. That struck me as one way around that, that the customer, the client, the couple or the individual, could then choose what sort of relationship education they felt best suited them. In our agency there are several types of courses available and they are of different lengths. There are also couple-oriented programs involving a fairly lengthy questionnaire which analyse how well couples agree on different aspects of relationships.

Some people prefer that sort of program whereas some people prefer coming to a course where they get the opinions of other couples. I thought that something which allowed couples more choice would be advisable and that was one method that I had heard suggested. I am not sure how it would work in practice but it would overcome the problem of forcing people into particular courses.

**CHAIR**—We have heard from two groups of civil celebrants this morning. Their view was that they did not believe that they should be providing marriage or relationship education themselves. However, they had a mixed view about what they ought to be doing by way of referring couples or not referring couples. On the other hand, from the agencies we have heard give evidence there has been a very mixed pattern of referral. In fact, the pattern of referral is almost non-existent. That is probably fair to say from the viewpoint of the agencies.

Civil celebrants are now officiating at the weddings of something like half the population that is marrying, yet the evidence seems to be fairly clear that there are almost no referrals from civil celebrants. I am just interested in your experience of that. If it is consistent with what I have expressed in terms of what we have heard, then have you any suggestions for rectifying that situation?

**Mr Findlay**—The agency that I have worked for for the last 12 years has had almost no referrals from civil celebrants. In 500-odd couples you can count the numbers on the fingers of one hand who have come from civil celebrants. I feel that, if you are going to make money out of somebody by officiating at a ceremony as important as marriage, while you cannot be expected to give a guarantee about the quality of the marriage, you should be prepared to emphasise the importance of it and point people in the way of things like relationship education, which I think is vitally important. I agree that they should not be expected to provide it, just as we do not demand that clergy provide relationship education. But I would feel fairly strongly that they should be obliged to make couples aware that it exists and to give them the choice of various courses that are available in their immediate area. I feel pretty strongly about that. I think that is about it.

**CHAIR**—I asked Meridith Edgar from the Anglican Council: if couples were not persuaded by their celebrant to attend a marriage education program, how many would attend. Her answer was, as I recall: a lot less than attend now. It seems to me there is a catch-22 situation here, that because a couple want to be married in a particular church or because it is a nice setting or because it is bluestone or it matches the bridesmaids' dresses or that is where mum got married or for whatever reason, there is some leverage which is able to be exerted by a celebrant in those circumstances. I think the civil celebrants, to be fair to them, were saying, 'Well, we don't have any leverage at all and if we are too pushy about this, the couple will just go and find someone else to marry them in the same park, at the same time.' How do we deal with that dilemma?

**Mr Findlay**—In one level, just as if our religious clergy did not lean on people to come, a lot less would probably come than do now. If the civil celebrants were expected to make people aware, more people would come than would come now, even it is a only a very small proportion. I think in the overall scheme of things you would gain by requiring that this happen—all the more reason, I think, for some process to be set in train to change society's attitudes in general towards relationship education. I think it probably goes wider than just marriage education, that it is really a relationship education which could apply to any relationship, parent-child relationships, friendship relationships, marriage type relationships. As the previous person here said, there are a lot more people who are not marrying but are living together, and exactly the same relationship issues arise. While those of us who are marriage educators believe strongly in marriage as an institution, a long-term, lifelong committed relationship, whether it is called marriage or not, has most of the same aspects to it, and problems and concerns.

**Mr BARRESI**—One of the things that struck me today is that quite a few people have spoken about the need for pre-marriage counselling and the difficulty of getting people to the classroom, so to speak, to the session. That to me presupposes that the pre-marriage counselling is actually effective, to begin with. That is why I am pleased to see that you are actually supervising a masters student in this regard. You have the results, and they will become known sometime next year. I would be interested in looking at them when they come out. I think our report will probably be over and done with by then, though, which is unfortunate. Could you just talk a little bit more about the results of his research so far into the effectiveness of some of these programs?

**Mr Findlay**—There has been very little research done all around the world on the efficacy of marriage education programs, because Australia is probably in front of most other places and very little has been done here. There has been some done in the United States and some done in Canada. The general overview of that is that it is a good thing, but it is very hard to compare it. It is very hard to compare because it is very hard to match people who have gone through these programs with people who have not.

**Mr BARRESI**—That is what concerns me. Yet on the other hand you were saying, 'Let's persuade them to attend, let's give them a voucher or subsidise the classes,' when we do not even know whether it works.

**Mr Findlay**—Those of us who are in the game believe that it works, so we are committed in one aspect of that. We believe that it works for the logical reason that the better your skills are at maintaining relationships, the better those relationships will be. As to how that applies to marriage in a lifelong situation, we only have the sort of accumulated commonsense of people over generations. It is hard to disentangle wishful thinking from reality in that sense.

The very few studies that have looked at happy long relationships have come up with very similar things like people say, 'I value my partner as a friend,' or 'We enjoy the same things and we have the same values.' They suggest that it is skills like dealing with conflict, which boils down to good communication skills, that are important in maintaining those relationships.

There have not been very many studies which have looked at teaching relationship skills in the context of long-term marriages. The ones that I have seen and that worry me a little bit suggest that if you

teach people things like communication skills, by the end of the course they say they enjoyed the course and they give you the right answers when you ask how you should behave in particular situations, but it does not necessarily transfer all that well to their actual behaviour. It takes a long time for those skills to show effect. That is one of the things that has concerned us about the lack of good research in the area and it is one reason that has persuaded me to get some started, but of course it is a pretty long process.

**CHAIR**—One of the things we are going to take up with the Institute of Family Studies next is why they are not doing research into what makes healthy relationships.

**Mr Findlay**—I have a prejudice about that and that is because I am a psychologist and they are largely sociologists and they are looking at bigger pictures than individual psychological needs. The Institute of Family Studies do terrific research which says what is happening around the country, but they do not deal with why it is happening.

**CHAIR**—We will ask them that.

**Mr Findlay**—Good.

**Mrs ELIZABETH GRACE**—I have a couple of interesting things here in some of the things you are saying. You were saying just then about your courses and that people leave the course making all the right noises and making all the right comments, but when it comes down to being under pressure, they do not follow through on those skills—

**Mr Findlay**—That is what I suspect.

**Mrs ELIZABETH GRACE**—I can understand that because they are skills that are learned and until you have had practice they do not become a habit. I feel too, though, that in the counselling area there should be more emphasis—and I do not say that there is not; I am only assuming there is not—on the difference in how males and females handle conflict. My theory is that if you are aware of how the opposite gender handles that conflict then, when it comes to that stage, you understand why they are behaving the way they are.

I feel that is possibly lacking in that training area because that would be a tool that you could hang onto. You may not be able to cope with the actual process of going through the system that you have learnt at the course, but at least you have got that one anchor to hang onto and you can say, ‘Hey, the reason they are behaving like this is because that is the way they are made, it is not because of me or what the children said or something like that.’

**Mr Findlay**—My understanding is that there is more variation within the genders than there is between them so, while you might want to say that on average men and women handle conflict differently, the amount of variation is enormous and you cannot be too dogmatic about it.

We tend to push the point, and it is reasonably well supported by psychological evidence, that it is the learning experiences in the family that you grew up in that affects your style of conflict. That probably makes

more difference than whether you are a man or a woman. Most of the marriage education courses very strongly push the influence of family of origin on relationships and it is probably the single most important thing that we do that is different from what couples expect.

A large proportion of the couples that we see have done communication courses at work or tech or somewhere and they think that they know those sorts of things, and they do know a good deal of it, but very few of them have looked at the influence of the way their parents did things on how they do things. Most courses do various exercises or discussion points that bring out that for a particular couple, so you are not making blanket statements about couples in general, but you are addressing how this particular woman dealt with that thing in her family of origin and this particular man did and how similar or different they are. If they are similar, there is relatively little trouble, but if they come from quite different backgrounds of ways of handling conflict, then there is plenty of potential for problems.

**Mrs ELIZABETH GRACE**—But would there not be just as many diverse and many variations on that as there would be on gender difference?

**Mr Findlay**—Yes, indeed, but you can deal with that at the couple level. Most of the marriage education courses are not lecturing type courses; they are courses where there is opportunity for couples to answer questions or discuss particular questions that we have raised which address their own couple relationship, regardless of what is happening to the other couples in the room.

**Mrs ELIZABETH GRACE**—You and I are coming into conflict straightaway because you are trying to divert me into one area and I am coming from another area, so straightaway we have got that conflict. That is the sort of thing that can happen very easily. I just find that quite interesting. You say that there should be education at a much earlier age. Have you any ideas on how this could be put into the schools, because that is where we are going to get our audience, that is where we are going to get our client base.

**Mr Findlay**—I agree that that is where we have to address it. But it is not easy because schools are under enormous pressure at the moment from the quantity of material in their curriculum, and there is a lot of argument about what should and should not be in there. Given how much change there is in society and how much that is going to continue to be, if we give children basic skills of learning to learn and relationship skills—that is, how you are going to deal with the other people that you are going to be learning from or learning with or teaching to—we could probably do without a lot of the things that kids have to suffer through at school. So I feel strongly about the basics, the reading and the writing and maybe some basic arithmetic, but I really think that relationship skills are as important as those. I would argue for four Rs instead of three.

**Mrs ELIZABETH GRACE**—One suggestion is that it comes into the human relations program, and that where they are teaching sexuality they should be teaching more about relationships as well. Without taking over the school curriculum in any other area, that is one area where it could perhaps be introduced.

**Mr Findlay**—Yes, I have a 17-year-old at a state high school and their human relationships course is excellent, but it is very clinical. So they are taught very well about biology, but it contains almost nothing on relationship skills.

**Mrs ELIZABETH GRACE**—No emotion whatsoever.

**Mr Findlay**—Nothing on how to say no gracefully and all those sorts of things.

**CHAIR**—Thank you very much for your submission and for coming in this afternoon to discuss it with us. It has been quite useful. We appreciate that and we appreciate your time.

[4.02 p.m.]

**McGURK, Dr Harry, Director, Australian Institute of Family Studies, 300 Queen Street, Melbourne, Victoria 3000**

**WOLCOTT, Mrs Ilene, Senior Research Fellow, Australian Institute of Family Studies, 300 Queen Street, Melbourne, Victoria 3000**

**CHAIR**—Thank you very much for coming along. Although the committee does not require you to give evidence on oath, I should advise you 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 parliament. We are in receipt of your submission numbered 121. Are there any changes or corrections you wish to make to it?

**Dr McGurk**—No, neither changes nor corrections. Perhaps there is one point I would like to amplify.

**CHAIR**—I was going to ask if you would like to make an opening statement.

**Dr McGurk**—Mr Chairman, on page 2, in the first paragraph we said that one of the outcomes of the Australian family values survey indicated the extent to which, regardless of whether relationships were de facto or married or what have you, monogamy and faithfulness were recognised as important values in relationships. In the second paragraph of that page I highlight the extent to which young people in particular were less concerned about partners being similar to one another in terms of shared political and religious beliefs. But what we do not want to create is any impression that young people do not share the values that were identified in the previous paragraph. These were uniform across all age groups—the importance of faithfulness and monogamy in relationships. So that was one point.

I suppose the other point that we did not draw specifically, although it is there implicitly, is the extent to which, in adjusting to marital and other forms of intimate relationship, there is often a tension between contemporary individualistic values on the one hand and the requirement to take the perspective of other people and take their needs into account on the other. That is a tension that runs throughout some of the material that we have been coming across, and it is something we certainly would like to talk to you about this afternoon. I think, other than that, the document stands as it was.

**CHAIR**—Thank you. One of the—

**Dr McGurk**—With your leave, Mr Chairman, we have prepared an addendum to this document really reporting some ongoing analysis of a survey which is in the field at the moment. Ilene can talk to that and I can follow.

**CHAIR**—We can table that now and then we can deal with it.

Resolved (on motion by Mrs Elizabeth Grace) that:

A supplementary submission from the Australian Institute of Family Studies be received in evidence and authorised for publication.

**Dr McGurk**—Ilene will speak to this, but it simply reports on preliminary—finding is too strong a term—the outcomes of preliminary assessment of results of a survey which we have just recently completed on the life course of Australian families.

**CHAIR**—Would you like to address it, Ilene?

**Mrs Wolcott**—This family life course study is currently still in the field and will eventually consist of 2,500 people aged 25 to 70. But we had 1,200 initial cases that I was able to look at just this week and we asked these people what were some of the major pressures that they were confronting in their life as of today. We thought that this might be of interest in looking at where families stand. The major concerns of families, whether with or without dependent children, were related to financial security and health issues. And for those with children of all ages—and this went really through all ages, adult and grown-up children with children of their own—these were expressed as worries about being able to afford to educate children, concerns about older children finding secure employment and the strain of caring for an ill or disabled child.

The work pressures and work insecurity were the underlying causes of concern, as was being able to meet everyday and crisis expenses. There was worry and concern about whether their grown children and grandchildren would be able to do that. Juggling work and family responsibilities and finding time for one's self and one's partner was the dominant strand in the comments. That reinforces what Dr McGurk said about the tensions and pressures in meeting your family, work and community responsibilities, and in meeting your own individual needs and particularly the needs for the relationship, finding time.

Another common theme was about being a good parent and having the skills to raise children in a society that over and over again was considered rather endangered—environmentally, materially and morally. How do gain the skills to raise children in such a climate? For many, there were concerns about caring for an elderly or ill parent and, for those in later life, concern about their own health and financial security in retirement. Being able to provide for children who were vulnerable was also a major concern.

A common strand, but not a majority view, was relationship problems, coping with divorce or separation, parenting as a single parent or as a non-custodial parent and later on as a widow. The major point was that these reports of the pressures—and 1,200 people commented—affecting today's families reinforces our conclusion that, in addition to the range of education and counselling services necessary to strengthen relationships, family life skills to provide strategies and skills for families, access to employment, adequate income, education and health care, can do much to alleviate family pressures. This was a constant theme throughout this study. It clearly contributes to the tensions and worries that contribute to family breakdown and family dysfunction.

Our study also shows that such reports, supports and services are necessary across the life cycle, from the time of family formation through to post-retirement. Along with the pressures, strains and worries, there was a litany of concern about adequate income, employment and education for children. Clearly that contributed to a sense of tension and stress that in strong relationships can exacerbate tension but in fragile



relationships those kinds of things can lead to breaking point.

**CHAIR**—I have a couple of questions that relate to general directions in research, if I can put it that way. It seems that there has not been a great deal of research about what makes, for the want of a better description, healthy families. I know there is some popular research. There is Dolores Curran's book—the name of which I cannot remember—and some work is picked up in Moira Eastman's book, *Family, the Vital Factor*. I do not recall too many other books on what makes healthy families. Is that observation that there is a paucity of research in that area, correct and, if so, why do you think that is the case?

**Mrs Wolcott**—The research that you mention is similar to research being done in the US by David Olsen. A recent study—I believe it is in our references—in Western Australia was looking at—

**CHAIR**—The Western Australian child health study, yes.

**Mrs Wolcott**—The common theme is that the kinds of things that create healthy families—I agree with you that it is not necessarily an appropriate term—are things such as the ability to communicate and the flexibility and ability to have the skills to meet change and transition. I think that when you do studies about healthy families, those are the things that are teased out of the responses of respondents rather than that they actually tell you what makes them healthy. But there has been no research that I know of that does not actually infer from what is happening to families what makes them strong and healthy. So it is often a secondary approach to finding that, I think I would have to agree with you.

**Dr McGurk**—I would say also that it is because of the lack of that kind of research that we have invested a great deal of resource in our own life course of Australian families which looks at not simply one shot of families in a moment of time but follows up a sample over a long period of time. It looks at how families cope and adapt to requirements for change and different circumstances. We try to bring that life course orientation out in our submission to the committee in that, on the issue of support, education and facilitating strong relationships within marriage and within other settings, the evidence is fairly strong that that itself requires a life course orientation.

It might be late in the day to wait until the pre-marital stage before you start talking about managing intimate relationships. That is something that we would advocate at least begin early in an educational career. There seem, for a whole range of reasons, fewer opportunities now for children to learn how to handle the problems that arise in relationships—how to manage one's relationships, how to make good relationships when they are going bad and how to restore healthy relationships. So this life course orientation seems to us to be important.

**Mrs Wolcott**—Something comes to mind, and I cannot accurately reference it at the moment, but when I was doing some studies about parent child adolescent mediation, I was aware of a series of pilot projects in the US where they were teaching young people conflict resolution skills and ways—at the school level—to resolve even playground disputes. The few studies that I recall reading said that the children actually brought this into the family home and where the parents did not have the same skills, it often created tension rather than reduced tension because the parents needed the same skills. That is another example of a lot of what makes for what people say are healthy families related to the individual skills that people have

developed around their self-esteem, self-confidence and communication, so you have that family therapy literature that goes across. But it is an interesting point—and how one can capture that.

**CHAIR**—It is interesting the points you make about the schools because, almost unprompted, everyone that has come before the public hearings so far, and in many of the submissions, have suggested that relationship education ought to be provided in schools. Usually, in teasing that out, the comment is made that sex education as in biological education is provided in the schools but there is nothing about handling conflict, resolving it, communication skills and that sort of thing.

**Mrs Wolcott**—Often in marriage breakdown we read about the lack of communication, but that is an umbrella term for not being heard, not being listened to, not feeling validated. It is too broad a term to mean exactly what it implies, of learning how to speak properly. A lot of the things you can learn in relationship education is about respecting another person and that everybody has their good points and their bad points—particularly too, the way men and women can relate to each other. Children at very young ages start to learn what is a respectful way of treating another individual, or what is allowed and not allowed. So it does have to go beyond the facts of life, so to speak.

**Dr McGurk**—My own participation in and reading of the research on the approach to life skilled training in the early years tells me two things. One is that education approaches should be broadly based rather than targeted on, say, sex education, religious education and drug use avoidance. It seems the better, more successful programs are those that are oriented generally towards life skills and communication—the kinds of things that Ilene is talking about. Secondly, the more successful programs are those directed to the young people as they are now and not those of the future. Teaching adolescents how to be a good parent is not going to be as effective as teaching them how to be a good friend and how to manage relationships with respect to people now.

It is developing skills in those areas that carries through a life course, rather than saying, ‘Somewhere down the line you are going to be a father or a mother and here is how it is going to be.’ It does not relate to the young person’s condition at this time. Much more relevant is how to conduct themselves, how to communicate now, how to manage present relationships, and the experience of that carries forward into later life.

**CHAIR**—The other area of research that I just wanted your comments about was that, as you know, the major thrust of the inquiry is about what we can do in terms of strategies to try and strengthen relationships and prevent their breakdown, for want of a better description. As you know, there has been some research done on the effectiveness of the relationship education programs, the work that Michele Simons and co. have done in their two studies and some research around the findings from the inventories, such as prepare and focus. It seems to me though that, except for one or two fairly small studies in Canada and the United States, there has been no longitudinal research undertaken. Is there any reason for that? Is it just that it has not been done?

**Mrs Wolcott**—I think it is probably because of the more or less captive audiences that tend to go to marriage education. As you know, the strength of it has been through the church movement of young people who are going to be married in the church who are persuaded or want to go to marriage education and, while

that does not affect the outcome, because once young and not so young people are there, the outcomes are usually quite positive, but it does not have a broad reach. I think that has probably limited the ability to extend the research to the more general community.

The research numbers are so small and in the United States and in Canada too there is not such an organised provision of services as it is here in Australia where it is provided, on the whole, through grants from Attorney-General's and there is a body to draw from. But I am familiar with the Canadian studies by Bader. I think he has done some—

**CHAIR**—Yes, which are of quite small groups.

**Mrs Wolcott**—Again, I think it is that it is such a defined audience and so you skew the kinds of people that come and their reasons for coming even though clearly it has had, as Michele's and her co-author's work shows, a positive outcome for those that attend. I think also, that the idea being pre-marital education and marriage education, there is some problem with who is to attend and at what point people attend and when is that to be provided—particularly as you have more and more couples who have experienced living together or intimate relationships, which raises the question of whether they are at the same stage as many of the programs have been designed for people in the past.

**Mr BARRESI**—To continue from that theme, we have heard quite a bit today about the need for pre-marital counselling, not just counselling but the education associated with that as well, and there has been a lot of discussion in terms of how you actually get the person to turn up especially if the voluntary attendance has a higher degree of success. I have not seen anywhere at this stage evidence which says that pre-marital education actually contributes to long-lasting relationships.

It all seems based on gut feel and what we would like and what we expect, but there is no research into that at all. Am I wrong? Is there evidence to support that? The reason why I say that is because you say in the very last paragraph:

Researchers should be encouraged to explore and validate interventions that are most effective in enhancing relationship skills . . .

That is great; that is what researchers should be doing. Are your researchers doing that? Have they conducted any studies into specific models of marriage education and counselling?

**Dr McGurk**—Generally speaking, what tends to have been evaluated in terms of outcomes from pre-marital education on our courses is short term. Do people feel they have been empowered? Do they feel they know more than when they started? Generally speaking, they show positive outcomes.

On the other hand, in order to know whether down the line it makes a difference you need longitudinal research and that is very expensive and, as the Chairman said earlier, that has tended not to be the approach that has been taken. What we are trying to do, and we will be in a better position a year from now to see whether we have been successful or not, is our own fairly large-scale life course study. In the pilot we have got 2,000 families involved. The pilot results justify it to be a long-term longitudinal study following families over a very long period of time. After that it will be possible to track through those who have and have not availed themselves of opportunities for taking part in education courses, marital

preparation courses, and look to see if it made a difference in the long term. We are going to be contributing to that ourselves but the evidence is not there at the moment.

**Mrs Wolcott**—One of the problems with doing that type of research is the numerous intervening variables that often come in between, let us say, a couple who went to pre-marriage education 10 years down the line. So many factors have occurred in their life that it is very difficult to track back whether or not what was learned or what was absorbed in the pre-marital education program actually was the causal effect of what occurs later.

**Mr BARRESI**—That is the same in any human relations study that you do. With the *7-Up* study in the United Kingdom, there were many variables involved, but it was an attempt at a longitudinal study. I am not saying that you should take the next 35 years or however long they took to do this.

Leading on from there, we have also heard today from the Jewish welfare society. We hear a lot about the cultural diversity of this country and perhaps the need to be looking at what makes up that diversity and whether or not that has an impact on relationships. I want to add in that not only the cultural aspect but the religious aspect as well. Have you conducted any studies looking at it from the positive in terms of what makes for the successful marriage, whether it be because of ethnicity or race or whether it be because of religion?

**Dr McGurk**—No, not specifically in the context of marriage education. However, in the context of a study that we are doing at the moment on parenting strategies we are looking exactly at that across a range of Australian ethnic communities. We are also taking into account religious activity. We are looking at those families that feel, and have evidence to show, that they are being reasonably successful in rearing their children against those that are being less successful. We are looking at differences within cultural groups and between cultural groups on the values, the aspirations, the knowledge that they bring to bear on the parenting task. The focus there is on parenting but we will also be looking at family conservation and the extent to which harmonious links within families influences the success of parenting outcomes. So, I can give a partial yes to your question.

**Mr BARRESI**—It is valuable because there must be lessons to learn from those groups, whether they be religious or cultural groups. I have been disappointed today in hearing a number of people saying that it is the financial difficulties or it is the changes in society. Society has always changed. Families have always had financial difficulties. Unemployment has been around for years; we went through it in the 1930s. There has to be something else which has maintained that family structure together rather than just presenting symptoms that are out there.

**Dr McGurk**—Yes, it is constellation of factors. An inappropriate answer is simply to isolate a sociological or a socio-political issue like unemployment and say that is the issue, or that it is societal values and that is the issue, or it is individual differences in people and that is the issue. It is the constellation of these factors.

Many families under diverse circumstances survive and are successful in adapting to life and rearing children satisfactorily and having enjoyable and fulfilling relationships. Others go under in those conditions,

and it is what differentiates these that is important, as well as looking at the single variable effects, that is to say the effect of unemployment as unemployment or poverty as poverty. We need a much more sophisticated approach, holistic approach. But it would be inappropriate, on the other hand, to ignore the adverse circumstances that impinge on people.

**Mrs Wolcott**—Some of the research that we have done in the past on marriage counselling and in family formation has shown that the second generations of different ethnic groups tend to move more towards the mainstream in a range of issues, from whether or not they live de facto or divorce. It does appear that living in a highly contemporary industrialised society with all of the social transitions that are going on can change the way second generation groups behave.

**Mrs ELIZABETH GRACE**—Just following on a little bit on those lines that you are talking about, I agree with what Phillip Barresi has been saying, because you go back through Dickens's time and beyond and there has always been unemployment, there has always been grinding poverty, social pressures of the time have always been there for people to have to cope with. As you say, some people cope with them better than others and nobody seems to really know why except it is something to do with our genes or our make-up or the way we are all put together at the beginning. But is there any possibility, do you think, of identifying particular groups that could be at risk of a relationship breakdown?

**Dr McGurk**—Assessing risk is extraordinarily difficult. What you can do is assess risk in a probabilistic fashion, but I know most of that in the context of child maltreatment. We know a number of risk factors associated with child maltreatment, but you have families where every risk factor is present and these families have a loving, caring, affectionate relationship with children who adapt extremely well. You have other families who have no risk factors present and yet they abuse and maltreat their children. So it is very much a probabilistic thing. You cannot focus with any particular accuracy and say, 'This family has that constellation of risk factors and therefore it is highly probable that they are going to maltreat their children.'

**Mrs Wolcott**—That is true, and in the marriage breakdown area you can find couples who, on a range of factors, would appear to be about to break apart or who you would think would break apart and do not, and other families where you think there is absolutely no objective reason for that relationship to break down where they do, and some of that I think does have to do with the change between perhaps Dickens's times and ours in expectations. We live in a society where expectations are very high for much broader ranges of people. I think in some of the times in the past, and even in the Depression era, expectations were different. They have, I think, proliferated and people think very differently in some ways about what their rights are as perhaps their responsibilities are not, and I think there has been a change in how people view rights and responsibilities that were not present then.

**Dr McGurk**—Yes. There has been enormous encouragement, both economically and in a number of other material ways, over the past couple of decades in terms of self-actualisation and going and being self-fulfilling and having high self-esteem, and much less on communal values and values of sharing and respect and so on, and I think there is an encouragement that if things are not satisfactory then there is always another way that you can do it, whereas those opportunities were not so readily available previously, nor were they encouraged to the same degree as they are now. So the change in societal values is something we do have to have an eye to.

**Mrs Wolcott**—On a positive point of that, what comes through in some of our studies, too, is an awareness of what is also missing. People are concerned about, as I said, the environment that they are raising children in, and the environment that they find themselves in. For many people coping with the transitions and the confusions and the relative standards of everything can become quite difficult.

**CHAIR**—Let me put one more thing to you, and I would be interested in your comment. This was a comment made to us by a previous witness today. He said words to the effect that the Institute of Family Studies is very good at analysing what is happening, but not telling us why it is happening. I said that I would ask you the question.

**Dr McGurk**—We do try to say what is happening and why things are happening, to try to do causal analysis and not simply to be descriptive, but it is extraordinarily difficult. Along the lines of what I was saying earlier, one can identify a number of risk variables, if you like, or predictor variables for unsatisfactory outcomes and be confounded by these. Unfortunately, the level of our science, if you like, is still that we have to be two-handed and say on the one hand X, Y and Z, but on the other A, B and C. So there is an expectation, and we are often pressed hard to give a slick, easy, single variable answer to what are very complex questions, and we are not in a position to do that.

I would suggest—and Ilene has had longer experience than I have—that we do attempt not simply to say that there is more adolescent suicide today than there was 15, 20 or 30 years ago, but to say that there is more adolescent suicide and more youth unemployment, and it is especially so in rural areas, and there is more access to opportunity to end your life there. These are the kinds of facts that will contribute. I would hope that we do more than simply list what is wrong. We do try to provide counsel regarding why things are going in particular ways.

**Mrs Wolcott**—I think that the explanatory reasons are inherent in all of our studies, I hope. We are not just purely descriptive. Often the explanatory reasons are broad in their conclusions, though, because they go to the broader social changes that are occurring. I guess that one of the goals that the institute had was to place what appeared to be descriptive changes in families in Australia in what was happening in the broader sociological context of the changes that were happening. In a sense, that is explanatory, not entirely meaning what you are saying.

**Dr McGurk**—I think that we would want to go beyond simply pointing to sociological and economic variables. I think that one has to, as I said earlier, take account of individual differences in people's ability, or experience, or what have you. On the one hand, there are the sociological circumstances in which they find themselves and, on the other hand, there is the structure of society in terms of issues of poverty and unemployment, housing, health, and what have you. It is all of these together that have to be taken into account. What we can do is develop explanatory models, but these explanatory models are, of necessity, extremely complex and quite often the media are unwilling to expand to the degree that we would want them to expand in the kind of explanatory accounts that we provide. They publicise the descriptions and we ourselves try to go beyond the descriptions.

**CHAIR**—Thank you for your submission and for coming along today. It has been quite useful for us.

It may be that as the inquiry goes on there may be some things that we would like to explore a bit further with you. We are very much in the early stages at this stage, so if we could have that opportunity of doing so, perhaps in the new year if we think there are some particular areas we would like to look at, we would very much appreciate it. But thank you for coming today.

Resolved (on motion by Mr Barresi):

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

**Committee adjourned at 4.37 p.m.**