COMMONWEALTH OF AUSTRALIA

Official Committee Hansard

HOUSE OF REPRESENTATIVES

STANDING COMMITTEE ON FAMILY AND COMMUNITY AFFAIRS

Reference: Child custody inquiry

FRIDAY, 29 AUGUST 2003

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HOUSE OF REPRESENTATIVES

STANDING COMMITTEE ON FAMILY AND COMMUNITY AFFAIRS

Friday, 29 August 2003

Members: Mrs Hull *(Chair)*, Mrs Irwin *(Deputy Chair)*, Mr Cadman, Mrs Draper, Mr Dutton, Ms George, Mr Pearce, Mr Price, Mr Quick and Mr Cameron Thompson

Members in attendance: Ms George, Mrs Hull, Mrs Irwin, Mr Pearce and Mr Quick

Terms of reference for the inquiry:

To inquire into and report on:

(a) given that the best interests of the child are the paramount consideration:

  (i) what other factors should be taken into account in deciding the respective time each parent should spend with their children post separation, in particular whether there should be a presumption that children will spend equal time with each parent and, if so, in what circumstances such a presumption could be rebutted; and

  (ii) in what circumstances a court should order that children of separated parents have contact with other persons, including their grandparents.

(b) whether the existing child support formula works fairly for both parents in relation to their care of, and contact with, their children.

(c) with the committee to **report to the Parliament by 31 December 2003**.

WITNESSES

Committee met at 10.01 a.m.

CHAIR—Good morning, ladies and gentlemen. Thank you for your attendance this morning. I declare open this third public hearing of the House of Representatives Family and Community Affairs Committee inquiry into child custody arrangements in the event of family separation. This inquiry addresses a very important issue which touches the lives of all Australians. To date the committee has received over 1,500 submissions, which is a record for an inquiry by this committee and amongst the highest ever for a House of Representatives committee. We are grateful for the community's response because this is one important way in which the community can express its views. However, I must note that we have not received many submissions from Tasmania and we will seek to establish why this is the case during the course of the hearing.

From the outset of this inquiry, I want to stress that the committee does not have preconceived views on the outcomes of the inquiry. Accordingly, throughout the inquiry we will be seeking to hear a wide range of views on the terms of reference. While at any one public hearing we may hear one set of views and more from one set of views than from another—for example, more from men than from women—by the end of the inquiry we will have heard from a diverse group and thus received a balance over the range of views.

The public hearings the committee is undertaking are focused on regional locations rather than just capital cities. At these regional hearings, the focus will be on hearing from individuals and locally based organisations. Later in the inquiry we will hear from the larger organisations, such as the Family Court and the Child Support Agency, personally or via video conferencing.

Today we will hear from five witnesses, three locally based organisations and three individuals. We are hearing from the organisations first so that individuals can have an opportunity to see how the public hearing process operates. I remind everyone who is appearing as a witness today that the comments you make are on the public record. You should be cautious in what you say to ensure that you do not identify individuals and do not refer to cases before the court. Around two hours have been set aside for the public hearing. This will then be followed by about an hour for community statements of about three minutes duration each.

[10.02 a.m.]

SMITH, Mr Joseph, Manager, Services North, and Coordinator, Children's Contact Service, Relationships Australia Tasmania

CHAIR—The first witness, who is appearing on behalf of Relationships Australia Tasmania, is Mr Joseph Smith. I welcome you to today's public hearing. Do you have any comment to make on the capacity in which you appear?

Mr Smith—I am currently the northern manager for Relationships Australia. I am also the current coordinator of the Children's Contact Service in Launceston. I have undertaken that role for approximately three years, since its inception in the north. Relationships Australia has run a similar service in Hobart for approximately six years.

CHAIR—The evidence that you give at this public hearing is considered to be part of the proceedings of parliament. I therefore remind you that any attempt to mislead the committee is a very serious matter and could amount to a contempt of the parliament. I remind you that the comments you make are on the public record. You should be cautious in what you say to ensure that you do not identify individuals and do not refer to cases before the courts. Relationships Australia Tasmania has made a submission to the inquiry and copies are available from the committee secretariat. I ask you to give a five-minute brief overview. I will then ask committee members to proceed with their questions.

Mr Smith—Relationships Australia has provided services in the Tasmanian community for approximately 25 years. Within those services are counselling services, relationship services and mediation services with a variety of focuses. In recent years, there are the parents in contact programs, which work with parents in their relationships with their children, and the children's contact services.

The overriding concern for Relationships Australia has been so for a number of years now. The Tasmanian service, since approximately 1995, has become a child focused organisation in that, with respect to all cases we are involved in where children are identified as an issue, the needs of the children are explored within those cases to ensure that they are met where possible within those cases. On coming to this inquiry, there was considerable debate around the notion of the fifty-fifty assumption in relation to shared care. Our experience in recent years has suggested that the shared care arrangements work in very few cases and that those few cases work simply because both parties have a high degree of agreement around contact arrangements. The majority of the cases that had come to us—and we are talking to 30 June, which is what we put in the submission—involved approximately 2,700 cases of facilitated contact on changeovers with parents and some 1,200 hours of supervised contact between children and their parents.

Of the cases that Relationships Australia sees, the majority of those cases come to us because there is no agreement between the parents or an inability to make an agreement around contact arrangements. They are unable in most of those cases to separate their own issues from their children's issues. Our view is that where there are issues relating to children within those cases, we take an opportunity to ensure that there is at least some focus on the contact arrangements

between the parents and their children. We agree and accept that it is vitally important that children have continued and consistent contact with both parents regardless of the parents' issues between themselves.

Our experience also tells us that in many of these cases consideration for the children's psychological and emotional wellbeing is often diminished and the overriding factors become issues around property, finances and the parents' dissatisfaction with each other. Often the children's wellbeing is put aside in the parents dealing with the courts and the children are used often, for want of a better term, as a weapon to facilitate one or the other parent's motivation.

Our objective always is to attempt to put those considerations aside and have the parents focus back on the needs of their children and to provide positive role models, where possible. We aim to have contact continue with both parents on a consistent basis regardless of protracted periods of conflict, be it in the courts or outside the courts through other means.

CHAIR—Thank you. I will now move to questions from the committee.

Mr QUICK—Can you describe a typical changeover. Who organises for your organisation to conduct the changeover? Do people come to you and say, 'We want you to be the intermediary?'

Mr Smith—By far the largest majority of cases that come to us are referred to us by legal representatives through the Family Court, through legal aid or private practitioners. We have enjoyed in probably the last 12 months a larger proportion of people who have accepted that the Children's Contact Service is a reasonable option and simply come off the street or hear about it via word of mouth and who come to us to assist with their contact arrangements. In the majority of the cases that come to us, often one of the parents is unwilling for contact arrangements to take place. We assist by contacting the other party and advising them of the facilities that are available through our services. We ask that they participate in an intake process. Both parents will then participate in the intake process, which looks at the issues for the children.

Of course, there are a number of factors we need to look at in relation to the parents: whether or not there are safety concerns, for how long contact has not taken place with one of the parents, and what their legal situation is. Once we have been through that process and it is determined that we are able to provide a contact, then we do what we call an orientation for the children, which is to acquaint the children with the staff and the service so that when they come to use the facility and they understand that it is a safe and fun place to be. So that takes one of the concerns for the children out of the situation.

We then organise for the parents to come to the service. We use an approved child-care facility. A parent will come at a point of time with the children through a separate entrance. They will leave the children with us for approximately 15 to 20 minutes in most cases. They will state to us any concerns in relation to the health of the children or any activities that may be taking place on the weekend. That parent then leaves and the other parent comes to the service through a separate entrance approximately 15 minutes later and picks up the children, is advised of any issues and then leaves. Of course, the return happens at that appointed time. With the majority of our cases, there is Friday to Sunday contact and they come back through that way.

Mr QUICK—So if there is non-compliance and they do not turn up, what options do you have?

Mr Smith—We have very considered and very well-tested policies and procedures around contact arrangements. Those arrangements are made very, very clear to the parents before they enter a service and they sign an agreement with us. For instance, if there is a non-return of a child, our response in the majority of cases is, firstly, to contact the police and, secondly, contact the residential parent. We get the police involved simply to determine that the child is safe. The residential parent can determine from that point where they take it. Essentially, what happens is they have breached their conditions with us. Until we do a review of the process—and of course generally there is a lot of legal process that is going on in the background after that point—we determine whether or not it is in the best interests of the children to proceed with that contact.

Mr QUICK—So of the 2,766 changeovers, roughly off the top of your head what percentage are defaulters who stuff the system? Is it a very small percentage?

Mr Smith—We would need to be clear about defaulting against court orders or defaulting against contact arrangements down at the Children's Contact Centre. In the last three years, the Launceston Children's Contact Centre has only had two non-returns of children. However, based on the information provided to us in court orders and mediated contact arrangements, there are considerable breaches of those conditions by either of the parties. Percentage wise, it would be very difficult to estimate, but I would suggest 20 to 30 per cent. Perhaps there would be a deviation from the accepted agreement.

CHAIR—I have a follow-up question with respect to the contact services. Do you have a waiting time for people to be able to engage with the contact service? Can anyone get in to see you straight away to ensure contact services?

Mr Smith—Because the Children's Contact Service necessarily enters into a sometimes very protracted period of negotiation with both parties to come to an agreement, if we get an agreement between both parties for changeovers, we can generally accommodate them after about two weeks.

CHAIR—So do you provide supervised visits?

Mr Smith—Yes, we do.

CHAIR—With respect to supervised visits, that means obviously you have somebody in the room and the visit takes place at your facility?

Mr Smith—Yes.

CHAIR—Do you have a waiting time for that?

Mr Smith—At the moment—

CHAIR—Waiting list or—

Mr Smith—In recent times, we have had to develop a waiting list simply because of the sheer number of clients that are referred to us. As you can appreciate, we work from Friday to Sunday so there is a limited period of time we have to facilitate the number of contacts. As a result of that, if we have space, it is two or maybe three weeks, including one weekend which needs to be orientation for the children from contacting the service to facilitated contact. At other times where there are negotiations or we do not have a space, the wait can be up to five to six weeks.

CHAIR—And then, of course, once you have had your supervised contact or your supervised visitation, you go back to the waiting list to go through to the next one?

Mr Smith—Essentially, we have a finite number of spaces. Our objective always is to have parents manage themselves. In the majority of cases, we are able to move them from supervised contact to changeovers, which frees up our time on the weekend so we can then take others from our list and place them.

CHAIR—What is the time frame? You do not just come in for the first supervised visit. You have a supervised visit because of difficulties, obviously. What is the time frame from the first supervised visit to the time you put on where the people are able to go into an ordinary contact service and it is just an exchange or a changeover?

Mr Smith—Our experience has been from five weeks to two years.

Mrs IRWIN—I would like to follow on from that. You were actually saying that there are 2,766 changeovers and 1,244 hours of supervised visits. Let's talk about the child or the children who are involved in these changeovers or supervised visits. How is it affecting them and what sort of counselling are they given prior to a supervised visit, especially if mum or dad do not turn up?

Mr Smith—Part of the assessment process that we conduct with the parents involves significant questioning around the circumstances for the children. They are issues that may be affecting them and their behaviour. It includes things that may be happening in school, how they have responded to the separation and presenting issues that we may need to deal with. One of the purposes of the orientation that we conduct with the children when we bring them down to the centre is to determine what, for instance, sort of separation anxiety is likely to occur between the child and the residential parent. With children who are able to express their views, we see whether there are any fears or anxieties around contact with the other parent. From experience, we have developed a variety of ways of assisting children to become more comfortable with that. Those who are able to express their views, for instance, are given the opportunity to have a signal or a prearranged signal that they can use with the contact workers to pull them aside and say, 'I'm upset about this' or, 'I'm not happy with the way things are going.'

Mrs IRWIN—What do you mean by a signal?

Mr Smith—For instance, if they are feeling a little anxious or they are upset by something that is happening with the contact, we suggest that the children get the attention of the support worker. They can pull their ear or, if they are able, just simply go to the worker and say, 'Can I have a talk?' The opportunity is to gauge how the children are responding to contact arrangements.

Mrs IRWIN—What are the ages of these children?

Mr Smith—The majority of our children that we have contact with are between the ages of four and seven.

Mrs IRWIN—This is the last question and follows on from the other questions. I got the impression that there might be a few hiccups in the system because of the time frame. How would you like to see this system improved?

Mr Smith—The legal system?

Mrs IRWIN—No, the system of changeovers and supervised visits. Are you happy about the way it is being run at the moment? Have you got a wish list for the sort of changes you would like to be able to make to this?

Mr Smith—Yes.

Mrs IRWIN—Would you like to put that on the public record, because I am telling you that we need to hear this.

Mr Smith—In the majority of the cases we see, at least 50 per cent of the parents are not happy to be using a contact arrangement. Of those, in the majority of cases we see, there is some attempt by one or the other party to use the process to stall for whatever reason, be it to make contact arrangements difficult or to wait until other further court processes so that they can achieve an objective. What we would like to see is an immediate arrangement whereby, if there is no demonstrated concern over the children's safety, contact arrangements should continue with both parents so that the significant other role model in the child's life is not removed for a protracted period of time simply because the parents cannot make an agreement. That is our biggest concern. When separation occurs, we have parents that come to us who have had no contact for 12 months to three years simply because the parents cannot make an arrangement around contact.

Part of our wish list, to use that term, would be that there be immediate arrangements put in place so that contact continues in some form, so that some sense of stability can be maintained and some sense of consistency around the parenting of the children can be maintained. When you remove one parent from the situation, it does not provide for stability in that situation. The impact on the children is significant in that they lose the significant other. They are confused by the process. They are privy to unkind responses to mentions of the other party. The children are subject to the anxiety of the parents, whether they are having contact with both or just one. From our point of view, over a period of time, when contact arrangements are resumed or we attempt to make contact arrangements, those impacts on the children are evident in that they have not had contact with the other party and the stability of their home and life as young children is being disrupted.

The impact on them carries well beyond resuming contact. In some cases, the impact on the children is very, very evident and significant in that the children are withdrawn, they are having problems at school and they are having problems at home. They are having problems communicating with siblings and others. One of the common things is bedwetting, anxiety,

hypersensitivity to situations where there is more than one person and separation anxiety. So there is a huge variety of issues that impact on the children when their home life and a significant other is removed from that and they are privy to the anxieties of the parents in these protracted periods of negotiation.

Mrs IRWIN—Thank you for that. I have more questions but not on this issue.

Mr PEARCE—Thanks very much for your time. I noticed your submission talks about the overall family law situation in Australia with the legislation et cetera. I have the sense from your submission that you feel the system is working okay overall. I have had the sense that there is not much that you would like to see changed in the overall system. Your submission talks against the introduction of a rebuttable presumption of joint custody et cetera. We have had quite a lot of evidence, and our own practical experience demonstrates to us as members of parliament, that in fact the system is not working very well overall. It is quite clear, in my experience anyway, that we need to make some significant changes.

I also notice in your submission that you did not talk at all about any suggestions or changes to the child support area. I wonder why Relationships Australia Tasmania did not comment on the child support area. Secondly, some of my own experience demonstrates to me that it is the area of child support—that is, money—that quite often drives some of the behaviour that impacts on the access arrangements of the children of the relationship. It is quite often a result of the child support—that is, parents playing off against one another about the money arrangements and impacting the children. I am interested in why you did not feel the need to comment on the child support area at all. Was there a particular reason for that?

Mr Smith—I will go back a step. From our submission, it suggests we do not want to see significant changes with the legal system or that we are happy with the way things are. That is not the case. From our submission, we moved away from that and we simply wanted to target one area, which is the issue around the fifty-fifty care. Our experience suggests that the existing court system allows, in many of the cases that we experience, one parent, for instance, to use the system to their own advantage, which suggests that there is an unequal distribution of power and responsibility within the system. That is very, very evident when court orders are made. The residential parent has significant power about how and when the children receive contact with the other party, regardless of the court orders. There was a question earlier about how many people would breach their conditions around contact. In the majority of cases, we find that where one parent has gone to court with the express purpose of denying the other party access and access is granted, when that access is granted, the party will breach the conditions of the contact simply to continue that battle.

As for the child support area, we find in our work that it is in many, many cases a significant issue. The reason I would suggest that we have not commented on it to any degree is that we wanted to make it clear that the financial issues, even though they may have an impact on the children in their home life, need to be separated from the psychological and emotional concerns of the children. When we talk about the fifty-fifty care arrangement, when you are talking about things such as financial matters and property, those significant other issues that are discussed and mediated after separation should not go into the same basket as the care and shared arrangements with the children.

Mr PEARCE—I share that view, but I am wondering whether your experience demonstrates that that is the way people think. Do they separate it?

Mr Smith—No. Our significant experience is that parents do not separate the two. I do not believe that parents do it intentionally in the majority of cases. But I believe they simply become another process where property is determined. Because of our position at the Children's Contact Service, we are unable to enter into any suggestions or discussions around the child support area.

Mr PEARCE—Given that experience, do you have any suggestions or recommendations about how the two issues could be separated? Do you have any suggestions about how we could help parents understand that they are very independent issues and they should not be joined at the hip? Have you any suggestions about how we could go about that?

Mr Smith—I believe our experience suggests that in all dealings with separation, the issues around children should be clearly defined as a separate process. When you are talking about property and property settlement, of course it is going to have a significant impact on, for instance, the parents' ability to care for the children, their home life and stability and so on. But to put that in the same basket, if you will, with the children's psychological and emotional wellbeing I believe only furthers conflict.

Mr QUICK—We heard evidence yesterday that the children should have separate legal representation—parents should be represented but a child should also have separate legal representation. What are your thoughts on that? Would that assist with what Chris is talking about at the moment?

Mr Smith—My submission would be that where cases are presented through any form of legal process, a separate children's representative should be appointed immediately.

Ms GEORGE—For the child.

Mr PEARCE—So you support the concept of a child having a person representing them who is separate from the parents' representation?

Mr Smith—Absolutely, where the separate representative's objective is to determine in a difficult situation what is in the best interests of the child. I believe that a separate representative under the current model is the most effective way of doing that.

Ms GEORGE—Yesterday in evidence we were told by several witnesses that the current system works well because only five per cent of cases go before the judge to make court orders. The assumption is that the other 95 per cent are amicably settled. The committee probed that assumption. One thing that worries me is that the system has become so highly legalistic that the cost involved in pursuing justice on whoever's side is prohibitive and many people just give up. Often the non-resident parent gives up, and that means they do not have any contact with the child, which is quite contrary to the principles of the Family Law Act.

One thing that is open for consideration is setting up a system that keeps the lawyers right out of it until there is some form of mediation, some attempt to work out a parenting plan—call it what you like—before it actually gets into the court process. Would you like to respond to those

two issues: whether the system has become so highly legalistic that it does need an overhaul; and whether some form of compulsory mediation as a first step before the lawyers get to either party would be a useful way to go.

Mr Smith—The overriding concern with the majority of cases we see is that access to the legal system, to a swift process and to an affordable process is not available. It is available for those who cannot afford it through legal aid or, appointed by legal aid, a private practitioner. However, once the initial processes begin, people find that there are such protracted periods between beginning the service and achieving any reasonable objective and that the process is so long, arduous and emotionally draining that often they just give up. The 95 per cent I suggest you are talking about would contain people who give up or do not understand the system well enough. In a high number of our cases, we find that those who had the system work effectively for them are those who got in considerably earlier than the other party. For want of a better term, it is first in, best dressed. They are able to start the processes and start the accusations before the other party begins.

We have experienced situations recently where conscientious legal representatives will suggest to parties, 'Please go and attempt some sort of arrangement either through mediation or by contacting the Children's Contact Service in the first instance.' In a number of those cases, we are able to avoid going through further legal action. If they fail through us for any number of reasons, then the suggestion is that they will need to follow the legal process. Essentially with the Children's Contact Service the experience has been that if in the first instance the mediated negotiation fails and the contact arrangements fail, they enter into the legal process and end up before the Family Court. Two years down the track, the judge orders the parties to use the Children's Contact Service. So we end up back at the place where we started from. The only additional provision beyond that is that there is a court order in place. That is the law they need to abide by.

So I suggest that the system needs to be overhauled from the initial point that parents are able to access options for negotiation. It is suggested that mediation, where parents are not able to make reasonable arrangements for contact with their children, may be an option in a number of cases, yes.

Mr QUICK—You stated initially that you are opposed to the fifty-fifty concept. You also suggested that there should be contact between both parents for a certain time once the relationship has broken down. In that time, following on from Ms George's comments, that there ought to be instant mediation, should there also be the exclusion of things like intervention orders, which seem to be a retaliatory thing, where whoever is in first can whack in an intervention order and then the whole place falls apart? Taking a lot of these emotive, punitive things out of the system is my understanding of how you would see things working in a different, changed model. Are they some of the recommendations we should be raising as we wander around Australia?

Mr Smith—I agree that some of those processes are often used as a retaliatory strike against the other party but I do not believe that we can simply exclude them. There are any number of reasons why some of those processes are vital in some of those circumstances. But the statement you have made about the fact that they are used as a weapon is correct. The fifty-fifty scenario, we believe, is something that should be aspired to when both parties can agree that that is in the

best interests of the children and there is some consistency between the objectives of the two parties to provide for the emotional wellbeing of the children.

In some cases, a parent may not want 50 per cent of the care, so to begin from that point may simply cause further friction. In other circumstances, where you begin from a point that it is fifty-fifty shared care and then it is rebutted, for one party to lose that opportunity of fifty-fifty care may only add to the despair and the anxiety and the frustration for that parent or a sense of failure and guilt that they have not been able to achieve that 50 per cent of the care for their children. So I suggest it is something that needs to be aspired to, something that is an objective, if it is found to be in the best interests of the children.

Mrs IRWIN—Could you tell us why Relationships Australia feels that we have not got that many submissions from Tasmania?

Mr Smith—I cannot speak for Tasmania. I can speak for the north of the state, which is where the majority of my experience is. I believe that Tasmanian people are very considered in their approach and fairly cautious in that our experience has been when initiating new services, for instance, there is a period that needs to elapse before there is an acceptance of those notions. Often when in Tasmania people come forward with an opinion, it is usually a fairly strong one that takes a period of time. So submissions from Tasmania as a whole, I would suggest, are similar in that unless there is a significant period of debate where they are able to involve themselves and understand what the issues are, and given that in Tasmania the north and the south regions are significantly different, you would need to take into consideration that sometimes people in Tasmania need time to consider which side of the fence they are going to come down on, for want of a better term. They certainly need time to consider their options in relation to their responses. For instance, when we began, we found that in some areas of Tasmania, services, to use an example, got up and running immediately. The Children's Contact Service in the north took 18 months to establish itself because people needed to understand what its objectives were before we got off the ground.

Mrs IRWIN—You stated before that there are people out there who do not understand the court system. In Victoria yesterday, we had a number of grandparents—I am going to talk about the grandparents—who did not know they had a right to go to court to be able to see their grandchildren. Why do you feel people do not understand it? What change would you like to see made? Is it about education or not enough information that is given by various organisations?

Mr Smith—I think many people understand how to initiate processes, where they need to go to obtain forms or information to begin a process in its simplest form. They know that they can get a restraint order. They know that they can put in an application for custody. They know they can put in applications for shared care or those sorts of changes. I suggest that where the information falls down is with the implications of those decisions. I do not believe they are fully aware of them and the pitfalls that sometimes come with making those submissions and having them either approved or modified during the process. So I do not believe some people fully understand the implications of their actions. I think there needs to be further education so that people understand what the likely outcome is and what the likely outcome is for the other party and how that impacts on their situation as well. I think that is missing.

CHAIR—Before I finalise this process, could I make the comment that the presumption of fifty-fifty does not mean that you have to have fifty-fifty. If the parent does not require fifty-fifty or shared access or equal time, then they are not forced. I think that has been a misconception—that if you have a presumption of shared access and equal time, they are forced to take it. It is not. It is a place to start from. If you certainly cannot do that, then you would not be required to take up that 50 per cent of the time. So I think that needs to be probably better understood as well. I thank you for your evidence this morning.

Resolved (on motion by **Mr Quick**):

That submission No. 435 from Mr Smith be accepted as evidence and authorised for publication as part of the inquiry.

CHAIR—Thank you, Mr Smith, for attending this morning.

[10.43 a.m.]

WALTER, Ms Maggie, (Private capacity)

CHAIR—Thank you very much for your attendance this morning. I am sorry we are running a little over time. I welcome you this morning to the public hearing. The evidence that you give at this public hearing is considered to be part of the proceedings of parliament. I therefore remind you that any attempt to mislead the committee is a very serious matter and could amount to a contempt of the parliament. I remind you that the comments you make are on the public record. You should be cautious in what you say to ensure that you do not identify individuals and that you do not refer to cases before the courts. You have made a submission to the inquiry and copies are available from the committee secretariat. Could you give a five-minute overview and then the committee will ask you questions.

Ms Walter—I am a sociologist and a lecturer at the University of Tasmania. My major area of scholarship is the changing terrain of Australian families. There is an emphasis on post-separation parenting. Before I entered academia, I worked for a long period with social security and Centrelink as a new claims pensions grants officer and then as a JET adviser and later as a social worker. All of those roles involved working with parents not specifically on custody issues or post-separation parenting, but those issues always came up. They were always a part of the work I did with those parents.

As you can see from my submission, my main concern with any policy move towards a presumption of shared parenting is the slimness of the research evidence to suggest that such a radical change is predominantly in the interests of the child. I am not suggesting by questioning it that it is not in the interests of the child. I am just saying that there is no evidence for the affirmative case. So my submission is really just asking on what basis and what solid foundation a policy change is being sought. I think it is important to emphasise that the empirical data strongly suggests that post separation, the best interests of the child are served by ongoing quality and quantity time and parenting time with each parent. That is not contested. But I think to then take the leap that that is a case for equal time in shared parenting is fairly heroic. I think it is also dangerous for Australia's children.

My own previous research and the literature review I undertook when I was putting this submission together found that there is minimal research data in Australia on the shared parenting arrangements that we currently have in place. In fact, the only really large-scale survey was done in 1999 by a team from Family and Community Services. They looked at about 458 parents. There is another very recent one from the Australian Institute of Family Studies by Bruce Smyth. Both of these surveys are really quite profile descriptive. They look at things like help, how long each child spends with each parent, the ages of the children and the income support or working status of the parents. They are not very analytical in how the situation is actually working for the children. They are also a snapshot, which means that they are only looking at that one point in time. They are not longitudinal so they really cannot say how these arrangements work over the longer term.

From a researcher's point of view, even that evidence is problematic in the fact that such a small proportion of Australian parents currently organise their parenting post separation to be shared care. It is only about three per cent, I believe. So even if you take that evidence, the proportion is too small to then be able to say that you can generalise any of the findings in looking at that group in the wider population. It just does not stack up.

Another thing that needs to be taken into consideration is what little evidence there is suggests that that particular group, that three per cent, have a different demographic profile than the wider population. They tend to be better educated, they tend to be more in paid employment and they tend to have older children. Again, it is very difficult to say that anything you find within that group you can generalise over to the wider population of separated parents.

So the questions I raised in my submission have not even been addressed let alone answered by the research we have to date. The ones I put down were really those that came to mind when I was thinking about it initially. There are a multitude of other questions that could also be asked.

Mr PEARCE—Thank you very much for your submission and for coming along today. As you heard earlier, the committee has no preconceived position on any of this. I would like to ask you a question in a devil's advocate sense, if you like. As you have identified, your submission is essentially based around the principle of how could the contemplation of such a radical change be made when there is little evidence that it will work.

Ms Walter—Yes.

Mr PEARCE—In a devil's advocate sense, that logic could be reversed and presented in a way that says, 'Given all the evidence that we have had in submissions and our own practical experience of hearing each and every day from mums about how the system does not work, from dads about how the system does not work, from kids about how the system does not work, from professionals about how the system does not work and from grandparents about how the system does not work, it seems to me that there needs to be a radical change.' Have you got any comments to make in a devil's advocate sense?

Ms Walter—I think to suggest that there is no evidence for shared parenting is not to suggest that the system is working well now. I do not think it is. At the same time, while the system may need some change, I cannot see why this is the solution that you have come up with and why you would proceed down this track. I am not saying you should not, but why has this been selected? I think this is probably a fairly simplistic solution to a very, very complex problem.

Mr PEARCE—Okay. On that point, no solution has been identified or anything like that. We are just looking at options. What about international experience? For example, we have been provided with information from various jurisdictions in the US where the presumption of rebuttal for joint custody has been in place. There is evidence to suggest that it has proven to be quite successful in relationships. Have you looked at any of the international experience?

Ms Walter—I have looked at some of that evidence. I am not an expert in the overseas area by any means. Shared parenting is not one of my major areas of research. I did notice in the material I looked at from the US that there was some cross-over between joint legal custody and shared parenting. So much of the information really is not about equal time shared parenting; it

is about whether each parent has an equal say. They are not the same thing. I would support that each parent obviously has an ongoing right for parental involvement with that child and a legal right as well. This idea is that equal shared parenting will solve some of those issues. From the children's point of view, there is so much at stake here that we need to make sure that we have it right. My major concern with all of this is: where is the voice of the children in all of this evidence?

Mr PEARCE—Thank you.

Ms GEORGE—One thing that worries me about mandating rebuttable joint custody is the potential that we might in certain circumstances put large numbers of children at risk in situations of domestic violence or sexual assault. By the time the process of rebuttal actually works through the system, we might inadvertently put innocent children at risk. Do you want to make any comment about that and the grounds that you would consider proper for the rebuttable process to work?

Ms Walter—I think—I am not speaking from an expert point of view—that is a risk. However, I think the risk goes wider than that in that we do not even know what a successful shared parenting arrangement looks like. If we do, what does it look like? How do we define it? What criteria do we bring to bear to judge whether it is a successful arrangement? How long does it last? Is it detrimental to children if a shared parenting arrangement is put in place and then falls apart? Will the presumption of shared parenting mean that there are multiple attempts at shared parenting that might all fall over? How long is a successful shared parenting arrangement? Children's wellbeing is at risk here. Certainly there are issues around sexual violence, but I would hope and presume from the evidence that they are a minority of children. I think there is a wider and a greater risk that children's wellbeing is really the raw data in an experiment.

Mrs IRWIN—I know you have said at the beginning of your statement that there is little research on how joint parenting operates within the two-parent family. This sort of research may take a very long time to be completed. Unfortunately, this inquiry is very, very short. I am going to talk about dads here. What should be done in the meantime to address the obvious community concern about the difficulty fathers have in maintaining a relationship with their children?

Ms Walter—Fathers in intact families or separated families?

Mrs IRWIN—In separated families.

Ms Walter—I do not have an expert opinion. Based on evidence and my own personal opinion, I would strongly encourage fathers and mothers to be very child focused in post-separation parenting arrangements. Fathers are an absolutely integral part. I would always encourage the parenting involvement of fathers to be maximised where there is not a risk to the child. There was the argument before about how the legal system is not working at the moment. I do not think more legal change is going to make it work any better. I think it is parents' attitudes and belief systems and parents' beliefs about rights and responsibilities that are at issue here. I would point perhaps to the changes in 1995. The evidence I have seen shows that there really has not been a dramatic change in the way parents organise their post-separation parenting even though the law has changed considerably.

Mrs IRWIN—I gather that you have had a look at the Family Law Act.

Ms Walter—I am not strongly familiar with it. I have read it.

Mrs IRWIN—Do you think it sufficiently emphasises shared parenting?

Ms Walter—I think it emphasises shared responsibility. But I keep coming back to my point that that does not necessarily mean equal time, shared parenting. It may do. I have anecdotal evidence where that works wonderfully. But I still think the fact that only three per cent of parents currently organise their parenting this way would indicate that for the vast majority of families it is probably not practically feasible.

Mrs IRWIN—I only need a 'yes' or a 'no' answer to this question. You stated that have you done some research. Is there any chance that we can get a copy of the research you have done?

Ms Walter—Yes. I have published in the area of child support arrangements. I have also researched and published in the area of fathers' involvement with children post separation, especially ex-nuptial fathers. That was in *Australian Family Matters* in 2000. I have also published in the area of sole mothers and labour market participation and welfare reform.

Mrs IRWIN—It would be good if we could get that.

Ms Walter—They are all available.

Mr PEARCE—It seems to me that based on your experience—I would be interested in your comment—you talk about the need for parents to become more child focused in this whole discussion. The problem with this whole topic is the complexity of it. What we are trying to do is get underneath that, if you like. In a hypothetical situation, Bill and Mary separate. Mary absolutely and fundamentally believes that it is in the best interests of the children for them to be with her. Bill absolutely and fundamentally believes it is in the best interests of the children for them to be with him. How do we overcome that in the attitudes? What is in the best interests of the child? Both parents fundamentally believe it is in the best interests of the child. That is the problem we have. So how do you break through that? How do you get two parents to talk about and reach an agreement where they both firmly and genuinely believe that it is in the best interests of the children to be with them?

Ms Walter—I am very aware that both parties often feel very, very strongly that their position is right.

Mr PEARCE—It is not always the case, is it, that Bill is an abuser and an alcoholic or mum is a drug addict and all the rest of it?

Ms Walter—No.

Mr PEARCE—Quite often, they are two genuinely wonderful people who have just grown apart.

Ms Walter—We come down to the point that people do not separate because they get on well together. This is the nub of it, I think. The idea is that mediation should take place immediately. I think where children are involved in a family separation, mediation should be an automatic thing. Mediation should be focused on absolutely minimising the damage to the children, especially the children's parenting relationships, through that separation. That might be one way of starting.

Mr QUICK—Why haven't we done research when we have these great monoliths like the Family Court, the legal system, a child support system, Centrelink as well as two parents, teachers, extended families, community workers, all revolving around the kids? We are on about the best interests of the kids. How do we get rid of all these monoliths, simplify the system and say to the kid, 'What's in your best interests? You tell us.' We can take the tens of millions of dollars that these great monoliths spend perpetuating this division and divisiveness in our community.

Ms Walter—I would very much like to see a lot more research being put into children's voices in this issue. I have seen some interesting work coming out of the United Kingdom on that. I think that is where we need to focus. Obviously we need to consider some of these other options but we need to focus away from mothers, away from fathers and on to children. Even our language and our legal language should reflect much more clearly that it is children's interests. I know we say it is in the best interests of the child, but I still think we need to make it much clearer to parents that that is where the emphasis has to be rather than on their rights. Being a parent, as we all know, you lose most of your rights to a certain extent as far as your children are concerned. Your children have to come first always.

Mr QUICK—My second question is tied to that. I raised the suggestion yesterday in Geelong, I think, that we should be taking evidence from a whole stack of children.

Ms Walter—Yes.

Mr QUICK—Excluding the parents and arranging for them to tell their stories. I can guarantee you they would be providing us with some interesting evidence about how they see the system impacting on them and what changes there could be. Do you think that would be a good idea?

Ms Walter—I think that would be a wonderful idea.

Ms GEORGE—From what I understand, what you are saying is you do not have any objection to the principle of shared responsibility?

Ms Walter—Absolutely not.

Ms GEORGE—But with the presumption mandated by legislation that that means equal time?

Ms Walter—Yes. That is the core.

Ms GEORGE—I guess what the Chair was saying earlier was that you should not assume that that necessarily means equal time. Let us start with a hypothetical scenario. Jack's and Jill's relationship ends. They are made to go into mediation. You have a template which says that both parents have shared responsibility for young Jane's future. Let's sit down as parents and work out what that means. Obviously, if the child is young, the importance of nurturing in the primary caregiver role is something that is taken into account. Why can't we organise a template around the notion that both parents will have a say and are both responsible? Don't you think that would take a lot of the heat out of the situation?

Ms Walter—I think it would. I think the notion of shared responsibility is ongoing. Our marriages may end but our responsibility for our children goes on forever. I do not think we have quite cottoned on as parents to that notion. Even if you separate from your husband, he will always be your child's father. It does not make any difference whether you partner with somebody else, your child's father or your child's mother is still there. Again, I think we should not then say that equal shared responsibility is the same as shared equal-time parenting. We do not have any evidence to suggest that that is a good outcome for children.

Ms GEORGE—But it may be an outcome if both parties think it is a workable arrangement.

Ms Walter—Yes. I suggest that if both parties do think it is a workable arrangement, then it is a lot more likely that it will be a positive outcome for children. The little research that has been done, especially the Family and Community Services study, suggested that more than 80 per cent of the parents involved had voluntarily come to that arrangement. About 18 per cent had court orders, and they were the ones with all the problems and the dissatisfaction.

Ms GEORGE—What we are getting at the moment is the perception from a lot of men who have written and appeared before us that they have no stake in the system, that everything is loaded against them and that they do not have a right to an ongoing sense of responsibility in contact with the child. I think that is very damaging for everybody.

Ms Walter—Yes. I am aware that that perception is very strong.

CHAIR—Thank you very much. Perhaps you and I could have a very robust discussion about this debate. I guess you ask questions about why we would go into this role with respect to shared care. We talk a lot about research. It is my opinion or my observation that there is this supposed research out there and stats that tell us that 95 per cent of people are amicably doing this or working out their own situation and that five per cent end up in a very difficult situation in the Family Court. I object to that 95 per cent figure. I suspect that the majority of that 95 per cent are not doing it amicably at all. They are doing it because they do not have any other choices. They are doing it because they cannot afford to go to a family law court or it is just all too hard. So I am a bit of an anti-research person myself. I do apologise if I offend you. I figure it is time we get out of the research and get into delivering exactly what our families need. I guess when asked why we go here, we say it is because we are being asked. We are being pleaded with. People are desperately seeking a way in which they can have a life with their children, whether they are male or female. I think it is a very good thing that this inquiry is doing.

I guess the other thing I would like to mention is that the presumption of shared care is just that—it is a place to start from. It is not a matter of saying, 'You are going to have 50 per cent of time with that child whether you want it or not.' It is a place to start from in the event that there are two willing parents who would like to share a relationship and share in the care of their children. You could start with a presumption there. Of course it does not mean that you are forced into that situation. So I think that I need to perhaps make sure that we clarify that across the hearings. It may be that people are confused that this will be forced upon people who cannot possibly enter into a shared care arrangement. But it is certainly a place to start from. Thank you very much.

Ms Walter—Can I just make one point?

CHAIR—Yes, you can. Please answer back.

Ms Walter—I just wanted to say that while the research might say that five per cent are in court, the research does not say that 95 per cent are amicably making sense. We do not know. We do not have any research on what those 95 per cent are doing.

Mr QUICK—That is right.

Ms Walter—All we have is the research on the five per cent. I would query that.

CHAIR—From all the information we have received today, it is assumed by the people that have appeared before the committee that 95 per cent of people out there are doing it amicably. I reject that observation and that assumption with my entire body. I think it is incredible.

Ms Walter—You do not have any argument from me on that.

CHAIR—Thank you very much for your appearance this morning. We really appreciate you coming in and taking the time.

Resolved (on motion by **Mr Pearce**):

That submission No. 807 be accepted as evidence and authorised for publication as part of the inquiry.

[11.06 a.m.]

HICKMAN, Mr Ian David, Southern Representative, Tasmanian Men's Health and Wellbeing Association

CHAIR—Thank you very much, Mr Hickman, for your attendance this morning. We appreciate your coming along. The evidence you give today at this public hearing is considered to be part of the proceedings of parliament. I therefore remind you that any attempt to mislead the committee is a very serious matter and could amount to contempt of the parliament. I remind you that the comments you make are on the public record. You should be cautious in what you say to ensure that you do not identify individuals and that you do not refer to cases before the courts. Your association has made submissions to the inquiry and copies are available from the committee secretariat. Would you like to give us a five-minute brief overview. We will then pass over to the committee to ask questions.

Mr Hickman—This is an issue I feel so passionately about that you would think I would be really well prepared. I can bail people up in a corner and regale them for hours on this very issue as to what is wrong with it—which is mostly everything—and what could be done to maybe help it better serve the children and the parents. So you would think that I would be very well prepared, and usually I am, but on my way up here today from Hobart, I was just overcome by the emotion of the whole thing. I was thinking, 'I want to say this. I want to tell them that story.' I want them to feel the pain of the children, and of the fathers and the mothers too. My contact has been mostly with the fathers. I want them to know that this is an issue right now. No more research. The research is out there. This is an issue right now that needs to be dealt with before we lose too many lives or wreck too many more lives because too many people have already gone under.

I was at the conference in Canberra last week. That was great. I know that you politicians are across these issues. You have all the statistics. You have the information. You know the consequences. I heard some politicians speaking. One of the things that really touched me was the separation that they felt from their children because they had to go and work in Canberra.

Mr PEARCE—We know that very much.

Mr Hickman—That is a bit like being a separated father, if you are lucky.

Mrs IRWIN—Or mother.

Mr Hickman—Or mother, indeed. Actually, just on that point, tongue in cheek, but actually with sincerity behind it, I moved a resolution at the end of that conference to give politicians an extra day off a month on the condition that they went home and spent it with their families, because I know that is very hard for you to do that. When you get back there, the electorate want you to do things for them as well. So it is a big issue for me. I think it is the most important job in the world.

I have a 23-month old daughter now. I know it is a gimmick, but I would like you to see a photograph of her because this is what we are talking about. I had to go away to a work conference this week. My feelings were that my peers interstate whom I was going to have this conference with would have been judgmental about me taking last week off to do this other thing when I had a conference to go to this week. Then when I got back last week, I found that this was on today and the conference I was going to is also on today. I rang them up and said, 'I need to leave a day earlier. I need to leave this work conference, which is what I'm paid for, to go and do this.'

Again, last night when I was leaving—I actually came back on the same plane as Harry—I thought, 'They will be judgmental.' I thought they would think, as I was going around to say goodbye, 'He's nicking off to go and do something personal instead of being here doing what he's paid for.' As I shook hands with them, they were wishing me well. Their eyes were softening. I realised that half the men I was saying goodbye to had been through this. One story is that the wife of my opposite number in Melbourne left and took their three daughters up to Queensland.

CHAIR—I need to caution you, Mr Hickman.

Mr Hickman—That I have only got five minutes?

CHAIR—No. I need to caution you that we are on the public record, as I indicated.

Mr Hickman—I was not going to name names.

CHAIR—That is good. I just wanted to make sure that you are aware of that because sometimes it becomes an issue and you do not realise that you are doing it. I just need to remind you that you do not need to identify any individuals.

Mr Hickman—Sure. So he was separated. He had to go and live with his brother because the child support did not leave him with enough money to rent a place. He had to try to borrow money from his brother so that he could sometimes bring his children down to visit him or he could go up to see them. Another man I shook hands with, when his wife left, she left him with the children. She wanted him to have the children. So he had the other side of it. He had the side of being the single parent struggling to bring them up, finding it difficult to have relationships or a social life and really struggling to cope in that way. There are others and I could tell you their stories, but I dare say you have heard millions of stories.

I have wandered around. This has been from the top of my head. What I want you to know is that I know you have enough information, so please be courageous. Do not let this be a political thing or a gender thing. Let it be a humanity thing—something that you can look back on afterwards and say, 'We really made a difference there.' I will finish there.

CHAIR—Thank you, Mr Hickman.

Mr QUICK—Thanks for coming. I know it is a very emotive and gut wrenching issue. Each of us represents between 40,000 and 50,000 or 60,000 families in our electorates. It is the major issue as far as constituent work goes for just about every one of us. We are well aware of what is

happening, but it is not an issue that you can wave a magic wand over. I think one of the things that I have experienced being on this committee since 1993 when I first entered parliament is that we have a wonderful bipartisan approach to issues. They are not political. Occasionally we diverge, but we are interested in getting the facts and changing the system. Most of us are sick and tired of the great modellers because we are practical, down-to-earth people, whether we are Liberal, National Party or Labor. We do understand where you are coming from. Each of us in our family situations understands where you are coming from because we are not immune either.

The thing that really worries me—and I would like your ideas—is this glib phrase 'the best interests of the children'. As adult males and adult females, we are selfish and self-centred usually when it comes to the breakdown of relationships. So how do we cleanse ourselves and say that the kids are the most important thing when we have all this angst going on? How do we look after them? What would you do?

Mr Hickman—Well, where to start? When a couple separate, the children are very scared about what might happen. One of those fears is that they might lose a parent, and that is a very well-founded fear. They frequently do. In the majority of cases, they lose a parent, usually the father, if not totally, just with that separation. If you are one of those that gets contact once a fortnight, you have lost your father. It is not good enough. I have a grown-up daughter—a 28-year-old daughter. She is getting married next March and I would really like to have her back before I give her away. We still talk to each other, we still see each other, but that closeness of father and daughter was lost over that time and over the angst from the system—the Child Support Agency, the system of sole custody and all of that stuff. It makes an almost insurmountable obstacle to overcome. Parents are not intelligent when they break up. You are emotional, you are upset and you are not doing goods things. You think, 'I'm really hurting' and you are coming from that place. You think, 'I really want to protect my child.' That is usually interpreted as, 'I am the best one to do that.'

Mr QUICK—I mentioned before—and you probably heard me say—that we have two problems. We have all the people who have already split up but we have this big log jam. Parents each get legal representation, so should we give the child individual representation?

Mr Hickman—I think individual representation—I would take the legal out of it—is a good idea. Basically, the shared custody, shared residence principle is a very, very good starting point because it puts both people on an equal footing. The way it is at the moment with sole custody in over 90 per cent of the cases being what happens, it is like an incentive scheme for divorce. If someone has become a bit tired of their partner, they can look at the odds and say, 'If we separate, I have a 90 per cent chance of getting custody of the kids. That means I won't suffer the emotional separation of being away from the kids. I'll get child support, so the economic side of it will be quite good, and I'll get the larger part of the property settlement.' So if their relationship is a bit rough at the time, it is not a terribly big incentive for them to really put in and try to stay together.

If you start from an equal basis, you have to really focus more on whether you go into it in the first place and about how you deal with it afterwards. There is research out there that shows that people talk to each other more. They draw up shared parenting agreements more. The kids feel they retain both parents. There is less substance abuse and less self-harm, less youth suicide and certainly a lot less father suicide. A whole range of good outcomes from shared parenting occur.

You know all the evidence. It is there and it is clear. For me, this is the obvious way to go. How we ever got to the other situation is what I cannot understand. This is the obvious way to go.

To me, the law should be saying to parents, 'You have decided to separate but you are both parents still. You both have a role in your children's lives, an equal role, and responsibilities and some rights. We are going to make sure that you fulfil those one way or another.' That is when you get together, you sit down and draw up a shared parenting agreement. If one person is working more than the other person they might decide to continue in that way—and it might not be fifty-fifty; it might be 30:70 or something like that—but at least you get a dialogue going rather than an adversarial thing.

Ms GEORGE—But is it possible that we can get the dialogue going when there is a lot of emotion and we are irrational and there is still blame and guilt? How do we sit parents down that are at the point of wanting to tear one another apart in many situations?

Mr Hickman—Just starting from a balanced position where there is that presumption of equal custody.

Ms GEORGE—You think that would take a lot of the heat out of it?

Mr Hickman—That would take a lot of the heat out. You would not have one person feeling very much disempowered in the situation and perhaps getting angry at that and coming from the hurt and a sense of injustice about it and the other person thinking, 'Actually, I can have this and that seems to be the best way to go.' One unspoken thing about all of this is: what message is it giving to children about men and fathers? It is saying basically that they are expendable, that they are only required to pay money. Now that is not a very good message to our boys and it is not a very good message to our girls.

Ms GEORGE—If we cannot get reason to prevail, where do we go from there? If you get to a situation where one or other party says, 'No, I'm not going to participate in trying to get a mediated outcome with shared responsibility', what happens then?

Mr Hickman—I guess you have the shared residence, you have the shared custody. That is the arbitrary position, I suppose. Then the mediator comes in and, I suppose, looks at the situation and prepares that final outcome.

Ms GEORGE—And we do all this before the solicitors get in on the action?

Mr Hickman—Certainly, because it is so adversarial at the moment.

Mrs IRWIN—I have a very similar question about mediation. You are virtually saying that before people go into the court system they have to see a mediator?

Mr Hickman—That is right.

Mrs IRWIN—They sit down and try to work it out.

Mr Hickman—I believe it should be compulsory before there is any other type of intervention with lawyers or anything. They should not even be allowed to come in until that has occurred.

Mrs IRWIN—This has been coming out in a number of submissions that we have received. I want to talk about male suicide. I know people are saying that sometimes we do too much research and try to get statistics, but I do not seem to be able to find too much evidence about male suicides. We are hearing about it with fathers that are separated from their children. Can you tell us of any cases where this might have happened, say, down in Tasmania? I know you cannot mention names. Could you tell us a bit about the Tasmanian Men's Health and Wellbeing Association. What is the most important issue that men come to see you about? Is it their frustration? Do they come there for counselling? Do they feel suicidal? Do they come there because of the Child Support Agency?

Mr Hickman—Taking the second question first, our association is not just about family law reform. Our association is about a whole range of things to do with men's welfare. We come from the basis that if men are healthy and doing well, that is good for the whole community. It is good for women and children as well. That is what we want. Men have been having some bad outcomes in health and wellbeing and we need to look at that. Having said that, the thing we do get calls from outside about most is family law. They come to us in desperation usually asking, 'How can I stop this nightmare happening?' We cannot actually give them too much advice because the system basically does comply with that nightmare. What we do try to give them is moral support and to help them through a crisis.

I also have calls from quite a lot of mothers of sons, occasionally sisters, new partners, people who contact us on a regular basis because the man will not. They are just so concerned or, in the case of the mother, they are the grandparent of the children and they are not seeing them. So basically all we do is try to give them moral support and counselling and things like that. I am going to go home today and I know that I have to make contact with a man to mentor him because he is going through this.

On the question of suicide, it is not so much Tasmanians, but I had a work colleague who committed suicide. He went through his own particular horror of Family Court stuff. He got on to drugs eventually because he could not stand it and eventually ended up overdosing. That is not uncommon.

Mrs IRWIN—Do you get any federal or state funding?

Mr Hickman—Not as a general rule. We have had some special grants of $1,000 here and $1,000 there. We are going to apply for a grant for a mentoring program for men and boys.

Mrs IRWIN—Do you have shared parenting with that beautiful daughter of yours there in the photograph who looks like her dad?

Mr Hickman—I sure do because we are still together—this is my daughter from another marriage. It is my other two children, who I still see. The one I talked about who is getting married is 28 years old. I should add she has actually got a degree in social welfare. She has done psychology. She is a probation officer. She is very skilled in all of those things. I have done

more personal growth than Bridget Jones and yet we cannot get our act together because what happened during that time was so bad that it is difficult to overcome. It is just so challenging. You would think we would have the skills.

Mr PEARCE—Ian, thanks very much for coming. Before I ask my question, as Harry indicated, a lot of us have been through it personally as well, so we feel it is the nature of our job, as you identified. As a matter of fact, I think politicians have one of the highest levels of separation because of the nature of the work alone. I want to put a proposition to you, and I am interested in your response. You mentioned the need for us to be courageous and to make changes. I agree with that. But I put it to you that, at the end of the day, post separation, governments can make legislation in any way, shape or form but unless the people want to do something about it in a positive way, it is not going to make a damned difference.

Mr Hickman—Yes.

Mr PEARCE—I put it to you that maybe where governments should be spending more time and more thought is pre-separation and seeing whether or not there are programs or initiatives that can be put in place so that, when something starts to go wrong, there is a process in place where the two people get together in a room, their heads are banged together and they are told to wake up to one another because, if they do not, they are going to end up going down this path that is going to destroy them and their whole family.

Mr Hickman—Absolutely.

Mr PEARCE—What worries me is that a lot of the discussion is focused on post separation. There is only so much that we can do. I made the point yesterday in Melbourne that we cannot legislate for people to be happy. We cannot legislate for people to be decent. You cannot have a law that all Australian citizens will be decent to one another. You cannot legislate for happiness. So even if we changed some things post separation, even if we were to bring in some new legislation about the nature of the family law system and the nature of the child support formula, I put it to you that at the end of the day it may not change to a high degree. What we need to be doing is looking at before that. My question is: do you agree with that premise? If you do, do you have any suggestions about what we could be doing better through support agencies et cetera to try to avoid this in the first place? Is that just wishful thinking?

Mr Hickman—I absolutely agree that we should be having this pre-separation counselling. Again, I think before systems come in to support separation, which is what happens at the moment, there should be this requirement to attend pre-separation mediation and counselling, even if it is only to tell the people, 'Look, you've got to be warned about what can happen here and how it can all go off the rails.' It is generally not available. Most people do not know it. They sail into separation. The lawyers are the first people they contact. Before you know it, everything has fallen in a heap.

When my wife and I separated, it was fairly amicable initially. It was actually when the lawyers came into it and the CSA were making lots of mistakes that things started to go off the rails. So with pre-separation counselling, it might be that it can actually get the marriage back on the rails. I think it is much better for children if the parents are going hand in hand in their parenting. At least maybe if they do decide to separate they will not be going toe to toe, which is

what happens these days when they contact the lawyers. So it will actually warn them about the consequences and say, 'You need to handle things like adults. You need to start getting your head around it now and have a recommended way of approaching things to get a good outcome.'

Mr PEARCE—The reason why I mention it is that I have a feeling—it is only a feeling; there is not a lot of evidence I have seen—that even though we all have friends and neighbours and family members who have gone through this, we think that it is never going to happen to me. It is a bit like the car accident thing, with people saying, 'I am okay to speed or something like that because I am not going to have the accident; somebody else will.' I just wonder whether or not there is not this sort of lack of appreciation about what always generally happens. What always happens is that it gets into bitterness and acrimony that is extraordinary, nearly always. I think couples seem to be a bit naïve on that. Would you agree with that?

Mr Hickman—They certainly are, yes. They go into it and they do not have a realisation that they are going to have the dynamics occurring around them that are going to trigger off all these things. There is already a lot of emotion involved in the separation. Each one will have their agenda about the other one having done this. So there is already a certain amount of, I guess, blaming and trying to shift responsibilities, but usually it is a joint responsibility because it is a relationship that has broken up. But then you get messages from lawyers. At the moment, men get a very strong message from a system that seems to be saying that their role as a father has basically finished—that they are not really worthy to continue as a father any longer. That is a very powerful message. We have given it to a generation of children. What the implications of that are, I suppose, we will find out in the future, but I do not believe it is a good message to be giving children that fathers are expendable.

CHAIR—During the hearings and the submission process, there has been a very clear desire to remove the legal channels out of this in the beginning of any separation—remove the solicitors, remove the lawyers in the beginning—and try to get a position put together without the interference of the legal fraternity. Would you support that process?

Mr Hickman—Yes, 100 per cent, definitely. It could only help.

CHAIR—Thank you very much. We appreciate your coming in this morning. We really do understand that it is a very difficult and emotional issue, as I indicated at the outset, for all Australian people. We appreciate your time and effort this morning.

Resolved (on motion by **Mr Quick**):

That submission No. 860 from Mr Hickman be accepted as evidence and authorised for publication as part of the inquiry.

[11.34 a.m.]

WITNESS 1, (Private capacity)

CHAIR—Thank you very much for appearing this morning. The evidence you give at this public hearing is considered to be part of the proceedings of parliament. I therefore remind you that any attempt to mislead the committee is a very serious matter and could amount to a contempt of the parliament. I remind you that the comments you make are on the public record and you should be cautious in what you say to ensure that you do not identify individuals and that you do not refer to cases before the courts. Under those circumstances, if you want your hearing to be held confidentially, you are quite within your rights to do so. If you want to go to a confidential hearing, we are quite prepared to do so. Would you like to do so?

Witness 1—No, thank you.

CHAIR—You will be wary of the fact that–

Witness 1—Very.

CHAIR—Thank you very much. I invite you to give a short five-minute overview. I will then proceed to have the committee ask you questions.

Witness 1—I am appearing as an individual and as a father. I have written something because it is the only way—and you can see that I am nervous—to get it out to you and hopefully hit what I am trying to direct myself at. I would like to thank you for the opportunity to speak personally to a section of the decision makers of this nation. I really appreciate it. I am a separated father who has two boys. From my experiences and that of my peers, it is our strong belief that if you have to ask the Family Court to decide the amount of contact a father has with his children, the court, when in dispute, will always decide in favour of the mother. This is from Tasmania's perspective, obviously, not from the nation's as a whole.

Even though the law of this nation allows and permits males through the law—men who have the capacity, I might add, to care equally as well as mothers—to have dual custody rights, a judge or magistrate in the Family Court, if this decision has to be made by such a person, will not allow dual custody to be a reality for fathers. If you are part of that five per cent, you often come away badly. But that is unless the father can afford the most expensive lawyer or can prove beyond a shadow of a doubt and then some that the mother is an unfit person. This second option only helps to undermine future mother-father and family relationships.

The adversarial nature of the Family Court is the wrong way to settle such personal disputes. This common knowledge is not just privy to this room. All separated mothers, greedy lawyers, Family Court registrars and Family Court counsellors are also aware of it, thus forcing less well-off separating fathers to settle for far less contact than what they or their children would have wished. After being a teacher in a low socioeconomic area high school, I can definitely attest to witnessing the problems that teenagers of separated families have. This is especially evident for boys, who suffer from a lack of contact or regular contact with their fathers.

Further, it is my belief that most of these custody arguments are created by the system via Centrelink and the CSA support whereby whoever has custody of the children is financially advantaged. In fact, that parent could be better off financially than being in a family unit as a whole. It is from my own experiences that the system Centrelink and CSA utilise inform the mother first of how time in care of children is linked to payments of benefits and maintenance by fathers. That is, in all separations, children often become a possession that is financially worth fighting for through the Family Court regardless of what is in the best interests of the children.

Fathers and families need this situation to be negated completely. I believe that legislative reform of shared care or a starting point of fifty-fifty would achieve this. This would encourage parents to communicate and get on with the important task of raising children with what is in the children's best interests and not their own best interests. CSA and Centrelink would then still have a role to play in administering the sharing of the financial expenses where parents could not agree.

Personally, I went to the Family Court to ask them to decide on the amount of contact I could have with my sons. The arrangement my ex-partner and I had after separation for the four years before I went to the court was for myself to have five nights and four afternoons of four or more hours a fortnight plus a lot of extra care. Obviously, we were very flexible. The arrangement we had agreed initially was to change to six nights a fortnight after three months. This never eventuated because the mother reneged on this agreement. So after four years of toing and froing and picking up on afternoons and taking back to mum's—I must add that it is Hobart; we only live seven minutes apart so it is not a drama—in the best interests of making life easier for everyone, I asked the court to decide this arrangement, to put it into place how we first wished it to be. That was basically to change one afternoon out of the four into a night. The drop-off back again was at 8.30 at night, so to me it made sense. It was to drop three afternoons a fortnight.

The judge found that our original agreement existed. He also found that both parents provided equally for our children and that we were both responsible parents. But the boys and I lost contact time together. The judge decided I should see my sons for the five nights I already was seeing them together in a block and that nine nights should be spent in a row with their mother. That had never happened before and I cannot tell you the distress it caused to our situation. I could not—you know how I feel, so you can see that.

This caused considerable emotional distress to them, and the adversarial nature of the court caused irreparable damage to myself and the boys' mother. We are three years hence and it still exists. The conclusion I came up with as a citizen, a father, a businessman, a teacher, is that I am expected to have and demonstrate an equitable moral point of view to participate in the modern world and especially within Australia. I am just asking this committee to recommend to the federal parliament that this equity point of view be legislated into the Family Court structure. As a male, I feel that I am not equal. In the words of my sons, 'Dad, we want to see you and mum fairly.' Thank you.

CHAIR—Thank you very much.

Mrs IRWIN—Thank you for sharing with us. You are definitely a caring, loving parent. I hope that there can be changes made and I am sure when your beautiful boys grow up and you keep a copy of this *Hansard*, you can say to them, 'Well, kids, I tried to make a difference.' What

I am going to ask you now is: did you know what options were available to help you sort out your separation issues? Where did you turn first for help?

Witness 1—We turned first to Mission Australia. Opportunities in Hobart were very limited. There was a considerable delay. As the process lengthened, even more resources, especially from the Family Court, were withdrawn in the period we were going through the Family Court.

Mrs IRWIN—How often do you see the boys now?

Witness 1—I see them for the five-night block in a row and that is it. To get around the nine nights that we do not have contact, I coach their flipper ball team and I am the assistant to their soccer team; anything—

Mrs IRWIN—To see them.

Witness 1—To see them, basically, just to go around; that is all. It is not to undermine the mother. It is just to participate.

Mrs IRWIN—Without going into the specifics of the court case with your wife—we cannot do that—can you think of what could have been done to help you get to a solution more quickly? I know that you came to a solution in the beginning but then it was not working your way. This is going to be very hard. How am I going to word this question?

Witness 1—I understand where you are coming from.

Mrs IRWIN—Do not lead.

Mr QUICK—You sound like a lawyer.

Mrs IRWIN—I think you understand where I am coming from. Go for it.

Witness 1—I do. It is in Australian law. It is in the Family Court law that males and females have equal rights. This is not the case. The magistrates have the power. It is like we have now had to put in for drink driving mandatory sentencing to make sure that it is across the board. I do not like that term, but that term, if it was in the Family Court and everyone knew about it, would have brought us both together. We have a middle income. I can only speak for my socio-economic level. But that would have forced us to say, 'Right, we can have half each. Do we have the capacity?' It would have forced us to communicate if we had that as a starting point.

We have never argued about finances. We have only ever argued about contact, so we are unique, I believe. If we had a starting point where my rights were equal to those of the mother, I believe we would have reached a settlement very quickly in the best interests of the children. It was only that small bit that we argued about—as to how much time in each other's care. The night that I wished to have changed from an afternoon to a night was a night on which the mother actually worked. She was not even at home. This goads me to this day.

Mr QUICK—I will place on the public record that I am proud of having someone like yourself in my electorate. Well done.

Witness 1—Cheers.

Mr QUICK—Tell me about the case workers in CSA and Centrelink. You are supposed to have those sorts of people. How useful are they?

Witness 1—I have never personally met a case worker.

Mrs IRWIN—This is with Child Support?

Witness 1—I do not have a case worker. I have a file number. I do not have a case worker.

CHAIR—They all do not have case workers.

Mr QUICK—A lot do.

CHAIR—No, but they do not all.

Mr QUICK—Okay. What reason did the judge give for his decision? It amazes me. I am going to find out who he is, because I know it is a he.

CHAIR—You cannot do that.

Mr QUICK—No, I am serious.

Mrs IRWIN—And that is on the public record.

Mr QUICK—That is on the public record. We are hearing from the fathers. We are hearing from the mothers. We are hearing from Relationships Australia. I want to see the judges come before us so we can ask them some really important questions because they are, in my mind, one of the contributors to this stupid foul-up.

Witness 1—From my point of view, I will hold you to that because time is running out with my children. They are growing up and I would like to spend quality time with them, so I will hold you to that.

Mr QUICK—Thanks.

Witness 1—Cheers.

Mr QUICK—But what reason did he give?

Witness 1—He thought that would be more beneficial because we were fractured. It was one weekend and then it was every Tuesday and then every Monday.

Mrs IRWIN—May I interrupt here. I think the reasons for the judgment you have already outlined in your submission on page 1.

CHAIR—There you go.

Ms GEORGE—You are obviously a caring, loving father.

Witness 1—Thank you, Jennie.

Ms GEORGE—You have not heard the other side of the coin. As parliamentarians, in trying to right injustices against a group of people, we also have a moral responsibility that any change we make does not have unintended consequences for children in particular. How do you believe the rebuttable presumption of joint custody could operate in a way that protects children from potential situations of sexual abuse and domestic violence in the interim while those issues are open to legal contestability?

Witness 1—I do not know the percentages, but I feel victimised by those percentages. I do not know. I cannot give you a clear answer to that question because I am not privy to how it is solved. I have seen counsellors work in schools and I know how hard that job is. There is never a clear answer. But I feel victimised by that percentage of the community that that happens with. I feel that—

Ms GEORGE—You wear their—

Witness 1—I am wearing their troubles and my sons, more importantly, are wearing those troubles. I am sure I am in the majority of separating families. I am not in the smaller victimised category. Nonetheless, it is very important because that damage can be forever and flow on to other generations. Off the top of my head, I would like to say that they should have a personalised case worker that is probably linked to the school that they attend, if they are attending school. It has to be more centralised and less fractured. There are too many hands in the pot, so to speak. That blurs decision making.

Ms GEORGE—On another issue, you raise the issue of the formula. We have not touched on that today, but it has come up. The issue that you raised is one that my constituents raise with me. They say to me, 'Jennie, how is it that, with respect to the cost of care for the children of my separated marriage, they are worth more in monetary terms than the formula allows for the child of my re-partnered relationships? Isn't that discrimination?' You have touched on that. Do you want to expand on that because this is also an area that we are going to be looking at.

Witness 1—I believe there should be a sliding scale. They have percentages now of four percentage points when they are determining maintenance payments. It is not reflective of how much care you have of your child sometimes. If I am a full-time teacher on $42,000 per annum, with the difference from their mother of 1½ nights a week or something like that, I pay $130 for that 1½ nights difference. As a full-time teacher, I cannot afford to run a house by myself and keep a roof over their heads. I cross my teaching with being self-employed so that I can have a vehicle and the business will pay the vehicle costs. That really helps me considerably. It also gives me greater flexibility to see the children. So the percentage scale must be more reflective of the time spent. I fall in the band between 110 nights and 146 nights. I am on the 147—

Ms GEORGE—You are on the cusp.

Witness 1—I am on the cusp and they will not even look at me. To be honest, I do not want to go back there and stir the pot. I do not want to muddy the waters with my ex-partner. I do not want to make life more unbearable for my children.

Mr PEARCE—Thanks. I spoke earlier about a feeling I have about whether or not we should be trying to avoid this up front before we get into this dreadful situation. Within the context of the fact that this is a public hearing and what you say goes on the record, are you able to share with us why your relationship broke down?

Witness 1—We were in a relationship for 10 months. We had just moved in together. We were de facto and she became pregnant. We both suffer for what I believe is the modern world. We both worked. We both had our own businesses. We both worked hard. We then fell pregnant again not long after. That is not the mother's fault. It is our fault. Let me say that. We have two great kids as a result. But to survive, we needed dual incomes. We needed to be flexible. We needed to share our roles within the house, and we did. But those pressures mounted and we crumbled. In my past profession, I worked in the hospitality industry and I worked nights. Her profession was in fitness and she worked afternoons and evenings as well. We hardly saw each other. We crumbled from the pressure of that, I believe.

CHAIR—Thank you very much for coming along this morning. It is a difficult hearing for the committee because each and every one of us has a role as a parent and as a grandparent—in my case; probably not the rest of them.

Mrs IRWIN—In six months.

CHAIR—I think the issues we are confronting are daunting and difficult, and a lot of times it is not made easier by the very difficult circumstances that we hear people are in. So we do appreciate you sharing your time with us this morning.

Resolved (on motion by **Mr Pearce**):

That the submission from Witness 1 be accepted as evidence and authorised for publication as part of the inquiry.

Proceedings suspended from 11.55 a.m. to 12.04 p.m.

WITNESS 2, (Private capacity)

CHAIR—Welcome. Thank you very much for coming this morning to the hearing. We appreciate the time that you have taken to come before the committee. I am sure it will be most helpful for us. The evidence that you give at this public hearing is considered to be part of the proceedings of parliament. I therefore remind you that any attempt to mislead the committee is a very serious matter and could amount to a contempt of the parliament. I remind you the comments you make are on the public record. You should be cautious in what you say to ensure that you do not identify individuals and that you do not refer to cases before the courts. Under those circumstances, I am quite happy for you, if you choose to do so, to move to confidential proceedings. Certainly we would like to offer you the choice of going into confidential proceedings or staying within the public hearing. You are happy with the public hearing?

Witness 2—That is fine.

CHAIR—You will be mindful of the fact that you do not identify people and go into current court cases. Would you like to give a five-minute overview? The committee will then proceed to questions.

Witness 2—Just before I go into my five-minute presentation, I wonder whether I could answer a question raised earlier from a previous witness.

CHAIR—Absolutely. You have the floor.

Witness 2—Mr Quick asked why there was no empirical research presently available in relation to the terms of reference of the committee. I just want to make the point that I know that there has been honours student from the University of Tasmania—and I am a bit upset that Ms Walter has already left because it was an honours student from her department—who was conducting research last year on families who have been through the Family Court system, their perceptions and experiences within the Family Court and the resolutions that came out of that. It would be a published thesis but not in the public domain.

CHAIR—We will seek to get that.

Mrs IRWIN—It was a question I asked that lady. I asked if we could get a copy of that research.

CHAIR—No, it is not that research. This is a student. We will pursue that.

Witness 2—I would have liked her to be here to hear my point, which is that possibly she has missed the point that there is no empirical evidence in Australia because so few people get shared custody that there is no research out there. Who are they going to do research into? That is just my statement.

In my submission I talked about my experiences from the perspective of having been the spouse of a weekend contact father for the past five and a half years. In my submission —I am

reading because I am too nervous—I raised issues in relation to both the Family Court system and the Child Support Agency. I talked of the huge financial burden imposed on parents who use the Family Court system. In our case, we had no choice but to either give up on contact or fight through the court. Costs and the long delays, which also add to costs, mean the current system of resolving disputes over custody or contact between parents is not proving effective and nor is it available to those people disadvantaged financially or socially. I also raised that the current system is inequitable in its treatment of fathers' custody rights and that the court system creates further animosity between parents where they cannot agree by making parents adversarial rather than encouraging negotiation and mediation from the outset. I pointed out that the remedies for the non-custodial parent are often unsatisfactory.

I raised the issue that, in my husband's case, if I had not agreed to assist him to pay the legal fees and assist with providing for his child he would not even be able to have contact now. Legal aid was not a possibility as means tests factored my wage into the equation. Our first bill for initial contact arrangements from 1999 to 2001 we have only just paid off, at the rate of $100 a fortnight. I raised the issue of the huge financial burden this has placed on us. We are about to receive a bill for the period going forward from 2001. I encouraged my husband to pursue, perhaps naively at the time, what I saw as his right and his child's right to have a relationship going down the track. At the time I encouraged him I had no idea of the effect this would have on our ability to have a different sort of lifestyle or even to consider a child within our own marriage. For many people who do not have this financial or emotional support, to even contemplate court is not an option due to the prohibitive costs. The Child Support Agency does not factor in legal fees as a valid cost associated with contact in its current formulas, and this is a further deterrent for parents choosing the Family Court route.

In my submission I talked about the gender inequality evident in systems within the Family Court and CSA. For example, the standard contact arrangements set down by the court more often than not use as a starting point the situation where fathers are only given weekend contact rather than dual parenting roles. This effectively means fathers are already disadvantaged. To get anything beyond this starting point at present requires costly litigation and requires the fathers to prove themselves worthy or, worse, the mothers need to be proved unworthy, causing parents to come into further conflict over the issue of custody contact, rather than there being an expectation of continued dual parenting of the child or children beyond divorce.

I called for reforms to address these imbalances and to ensure all the structures—the Child Support Agency, the Family Court and all the support mechanisms—are in line with current community values and norms. For example, there is ample evidence that fathers in the year 2003 want to be actively involved in dual residency and parenting plan arrangements and that often making those necessary arrangements involves making a choice to spend time with their children but inevitably means earning less money. Courts in Tasmania especially seem far less progressive than mainland courts in that, through the results achieved here, they appear to operate from an outmoded and sexist view—the stereotype that only mothers can provide care in a nurturing role. They are perpetuating a world where kids live with mum weekdays and see dads fortnightly on weekends, creating dysfunctional family structures for the next generation.

I also noted that one of the major factors that does not seem to have been addressed in this equation of the weekend contact dad is that it does not even comprehend that for many people in modern life, especially with deregulation just having occurred in Tasmania, weekends are not

even a reality anymore. I suggested as a starting point that reforms need to remove the expectation that mothers will as a matter of course be the primary care givers and fathers can therefore only have a sidelined and minor weekend parenting role. I also criticised the CSA as their systems support this idea of the norm, in that they presume there to be a paying weekend contact type father with a payee custodial mother arrangement. They see this as the norm and perpetuate these arrangements. This is evident through their policies and procedures. They cannot, for example, fit into their square boxes an equation where a father may wish to have contact according to the terms of his contact orders. Their systems and procedures can only see this in terms of whether this might impinge on the father's ability to earn in order to provide money to the custodial mother. Decisions to spend time out of work with the child were viewed in our case as lifestyle decisions, yet the same judgment was not made of the child's mother when she and also her current husband both opted out of the work force.

The crazy situation we have currently found ourselves in was where the mother gave up her well-paid salary in order to have another child with her new husband, despite them having three children between them from their former relationships, at the same time as the new husband also decided to pursue a further university degree in another field in his mid-40s. The mother was able to apply to the Child Support Agency to review my husband's payments to her on the basis that she had no means to provide for her new baby, her husband and her husband's weekend children and that therefore she wished for the Child Support Agency to rule that my husband's income estimate be increased, despite us having tax returns for every year showing actual income. She wished for my husband to work more or harder and earn an amount he has never been able to earn from his trade in 20 years in order to subsidise what we considered were her lifestyle choices in her new family situation. The increased incomes the CSA has now twice deemed my husband able to earn, based on the mother's applications, have never eventuated. Therefore I now subsidise this shortfall in our household, including providing for the child when she is with us and paying legal fees incurred in ensuring contact. As pointed out, there was no expectation by the Child Support Agency on the former wife whatsoever. It was assumed that as a full-time mother she did not have to earn, yet despite my husband being a part-time father he has been expected to earn as much as a full-time wage earner.

I also gave extensive details of the poor administrative processes, errors and computerised systems of Child Support Agency, which in our case alone have created confusion, and of the long delays in actioning matters. I said that the old system of having a case manager was more effective for all parties than the call centre mentality now, and that reforms are required in relation to file management and also in relation to the newly integrated CUBA system. In our case, I had cause to cause complain officially about the Child Support Agency systems as moneys paid in credit to the Child Support Agency by the mother at settlement were lost during the transition from the old computerised system to the new CUBA system. The result was that almost $2,000 credit against my husband's child support was lost. When we questioned the bills that suddenly started appearing monthly, when we knew we were still in credit, it took CSA over three months to unravel their errors, by which time I had got sick of getting different answers every time I spent time trying to ring someone and I had actually written to complain to a local member of parliament.

In my conclusion, I also raised some of the emotive factors, such as the issues relating to the effect that all this has had on the relationship between parent and child, from the child's perception of 'belonging to mum' through to the very dysfunctional realities of only being in a

parent-child relationship once a fortnight and then in not any normal routine but rather as the other sidelined parent whom the court deems to be a contact parent not a custodian, and the damage that this can cause the parent and the child in terms of their relationship. I accept that many people's realities are different to those experienced by our family and that my husband's case is at one end of the extreme. However, from talking to many people of our age bracket in similar family situations, there are echoes of the same sentiments and there are so many parallels in their lives to varying degrees that mirror our situation.

CHAIR—Thank you very much. I will move to questions.

Ms GEORGE—I just want to commend you for the obvious time and effort you have put into your submission.

Witness 2—Thank you.

Ms GEORGE—As a feminist myself I am interested in your critique about 'the other' and the reference to the Disney weekend dads. I have this view now that maybe the law as it applies is kind of setting the model of the primary caregiver always being at home. I think you made the point in your oral submission that the law needs to reflect community norms. Do you want to say a bit more about that?

Witness 2—Certainly in our case the presumption all the way through, both in the courts and with the Child Support Agency, has been of the mother as the primary caregiver at home. The reality was that my husband's former wife worked and she earned a lot more money than my husband—three times his salary. That just did not fit into any of the equations where the CSA was coming from and where the court was coming from. Our scenario did not fit into that equation. Early on in the piece when the child was born he had been the person that had stayed home and cared for the child when it was a baby while the wife worked. That all went out the window when the mother moved away. She moved 240 kilometres away to ensure that dual custody would not occur. Once she established her routine she moved back. She now lives close by us. In the meantime, we went down the path of setting up all the arrangements in terms of buying a house 15 minutes away from changeover place and ensuring we were close to where the child would eventually go to school and those sort of issues. I have got off the track of your question, have I?

Ms GEORGE—No.

Witness 2—So in our case I think there was a lot of presumption by both the court and the Child Support Agency that this is how families operate: mum stays at home, dad goes to work, dad earns lots of money and mum can only get part-time, crappy paid work. In our case, that was not the case at all. In our case my husband is a low-income earner. He is also self-employed. He is able to have flexible arrangements in terms of being there to provide for the child. He has always had an active role in parenting, even during and after the marriage broke down. Even after the marriage broke down, he was still having the child two days a week for probably a period of seven or eight months while his former wife worked. So there were a lot of things in our situation that did not fit in. We were square pegs in round holes. When it came to the court system, we were told from the beginning that once the child moved away there was no point

pursuing dual parenting because it was not an option. We were told that it would cost lots of money and we would have to prove that the mother was unworthy and all that sort of thing.

Mr QUICK—Congratulations on a wonderful submission.

Witness 2—Thank you.

Mr QUICK—The first part of our terms of reference asks what other factors should be taken into account in deciding the respective time each parent should spend with their children post separation and, in particular, whether there should be a presumption that children will spend equal time with each parent and, if so, in what circumstances a presumption could be rebutted. We have not as a result of your submission put in there what other factors should be taken into account in deciding. We have got Centrelink, the CSA and Family Court judges. You say in your statement that there seems to be a template for Tasmanian decisions even though a lot of our Family Court judges come from interstate. We do not seem to be as progressive. What other factors should be taken into account?

Witness 2—I will comment on your point about Family Court judges attending from interstate. I do not know whether the committee is aware of this but in Tasmania they have set up the new federal magistracy and basically, unless you have a trial, you do not get a mainland judge. If it is to do with contact and contact arrangements you go to the magistracy, which means huge delays because they are what is termed minor cases, because the child is not in danger, and contact might not be occurring but it is going to resume. Initially when we started out down the path of the court experience, my husband's case was before a judge, but then the new magistracy evolved. Since then, all the decisions relating to his case have been dealt with by the magistracy. There is a huge backlog. I think the magistracy operates one or two weeks in Launceston and two weeks in Hobart. There is just a huge backlog and delays. I have gone off the track of your question.

Mr QUICK—What other factors should be taken into account? Obviously there is the issue of case management. Someone should be responsible in CSA and Centrelink. We hear about case managers for the unemployed and the emphasis on individual treatment for getting people back into the work force. Considering the millions of dollars we pour into this area, do we need—

Witness 2—Initially, we had a case manager. His name was Bruce. We never met him, but at least we had a phone number. We could ring Bruce and we knew that he knew something about us and that he was responsible for us. Now, when you ring the Child Support Agency, nine times out of 10 you speak to three or four different people and get put on hold. You have to set aside an hour to ring Child Support. Then they transfer you to somewhere else because they cannot help you. The nightmare of trying to find this $2,000 you just would not believe. I bombarded them with faxes saying: 'Here's our letter saying here is the credit. Here is our letter from the last decision saying how much was left.' In the whole process they could not coordinate whose responsibility it was. It took them three months to work out whose fault it was. We were not concerned about whose fault it was. We wanted to know how they were going to fix it.

Mrs IRWIN—Mr Quick actually grabbed a few of my questions. I would also like to congratulate you on an excellent submission. Thank you very much for coming before us today. On a personal note, have you got any children of your own?

Witness 2—No. We cannot afford it.

Mrs IRWIN—I want to talk about the court system. Some of the people that came before the inquiry in Victoria yesterday felt that the child should be represented. Mum will be represented, dad will be represented, but there is no-one there to represent the child. What are your feelings on this? How old is the child?

Witness 2—The child will be eight in January. When I first met the father he had been separated from the mother and the child at that time was about two or 2½. It is a bit difficult to have a child represented at 2½.

Another issue is that now that she is eight—I will state this on the public record—she believes that she belongs to mum because mum has told her, 'You belong to me. You're my possession' in everything she says and everything she does. She says, 'You just have contact with dad. You just go and stay at his house. You live with me. You belong to me.'

Mrs IRWIN—Did your husband go before mediation prior to going to court with his ex-partner?

Witness 2—My husband attended Relationships Australia for a year before the marriage broke down. The wife stopped going. He attempted to initiate mediation after the marriage broke down. Of course, kids' issues got lumped in with money issues. She left the mediation process because of an argument over money which was also occurring at the same time as the discussion about the child's issues. Since that time, when we have been to court, we have actually requested from the Family Court, if it was appropriate, that rather than go down the path of entering into litigation, we could use their services to actually resolve things through mediation and counselling. They were agreeable to that. They thought it was a great idea and very progressive, but we had no authority to ask the other party to attend. If they are not willing to attend, then that will not be an option and you will have to go to court to get court-ordered counselling. So we asked the other party and the other party did not want to attend counselling. She saw it as useless and a waste of time. She stated that on the public record in affidavits to the court. So we were forced to either give up on contact or take the matter to court.

Mrs IRWIN—You stated that they moved 240 kilometres away. Did your husband go back to court to try to stop that move?

Witness 2—At the time she moved, we had interim orders. He went to court in January. We got told during the week before Christmas that they were moving away. We went to court in January when court resumed because there is a break during the December-January period. We got final orders in September, nine months later, during which time contact was sporadic. By September she had established herself in a new area and had the child enrolled at school.

Mrs IRWIN—And those orders were in favour of the mother?

Witness 2—By that time, she had moved away. It was a fait accompli.

Mr PEARCE—Thanks for coming along today and thanks for your submission. Before I ask my question, I would like to say that I admire the support that you are giving to your husband.

Witness 2—I hope he appreciates it too.

Mr PEARCE—I am sure he does. Congratulations on that.

Witness 2—Thank you.

Mr PEARCE—I suspect that I know the answer to this question, but I would be interested for you to put it on the record. How long have you been together with your husband?

Witness 2—I have been with my husband for about 5½ years.

Mr PEARCE—Has anybody in any institution such as the Family Court or the Federal Magistrates Court ever asked you for your opinion?

Witness 2—No.

Mr PEARCE—Thanks.

CHAIR—Thank you very much. As the members have said, we appreciate the extensive time you have put into your submission. It has been very, very helpful for the committee. We appreciate you also giving up your time to come along this morning. It has been most beneficial for the committee to hear your point of view as a person who supposedly does not have any vested interests, so to speak.

Witness 2—I just wanted to say thank you for the opportunity to appear and to put those points across.

CHAIR—Thank you.

Resolved (on motion by **Mr Quick**):

That the submission from Witness 2 be accepted and authorised for publication as part of the inquiry.

[12.30 p.m.]

CHAIR—The process will now be that we have a community forum. It runs in segments of three minutes. It is like a three-minute statement, where we ask the participants to come forward and make a statement. In the interests of being able to hear from everybody, we ask that you keep your statements to three minutes. When you are speaking, we ask that you are cautious in what you say in that you do not identify individuals and you do not refer to anything that is currently before the courts. You do not have to provide your full name. Your first name will be sufficient. If you would like to put your full name on the record, that is fine as well. Is there anyone that wishes to make a community statement for three minutes? I will hand over to the deputy chair.

Mrs IRWIN—Thank you for participating in the three-minute statements. Would you like to commence.

Justin—My name is Justin. I represent myself. I came in late because I was at work this morning. One point is the obligation of the parent that child support always brings up. I think every parent has an obligation to care for their child. Being 50 per cent of the parents, I think we have an obligation to care for the child 50 per cent, which is in line with what you guys are proposing with the starting point being fifty-fifty.

For me, I am a father. We were not in a de facto relationship. All the laws basically at the moment are set up for parents who are married, either de facto or legally married. For me, basically, none of the rules seemed to fit. I have printed off the rights of the child in the UN convention. Article 7, as far as possible, relates to the right to know and be cared for by his or her parents. Article 9 relates to the right of the child who is separated from one or both parents to maintain personal relationships and direct contact with both parents on a regular basis except if it is contrary to the child's best interests. That is pretty self-explanatory.

I have never read any documentation regarding the best interests of the child legislation is. I do not think anyone has ever written legislation based on the best interests of the child, although that is all the decisions made in the courts by magistrates and lawyers who cannot stand up and say, 'The law says this' because the law that I have read does not say it is in the best interests of the child. From some of the questions before, I do not believe that any legal process is needed, unless there is molestation and everything else going on. Why do we need lawyers to figure out the shared proportion of a parent's obligation to care for the child? For me, child support is a punishment on a parent. Perhaps when child support was made, fathers were leaving their families. Bang, there was punishment at the formula rate. Child Support keeps telling me that everything is already in the formula. I have printed off here a couple of pages from the Child Support web site. It says that all Australian parents need to meet their child support responsibilities.

The Child Support vision is that all parents meet their child support responsibilities even though they do not ask for receipts from the custodial parent. It goes on further with the CSA objectives. The level of financial support provided by parents is in accordance with their capacity to pay. That has nothing to do with their obligation as a parent.

That is very frustrating when I am paying $6,000 for child support, paying another $5,000 for airline tickets from Victoria back to Tasmania and on top of that—I have got him for 40 days a year—paying child support for the time he is with me and then actually paying money while I have got him.

Mrs IRWIN—Sorry about that, but we only have three minutes. We are on a time frame here. If you would like to submit any documents today or even a submission to the inquiry—

Justin—I have put in a submission.

Mrs IRWIN—You have?

Justin—I am not sure if it was accepted.

Mr QUICK—No, it is. It would be.

Mrs IRWIN—It would be. We have received over 1,500 so I am sure that we will be reading yours. Thank you very much.

Wendy—My name is Wendy. I am a mother and a grandmother. I believe that the present system of child support is not fair to the non-custodial parent. It is unfairly weighted in favour of the custodial parent, usually the mother. For example, if the custodial parent is not employed, he or she can receive, for example, $40,000 tax free. That is child support—Centrelink benefits and other concessions. This would equate to $55,000 for a person with a job and paying tax. However, the non-custodial parent has been required to pay full tax assessed on net income. This includes the amount paid in child support. They are virtually paying tax on what they pay in child support. This is very unfair and I believe it should be changed.

Regarding grandparents' access to grandchildren, we have not heard enough about that today. If the custodial parent does not voluntarily allow the children to visit the grandparents, then the latter must go through the expense and distress of the court process. At present, it seems that grandparents are not given any rights without a court battle. There was a case on the mainland several years ago which was successful. This means that the children are missing a very important part of extended family experience. In a normal family structure—that is, two parents living together—grandparents can usually see the children as often as they wish. After separation, this often does not happen, which deprives the children of an important part of their normal development and forming of relationships. The grandparents also miss out on so much of the children's development and cannot develop a loving relationship with them.

I believe that access should be provided for in the law or the regulation for access for grandparents. An example would be 10 to 15 nights per year. I mention that in my case I have more contact with my two grandchildren who live in Queensland than the ones who live here in Launceston. Regarding my two grandsons, when my son brings them to my house for a visit, I always feel a remoteness with them. They are both affectionate boys, as I see it with their father, but if I attempt to cuddle them, they usually draw away. I do not believe this is just me as I have tons of cuddles with my other grandchildren.

When my late husband and I consulted with a lawyer with the intention of applying for access, he advised us not to proceed. This was because our son had encountered so many difficulties within the system and it would cause us too much distress and cost a lot of money.

Today we have heard mostly about the interests of the children. I do not want to diminish their importance in these matters. However, if we do not focus more on the interests of both parents and grandparents, then the children will continue to be the meat in the sandwich

Mrs IRWIN—Wendy, thank you very much. It was spot on—three minutes exactly.

Wendy—I timed it.

Mrs IRWIN—You have been practicing.

Maria—My name is Maria. I am a grandmother and I am speaking on behalf of my son. I have a question. We have been everywhere, to lawyers and all, trying to get some kind of legal advice on behalf of the grandchild. The girl ran off with him two years ago. We have not seen him since. My son cannot get any help. I do not know who to turn to. We do not know where to turn to. Nobody really gives us any advice. How can we get in contact with him? My son is paying the child support, but he does not know if his son is alive or dead. I really do not know what to do about it.

Mrs IRWIN—You are virtually saying that there should be a change in the system?

Maria—Yes, definitely. I think each case is different. We have been to lawyers. Lawyers cannot help. All they can say is that if my son puts $3,000 on a table, they will look for them, but not necessarily still tell him where he is. So I do not think that is right. And I do not think it is right that he has to pay if he does not know if his son is alive at all.

Mrs IRWIN—Do you want to continue?

Maria—Thank you very much.

Mrs IRWIN—In three-minute statements, unfortunately we cannot ask questions. I know that you have just made a point that you have a concern. It is definitely on the public record, that concern.

Maria—Thank you very much.

Ian—My name is Ian. I am a father who separated about five years ago or divorced. I fully support the concept of fifty-fifty shared parenting. I want to tell you my story and the experiences that I have had. I guess I have gone from a situation where when we were together, I used to come home from work and I would look after my son from the time I got home to the time we went to sleep. On weekends, it was almost my full-time duty to look after my son. My wife even worked on Sundays every so often. So I was a fairly strong carer of my son.

My wife wanted a divorce. She approached the legal system. Initially she said that she wanted to move out of home. She could not find a suitable place within her income. She said, 'If you

don't move out, I guess I'm going to get an interim restraining order put in place. That's enough to get you out of the house.' From that time on, I guess you are on the back foot. You are already out of the place. She had no basis whatsoever to put in such a claim. Anyway, I guess I decided to avoid conflict so I moved out. I approached my solicitor. The arrangement that I worked out with my ex-wife was simply that I had my son one full weekend and on the alternate weekend I would get him on a Thursday night and a Friday night. I went to my solicitor. I wanted the fifty-fifty custody. He said, 'No. That's not going to happen. Your wife works part time. She is the primary carer. Your son is five years old. This is a really good outcome so just grab it with both hands.' So I guess I had no option and I took that particular option.

About a year down the track, my wife then decided she wanted my son on weekends as well. Then I was back down to every second weekend. That is the norm, I guess, for Tasmania. For a Tasmanian male father, every second weekend is the accepted norm. I guess I was told, 'Well, you know, you've got what everyone else gets.'

About three years ago, my ex-wife decided she wanted to pursue a career. She wanted to move to Melbourne, where there were greater employment opportunities. I went to court because she was proposing essentially that my weekend contact would then be reduced to every third weekend. I fought a custody battle over that. Again, the judge decided, 'Well, it's in the best interests of the mother that she would pursue a career.' I guess at no point in this whole process was there any thought about my son or me. It was always the mother at every step of the way. Unfortunately, I have a very terrible relationship with my ex-wife. It is very difficult, this concept of shared parenting. It just does not exist. She makes all the decisions and I have got to just basically try and make do with whatever I can.

CHAIR—I have to wind you up. Thank you very much for coming in and making a statement.

Brett—My name is Brett. I will give a bit of a quick history before I start. I did not really organise anything. I only found out about it yesterday.

I was in a relationship for 14 years, married for almost 10 and divorced four years ago. I have a little seven-year-old boy. When our marriage started to have a couple of hiccups, it was very easy to have a divorce. It was very easy to separate. I am a middle income earner. When we actually divorced, my ex-partner was working three days a week as a receptionist. With her part-time work, my child support and what the government was giving her, she was actually taking home the equivalent money that I was getting per week. Financially there was no incentive to stay in the relationship or keep the marriage together. Since then, we have separated, obviously, and divorced. Life goes on. Four years down the track, I have become very wise to quite a few tricks of getting around different methods of doing things. But it should not happen. When I ring child support, if I get a lady on the phone, I hang up again. If I get a fellow, I quite often get a very cooperative conversation.

As far as the money side of it goes, it is not really important, but the most important thing is access between a father and a son so that the whole family can still be an outer unit. My little boy has come up to me so many times and says, 'Dad, I want more time with you. I want more time with you.' All I can say to my little boy is—

CHAIR—Sorry. I know it is a very distressing subject. We understand that.

Brett—'I can give you more time. I can give you love. I can give you everything you want.' Sorry. Only recently my little boy came up to me and he said, 'Dad, why didn't you ever want me?' I said, 'What do you mean?' He said, 'I've always wanted to come and spend more time with you than every second weekend.' I said, 'That's true, and I wanted to spend more time with you.' He said, 'But now I think it's just good to leave it the way it is.' I said, 'Why do you think it's good to leave it the way it is?' He said, 'Because mummy showed me some court orders with your signature on it to say that you never wanted me.'

In conclusion, I have my son every second weekend and every other Monday night after the weekend I do not have him. I refused to sign any court orders initially unless I saw him at least once a week. I asked my ex recently if I could have my son on a Sunday night so that we could pick him up from school Friday night and take him to school Monday morning. She said no. A bit of time after that I asked her again. She said, 'Yes, you can have him on one condition—you deduct the Monday night. If I have him on the Monday night as well as every second weekend, it puts us over the threshold of days per year and my child support drops.' She has remarried. She is earning $40,000 a year plus a company car. He is self-employed. She is putting everything above the threshold of $34,500 into super so that I pay the full amount of child support.

CHAIR—Brett, you need to be careful.

Brett—I am upset now. Four years down the track, I have got a lot stronger on the situation. But with the comment about suicide, once I sat on the side of the road and wanted to opt out.

CHAIR—Thank you very much.

Paul—My name is Paul. I am a local. I have three young children from a marriage. We had been married nearly 15 years. Out of all this, I may get emotional. I thought Brett was. I am only in four months of separation at the moment and finding it very, very difficult after 15 years. The children are aged 11, nine and seven. They are in the same boat in that they are wanting more time. Out of all this, I am a victim. My wife has done the wrong thing and has moved out and taken the children. I have been told and the circumstances are that these are the times I will have the children. This is from the Child Support Agency. It is 110 nights a year, which is every second fortnight. I have them for a Friday night, a Saturday night and drop them back Sunday night.

The fathers in all of this and the victims are always sitting back and thinking, 'Yes, there might be a resolution and reconciliation' and are trying to do the right thing and not rock the boat. In my situation, I thought I would take the easy road and try and do things that you think are best for the children. I was very pleased to hear that legislation may be going through. It should be a prerequisite to separation. The male in a separation, if they thinking to separate, should know the consequences from day one that there could be 50 per cent access. At the moment, my wife is thinking the children are going to be better with her, she feels. That is it; she is using them as a crutch, as a support and as a weapon against what I can do or whatever. She is finding it very, very difficult. She reckons this is going to be a silly law if it goes through because she will lose access. It all comes from child support and the fact of money. She has

worked out that I am in a situation of earning $55,000 a year. I pay 30 per cent to my wife gross from a weekly wage. That is $257 a week. She gets rental subsidy and child support.

CHAIR—I think you need to be careful.

Paul—What I am getting down to is the fact that all of a sudden I now have to buy my wife out. I have to go and have a mortgage. The end result is that my wife, my partner, my friend is going to be far better off. It has just been too easy for these things to happen. We talk about mediation. The non-custodial or working partner in a mediation goes to family relations or the family thing. You pay $1 per $1,000 of your gross yearly income. My wife can go to mediation and pay $30 because that is the bare minimum. If I go there, I have to pay $55 for the same hour. So you are discriminated against again because you are earning.

The worst part about it is that I got a letter from a lawyer last week. Lawyers have got involved. They start to put access to children in a property consent order. If you sign that, that is it; you have lost your right and your right of reply to have more access. So lawyers should not get involved. I am quite adamant on that. Unfortunately, I now have to go to lawyer to counteract her lawyer. In conclusion, I find it very, very difficult to all of a sudden after 11 years say goodnight to your children when you only get to do it twice in a fortnight. Thank you.

CHAIR—Thank you, Paul.

Jo 1—My name is Jo. The first thing I would like to make clear is that the statement that I am making is a personal statement. It is very separate from my professional role with Relationships Australia. I work with the Children's Contact Service there. I am also training to be a mediator, but this is a personal statement. It began nine years ago when I met my current husband. We have been married now for five years. I have a stepson who is now 12. He was 3½ when I met him.

I was, I guess, amongst the five per cent that went through to the court door of a final court hearing. In terms of those statistics, I think we need to be very clear that the five per cent that go through or the five per cent we were talking about earlier are the cases that go to a final court hearing. It does not include those cases which are caught up in Family Court conferencing, counselling or mediation in any way. So I imagine the figure would be much higher.

Our final court hearing came down to two issues. One of those issues was whether my husband could keep his son for a Sunday night after a contact weekend on a fortnightly basis. The other party was obviously opposing that Sunday night contact. My husband wanted the opportunity to take his son to school the next morning. In nine years, he has only ever done that once, and that was just last year. So that was one of the issues. We backed down on that one in the end. So we take him back on a Sunday night.

The other issue that took us through to the final court hearing was who is allowed to pick the child up from school. My husband, because he is a teacher, wanted the words in the court agreement that he or his nominee could pick up the child from school. That was in dispute. In the end, the other party backed down on that. I have had the opportunity to also pick him up from school and his grandparents have had that opportunity as well, which is nice.

For a period of 18 months, we moved to Victoria with the assumption that we could still access that fortnightly contact if we wanted to. In reality, obviously, cost wise we could not have done that. But in the back of our minds we thought that maybe every six weeks we could realistically do that. That contact was denied. We went initially a period of three months without seeing him when we first moved there. Contact with his grandparents during that 18 months occurred only twice. That was because they took the initiative to phone and ask whether they could see him. It was for no other reason.

I strongly believe that an early intervention process is necessary. I think it needs to be carefully planned. I think it needs to be compulsory with severe penalties if parties fail to attend, whatever the steps are. I think there also need to be clear timelines. Our case took two to three years and cost us nothing short of $10,000. We are still severely penalised for those costs and we are still wearing that burden now.

On a separate issue, the Child Support Agency issue, I think there is a clear first step that needs to be taken. Currently, it is based on gross income. How hard is it to change that to net income? I think there would be a lot of happy people out there if just that one change was made. Thank you.

CHAIR—Thank you very much, Jo.

Jo 2—My name is Jo. I have not prepared anything because I only became aware of this forum yesterday. This is something that has been an issue in my life for the last five years. My ex-husband and I separated five years ago. We were actually in a situation that, I guess, left me in the unique situation in that I am a non-custodial mother. On the other side of the scale, I suppose, this is the somewhat rarely mentioned aspect of child contact or any sort of family issues. I was actually in a business partnership with my husband and had been for some 12 years. When I found that the relationship was no longer bearable, we had actually been to Relationships Australia for a year in counselling and tried to hold the situation together. I was left in a situation where I financially could not even leave the marriage. I was not able to get financial support from the government.

I actually left the family home with my son and had him with me for about eight months. At that time, my ex-husband would have no contact with him. My son was seven years old at the time. My husband, due to work commitments but also by choice, had no relationship with our son whatsoever during the course of that seven years. I was the family strong post, I guess. I raised our son. When he decided that he wanted to have a part of our child's life, he actually just stole him away from me. He would not bring him back from a contact visit.

During the course of all this, as I mentioned, I had no financial support. I did employ a solicitor on the strength that he was going to get his money at the end of the financial settlement. So the two were firmly placed in the same pool in my solicitor's eyes. We could not divide finances and child because he was wanting the financial thing to happen for his own pocket and things got very messy.

My son is an only child. We had lost a child through death. One of us had to go through it again. My ex-husband was in no state of mind to be able to go through that. He was actually employing full-time counselling at his home during the course of our first eight months of

settlement. I chose for my son's sake at this time to let him go and live with his father. He was 7½ years old and moving into his eighth year and needed his father desperately in his life and someone had to step down. This was a decision I made in the hope and, I guess, faith that my ex-husband would do the right thing by me and allow me reasonable visits and involve me in my son's life. This, however, did not occur. He continued to manipulate and use the system 100 per cent against me. He created a picture for my son and for himself of contempt of me. I will admit that at the time it was an emotionally very draining time but, as I mentioned before, emotion is something I had dealt with in the past.

I was a bit nervous about getting up because I could speak for hours. To sum up, I am in a situation now where through this manipulation, my ex-husband acquired full custody. I in fact let him have it. I want my son to have a stable life. That is my priority. Bickering, arguing and fighting are something that I do not want for him. He has had it regardless. To this point in time, my ex has custody and residential order of our son. He has avoided any sort of allowance for me to have contact with him over the years. At every stage he has travelled the country extensively with our child and created for himself a status quo that will allow him to be able to continue to do this throughout the course of our child's adolescent life.

Currently I have to somehow find the funds just to correct the wrongs. The injustice is that he has 100 per cent custody. My child is now 12 years old. Again, as one other person said, he believes that I abandoned him. The court order says as much. He has got this one-sided information as a 12-year-old that is going to go with him for the rest of his life. If I do not do something about that now to give him the information that that is not the case and that all is not as it would seem, he is going to have a delusional life. Again, it goes on into the next generation. This is something that I feel very strongly about at this point in time. To date, I have let it go for my child's sake, but now it is a bigger issue. He needs to know the truth and justice needs to prevail one way or the other.

I have not got a lot of faith in the court system and to date have not used it. But I feel now I have to go there. But it is comforting to know that reform is in the vision. I would like to thank you for this opportunity.

CHAIR—Thank you very much. Could I say to everybody in the audience today and to the committee that it has been a great morning for us. It has been an awakening. Certainly every day we hear further and further evidence which means that we can perhaps look to having a bipartisan outcome that perhaps can make the position better for the children and for the adults in the children's lives. I thank all those witnesses who have appeared this morning at both the public hearing and the community statement segment. We will be having one more confidential hearing after the room has been vacated.

Resolved (on motion by **Mr Pearce**):

That this committee authorises publication, including publication on the parliamentary database, of the proof transcript of the evidence given before it at public hearing this day.

CHAIR—This concludes today's proceedings. Thank you indeed. We congratulate you for the amount of time you spent with us this morning and for the capacity that you have been able to

provide to the committee in order that they be able to make some firm decisions regarding the outcome of this inquiry.

Evidence was then taken in camera—

Committee adjourned at 1.32 p.m.