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HOUSE OF REPRESENTATIVES

STANDING COMMITTEE ON FAMILY AND COMMUNITY AFFAIRS

Reference: Child custody inquiry

MONDAY, 1 SEPTEMBER 2003

BLACKTOWN, SYDNEY

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HOUSE OF REPRESENTATIVES

STANDING COMMITTEE ON FAMILY AND COMMUNITY AFFAIRS

Monday, 1 September 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: Mr Dutton, Mrs Hull, Mrs Irwin, Mr Price, Mr Quick and Mr Cameron Thompson

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

HARDWICK, Mr Rodney Charles, National President, DADs Australia 10

MAZZONE, Ms Monica, Domestic Violence Policy Officer, Immigrant Women's Speakout Association of New South Wales 19

REIMER, Ms Elizabeth Claire, Policy Officer, Uniting Care Burnside 1

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WOODRUFF, Ms Jane Catherine, Chief Executive Officer, Uniting Care Burnside 1

Committee met at 2.54 p.m.

REIMER, Ms Elizabeth Claire, Policy Officer, Uniting Care Burnside

WOODRUFF, Ms Jane Catherine, Chief Executive Officer, Uniting Care Burnside

CHAIR—Good afternoon, ladies and gentlemen. Thank you for coming to the fifth public hearing of the Family and Community Affairs Committee's inquiry into child custody arrangements in the event of family separation. We welcome you here this afternoon. I declare open this fifth public hearing.

This inquiry addresses a very important issue, which touches the lives of all Australians. To date the committee has received over 1,500 submissions, 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—it is one important way in which community can express its views. From the outset I would like to stress that the committee does not have any preconceived views for the outcome of the inquiry.

Accordingly, throughout the inquiry we will be seeking to hear a wide range of views in the terms of reference. While at any one public hearing we may hear more of one set of views than another set—for example, more from men than from women—by the end of the inquiry we will have heard from a diverse group and received a balance over the range of views.

The public hearings the committee is undertaking are focused on regional locations, rather than only 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 Law Court and Child Support Agency, in Canberra or via videoconferencing.

Today we will hear from six witnesses, three locally based organisations, and three individuals. We will be hearing from the organisations first so that the individuals can have an opportunity to see how the public hearing process operates. I remind everyone 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 which have been or are now before the courts. About two hours has been set aside for this public hearing. This will be followed by about an hour for community statements of about three minutes each. In order that we can give as many people as possible an opportunity to speak, I would ask that when the community statement process comes into play you try and keep your three minutes succinct in order to get your message across.

CHAIR—I welcome Uniting Care Burnside to today's public hearing. 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.

Uniting Care Burnside has made a submission and I am aware that you wish to amend your submission in a small way. During your opening statement, I would appreciate it if you would provide us with the way in which you wish to amend your submission. If you would like to

amend your submission and then give a brief overview, I will then invite members to proceed with questions.

Ms Reimer—The amendment that we would like to make is on page 4 of our submission. In the quotation we have there we need to change 'the Department of Community Services' to 'the Queensland Department of Families' and we also need to change the word 'manager' to 'coordinator'.

CHAIR—Thank you.

Ms Reimer—Uniting Care Burnside is an agency of the Uniting Church in Australia. We are one of the largest child and family agencies in New South Wales and provide a range of programs for disadvantaged children and families. We do not run programs that work directly in the area of Family Court matters. However, the majority of the children and young people with whom we work have experienced separation, instability and complex parenting arrangements.

As you would be aware, the Burnside submission concentrates on issues experienced by children in the event of parental separation. The core focus of the work at Burnside is children and young people. Obviously we work with others who are involved with children but our central concern is related to what affects children and young people and what works in their best interests.

In our submission we spoke about children and tried to represent their interests. We did this for a few reasons. Children are generally dependent on adults for their physical, emotional and spiritual health and wellbeing. They are excluded from many of the systems which adults take for granted; when they are included the conditions under which this occurs generally is highly prescriptive. At Burnside we believe that children are valuable in their own right rather than as add-ons to adults but this is often not how adults consider them. We also felt it appropriate to focus on children because, after all, the key to being a parent is the presence of at least one child.

Burnside strongly recommends against legislating for an automatic fifty-fifty shared parenting arrangement, even if it is rebuttable. Current Family Law legislation highlights the importance of making decisions in accordance with the best interests of the child. There is an increasing body of research evidence to show how participation by children and young people works in their best interests. A situation of automatic fifty-fifty shared parenting arrangements leaves no room for the child's voice to be heard. The current legislation is supposed to ensure that the child's opinion is sought. We showed in our submission just one example of how this does not always occur in practice and how the child's advocate often decides what he or she believes is in the child's best interests.

The proposed changes to the legislation will accentuate this. If a fifty-fifty split is actually legislated for, this increases the prospect of children being placed in situations before they are given the chance to give their opinion. As mentioned, although we do not work specifically with families and children in the Family Court context, we are exposed to the context of family breakdown, along with other legal situations that affect the lives of children. It is through these contexts that we have developed a sense that it is paramount that children's voices be heard.

Burnside would support the view of the chair, as expressed through the media this morning, that children need to have the opportunity to express their views. Adults are generally not very good at asking for and listening to children's opinions and the proposed changes to the legislation are no exception. In a situation where a fifty-fifty parenting arrangement is automatic, it is highly unlikely that the opinions of the children involved will be sought, especially when the environment is highly charged and emotional. They will once again have been left out of a significant area of decision making in their lives.

More effort needs to be taken to include the voice of children who are affected by their parents separating. If this does not occur, the proposed framework is in danger of being in conflict with other legislative frameworks that strive for the best interests of the child. There also needs to be increased clarity about what 'the best interests of the child' actually means. This presents a strong case for being informed by research evidence in situations like this. As well as listening to what children have to say, we also have to include what research has shown about health and wellbeing, especially during times of trauma and disruption.

We know that being well equates with being healthy in body and mind. Being well means that positive factors outweigh negative factors in life. It is unlikely that an automatic fifty-fifty shared parenting arrangement, even if it is rebuttable, is the best way of maximising positive factors and minimising negative factors for every child. Any proposed changes to the legislation need to provide for children's unique and varied needs for their health and wellbeing.

Burnside's recommendations for this inquiry are that any changes to the legislation should, firstly, put in place systems where the opinions of the children involved are actively sought; secondly, ensure that children and young people are genuinely included in decision making in these matters; and, thirdly, be changes that are grounded in research evidence about the best interests of the child and about children's health and wellbeing.

CHAIR—Thank you.

Mr DUTTON—Thank you very much for your submission. Can I take you to page 4 of your submission where you speak there about a 2002 study that found that for 35 resident mothers, 86 per cent described violence during contact changeover or contact visits. Were the 35 resident mothers part of the Kaye, Stubbs and Tomie study?

Ms Reimer—That is correct.

Mr DUTTON—And is it true to say that most of the people that you would have contact with at Burnside would be women—or men, I suppose—who have experienced some sort of domestic violence during their relationship?

Ms Woodruff—Yes, that would be right; not because they are the programs that we specifically run for people but that people who find themselves in positions of disadvantage with young children very frequently have been the subject of either current or past domestic violence—sometimes, of course, in their own childhood.

Mr DUTTON—As tragic as those circumstances are, I take it you are not suggesting that the majority of relationship breakdowns would involve some sort of violence from one partner—most likely the father, I suppose—or the other.

Ms Woodruff—That is right. We can only speak of the families that we work directly with. One of the issues that is very important is to be able to disaggregate the population so that we know, for instance, that many people are able to make very successful and child focused access arrangements without the formal intervention of the court.

Mr DUTTON—The point I am trying to make is that we run a danger sometimes of categorising the majority of people who were good parents pre separation and who may not necessarily have been good partners with each other but continue to be good parents post separation. On that basis, as I read through your submission, is it really the case that you are against the joint residence presumption—as you state, I think, on page 4—based on the fact that this violence may exist in some circumstances? Is that what your position is?

Ms Woodruff—No. The position is that if you put the child at the centre of the equation, then you ask questions first about the needs of the child. The implication, I think, of the proposed amendment is that you look at issues for the parents first. It does not mean that you might not end up with the same outcome; it is the process that you go through to determine that outcome. Really, our position is not about violence—although that is an issue in some relationships—it is about putting the child at the centre of any decision making. There is a very simple and straightforward reason for that, which is that children are vulnerable and, as a society, we accept responsibility for children, whilst generally speaking we believe that adults are independent and able to make their own decisions.

Mr PRICE—But you cannot say that current arrangements put children at the centre of the equation, as you have put it.

Ms Woodruff—I would like to see the research evidence. I would not want to make a blanket statement that they do and that everything works well at this point in time.

Mr PRICE—I do not think you can.

Ms Woodruff—If you did the research, you might be able to. But I am not aware of the research and whether adequate research has been done. I do not think you change one system for another system if the first system does not work well and you do not know whether the second system is going to work any better. That seems a very risky step to take without good research evidence about outcomes for children.

Mr DUTTON—Have you taken any international evidence into consideration? This type of system operates in some states within the United States and there is a body of evidence there—and I think in some parts of Europe as well—which talks about fathers' involvement in their children's lives being crucial and that that should not necessarily change.

Ms Woodruff—Yes.

Mr DUTTON—Why would we want that to change from pre separation to post separation?

Ms Woodruff—I do not think there is anything in the current Family Law Act which would preclude fathers' involvement in children's lives. Fathers are involved in children's lives and our submission says, very clearly, that they are absolutely important. Some of the programs that we run are through the Men and Family Relationships program, which is funded by the Commonwealth government. A number of those fathers programs that we run are about helping fathers to increase—both literally and emotionally—their access to their children when they are in a separated relationship. Our experience is that most fathers desperately want to have that relationship but often do not know how to do it and really benefit from that sort of assistance. We are not making comments at all about fathers not having rights or fathers not being good parents. What we are saying is that you cannot make an assumption that a fifty-fifty split is going to be the best outcome for the child. We doubt whether the child will get a voice in that arrangement.

Mr CAMERON THOMPSON—I am continuing down the same track. You spoke in your submission about the 'unique and varied needs of children'. Does it concern you that we really do have a system at the moment where the vast majority of the outcomes of family law settlements are stereotyped, with one caring parent, one payer and one payee; one being a resident parent and one being a non-resident parent? Does it concern you that there is not more flexibility in what the system is dishing up, or are you happy for it to be as confined as it currently is?

Ms Woodruff—People do make choices about this. There are a huge number of choices that people come to in terms of sharing their parental responsibilities. I am not sure how much that occurs up at the end where you are in dispute and you are in the Family Court. But if you look across the range of separated families and the relationships they have, people make a whole raft of arrangements but they do it in terms of their own specific needs and experiences and the age and needs of the child. I do not see it as being as inflexible as you perhaps are describing it.

Mr CAMERON THOMPSON—I think I am being faithful to the majority of the evidence that we have had.

Ms Woodruff—I think maybe we need to put this in the context of what happens in families that are together and women are the primary caregivers. There is good research evidence about the relative and respective roles of men and women in those families. That is, of course, a generalisation. All of us can immediately think of families where fathers have taken the primary role. But the research evidence about the amount of domestic work, the support, the child care, et cetera within families where the two parents live together in a mutual relationship is pretty compelling—that women are still the primary caregivers. I am not suggesting that is a justification for any decision that a court might make but it is the social context in which we all live in this country.

Mr CAMERON THOMPSON—There seems to be a view that because women are the primary caregivers in a family, then it is appropriate for that to continue as the template for what must happen from then on. Do you agree with that? The whole idea, it seems, of the shared care proposal is that that be thrown open to a wider debate than just focusing on the role of the woman generally as the primary caregiver and then extending that into the post separation period.

Ms Woodruff—It would be wonderful if we actively had that debate in the society. But I do not know that having it within the context of family law disputes is the best place to be having that discussion.

Mrs IRWIN—I want to talk today about the voice of the children. As everybody in this room has been told, this is our fifth public hearing. We have so far heard from mums, dads, organisations and even grandparents. I want to read out three of the recommendations that you have on page 4 of your submission because I feel that people in the audience should be aware of why I am going to ask the next question. I quote your recommendations:

1.That before finalising a decision on the issues the Government:

- investigate and explore with the children and young people involved in shared parenting experiences post-parental separation, their experiences of these matters and of the FC in its present form

- consult with children and young people to determine what they feel they need, how they would like to be consulted, and what they feel is in their best interests.

Have you spoken to children and young adults regarding this inquiry? If so, would a number of them be prepared to come before the inquiry to have their say? I feel that we have to hear the voices of these children.

Ms Woodruff—We have not specifically raised this issue. The reason for that is because we do not have programs that sit specifically around this issue. However, the work that we have done that I think is relevant, although it may not be specifically in terms of speaking to these young people, is around the voices of children and young people who are separated from their natural families and are in out of home care.

It is similar in the sense that decisions are made about where they are going to live, often through a court process and without necessarily much consultation with the child. We have just completed a three-year research project with the University of Western Sydney, looking at the experiences and the voices of young children through that process. There are a number of very clear messages that come through that research, which I think would be very relevant to the experiences of children and young people in these circumstances.

The most important messages are about a sense of security. I certainly would not want to make a statement that making a decision one way or the other for a child automatically gives them a sense of security. It is how they perceive that security that is important, not how you or I might interpret it as X number of days a month or one week here and one week there. It is how the child experiences it; it is about knowing who to turn to when they need somebody—somebody stable in their life; it is about not knowing why decisions have been made, not really understanding at all what is going on or what the complexity of the situation is; it is about not having any sense of agency themselves—any power—in terms of decisions that are made about their lives. That research has not been finally written up yet, although I think there are some preliminary papers. It is not directly relevant to this group, but it is the experience of children and young people who are in separation.

Mrs IRWIN—As the chair said in the opening address, we have received over 1,500 submissions. I have read a number of the submissions and what I am getting out of them is that some of the people—mums and dads—feel that the child is virtually not recognised within the court system. What I mean by that is that mum might have a solicitor and dad might have a solicitor but the child does not. What has come out of the inquiries that we have had so far, especially in Victoria and down in Wollongong this morning, is that a number of people feel that the child should have an independent representative in the court system. What does Burnside feel about that suggestion?

Ms Reimer—We did not talk with children and young people in relation to this inquiry as with, for example, the institutional care inquiry. With this inquiry we spoke to workers who deal directly with children, young people and parents. The views that were expressed in the submission reflected the views of those workers. We were told about a situation where children in a Family Court situation had a child representative, so it seems that there is some system set up for children to have some kind of advocate. But in that situation—and this would not be the case all the time—that representative, who was supposed to be listening to what the children were saying, did not do that and read reports to find out other adults' interpretations of what the children wanted.

Mr PRICE—Ten years after the child representative was instituted, the Family Court is just now promulgating guidelines, so I agree with your criticism about the special child representative. Does Burnside run Newpin?

Ms Woodruff—Yes.

Mr PRICE—Isn't that a program about parenting?

Ms Woodruff—Yes.

Mr PRICE—Could you tell us a little bit about that?

Ms Woodruff—Newpin is an intensive family support program about building stronger attachments between parents and children under the age of five. It tends to relate to families who are at risk because they are the families we work with. It has a number of components including, now, a fathers program. We did that very deliberately because it became clear to us that our focus was on women—and in these instances the women in this program are the primary child carers—but we wanted to give the fathers an opportunity to be part of the program and to access increased parenting skills and so on.

It is a centre-based program and it is a program where children are safe. That is our primary responsibility, being a child and family agency, but within that context children can learn to relate to their parents; to play and to develop some educational skills. Mothers—and now fathers as well—have the opportunity to learn parenting skills, some things about self-esteem and so on.

Mr PRICE—If we are a society that says children and particularly families are important, why is it that only the families with children at risk get the benefit of being involved in such a program?

Ms Woodruff—That is a very good question. One of the things that we have just started to look at with the Newpin program is that it has an element in it called 'befriending', and that is actually one parent making contact with another parent in a local community. Although I do not think it would be Burnside's work to do, because our particular work is with people who are disadvantaged, we are very interested in seeing whether that sort of befriending program would translate into other areas.

The advantage of that program over something like a voluntary home visiting program, for instance, is that there is a support network for the people who do the home visiting and they are parents themselves going through similar sorts of experiences.

Mr PRICE—You say—and I do not disagree—that we should put the interests of children at the core of our thinking. But isn't it a sad reflection that we do not even have national child protection laws in this country? Those laws vary from one state to another.

Ms Woodruff—Yes.

Mr PRICE—It is a great hypocrisy to say how important families are and how important children are—and I do not accuse you of this—yet over 100 years after federation we still do not have nationally consistent laws about children.

Ms Woodruff—It took us a long time to get the railways right, didn't it? Railways are obviously more important!

Mr PRICE—Can I quote you on that? 'Railways are more important.'

Ms Woodruff—The Family Law Act has been tremendously important because it is a national piece of legislation and it has the capacity to bring some consistency to our approach in this particular part of our concerns around children. However, I am sure you are all aware that the Family Court's concerns about children at risk do not always correspond with the various state and territory concerns about risk. That is a good example of where, if we could bring things together, we would have fewer children falling through the gaps.

Mr QUICK—I have three brief questions. It would be rather daunting to put young children in front of an inquiry like this, would it not?

Ms Woodruff—Yes.

Mr QUICK—Firstly, is there a possibility of perhaps putting a questionnaire to a range of children who are 'at risk' and have experienced separation? Secondly, how do we empower parents to rely on their own intuition and emotions rather than having their lives dictated to by lawyers in the event of a separation? Thirdly, how do you see a parenting plan working in the best interests of a child?

Ms Woodruff—One of the things we have said in our submission is that children are unique and have individual and separate needs. I can see that we might be able to develop a framework from questionnaires, but we really do need to find a way to give an individual child or

children—because, obviously, there are often siblings involved—a voice. I think there are many ways of doing that that are non-adversarial.

We have a process called 'family decision making', which is a form of alternate dispute resolution, for instance, which brings all of the parties together. I know that will not work in every situation for the Family Court but it certainly would—and does—in many cases; as does counselling and alternate dispute resolution. For instance, if you are looking at a situation where a child is required to give evidence in, say, an assault case now, there is a capacity for videoconferencing and so on. There are strategies around that I think could be implemented, and I am quite sure that there is good work being done in other countries as well. I think your second question was more or less how to get away from the lawyers.

Mr QUICK—And implore the parents to rely on their intuition and their emotions rather than giving $10,000 away at the drop of a hat.

Ms Woodruff—Without wanting at all to make a comment about where the law intercepts and where it is appropriate, why can't all parents have access to services which actually increase their self-esteem and their parenting capacity and link them into other people who will be able to support them? That is part of that answer. The other thing is let us get better at things like alternate dispute resolution and family decision making. The advantage of that is that they are non-adversarial—with no lawyers and a managed process that does really seem to give everybody, including the young person, a voice.

Mr QUICK—Is it an indictment of our education system that we have not introduced our children through high school to a whole range of activities that enable them to be better adults, better parents, whatever?

Ms Woodruff—Could be. We have been running conflict resolution courses for children in middle school, in upper primary school, for some time. It is just stunning to watch those kids find another way to resolve difficulties, which are often gender difficulties in that age group. Sexual attraction and so on is starting to kick in.

CHAIR—Would you like to make a brief comment on Mr Quick's last question about the parenting plan?

Ms Woodruff—Yes. I think it would be absolutely wonderful.

CHAIR—Thank you very much. We appreciate you both appearing before the committee today.

Resolved (on motion by **Mr Dutton**)

That submission No. 521 from Uniting Care Burnside, as amended, be accepted as evidence and authorised for publication as part of the inquiry.

CHAIR—Thank you for appearing today.

[3.26 p.m.]

HARDWICK, Mr Rodney Charles, National President, DADs Australia

CHAIR—Thank you very much for your attendance here this afternoon. 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 contempt of the parliament. I remind you that comments that 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. I will ask you to give a short opening statement before I invite the members to proceed with their questions.

Mr Hardwick—Thank you. Madam Chair, members of this committee, I come before you today to speak about the benefits of equal parenting to Australian families. However, there is a far more pressing issue that affects equal parenting and Australians today. It is imperative that this committee and parliament understand that the reforms that may flow from this committee will mean nothing to the average person on the street unless these reforms are upheld by the Family Court of Australia.

Currently the Family Court overrides and ignores the wishes of the Australian people and their elected representatives at its will. It acts outside the mandate given to it by the people without fear or accountability of its actions. This court has failed to follow the directions of our parliament and it has become apparent that this court and some of its members have forgotten its role and place in Australian society.

The Family Court has a responsibility to observe the separation of powers and yet its judges, especially the Chief Justice, need to be reminded by you, our elected representatives, that this court is there to enforce the laws of our parliament, not the gender-biased social policy it is now enforcing. This court is only a consent jurisdiction administrative tribunal, operated with the intent of forcing its enlightened 1970s view of social justice upon all Australians. This court is so despised and hated by all Australians that it is colloquially referred to as the palace of lies. The systemic corruption uncovered by the joint select committee report in 1994 clearly demonstrates how this den of iniquity earned this name.

In the late 1980s, the Hawke Labor government appointed Alastair Nicholson, a failed ALP candidate from the 1970s, to the position of Chief Justice. The reason for this appointment is apparent. This appointment was a deliberate act on behalf of the Fabian Society's political wing, the Labor Party, to ensure that its keystone policy of social engineering, father-absent homes, was protected. This appointment ensured that the CSA, now colloquially referred to as the collection and suicide agency, if challenged by the Family Court would find a protector who was sympathetic and a true believer, so allowing the psyche of the single mothers' industry to flourish and become a degenerating cycle from generation to generation.

In October 1993, the Chief justice and 12 other Family Court judges resigned their appointments and were reappointed. This enabled them to continue their appointments until they were 70, without loss of benefits. The Keating Labor government and the then Governor-General

Hayden carried out these reappointments behind closed doors. These documents were marked 'Cabinet-in-Confidence'. Legislation had been deliberately passed in 1992 that enabled this offensive act to occur under the banner of legitimacy. However, this act was offensive to our Constitution.

Madam Chair, I submit that parliament cannot pass legislation that offends or undermines our Constitution. We now have the situation of the Chief Justice making policies and decisions—that other judges are following—which, if challenged, could be proven to be constitutionally invalid and flawed. The level of judicial activism that the Family Court now engages in on a regular basis has to be stopped. It is undermining the confidence of the Australian people in our independent legal system. The level of bias and extreme judicial activism to which Justice Nicholson will sink in order to force his views upon the rest of Australia was clearly demonstrated when he publicly rebuked the Prime Minister on the initiative of equal parenting. Judicial activism will undermine any equal parenting reform recommended by this committee.

One fact is certain: the Australian people will not tolerate this Fabian Labor Party political appointment for much longer. He has single-handedly destroyed and undermined the confidence that the Australian people have not only in our legal fraternity but also, more importantly, in our judicial system. This man should not be hated but pitied for his lack of vision and compassion to those who seek justice from him. This man is nothing more than a pawn of a small group that sees itself as the enlightened leaders of the social masses, leading us to their vision of a social Utopia, which is father-absent families which are dependent on welfare, dependent on the state; that is, dependent on those in power.

Equal parenting breaks this cycle. Equal parenting takes power back from the state and gives it to those to whom it rightly belongs, the people—not the judges; not the solicitors; not the small letterhead, self-interest groups of the misandrist movement, but the people. Equal parenting breaks the corrupt empire that the Family Court has allowed it to become. Equal parenting breaks the welfare cycle and will relieve the taxpayer of the heavy burden of supporting single mothers and encourage them to return to the work force. Above all, equal parenting is what children want: equal time with their mothers and fathers. Madam Chair, members of this committee, remember one thing: equal parenting is the right of every child.

CHAIR—Thank you very much, Rod.

Mr PRICE—Rod, I hope you do not expect me to agree with your conspiracy theories about how Justice Nicholson was appointed. I disagree very much with Chief Justice Nicholson but I could not share the conspiracy theories about how he was appointed and why he was appointed.

Mr Hardwick—Release the documents then, Roger.

Mr PRICE—What documents?

Mr Hardwick—The documents of the reappointment in 1993.

Mr PRICE—I am hoping to put a question on the notice paper about it. We will see whether that is fact or fiction. But I want to ask you about equal parenting. In the proposition of equal parenting will it always be the case that people have fifty-fifty residency or custody of the

children without having to go to court to have some element rebutted? Can it be voluntary, in your opinion?

Mr Hardwick—Under the equal parenting arrangement that we would like to set forth, the rights of the parents would be re-established. It would be the rights of the parents to come to an agreement on what they feel would be best for them, whether that agreement is fifty-fifty, 60-40, 70-30. It would be up to the parents to decide what they wish. But if parents cannot decide on what they think, then yes, we have to have a presumption of fifty-fifty until such time as the parents can work it out between themselves. It might take some time. Once that agreement is reached by the parents and ratified by court, we need the court to uphold that agreement to ensure that it is supported. Then, if some time down the track one party decides to make trouble for the other party, they cannot go into the court and try to have that document overturned.

Mr PRICE—Just on the Family Court again, would you like to see section 121 changed so that cases can be reported by the media, as they appear, unless there is a court order otherwise?

Mr Hardwick—I think 121 would have to be one of the most vile pieces of legislation to democracy that has ever been approached. We now have a situation in this country where a justice of the Family Court gave a very good decision in relation to equal parenting not long ago but we had problems getting a copy of the transcript. When we got a copy of the findings we were told that we could not report it because it would be contempt of court. It was a good decision by a judge—and there are great decisions being made in the Family Court—but we cannot report them. Although 121 was brought in for the best interests of the child, matters can be reported without naming children; matters can be reported without naming individuals. But only if we can open this up for public scrutiny will people start to see that this is a properly constituted court, operating on proper principles.

Mrs IRWIN—It is quite obvious, Mr Hardwick, that you do not like the Child Support Agency at all. Is that correct?

Mr Hardwick—The CSA, madam, is referred to colloquially as the collection and suicide agency.

Mrs IRWIN—What changes would you like to see to the Child Support Agency regarding the financial assistance for the children?

Mr Hardwick—Madam, I have signed a confidentiality agreement in relation to legal proceedings that are currently under way. In relation to the Child Support Agency, I am not really too concerned about it now because I can see it is going the way of the dodo. This government has a $50 billion liability coming its way for the actions of allowing social policy to be passed as legislation.

Mrs IRWIN—I want to follow on from what Mr Price said regarding equal parenting. Do you have some ideas of how equal parenting would work? I am going to just outline a few situations here: if the parents lived a long way apart; the parents do not have enough money to set up two homes; there is a history of high conflict or violence; and either parent has inflexible working conditions. How could shared, equal parenting work?

Mr Hardwick—The first proposition you put was where the parents live a long way apart. At one stage they lived together. We find mostly what happens is that as soon as parents separate, one party always moves just that bit extra distance away to deny the other party contact to their children. Under the presumption of shared parenting, that is not going to happen because both parents will automatically know that the other party is entitled to contact with their child, so they are not going to move the distance. What was the next point?

Mrs IRWIN—The parents do not have enough money to set up two homes.

Mr Hardwick—When this occurs—and I have been in this situation and it was only through the love and guidance of my parents that I was able to re-establish myself—you will find that parents will have the support of their families. That is what we should be turning to, the support of our families and our parents and our loved ones. In time, yes, they will have the money to set up two homes. They may not have the lifestyle they had when they were together but they will still be able to establish two homes. Point 3?

Mrs IRWIN—There is a history of high conflict or violence.

Mr Hardwick—We do not support any form of domestic violence. I want to make that point clear. DADs Australia also does not advocate the non-payment of child maintenance and I want to make that point quite clear. In relation to domestic violence, it is imperative to note that men are victims too; 40 per cent of all victims who attend local hospitals as a result of domestic violence are men, yet the figures alway seem to be skewed off the other way.

In relation to the history of violence, yes, it is paramount that the children be protected. I disagree with denying them access to one parent because both parents have the responsibility of raising that child. Then again, let us not just go on allegations; let us go on facts and let us go on properly investigated, proven convictions before a court.

Mrs IRWIN—Do you have that evidence, Mr Hardwick?

Mr Hardwick—In relation to which one?

Mrs IRWIN—The comment you have just made.

Mr Hardwick—Which one?

Mrs IRWIN—You said you have got the facts and the figures. Is that correct?

Mr Hardwick—No. I said let us go on facts in relation to matters of domestic violence. If you are going to take a child away from one party where an allegation of domestic violence or violence has been made, let us investigate that allegation; let us get the facts behind that matter before we say, 'You can't have contact with your child.' That is the point I was trying to make.

Mrs IRWIN—I do not know if you can discuss your own circumstances, if it is before the court, but what has been coming out of the five public hearings we have had is that a lot of people are saying to us that it has cost them $10,000 or $20,000 plus to go into court. What they would like to see in place is compulsory mediation. Do you think this could work? Before you

even hit the court system, you are sat down—mums and dads—and virtually told, 'This is what is going to happen. This is going to cost you big dollars. This is what you are going to lose in the long run. Let us sit down and just try to work out what is in the best interests of the child.'

Mr Hardwick—Correct me if I am wrong, Ms Irwin, but was that not the original proposal of the Labor Party back in the 70s; to sit down as a tribunal and try to mediate the problems between the parents?

Mrs IRWIN—I am just asking you the question: do you support compulsory mediation?

Mr Hardwick—Yes. I believe that mediation should be compulsory. Parents should be sat down and have explained what is going to happen in dollars and facts. I think $10,000 or $30,000 is cheap by today's standards. We have members in our group who have spent $80,000. That is just preposterous. That is $80,000 that should be spent on the children.

Mr DUTTON—One of the main problems under the current system, from the evidence we have taken from constituents we speak to in our own electorates, is the issue of enforcement of either specific issue orders or interim orders that are handed out. The concern I have is that, regardless of whether it is under the current system or one that we might propose, we still have the problem with enforcement. How would you recommend us getting around that situation? What different processes could we look at to ensure enforcement which does not involve having to go back to court a dozen times if one party or the other is not living up to their obligations?

Mr Hardwick—In relation to the enforcement of custody?

Mr DUTTON—It might be contact time, for argument's sake.

Mr Hardwick—Contact time, yes. In relation to the enforcement, the first thing is we are going to have to make it quite clear to the Family Court that they have to start enforcing these orders.

Mr DUTTON—How, though?

Mr Hardwick—I think you have to spell it out to the Chief Justice, quite clearly, that these are the wishes of the people and these are the wishes of parliament. If they are not going to enforce the orders this court is making—and this is what is happening: we have had blokes take their matter back before the court on contravention on contacts and they are just allowed to do it. This breeds a cycle. If they get away with it once they will do it again; they will do it again; they will do it again. We have to bring the Family Court into line on this. They have to start sticking by the mandates of their court orders.

Mr DUTTON—What do you do? Do you fine people or jail people or suspend child support payments? What is the answer?

Mr Hardwick—In the best-case scenario, why don't we deduct the time that has been taken from the parent who has been deprived and make up contact times at a rate of two or three times the contact time? If you have the contact time being penalised like that, then of course payments for child support would also have to come into consideration.

Mr PRICE—What happens if you reverse that right, where a father fails to turn up to exercise his contact rights or the other parent, the paying parent, fails to arrive? You have penalties on one side, and we can all agree about having contact orders that are carried out, but you have to have the balance.

Mr Hardwick—That is right. If he is not turning up and that means more contact with the mother, the mother is out of pocket more, is she not, based on the formula? The formula is based on what would be the status quo at the time. But if that status quo is not being met, then he is going to be penalised by way of the child support formula because then the mother can apply to go for a departure. She can say, 'I have more time now because he is not getting contact.' That is the way you penalise the father.

Quite frankly, fathers need re-educating about their role in this country. We have gone through an entire social period where fathers have been told that they have no rights to their children. I think this parliament has to start looking at an education program for fathers—especially new fathers—on the rights and responsibilities of fathers and the positive role that fathers bring to their children's lives.

Mr QUICK—In your submission you give us a lot of detail about what is happening in America. Am I right in assuming that 36 of the 50 states have adopted equal parenting?

Mr Hardwick—From the submission that we have put in, yes—some form of equal parenting.

Mr QUICK—The American system is a bit like our rail gauge system back 100 years ago.

Mr Hardwick—That is right—one track, different size; change at Albury.

Mr QUICK—You state in here:

... the US Bureau of Census has reported that child support compliance is 90.2% in cases of EQUAL parenting but drops to 79.1% where only visitation is ordered.

Can you explain how the American system works? What is their child support system? Is that in percentage terms like ours? Does each state have a different system or is there a national standard across America? Is it dependent on whether you live in Oklahoma, Utah or New Jersey?

Mr Hardwick—I think each state in America has the right, under their own constitutions, to dictate their own formula or to decide on which way they will go with child support. It is different from state to state.

Mr QUICK—Would you like to see New South Wales set up their own system, as well as Victoria or Tasmania, or would you like to see us setting up another complex federal system? Would you prefer to see us adopting an American system where New South Wales had the presence of mind to say, 'Look, we're sick and tired of this issue. It really impacts on us politically. We will go ahead and do it'?

Mr Hardwick—If we start to look at the cost of raising children—especially the BSU report, the budgetary standards report which came out of the JSC committee report in 1994—a lot of the problems that you would find coming through the front doors of your offices would suddenly diminish; if we had child support based on the proper cost of raising a child and not an arbitrary figure that the Child Support Agency just pulls out of the air most of the time. When you look at the departure processes, it is a horrendous cycle that people have to go through and endure. We do need to fix this problem. I do not think we need to go state to state, Mr Quick. The matter can be fixed at a national level.

Mr QUICK—Solely by us recommending that we start off with a fifty-fifty basis and things will go from there?

Mr Hardwick—Let us say for argument's sake that we had fifty-fifty parenting and I was looking after my child 50 per cent of the time and my former partner was looking after the child 50 per cent of the time; what child support would I have to pay? I am looking after the child 50 per cent of the time. I am paying for half the costs. School fees are met equally. All of the external activities are going to be met equally because if they fall in my week I pay for them. It is as simple as that.

Mr QUICK—What do we do with the $800 million that is owed to the Child Support Agency? We just wipe that debt off and we start afresh?

Mr Hardwick—You have to understand how this $800 million comes about. I will give you a very brief example. A man might have an income of $40,000. Through whatever happens, he is placed through a departure. The powers that be decide that he has a negative gearing property; although he works for the government, he is now a carpenter so he has the ability to earn income on his days off. All of a sudden his income jumps from $40,000 to $80,000. He now has to pay child support on money that he does not even have. But prior to that, he has to pay his taxes. He has to pay taxes on $40,000 and he has to pay child support on $80,000 and he is now in debt to the Commonwealth because he cannot make the payments.

I would submit to this committee that if you were to go and have a look at the departure review and the rate of how many incomes jump, you would find that a lot of this money came about through departure processes and through the Child Support Agency arbitrarily lifting the figures.

Mr QUICK—Do you have any evidence which shows a certain percentage? Would it be 50 per cent, 70 per cent of that $800 million is as a result of the Child Support Agency—

Mr Hardwick—Mr Quick, we have put documents to the Child Support Agency requesting that information but we never get a reply from them.

Mr QUICK—As federal parliamentarians, we can put things on notice to various ministers and, by law, under standing order 150 they have to respond to us, whether it takes them two months or three months. The Treasurer is renowned for taking 10 months but we bombard him with questions. I say to my constituents, 'If you want to know the answer to a problem and it's complicated for me, I can put it on the notice paper and they have a requirement of 60 days to give me an answer.'

Mr Hardwick—If you would like me to draft some questions for you, I will gladly let you submit them.

Mr QUICK—That is what we are here for. This is why we are taking evidence from people.

Mr Hardwick—With the chair's permission, I would love to draft some questions along those lines and submit them to the committee at a later date.

CHAIR—I am happy for you to submit what you would like to the committee for a later time. Rod, do you think there is enough emphasis on shared parenting in the current family law process?

Mr Hardwick—No, there is not.

CHAIR—This is probably more of a personal question to you. How does the long, protracted process of going through family law courts impact upon you or upon some of your members in the relationship with their children? How does the long, tedious and expensive process impact on you as a parent and in the relationship with your children?

Mr Hardwick—In relation to my matter, I have never seen my daughter. She is three. We have members in our group who at one stage had no hope of retaining any access to their child. We now have members who have fifty-fifty parenting through the court and the children are happy for it. The children love spending time with their mother and their father. In relation to the litigation, I was lucky, I was a policeman for nine years, so I was used to the court process and tangling with solicitors. But to the average Australian, this is just a nightmare for them—the fact that they are expected to pay $250 an hour to some people.

I am a knockabout bloke. If a plumber comes in and I say, 'Fix the pipe. Here's my money,' and he does not fix it, I want to know why. With solicitors it is, 'Give us $250. Give us another $250. Here is $4 for photocopying.' These costs are extraordinary and are driven by dollars and there is no encouragement by the legal fraternity in this country to come to a conclusion. The longer they drag the matter out, the more money they get.

CHAIR—This committee has heard a lot of evidence. Every one of us on this committee would not be advocating family law interference or solicitor interference in family dispute or family breakdown. Do you have a position on that?

Mr Hardwick—Parents have to be told up front if they separate, 'This is what as a society we expect from you. You both were parents and you're both responsible for your children now, and that means equal responsibility.' But so often fathers are just referred to as disposable chequebooks. They are referred to as 'money making'; they are the bank. Fathers bring a lot more to a relationship than just money. We are talking about the spiritual development and the emotional development of children. We are talking about playtime with fathers which, sadly, an entire generation of Australians does not have. One million children will sleep tonight apart from their fathers.

Mrs IRWIN—I have had a number of women and men that have come to my electorate office who are paying child support. Their biggest gripe with the child support payments is that it is

taken on the gross income not the net income. Some of the submissions that we are reading, and people that we are talking to at the moment, are saying they would like to see that formula changed. I know you do not like child support but we have it there. What is your feeling on whether it should be changed from gross to net?

Mr Hardwick—What I am saying is that in relation to the formula and how it is based on gross, firstly, the whole system is based on the misconception that when a family separates there is going to be one income but there are two households. All of a sudden they say, 'But the child should be maintained at the standard of living that it was before,' but you cannot do that if the households are split and you now have two cars, two rents, two mortgages. An example of that would be the Ansett collapse, where all the Ansett staff were earning $60,000 and some lost their jobs and now their children's lifestyles are being impacted. Do we hold the directors of the company of Ansett responsible for child support because their lifestyle has been affected? No.

You have to take into consideration economic rationalities. The simple fact is that when separation occurs, the lifestyles of the child and both parents will go down.

To take child support on gross wage is ridiculous. It should be based on the cost of raising the child. Again, I refer the committee to the JSC report of 1994 which looked at the actual cost of raising children. You know how much it costs to raise a child if you have an income of $40,000. You do not need to have departure processes because you know how much it costs.

Mrs IRWIN—How often do you see your children?

CHAIR—He said he does not.

Mr Hardwick—I have never seen my daughter. She is three.

Mrs IRWIN—I am sorry.

CHAIR—Thank you very much. Rod, I congratulate you. I think your organisation should be very proud of your representation for and on their behalf. Thank you very much for appearing this afternoon.

Mr Hardwick—Thank you, Madam Chair. I would like to congratulate the Howard government on this wonderful initiative.

CHAIR—Thank you.

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

That submission No. 494 from DADs Australia Inc. be accepted as evidence and authorised for publication as part of the inquiry.

[3.56 p.m.]

MAZZONE, Ms Monica, Domestic Violence Policy Officer, Immigrant Women's Speakout Association of New South Wales

CHAIR—Thank you very much for appearing this afternoon. We certainly appreciate you coming in. 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. You should be cautious in what you say to ensure that you do not identify individuals and do not refer to cases currently before the court. Would you like to make a short overview statement, then I will proceed to have the members ask their questions of you.

Ms Mazzone—The Immigrant Women's Speakout Association of New South Wales is the migrant and refugee peak association for New South Wales. This is basically a summary of our submission. I wish to thank you for this opportunity to voice our concern on the proposed rebuttal of presumption of shared residence. We have some grave concerns about it which are as follows: our first concern is that the child's best interests will not remain the focus of the proceedings of the Family Court and, instead, some perception of parents' rights will become the focus of the proceedings. There is no evidence that proves that shared residence is necessarily in the best interests of the child in all or even in the majority of cases. However, the current legislation already allows shared residence where it is clearly in the best interests of the child.

We are concerned that a presumption will mean that unique circumstances of a child and family will not be taken into account. In the case of migrant and refugee children, some of these special circumstances might include cultural issues in relation to child rearing; settlement issues; issues to do with family reunion—for example, if a parent has not seen the children for a long period of time because they came to Australia before or after the children and then separated. It would be quite difficult for children to be split fifty-fifty with a parent they may not have seen for many years. Also, there is a need to be settled, particularly for refugee or recent migrants, but how can they cope with two houses when they are already trying to settle in a new country and a new community?

The current legislation must look at various factors, including the nature of the relationship of the child with each parent, the capacity of parents to provide for the child's needs and any violence in the family. We are concerned that these factors will be ignored if a presumption of shared residence is introduced in favour of a one size fits all approach. We are very concerned that rebutting the presumption would be extremely difficult and there would be parents who decide not to contest shared residence—even when they think it is not in the best interests of the child—due to the difficulties and the financial costs of doing so.

This is a concern especially for women from a non-English-speaking background who find it very hard to access the legal system because they are not familiar with the Australian system because of lack of easy access to information, particularly in community languages, and difficulty in accessing interpreters. Some have a fear of courts and authorities, especially if they

come from a refugee background. There is a lack of cross-cultural awareness in court staff and there are financial issues.

This is made worse by cuts to Legal Aid and difficulties in obtaining it for family law cases. Lack of English proficiency would be an especially hard barrier for women self-representing in court. Women might therefore consent to orders they do not think are in the best interests of the child, or they think are actually putting the child at risk, because of barriers in rebutting the presumption. Domestic violence workers have grave concerns in relation to how this presumption will affect children who are experiencing abuse and separating families who are experiencing domestic violence.

We are concerned that it will be difficult to rebut this presumption, even in cases of child abuse or domestic violence—for the reasons I just mentioned—and that violent parents will easily obtain shared residence. We fear that a presumption of shared residence will favour parents' rights over the children's rights to safety and over the non-violent parent's right to safety. Unfortunately, witnessing domestic violence is still not always recognised as an abuse of the child, although there is an increasing body of research that proves the damaging effects on the child witnessing violence.

Rebutting the presumption would be particularly difficult at the interim order stage of court proceedings. There is evidence that the de facto right of contact brought about by the reform act in 1995 has meant that it has become nearly impossible to get interim no contact orders. Data from the reports on the *Family Law Reform Act 1995* by Rhoades, Graycar and Harrison shows that only in 3.6 per cent of interim judgments is there a no contact order. However, at final judgment, the percentage is 22.7 per cent. We have a grave concern that a number of children are being put at risk in this interim time, which can be as long as 18 months or more.

We note that the time after separation is often the most dangerous time for women and children escaping domestic violence. We fear that the same or worse will happen with a presumption of shared residence and that children will be put at risk in the time it takes to rebut a presumption of shared residence where there are concerns of child abuse or domestic violence. This presumption will make it harder for a woman in domestic violence to leave her partner if she is scared that the perpetrator will have the children half the time with no supervision and concern about child abuse or neglect.

In relation to practical issues, children might be unsettled and destabilised by having to move from one household to the other. There might be issues with attendance at schools or child care and other activities if separated parents do not live close to each other. As I say in my submission, it is important for NESB women—especially if they have just arrived in the country and they separate—to settle where their community is, which is not necessarily where they were when they were married. As mentioned before, this is particularly relevant for recent migrants and refugee children who may already be having difficulties settling in Australia. How much harder would that be if they were trying to settle in two places?

We know that sometimes contact is not often exercised. Parents sometimes have sought contact orders and then are not interested in having contact with the children as frequently as detailed in the order. They may miss contact visits or pick up the children late. It is not clear what would happen in cases of one parent not exercising shared residence and failing to pick the

children up. What could happen? What would the repercussions be with financial issues and work and child-care arrangements for the parent who unexpectedly finds that she has the children in a week where she thought the children were with the other parent? What would happen to school and care arrangements?

Shared residence needs a very cooperative approach by the two parents after separation. Parents that choose this arrangement need to communicate well, be reliable and cooperate with each other. Families that work cooperatively after separation do not often go to the Family Court but generally make their own arrangements. It is the most bitter and acrimonious cases that are decided by the court; often cases where violence and abuse are involved or where—for whatever reason—the parents cannot be cooperative. It is unrealistic to expect from these families the kind of cooperation necessary for a successful shared residence.

In conclusion, Immigrant Women's Speakout is convinced that the best interests of the child should remain the paramount focus of the Family Court and that means residence and contact arrangements need to be decided on a case-by-case basis, as in current legislation. In some cases it might be that the court might find that shared residence is the best option for a particular family but we are against this becoming a presumption for all families. Thank you.

CHAIR—Thank you, Monica, very much.

Mr DUTTON—I want to clarify one of the points you made. I could not find it in your submission. You were talking about there already being an existence of shared parenting in cases. Could you clarify that comment for me? What do you base that on?

Ms Mazzone—It does not exist in legislation as such, but in the legislation at the moment they can decide to give the parents fifty-fifty if they find out that that is in the best interests of the child. It is not used very often.

Mr DUTTON—That is part of the problem, isn't it? I think it is present within the Family Law Act but the reality is that it is used in very few cases, which is why people talk about there being the need for a presumption or, certainly, for courts to be able to exercise more freely that which is already stated in the legislation. Even with the changes that we make here, how do we get the courts to abide with what the legislators have put in place?

As part of that, I suggest to you that one of the better models may be to take the process away from the Family Court altogether and have a heavy emphasis on mediation, but mediation with teeth where people at the end of the day are going to have some orders made by the mediators that they must abide by. Is that a system that you could see working?

Ms Mazzone—I think that mediation could work but, as a domestic violence worker, I am really concerned about women in domestic violence situations having to go to mediation with a partner who is a perpetrator of domestic violence.

Mr DUTTON—We would all share your concern about domestic violence in the minority of cases where it takes place, as tragic as it may be—and we do need to deal with that, in my opinion, on a case by case basis—but why would it not work in the majority of cases, where children enjoy a loving mother and father?

Ms Mazzone—Why wouldn't mediation or shared residence work?

Mr DUTTON—Both.

Ms Mazzone—In cases where there is no domestic violence, yes, mediation is an option that we can look at. However, it does not necessarily work.

Mr DUTTON—What do you base that on?

Ms Mazzone—If parents cannot talk—I go back to what I said before—and need to be forced into mediation by penalties or by what you called 'mediation with teeth', how can we expect that they will then have the level of cooperation which will be necessary on a day to day basis to make a shared parenting arrangement work? Shared residency can work for those parents that have that level of cooperation and they are probably parents that had that level of cooperation and involvement in their children's lives before the break-up of the marriage.

Mr CAMERON THOMPSON—If we are looking at what we think is in the best interests of the child—I am not talking now specifically about domestic violence matters, and I know that that is an area where you have had a lot of involvement—just as a general principle, if we want to pursue what would be in the best interests of the child, do you think it would be best for us to organise systems that create more contact between the parents or less?

Ms Mazzone—I think it really depends on how the parents can deal with the contact. Even leaving aside domestic violence—though I am a domestic violence worker, so it is quite hard for me to leave that aside—there is no point in having contact if there is conflict. If the parents can have more contact with each other in a non-conflicting way and in a cooperative way, yes, that could probably bring better results for the children. Parents that do this do not go to court, so maybe we need to help much earlier.

Mrs IRWIN—Thank you for a very well set out submission. Can you describe the kinds of circumstances immigrant women face when their relationships break down in Australia? How do they find access to information and support?

Ms Mazzone—It really depends on the circumstances of the individual woman. If somebody has been here for a relatively short period—obviously, the shorter the period in Australia the more difficult it is—they might not have a lot of English skills. There is not a lot of information, particularly legal information, in other languages. A lot of information is available on the Web and a lot of government departments are now making information available on the Web, which is very good for us workers. But you cannot assume that women from a non-English-speaking background would have the resources or the knowledge to be able to access that information.

They might come from a country where the family law is totally different and they might not be aware of what the family law is here or what their rights are here. They might have a very restricted income. They do not know the society at all. In a lot of cases they are very dependent on their husbands for contact with the outside world, especially at the beginning. They find out about the resources often by word of mouth—somebody else in the community who has been in touch with some service or who has been in a similar situation. They often go to ethnic specific services, so they come to us sometimes too. I know that it is very difficult for them to find this

kind of information. Many women, particularly if they are refugees, are quite scared of the law and authority.

Mrs IRWIN—Are the referrals that you receive from hospitals, from police or mainly from migrant resource centres?

Ms Mazzone—We get referrals from all these sources and there are women that are self-referring. As I say, it is probably word of mouth.

Mrs IRWIN—Just out of curiosity, are there any services for immigrant men?

Ms Mazzone—In terms of employment there are.

Mrs IRWIN—No, the services that you offer to women.

Ms Mazzone—We offer an employment service, a domestic violence service and a family support service.

Mrs IRWIN—For men?

Ms Mazzone—No, that is for women.

Mr PRICE—In relation to domestic violence, I have always had a concern that resources get spread too thinly across too many cases and there are not enough resources for what I would call 'the very serious cases'. Would you agree with that?

Ms Mazzone—Yes, I would. From what I have read about Project Magellan, they had a lot of extra resources for family law cases where there were allegations of domestic violence. These allegations were either proved or disproved in a much shorter time frame than normally and that was to everybody's advantage.

Mr PRICE—In a sense it starts a little bit earlier with AVOs. If we go to the District Courts, AVOs are churned out like sausages and provide no real protection for women because it is only when there is a second incident that the law really tends to kick in.

Ms Mazzone—Yes, only when there is a breach of an AVO.

Mr PRICE—One of the ironies is that if you are concerned about domestic violence—and I think we are all concerned about it—AVOs are no real defence.

Ms Mazzone—They provide protection for some women. They do not provide enough protection for others, that is true. In some cases, the problem that women have told us they have is that, even when they are breached and are reported to the police, for various reasons—maybe there is no evidence or there is nobody that can corroborate what they say—nothing happens. Then these women might have to run to refuges or basically run away.

Mr PRICE—But it is very easy to get an AVO.

Ms Mazzone—It is not hard to get an interim AVO but I do not think it is that easy to get a final one any more.

Mr PRICE—Unfortunately, in family law, even if it is an interim AVO—which you cannot get as a permanent one—that stays on as far as the Family Court is concerned. In a sense, that becomes a black mark in all future proceedings before the court.

Ms Mazzone—From what I have read, judges do not give a lot of weight to AVOs unless they are final.

Mr PRICE—I would beg to differ. The Labor Party is very concerned about the situation of children in second marriages, particularly when it appears that those children are receiving less support than the children from the first marriage. Does your organisation have a view about that?

Ms Mazzone—A case of that sort has not come to my attention, so I would rather not comment. I do not have a lot to say about it.

Mr PRICE—When reforms were introduced to vary the formula into the parliament by the government, the Labor Party was keen to ensure that the resident parent was not being financially disadvantaged so, if the government was prepared to kick in more money, those changes would have got through. If there are changes to the formula, what is the position of your organisation? Would you like to see the detriment being worn by the resident parent or should the government kick in to ensure that there is not that much change?

Ms Mazzone—I think families should obviously have enough to live on decently. A lot of women do live in poverty afterwards and their children do not get enough money from their child support. Sometimes they do not get it at all.

Mr PRICE—Is that an issue for that family? Isn't that a wider issue of responsibility of the government of the day?

Ms Mazzone—It could also be a wider responsibility. It depends on the available financial means of the whole situation. If the original family was not earning very much, obviously the government will have to help when they become two households rather than one.

Mr PRICE—It is the case that in child support the overwhelming majority of people who are caught up in the child support scheme do not earn lots of money.

Ms Mazzone—That is right.

Mr PRICE—If you are a self-employed person, you can ride a horse and buggy through the child support scheme and not pay a dollar.

Ms Mazzone—Absolutely. We have some cases like that.

Mr QUICK—Two brief questions: firstly, you are suggesting we introduce a rebuttable presumption of no contact or only supervised contact where domestic violence is involved—where the New Zealand Guardianship Act is in place.

Ms Mazzone—Yes.

Mr QUICK—Secondly, the Family Court is bad enough for Anglo-Saxons who find it hard enough to manoeuvre through it. Just how difficult and daunting is it to NESB people?

Ms Mazzone—On your first question, yes, we are making that suggestion. The New Zealand legislation is a very progressive one and does protect women and children that are in a situation of domestic violence. It recognises that witnessing domestic violence in itself is damaging to children—the link of witnessing domestic violence and perpetrating domestic violence or being a victim of domestic violence in your own relationship when you grow up. We support that.

The difficulties facing NESB women—and men, I would say—are huge, but I do not work with men so that is why I refer to women. As I said before, being in a country where you do not know the legal system, you may not have come from an Anglo-Saxon legal system—a migrant from an English-speaking background would probably not find it that hard but somebody who comes from a country where the legal system is totally different has really no idea what the courts are.

I had a case in our organisation of a woman who was in a very severe domestic violence situation. One of our workers was suggested that she took out an AVO. Initially she wanted to do it and then, when she realised she had to go to court, she decided not to because she wants to sponsor her sister to come to Australia in the near future. She thought that, having gone to court for one thing, would somehow decrease the chances of being able to sponsor her sister. We all know that that is not the case, that they are two separate things, but a lot of women really do not have a lot of confidence, a lot of knowledge about the system, so they get this kind of information all mixed up. They are just scared. They do not want to go near a court. When they do get there, it is very hard for them to even understand what is happening.

Mr QUICK—Out in the general public there are lots of urban myths about the Child Support Agency, the Family Court and shared custody and parenting. Most people assume it is just relationships between Anglo-Saxon white Australians and that is not the case.

Ms Mazzone—Yes, that is right. We think that in a case of an Australian and a person from a non-English-speaking background who has just maybe recently migrated to Australia, obviously there will be a big imbalance in the knowledge of legislation and the knowledge of courts. As I said in my submission, I cannot see how a recently arrived woman in Australia would be able to have the confidence, the ability or the financial means—even just the knowledge—to go and rebut a presumption of shared custody, whether or not she thinks that is a good thing for her children.

Mr DUTTON—In response to Mr Price's suggestion that the Labor Party might have some moral monopoly about the interests of second families or children, can I just remind him that this government put forward this inquiry to rectify the Labor legislation.

My question, though, is in relation to grandparents. Even with the presence of domestic violence by the father, how do we facilitate contact with grandparents, who have done nothing wrong in this process and just want to have some involvement with their grandchildren, which is

more than reasonable. How do we facilitate contact in those circumstances, and should there be a presumption there?

Ms Mazzone—It is a very individual situation. That is why we would not want a presumption. We would have to look at each circumstance. There could be cases where it is very appropriate for the children to be having contact with their grandparents. There are cases where grandparents in immigrant families are very involved with their grandchildren and where they are in no way part of the situation. In that case it is in the best interests of the child to see the grandparents.

Mr DUTTON—If it is in the best interests, then we should facilitate it?

Ms Mazzone—That is right. That is the principle that should really just be kept.

Mr DUTTON—Thank you.

CHAIR—Thank you, Monica, for appearing this afternoon. We really appreciate hearing a different perspective.

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

That submission No. 792 from the Immigrant Women's Speakout Association be accepted as evidence and authorised for publication as part of the inquiry.

[4.25 p.m.]

WITNESS 1, (Private capacity)

CHAIR—Welcome. We really appreciate your time. 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 and 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. Having said that, if you would prefer that you be heard in camera, I am happy to do so toward the end of this hearing. If you are happy to remain in the public hearing, it is your choice.

Witness 1—Will you be asking questions that relate to my personal life?

CHAIR—No. The committee have to be aware of the fact that if they do ask you a question that you feel you should not be answering, you just make the point that you would prefer not to answer that question.

Witness 1—That is fine. I am happy with that.

CHAIR—I will ask the committee to be mindful of the fact that you may not want to discuss your personal issues. I ask you to make a short statement and then I will proceed to have the committee ask you their questions.

Witness 1—As an individual witness, I appear basically as an Aboriginal woman. I am a wife, or was a wife. I am a mother, a daughter, a sister, a friend, an employee and a student, and that encompasses my reasons for being here today.

I believe children are our society's future. What they are seeing, hearing and experiencing shapes how they will respond to many things throughout their lives. There is an old poem which I would like to submit to the committee.

CHAIR—Certainly.

Witness 1—Thank you very much. It is titled *Children Learn What They Live*. I would like to read that to you now because I think that is something many people here would relate to:

If a child lives with criticism, He learns to condemn.

If a child lives with hostility, He learns to fight.

If a child lives with ridicule, He learns to be shy.

If a child lives with shame, He learns to feel guilty.

If a child lives with tolerance, He learns to be patient.

If a child lives with encouragement, He learns confidence.

If a child lives with praise, He learns to appreciate.

If a child lives with fairness, He learns justice.

If a child lives with security, He learns to have faith.

If a child lives with approval, He learns to like himself.

If a child lives with acceptance and friendship, He learns to find love in the world.

I do not know who wrote that but I think if we are to understand the words of the poem fully, we have to understand that a child who learns to condemn, to fight, to be shy or to feel guilty can learn to perpetuate those actions and emotions with those to whom they relate. A child who is exposed to situations of domestic violence or sexual abuse is a child that can learn such behaviour and perpetuate that behaviour throughout their life. It is for this reason that I have based my submission to the committee on circumstances which should rebut the presumption of equal time in child custody arrangements and on issues which affect grandparent contact and certain child support issues. Thank you.

CHAIR—Thank you very much.

Mr QUICK—Thanks for this piece of poetry. As a former teacher I know how true and apt that is. If only that was the rule by which all our children lived, we would not be here and we would not be wasting your time and government and taxpayers' money. I have one quick question. In this whole issue we are supposed to take the best interests of the child—and, as previous members have said in other places, as legislators we cannot legislate for people to be happy, to be civil and the like.

Witness 1—That is right.

Mr QUICK—How do you see the education system taking up some of these things? As for the parenting plan we talk about, how did it work for you? If you had a second chance, what would you do differently? I know it is a hard question.

Witness 1—I suppose if I had a second chance I would not have been involved in the relationship! Our education system is stuck in a very hard and complex position where oftentimes we find that our educators are expected to fill in the gaps where our families cannot. That puts the people doing that education in a very awkward position. Oftentimes we refer to phys ed as being a part of a child's education. Perhaps it should be 'person education' instead of 'physical education' and that social aspect, as much as physical aspect, should be delved into.

I do not know whether we have compulsory counselling in our schools. Our teachers, if we relate to them, are expected to fill in those gaps. Children relate to their educators if they trust them, if their educators are respectful of them and their ability to learn, and their unique person.

Not all educators are able to do that, just as not all parents are able to do that. I am probably not the best qualified to say what the education department needs to put in—perhaps something that is less focused on, 'Let's give them condoms,' but rather on, 'Let's be responsible. Let's give them life lessons. Let's teach them to respect themselves.'

Mr QUICK—We are on about rebuttable presumptions of a whole lot of things, yet surely that is the wrong thing to do. We ought to be developing relationships between males and females, not only in young children but parents and grandparents.

Witness 1—Yes.

Mr QUICK—There should be an understanding that, when you enter a relationship, there are rights and responsibilities. There are those who have the selfish attitude, 'I'm going to take the money and run,' or, 'I'm not going to provide you with child support money'—or whatever—'and I'll use the kids as a pawn.' Do you see having a rebuttable presumption of fifty-fifty as a cooperation-out? That is the easy way out of what is a very complex situation.

Witness 1—It is a very complex situation. I believe that in most circumstances every parent has the right to love their child and to be involved in their life. I also believe every grandparent should also be given that opportunity, but I have found that not everyone should be sharing their parenting or grandparenting skills with a child. In those situations where abuse is involved, children can learn those wrong behaviours. Some children grow up able to have self-control. They choose to have self-control for whatever reason, for whatever involvement. Those are the children that overcome hardship. Children who are exposed to abuse perpetually in a relationship with their parents or with their grandparents are often the ones that have the greatest difficulties to overcome. Some are not equipped to do that.

Mr QUICK—Thanks.

Mr PRICE—A lot of people have approached the committee and said that the presumption of joint custody will not work in relation to domestic violence and sexual abuse of children. That may be fair enough but what do you think the arrangements should be, either in the current system or any proposed system, for children involved in those circumstances?

Witness 1—Non-abusive parents who have been in the situation and left quite often know, for whatever reason—because they have endured the relationship. There has obviously been a catalyst to remove them from that situation, to force their hand. You will find that many people involved in those situations know the abusive parent and their limitations and what provokes them. They have left for a reason. It is my understanding that parents who have left an abusive situation are able to gauge how much time the abusive parent should have and whether that should be supervised. It is my belief that the non-abusive parent's fears should be taken into consideration in those situations.

Mrs IRWIN—How many children do you have?

Witness 1—One.

Mrs IRWIN—How old?

Witness 1—Three.

Mrs IRWIN—Gorgeous age. Does your child have enough contact with their grandparents?

Witness 1—With one set, yes; with the other set, I cannot determine. That occurs during his contact time with his father.

Mrs IRWIN—I note in the submission that you lodged with the committee in around July or August that to date you had not received child support. Can you state the reasons why you have not received child support and what changes you would like to see to the Child Support Agency?

Witness 1—My husband made certain choices in his financial dealings after our separation and then lodged a reassessment notice with Child Support. It took some time for that to be processed. Child Support then had to make a decision. The decision has been made and I still have not received anything. As I understand it—and I may not have all the information—although Child Support can garnishee wages, if the employer does not sign off on that, it still may not proceed. I do not know the reasons.

Mrs IRWIN—You can check with the Child Support Agency on that or go and see your local federal member. I think it would be Janice Crosio. In the absence of abuse, do you think shared parenting would be in the best interests of the child?

Witness 1—In the absence of abuse, definitely.

CHAIR—You do not have to answer this, but in relation to the grandparents and the position of perhaps you personally having your child see the grandparents—obviously, the maternal grandparents regularly, or enough, and then the paternal grandparents, who are obviously the ones generally that seem to lose that entitlement, that perspective or that joy—is there a reason why that would only take place during a contact visit with your ex-husband or ex-partner? Is there a reason why there would not be an option open for those grandparents to see your child outside of that contact with the child's father?

Witness 1—I am not able to supervise that contact.

CHAIR—The reason is you would prefer to be with your child when that child visited with the paternal grandparents?

Witness 1—If there someone else that could supervise, I would be happy for that, but due to risk factors it is—

CHAIR—I am asking the question to understand why and how grandparents, who may not be involved in the altercation between the partnership, then become involved. They lose out and the child loses out on that contact.

Witness 1—It is due to multi-generational abuse issues. That is the factor.

CHAIR—In different circumstances would you suggest that it would be okay for the children, even though they may be sharing residence with a parent—a mother or a father—to spend time

with their grandparents on their own outside of any contact arrangement with the estranged partner, et cetera?

Witness 1—If abuse was not an issue, there would not be a problem. If the abusive parent has non-abusive parents—the grandparents are not the abusers—the only factor that needs to be taken into consideration is if the abusive parent were to turn up during that contact where supervision was not provided. I personally would not have a problem with the non-abusive grandparents being allowed to have contact; that is not a problem. They are not the risk. They need to have contact with their grandchildren.

CHAIR—If there was a position of equal shared care of a child, as a presumption, under what circumstances do you believe that that should be rebutted?

Witness 1—Sorry?

CHAIR—Say there was a presumption of shared care in place, under what circumstances should that presumption of shared care be rebutted or not allowed to proceed?

Witness 1—In my experience, it should focus around the issues of child abuse, domestic violence or sexual abuse.

CHAIR—What if there is a history of violence between the parents, the two adults, but there is no history of violence with the parent and the child—the parent has never been violent or abusive to the child?

Witness 1—In those circumstances, you will find that the child has still suffered abuse by witnessing those events. In the event that those parents are no longer together, that still provides an issue of distrust between the two parents. In my experience, I do not know what effect that would have. From my experience, those parents would have enough animosity between them to use the child as a pawn.

CHAIR—I am sorry to pursue this, but it seems an obvious time to pursue it. If you have a child who is in a position whereby the parents cannot get on with one another—they are either verbally, emotionally or physically abusive to one another—and you say the child might be damaged by witnessing that, would you say that a child would be better to have that presumption rebutted because of what might have happened when the partners were together, but may never happen when the partners are separated?

Witness 1—I think it comes down to individual situations. It is very likely that, once partners are separated, the children will be okay. However, there is still a risk to the child when the parents are separated that those parents, without realising it, would use the child to get back at one another and that requires counselling. That is not necessarily an issue for rebutting, but I think it is an issue for counselling.

CHAIR—I might suggest that, even without abuse or violence, that could happen. Thank you very much for coming along this afternoon. It takes a lot of courage to come along as an individual to these committee hearings. We appreciate the time and the effort that you have taken

in being here and we certainly applaud your courage in coming along as an individual before the committee.

Resolved (on motion by **Mrs Irwin**):

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

[4.45 p.m.]

WITNESS 2, (Private capacity)

CHAIR—Welcome to today's public hearing. Thank you very much for coming this afternoon. 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 that are currently before the courts. In saying that, I would offer you the opportunity, if you would be more comfortable, to go into a confidential hearing, should you wish to do so; otherwise you can stay in the public hearing that you are currently positioned in.

Witness 2—I am comfortable.

CHAIR—Thank you. I remind you again that you should not identify people and you should not refer to cases currently before the court. Do you have any comments to make on the capacity in which you appear?

Witness 2—I am here as an individual speaker, representing average Australians, I guess. I am a registered nurse and have been for quite some time. During that time—and from life experiences—I have witnessed a myriad of divorces and other issues related to divorces, both in the workplace and in personal life. That is the only recommendation I can give myself.

CHAIR—Thank you. If you would now like to make a brief five-minute statement and members will then proceed with their questions.

Witness 2—The reason I am here today is basically because I believe that mediation is one of the biggest overlooked tools that we have. I would like to see more funds going towards mediation. I think the courts should appoint mediators for every case, to protect the children and also to protect the interest financially of both parties. Often there are other parties involved, depending on the income, circumstances of employment, property and so forth with individuals. A lot of people have property that is undisclosed to their spouse; therefore, to protect both parties, that needs to be addressed. That can happen in a friendlier environment with a mediator, who can then go on their behalf to a court or a lawyer et cetera.

I have heard a lot of things said this afternoon which have already covered domestic violence and certain issues that are all important, but one of the things that I feel has not been stressed enough is how we go about funding mediation, not just the government footing the bill but a way of fundraising—for example, CareFlight gets fundraisers and injections of money because it is a worthy cause. I believe that mediation should get the same opportunity but I do not quite know how you would do it. It is what I would like to see happen.

It has come to my attention in a lot of the cases that I have seen over the years that lawyers do tend to address their own issues. They are there often not for the initial comfort and support of their client but more for financial gain, which is quite acceptable on the grounds that that is what they choose to do for a living, so I do not think they should be penalised for that.

Mr PRICE—You should not condemn them for what they do.

Witness 2—I do not believe they should be condemned for that, although I think it is wise to shop around.

Mr PRICE—That is a very Christian attitude.

Witness 2—A good mediator may be able to help you do this.

CHAIR—It might help—and you can expand on things—if I ask the committee to go to questions.

Witness 2—Yes. There is one point I wanted to make with regard to mediation and the temperament of parents. A lot of the time, when a court order has been made, one parent will go along and be happy to do whatever the court has decided. Another party may go along, appearing to be happy and okay, but in fact they are not. Sometimes ordinary people can strive to do extraordinary things.

My idea of mediation goes one step further. I want to see mediation followed up. You do not go to a dentist and have your tooth crisis met and then not have a follow-up. In having a follow-up, you can strive to achieve monitoring of how the contracts are going and if there is a shift in balancing finances and how the couple might be able to protect each other's financial interests—you can then bring in how the children are feeling—especially with school fees and that type of thing.

Mr DUTTON—In your submission you talk about grandparents having to come to terms with court orders.

Witness 2—Yes.

Mr DUTTON—What do you mean by that?

Witness 2—Many grandparents miss out—not always intentionally; they are a bit forgotten. The couple are entrenched in their dilemma and the lawyers are entrenched in looking after the clients; therefore the process goes on. Some grandparents want to sit in the background; they do not want to interfere. They may be embarrassed or ashamed that a child of theirs has perpetrated a crime or something, so they are reluctant to approach the custodial parent and say, 'I'd like to have access.' They do not really have much idea of their rights. Sometimes it can be a total oversight, or a deliberate action on the part of the custodial parent, that these grandparents are being left out.

Mr DUTTON—If we are talking about presumptions and also about the best interests of the child, should we be addressing the fact that an as-of-right point should be that grandparents are able to have contact with their grandchildren, all other things being equal?

Witness 2—I think that grandparents should be supported.

Mrs IRWIN—You were saying that mediation is overlooked. Would you support compulsory mediation before both parties go to court?

Witness 2—Yes, definitely. That is what I am here for. But they need funding and we need more.

Mrs IRWIN—We have heard that a lot at the last four public hearings. In your submission on page 1 you state:

Follow-up of court decisions and the progress of all parties is in fact working for them.

What kind of support would you like to see in place for parents and children after they have been through court proceedings and have a decision from the court? We tend to talk about counselling before, but we do not do it after.

Witness 2—Many people do not need counselling. That is why I did not stress the issue of counselling, because we know it is available. Very few people would argue that it is not a necessary tool, but I do not think everybody needs counselling. Mediation should not be confused with counselling. In my view, mediation is about conflict resolution and protection of children, contracts, and all parties. Counselling should be titrated to people who are in need of specific counselling.

It depends on why people need counselling. It is not a blanket decision; too many things could go astray. Three months down the track a mediator might bring in Fred and Joan, decide that they are working quite well with their contract, and say, 'Come and see me again in six months. If there's a problem, please give me a call.' That mediator should then have up his sleeve direct lines of access to counsellors, psychologists, children's support groups, domestic violence and an array of other avenues.

Mr PRICE—Isn't it the case that, when couples reach a point when both are prepared to go to counselling, it is not available—there are lengthy waiting lists?

Witness 2—Yes.

Mr PRICE—Having reached a decision to go, often it does not eventuate because it was not available quickly.

Witness 2—I agree. There are also other avenues of counselling that should be explored. People forget that you can utilise not just Lifeline counselling. Relationships Australia would have to be, in my opinion, one of the best organisations. They provide variety in their counselling. There are different types of counselling out there—counselling by priests or school

teachers. Counsellors do not necessarily have a shingle outside the door. You must think laterally and I think that is what is missing.

One of the things that disturbs me is that I have recently found out that a crisis hotline—which I will not name—is putting answering services on in an electorate of about 88,000 people. Patients of mine have said that they have gone ahead with suicide because they could not get on to a hotline—they were put on hold, were fobbed off on to other areas of counselling or, worse still, just got an answering service. I was a bit sceptical about that. I recently signed up for a course in telephone counselling to add to the numbers manning phones. In fact, this particular place, where I am enjoying the training, admitted that they used an answering service overnight. That was quite sobering for me.

CHAIR—You mean they go ahead with an attempted suicide?

Witness 2—A lot of people attempt suicide and do not achieve their ultimate goal. It is a cry for help.

CHAIR—Do you have patients who have gone ahead with suicide and you have resuscitated them?

Witness 2—No. We are not talking to the dead.

CHAIR—I am trying to work out whether you are talking to the people.

Witness 2—The suicide attempters.

CHAIR—I wondered if you were talking to the people associated with departed people, or whether you were talking to the people themselves. I knew you could not talk with the dead.

Witness 2—No. The sad thing is that when you talk to them after the event and ask the obvious question, 'Who do you have to talk to?' they say they feel alone or they prefer to be anonymous and they have tried to access certain counselling hotlines but there have been none available. Another comment was that they felt they were being patronised. Then they felt the urge to teach the counsellor a lesson by proceeding on with the other, if you know what I mean. It is too broad a subject to go into.

CHAIR—No, that is fine. I just wanted to clarify it.

Witness 2—Mediation, I am hoping, will prevent a lot of this.

Mr PRICE—A lot of people have raised mediation. As I understand it, for mediation to work successfully it requires an equal power balance between the parties at mediation. Therefore it is not going to suit a lot of people. In terms of talking about alternate dispute resolution, some have suggested a process of conciliation—that is, a skilled person finding some agreement where they can bring the parties together—but where there is a failure in agreement on some issues, then those issues are arbitrated. So you have a twin process of trying to bring people together to agreement and then arbitrating the differences. Does that fit into your general description of mediation?

Witness 2—Yes, it does. I also feel that at that point a skilled mediator will come into play and say, 'Okay, this is the paperwork side of it. This is what you are up against and so forth. If both of you are having difficulty, we can put you on to the specific areas.' They then send them along to whichever body of people they need to see and reschedule the appointment to see how it has worked out.

Mr PRICE—One of the problems with family law at the moment is that if there were 20 issues discussed and you reached agreement on 19, it then flips back to the court and they go through the whole 20, not the one.

Witness 2—I cannot change the way the court is run.

Mr PRICE—Do you think we should change it, to strengthen alternate dispute resolution?

Witness 2—The alternate approach should be used, where necessary. It would save not only time but the aggravation of the couple involved, because they both have lives to get on with.

Mr QUICK—The thing that stood out in your submission for me and the thing that has stood out over the last couple of days is that we have been talking about fathers' rights and mothers' rights, but to my mind it is all about the children's rights.

Witness 2—Yes.

Mr QUICK—In a little statement you said:

One child I spoke with stated he would like to have all children "micro chipped" so when his father took him away from "mummy" she could find him!

How do we get the message through to parents to take the mote out of their eye?

Witness 2—That was hard for me, too.

Mr QUICK—Their relationships are stuffed, but when kids are thinking about this—obviously at a very early age—

Witness 2—This child was 12 years old at the time—at a time when Samantha Knight had disappeared, which was another disturbing thing he brought up. I explained to him that he was not at risk, that he would not disappear and never come back like Samantha Knight. This was tied to the issues the 12-year-old was expressing. It came at a time when there was no mediation or AVOs or all the things that are in place now.

This child was born in the years when, if you rang up and reported domestic violence, you were told to go and have a cup of tea and things would work out in the wash. When the courts started to address domestic violence as being a problem, that it was not healthy for children to be subjected to witnessing domestic violence, the child was around five or six and there were custody issues happening.

Mr QUICK—But nothing really has changed much.

Witness 2—I think it has!

Mr QUICK—As my honourable colleague said, AVOs are like sausages: they are out there all the time.

Witness 2—I would prefer to see an AVO still put in place. Women are not always princesses and men are not always princes. We have to address the fact that it is not always the fathers who are guilty. I am pleased to see that Dads in Distress and a couple of other hotlines have now been opened up. It is good for them. AVOs act as a deterrent.

You could get a father who may be completely distraught. He has not seen his child in X amount of years, suddenly feels that he just cannot go on any longer and that he has to see his child. He has no idea that he can ring up a mediator and ask, 'Can we have a renegotiation with the mother? I've changed my ways: I've done this and that.' He does not think rationally, so he orchestrates to take the child—especially if he is in a position of power. This child's father was a police sergeant, so he was able to access schools and the place where the child was living by simply moving about in a police uniform in a police car. It was easy for this man to rort the system, if you know what I mean.

However, if he had accessed mediation in the initial stages of separation he may have curbed his behaviour. I do not know; I do not have a crystal ball. That is why I am so focused on mediation. He could have been told, 'This is how it is. Yes, you have rights and this is how you change things,' not shaft him aside and think, 'He's out of the way; he's all right,' and 12 years later you have a kid so distressed that he feels he should be microchipped.

CHAIR—Thank you, Witness 2. That brings us to the close of your part of the evidence this afternoon. We thank you for coming forward. Again, it takes a lot of courage to come before the committee as an individual. We certainly applaud you and appreciate the time you have taken out of your schedule today.

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

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

[5.06 p.m.]

WITNESS 3, (Private capacity)

CHAIR—Welcome to today's 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. Having said that, we would be very pleased to accommodate you, if you would rather be heard in a confidential and closed area; otherwise you would stay in the public hearing, as you are now.

Witness 3—This is fine.

CHAIR—I advise you again that you should be mindful not to identify individuals or talk about cases before the court. I ask you to give a five-minute overview and then I will proceed to ask the committee to ask their questions.

Witness 3—Thank you. I am appearing as an individual witness. Part of that is the fact that I am a shared parent myself, so I can speak from a little bit of experience. To begin, there are a few other components to the perspective I bring to bear on these questions. One is that I am a psychologist and have counselled men who have been through the Family Court. I am also a researcher at the University of Western Sydney and have an academic interest in this area, largely because of my own experiences as a shared parent and wanting to know more about it, because there is not a lot of literature or good research out there.

I have points I would like to raise and to expand on the submission I put in. To clarify it, my situation is a fifty-fifty shared parenting arrangement. That worked out for all kinds of weird reasons at the time, but that is how it went. The break-up of the relationship between the children's mother and me was not a friendly one. It had the usual sort of conflict and ill will that occurs with a lot of relationship breakdowns.

Somehow, through a combination of factors—some of which were purely good fortune—we managed to arrive at a situation of sharing our children. That sounds odd—'sharing the children'—but it has really been a sharing, fifty-fifty, for the last 12 years. For 10 years of that I was a single dad. I married again just over a year ago and my current partner plays some role in parenting the children, but not a major role, because the children do not want that. They do not want another mother. They have one, thank you very much!

The children—perhaps before the age of being able to understand and analyse their own positions comprehensively—have always had the opportunity to reject this pattern of parenting. Ever since my son was about four—he is the oldest—they have been told, 'If you don't like coming here—if you want to stay at mummy's—just say so. It is not a problem. You can just

stay there. Similarly, if you don't want to stay at mummy's—if there's a problem there—tell me and I'll talk to mummy about it and we'll work something out.'

They have never been forced into this situation. One of the loveliest things was that when they got a bit older I quizzed them and asked, 'What's this like? Do you really like it? Do you really want to keep this pattern going? Isn't it easier, because all your mates are living up near the swimming pool, where your mum's house is, just to stay there?' They went away and talked about it together and part of their reason was, 'It would not be fair to you and mummy.' I think children really sometimes are wiser than we are around the ways to work out life.

That is going to change next year. My daughter has voted with her feet. She is leaving me. She wants to go to a school in the city and she has been selected for that school. Because her mum has a house in the city, as well as the one where we live in the mountains, they are going to move down there. My son is staying with me basically because he does not want to leave his friends—not because he prefers me or prefers his mum. We just happen to be the local guesthouse where he can bed down for the night.

Mrs IRWIN—I can relate to that!

Witness 3—I would like to note that one of the reasons I put in this submission, though, is not so much to share my family experiences—they are mine, they are private, they are personal—but I am really concerned about the lack of shared parenting in Australia, given the social changes we have undergone in the last 30 years. Looking at the very few numbers of shared parenting arrangements out there, there must be something wrong somewhere with our system if we have not been able to move alongside the employment practices and other things which have shifted around our gender roles.

Somehow, in terms of family, we really still are stuck back in the 70s, or the 50s, or whenever gender roles were so markedly fixed. Most of us are not living lives now that belong back in the values of the 50s, yet the outcomes of the divorce rates in Australia seem to reflect more of the social arrangement which we had back then. There must be something very strange going on: 50,000 divorces a year, a million children living in single parent houses and about eight per cent of them in shared parenting or single father headed households.

There is something very strange going on, from my point of view, given that I know a lot of men who are good dads and I know a lot of mothers who are good mums. Most people really are good people but none of us is perfect. We make mistakes with our kids and with each other, but I still think there is a lot more opportunity for kids to live with both parents—not for the sake of the parents; I think you have been pretty clear about that both on the radio this morning and also this afternoon. It is very clear that the children are and must be the central focus for any changes that occur in the Family Court.

Having said that, though, parents are important. The experience of fathering for me has been very powerful in my life. If I had been deprived of that experience it would have been a terrible loss. I only know about it because I have been through it. I would never have known about it otherwise. Looking back, 12 years ago, if I had gone to the Family Court I would have lost. I would not have had my kids; that is very clear. I know too many dads—and they were good

dads—who did end up in the Family Court and did lose; they lost the opportunity to have the sort of input into their children's lives that I was lucky enough to have.

I also want to say that children are losing the opportunity to have contact—not just with grandparents but the extended family of cousins, uncles, aunties—if you cut off one-half of the family. That happens when you have the maximum custody, minimum contact kind of arrangement which seems to predominate. Children are losing opportunities with extended family and that is another powerful part of their lives, too.

There are a number of barriers that exist when trying to move forward towards shared parenting. I think it is wonderful to see that this is starting to move forward. I would like to commend you, first of all, for obviously sticking up your hands to volunteer for this committee which the parliament has set up to look at what is a very sticky social issue and may not garner a lot of votes at the end of the day, but this is the job of good representatives.

Some barriers I believe do exist: first of all, there is not a lot of research around that asks, 'When does shared parenting work? What are the essential conditions? What are the maybe conditions? When do you avoid it altogether?' It is not for everyone. It certainly cannot operate for all parents. Another barrier is bias. There is a certain amount of gender bias, mostly unconscious and certainly not deliberate, arising from an understanding of what it means to be a male or a female today; what it means to be a father or a mother. The idea is somehow built into a lot of us that mothers are the natural nurturers and fathers have to discover it through hard work. I do not think that is necessarily true at all. Most of the research again would say that, given the opportunity, fathers are just as nurturing as the mums.

There certainly are a lot of difficulties around those assumptions within the Family Court. I have had some contact with Family Court counsellors. I have encountered those gender biases with those counsellors and when the reports are given to the judge, he has some bias which is going to colour his decisions at the end of the day anyway. It is not just the Family Court judges who should be perhaps questioned, or scrutinised a bit more closely, but I think the counsellors who operate around the Family Court, too, perhaps need some consideration; determining who those people are and what kind of training they get.

Another barrier—and I think one of the primary barriers to shared parenting—is the question of money. Children from separated relationships often are accompanied by a large amount of money. If the mother has committed herself to raising children, being a parent and not necessarily being a worker—and a lot of women still choose that role—it is very difficult to live unless there is some money coming in.

Child support will guarantee quite a reasonable amount of money; not enough to live as well as you would have previously, perhaps, but certainly it is a lot better than agreeing to 30 or 40 per cent for the dad, because that reduces the money enormously. Whatever carrot we dangle to say, 'You should go for full custody of your children,' people are going to do that; it is sensible for them to do that. They are disadvantaging themselves and the life they will have with their children if they do not go for full custody, if that is the money they know they need to rely on. The actual formula we set up trying to ensure that there are some reasonable provisions for caring for the children, in some ways is getting in the way, I believe, of caring for those children. There are ways around that.

I think some form of dispute resolution outside the Family Court is absolutely essential in mediation or conciliation. I do not know whether the Family Court is the appropriate agency to conduct that, though; it seems to have some negative connotations. Anything to do with the Family Court at the moment is seen as somehow divisive and adversarial. I do not know if another government department would have to take progress of that, but that perhaps would be the way to go. Other forms of support, other than mediation or conciliation, would be necessary, too: parenting support, accommodation support, perhaps financial advice—the sort of things the Child Support Agency recently started trying to do. Those sorts of things need extending a bit more.

I also go along with the idea of trying to cut lawyers out. One of the problems is that conveyancing was taken from lawyers. They looked around and the next thing they found was family law. It just coincided in time. That is my conspiracy theory. We should try to keep it out of the hands of lawyers because it is their work to be adversarial; they cannot help but take that kind of approach to look after their client's best interests. If it sometimes means that clients end up at each other's throats, where perhaps they would not have, that is not the lawyers' responsibility, that is our responsibility—we created a system which let lawyers have too much input. I have finished.

CHAIR—Thank you.

Mr PRICE—A couple of things fascinated me. Firstly, you said that there were shared parenting arrangements 50 per cent of each week. That must have become complicated. How did that work when the kids started going to school?

Witness 3—When I looked at the research people said, 'That is terrible for the kids.' But in fact what happened was that my daughter was not even born when we separated. I started looking after her as an infant, bottle-feeding her and getting up at 2 o'clock and all those things. We shared them when they were young. My ex-partner is also a psychologist and we both read widely about this and how we could manage it once we had agreed to the principle of it.

As younger children they needed a much shorter period between contact with each parent—so it was 3½ days basically. On Wednesday midday we would split and then Sunday it would change over again. By the time they got to school we changed it to week and week about. For my oldest child, when he went to school, we changed it week and week about for both of them, so the kids were always together.

Mr PRICE—Do they go to the same school or different schools?

Witness 3—They did go to the same school, but they have not for a few years now. They are spoilt kids, I guess; they have made choices which have led them down different paths. We do it term and term about now that my son is 14 and my daughter is 12. We have gone to term and term about as of approximately a year ago and that is our current arrangement.

Mr PRICE—Both in child support and in family law it seems to me that the system rewards those who do not agree. The weight of the system is not on getting people to come to agreement. In fact, you get the biggest rewards if you do not.

Witness 3—That is the impression I have from contact with men exposed to the Family Court—and some women as well. Some women get pretty rough deals as well when they go through the Family Court. It is not just men. It is the nature of the court system and it cannot be avoided while ever it is run through the court. We need some other government institution which is able to manage the progress of these much more complex matters which the court is unable to do.

Mr PRICE—The only other time we use lawyers to sort out matters relating to children is when they are before the Children's Court. In the issue of marriages and relationships, in a sense, the children are the victims of the split; they are not the perpetrators or the causes of the split. I do not understand why we, as a society, think it is lawyers who can best determine what is in the best interests of children. In no other aspect of their life do we use that profession.

Witness 3—I agree with that and also add that I do not think judges necessarily are the people with the best insight into family dynamics.

CHAIR—In the interim, when you were explaining your position, you said that you would have lost your children in the Family Court. Why did you make that statement?

Witness 3—Because we lived out the fairly normal pattern that most people did in having children. I had become the committed breadwinner: I was working two jobs and my ex was at home looking after the kids. That was our status quo. I think if she had taken it to the court, she would certainly have won, based on that.

CHAIR—That is very informative.

ACTING CHAIR (Ms Irwin)—Congratulations on your 50 per cent shared parenting for 12 years. So you are going turn by turn now?

Witness 3—At the moment, yes.

ACTING CHAIR—Are they going to the same school, as you stated previously?

Witness 3—No, they do not go to the same school.

ACTING CHAIR—But do you live close to your ex-partner?

Witness 3—Yes. That was part of our original agreement, that we would live within a 20-kilometre radius of the children's school. If we sold or bought houses we would have to do it within a manageable distance so they would not lose contact with their friends, sporting activities et cetera.

ACTING CHAIR—What kind of process did you use to help get to the outcome of fifty-fifty? Did you both sit down together, or was it via a solicitor or mediation?

Witness 3—I was hoping you were not going to ask that. I think it was a lot of manipulation on my part and a lot of determination. My ex really did want the classic of wanting the house, me paying the mortgage, she keeping the kids and me going away into the sunset and sending

money back every so often. Unfortunately, for her position, we were not married. The division of the assets at that time would have involved the Supreme Court of New South Wales. She costed it out after I had said, 'This is how much money I've got. This is how much money my family will lend me. This is how much I can borrow. This is how many years of court we'll fight through. Just trial it.'

She knew that I would do it and she agreed to a trial for one year. At the end of that year she was satisfied that it was good for her, too. She was also interested in her career. That was one of the things, during that year, which really helped her to realise, 'Hey, wait a minute. I've got some freedom. I can look after my career interests now, too. I don't have to try to juggle everything. I've got someone I can call on if I am sick, when I have special times or when I have to go to meetings.' All those things became clear for her in that intervening year of the trial and at the end of that year she said, 'Fine.'

ACTING CHAIR—Do they have their own bedrooms?

Witness 3—Yes.

ACTING CHAIR—They just bring their clothes over when they stay?

Witness 3—No. They have two sets of clothes. It is expensive; it is not a cheap option to do this. I am fortunate because I have full-time work and my partner has full-time work. We are reasonably well paid. For people not in that position, they need more support.

ACTING CHAIR—How do you think shared parenting would work if it was imposed by the court on people who did not agree?

Witness 3—We did not agree. The only thing I had managed to squeeze out of her was a trial. It certainly was not agreed. If the court had said—and I believe it should—'We want a parenting plan that looks after the interests of the children in some way that ensures you both can have the maximum input you can to the kids; that's the outcome we want from here and this is the only way we can do it, given the knowledge we have of you both. Go away and do it'—and it was seen as a trial period so that people could settle down a little bit, a lot of them would realise that it is not only for the benefit of their children but for their own benefit to do that.

ACTING CHAIR—You are virtually saying that the court should say, 'Okay, mum and dad, we're going to trial this. Go away. I'll see you in six months time. Let's see if it works, and we can sit down then'?

Witness 3—Yes.

ACTING CHAIR—Do you feel that mediation should be compulsory before it even goes to court?

Witness 3—Absolutely. There are situations where there are abusive and neglectful parents and you cannot have a shared parenting arrangement; it just cannot work. But I think those situations are at the extreme. To use those to say we cannot have it for the majority is really not a

very good argument. Those cases often are readily identifiable when you do have either one or other parent who is quite dysfunctional or has mental health problems.

Mr CAMERON THOMPSON—The Bender report of 1994 states:

Some research indicates that joint custody may actually work to reduce levels of parental conflict over time.

Can you tell me what Bender had to say?

Witness 3—It does not actually reduce court appearances, which was one of the sad things, but it does reduce the interpersonal conflict. Parents do have to find common ground to talk about arrangements for the children. Opportunities for communication with each other that are not based around fighting help to develop a working relationship.

Mr CAMERON THOMPSON—I am quite a fan of that theory. Where was this study done and with what sort of people? How much can we take out of it?

Witness 3—I cannot tell you the details of that particular study. I could send it to you. I will get it and send it to you, if that is of any assistance.

Mr CAMERON THOMPSON—Okay. You said you started the shared parenting with a child of a very young age. We have had evidence several times now warning us that a shared parenting arrangement where there is breastfeeding would be just a disaster and very bad. I think someone said, 'Babies need their mummies.' What is your experience of that?

Witness 3—I did not have my daughter for any great length of time until she had finished breastfeeding. When she was feeding from a bottle I looked after her a couple of times when her mother had given me breast milk in a bottle. I looked after my daughter for a few hours when that was necessary, but shared parenting did not occur until she finished breastfeeding and the child was weaned. Her mother had problems breastfeeding past about four months, I think it was.

Mr CAMERON THOMPSON—How long did this occur? Were you doing it day about?

Witness 3—She did not live with me for those first four months. I would go and visit here and spend hours with her. I would go for a walk down to the park or whatever, but she did not live with me until she was able to stay overnight because she was drinking formula rather than breast milk.

Mr DUTTON—I am interested also about some of the practicalities. What did you do in the preschool stage, a time which would have interfered with your respective full-time jobs? How did you accommodate that?

Witness 3—We relied enormously on family day care, which was our primary system. We found a wonderful woman living locally who took kids. She really became their parent in a lot of ways up until they went to school. She is still around. She still lives in the area and they still see her. They see her as an important figure in their lives. We were very fortunate because it is not always so easy.

Mr DUTTON—Can I just clarify your comments before in relation to current schooling arrangements. When you say your children go to different schools, you mean respectively they go to different schools or that your son, for argument's sake, goes to school A for one term and school B for the second term?

Witness 3—No, they go to the same school.

Mr DUTTON—I just wanted to clarify that.

Witness 3—They go to different schools from each other. My daughter does not want to go to the same school as her brother. She wants to have her own identity.

Mr DUTTON—Are you able to accommodate that because you have entered into an agreement as part of your shared parenting plan that you both reside within a 20-kilometre radius of that school?

Witness 3—Yes.

Mr DUTTON—What are the practicalities in relation to your child support, the CSA arrangements? Are there payments made back and forth?

Witness 3—The CSA is another thing I have been very fortunate to escape.

Mr DUTTON—Plenty of people here can attest to that, I am sure.

Witness 3—I am really glad that they did not intrude because ultimately we are responsible for ourselves, I believe. I was living with my partner because I made a commitment. Once that broke down I did not think she was entitled to my money and I was certainly not entitled to hers. She earns more than I do at the moment, but I have not put in a claim.

Mr DUTTON—That is very generous of you.

Witness 3—I do not intend to.

ACTING CHAIR—Thank you very much for coming before the inquiry today.

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

That the submission from Witness 3 be accepted as evidence and authorised for publication as part of the inquiry.

[5.30 p.m.]

ACTING CHAIR—I welcome everyone to today's community statements segment of the program. We have about one hour. Each person will be allowed about three minutes so that we can give as many people as possible the opportunity to speak. I will advise you when three minutes is finished. I ask everyone making a statement to speak into the microphone. 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. If you do not want your name on the public record, would you please just say your first name. I invite individuals to indicate their willingness to make a statement.

Frederick—I have come here today primarily because I used to work for ABARE—the Australian Bureau of Agricultural and Resource Economics—and I am published with ABARE on many issues, including US farm regulation, and I am one of the food security policy authors for the current Australian food policy documents. I am also a public servant awarded for the work that I did on the monograph. I have not finished my full analytical submission, but there is a confidential submission for each of the members and, so that you can verify what I have just said, a copy of the monograph.

ACTING CHAIR—Is this a further submission or copies of submissions that you have already given to the inquiry?

Frederick—I have not submitted anything in writing to the committee at this point in time. The confidential part of my submission is photocopied and ready for distribution. The public part, which is more of an economics analytical piece, is not yet complete.

ACTING CHAIR—Thank you. We will note that.

Frederick—I found some difficulty in getting decent information from the Child Support Agency in order to do a good analysis of what is happening within the child support system—that is, reasons and issues that have been covered in previous reforms, such as people moving interstate when there is separation between parents. I have made requests and, basically, been denied. As you well know—and I will go through it very quickly—there are 901,000 children on the Child Support Agency's lists and 94 per cent of those are in the sole custody of one natural parent; 90.3 per cent of those who are payers are male. To me, that indicates that there is a strong bias in the decision making process within the Family Court and it is very hard to indicate anything else from that set of facts.

The other fact that sticks out for me is that 39 per cent of payers pay $260 or less per year. They are on the minimum payment. When I look at the incentives that the current system produces, that indicates that it produces the incentive to have a low income because of the child support rates and the child support organisation that is in place—that is, if you are continuously paying and you are seeing your child for a very small amount of time relative to the whole of its life, you will not have the incentive to continue to work because it acts almost as another taxation barrier.

I point to some work by the Bureau of Labour Economics that was previously done on poverty traps in the social welfare system. I would suggest that that is appropriate to look at. My primary aim today was to do an introduction, pending getting a time from you so that I could put in the more formal paper, which is there, and then quite happily I would take questions on that in writing, or whatever.

ACTING CHAIR—Thank you, Frederick.

Colin—I am here as a private individual and what I am going to say basically is a promotion for my two submissions, which you already have, the first of which is a public one, the second of which is a confidential one.

I am the custodial parent of an eight-year-old girl. I obtained sole custody of my daughter after a four-year saga in the Family Court, although my formal position for most of the time and what I believe in now is joint physical custody. I have experienced the kind of joint physical custody that prevails in every intact marriage and operates without any kind of formal agreement or court order between the parties. I have also experienced the joint physical custody that stems from a residence order, courtesy of the Family Court, following a defended hearing. I now have sole custody following a second defended hearing in the Family Court. In short, I have first-hand experience of joint custody in two forms, and sole custody.

I stand here today as a sole custodial parent who believes in joint custody because that would be best for my daughter. I always have had the position of joint custody philosophically. It was what my daughter wanted when the family first broke down and I knew was in her best interests. Despite clear evidence, however, of my daughter's attachment to me and my bond with her, I was led on a merry dance through the Family Court, simply because my wife insisted on sole custody. The point has already been made that the system rewards people who will not cooperate and I think that is very true. I believe sole custody to be the most destructive and conflict ridden post separation parenting outcome that it is possible to devise. Why anybody would push for sole custody, if the other party is willing to share parenting, is totally beyond me.

I argue in my first submission that joint physical custody is nothing more than an attempt to preserve after separation as much as possible of the equal and unrestricted access that children enjoy during intact relationships with both parents.

I reveal in my submission the inability of the judiciary and Family Court counsellors to properly come to grips with the concept of joint physical custody, so wedded are they to the association of fathers with weekends. I also reveal a regrettable tendency on their part to rule out joint physical custody outcomes in defended cases, because of the supposedly intractable nature of the dispute before them, even though the Australian Law Reform Commission has acknowledged that the use of 'intractable' could imply that both parties are responsible for the conflict when, in fact, one party may be responding reasonably to the very unreasonable demands of the other.

In my second confidential submission I examine the issue of other persons in relation to section A2 of the inquiry's terms of reference. My concern has nothing to do with grandparents, however. It has been my experience that a presumed father's relationship with his child is not immune to challenge by another man claiming to be the child's biological father. Bizarre as it

sounds, such a scenario can lead to a legal battle between two men, both claiming to be a child's father. I therefore argue in my confidential submission for a developed relationship test to be devised as a threshold matter in deciding whether the challenger in such cases should have standing in court to apply for contact orders.

ACTING CHAIR—Colin, I am sorry to interrupt. Thank you very much.

Colin—I would like to table copies of submissions for everybody.

ACTING CHAIR—Fine, thank you.

Colin—How do I do that?

ACTING CHAIR—The secretariat will take that off you and it will be noted. I know it is very hard in three minutes to get a lot in, but thank you for your cooperation.

Ray—I am a private citizen, and I thank the committee for this opportunity today. I have had a very unique experience as a father. I was an intact stay-at-home father. I was an intact working father. I have been a sole custodial father and I have been a contact father. I stand before you today in support of joint physical custody.

I came to this debate in 1975 initially and I came as an advocate for my mother, who lived in a very violent relationship. We needed reform then. We got it. I came to the debate again in 1996 and I came as an advocate for my children and for the rights of children. I stand before you today as an advocate for my grandson, who does not know who his father is, has had no contact with his father and does not have his father's name on his birth certificate. We have turned the power from one side of the fence to the other, and it needs to be brought back.

I also work in the field—and have done for seven years—with resident mums, with resident dads, with contact mums and with contact dads. I believe joint physical custody will deliver a crucial starting place. Shared care will not work for everybody. It will be much easier to go into a mediation process or into a court process and negotiate from 50 per cent back to 30 or 18 or 20 or whatever than it will be to go in with nothing and claw your way to 18 or 20 or 30 or whatever. The fact is today most parents have between 18 and 28 per cent of care of their children. They are Child Support Agency figures. They are not abusers. They are normal everyday parents that are most adequate parents prior to separation and are relegated to second place after. Thank you.

ACTING CHAIR—Thank you very much, Ray.

Ryan—My daughter was abducted to the United States of America on the 15 May 2001. My daughter was 3½ months when abducted by her mother. I was the primary carer. I have slept little since my daughter's abduction. I have not been to bed since, waiting every night for the phone to ring. I do not know anything about my daughter. I do not know whether she is well. I do not even know what she looks like.

I spent over two years fighting to get this matter into the Family Court of Australia, whilst my now ex-wife is allowed to frustrate the process. The Hague Convention does not work. I am not

dealing with a Third World country, but supposedly the greatest nation on earth. My point is that a fifty-fifty rebuttable presumption of joint physical custody at separation ought to stop many abductions at that point or else give greater weight to the immediate return of the child.

I would hope that built into the legislation for a rebuttable presumption of joint physical custody would be the legal mechanisms that would stop parental child abduction before it becomes an option for a parent wishing to flee either interstate or to another country. A rebuttable presumption of joint physical custody should not allow either party to escape or manipulate the system in their favour. In my case, with my daughter, she will not know who I am and my ex-wife has the status quo. It should be absolutely necessary to attend court in order to gain the necessary orders involved to change any circumstances and they should be on equal terms, making sure it is in the child's best interests.

Parental child abduction is not a crime in this country. There should be prison sentences for parental child abduction, as well as fines, in order to reduce the increasing number of abductions each year—proper penalties, properly enforced, equally enforced. I would ask the panel why passports are necessary for children? Children have no need for long-term passports. I would suggest that children be issued with visas only for the duration of a planned trip; that where a child can have dual nationality by parentage, the Australian government take a more protective stance towards its young citizens and be more assertive with other nations and their systems, so that an Australian child would not be issued another country's passport; that no Australian-born child leave the country without the proper visas, regardless of another country's passport; that birth certificates be shown for all children leaving the country; that once a child has been abducted, either to another state or to another country, the system in place means that laws have been broken and a more assertive position be taken by the legal system in recovering and repatriating abducted children.

Parental child abduction is child abuse. It is expensive and time consuming. The only winners are the lawyers and the abducted parent, if they get away. I believe that a fifty-fifty rebuttable presumption of joint physical custody at separation can play an important part in reducing the numbers of abductions.

ACTING CHAIR—Thank you, Ryan.

Ms Combe—I have made two submissions. My question here is how much of the domestic violence that everyone is experiencing is actually as a result of frustration with the system. I have run the gamut of all the situations—personal domestic violence, et cetera—and, in the first instance, it is my understanding that my husband's frustration with the system is what caused the domestic violence. I think a lot of people would be experiencing the same. I wonder—and I ask—whether there has been any research done on that question. It would be an interesting question.

I am here on behalf of a Lions Club initiative called Good Beginnings, just to bring it to the standing committee's attention. They have begun a system where they can go into homes and help people in the early stages—new baby and things like that—to try and prevent anything like that happening. I wanted to bring it your attention. I have asked them to do a submission and Mr Cadman has asked them to do one. They could not get here today.

It is my belief that the problems with the Child Support Agency are that to enforce their orders you have to go through a state court, which is through the Local Court—I am not sure if it has changed, Local Court family matters. We have a division of jurisdiction with the enforcement of Child Support Agency orders. It is my submission that all things should be done in the Family Court on the same day at the same time.

ACTING CHAIR—Thank you very much.

Ms Goss—I am a solicitor and I work in community legal centres. I am addressing the committee today as a worker of over 20 years standing in the not-for-profit legal services sector. I have never been paid by a client for any of my legal services.

The time available today does not allow me to give a full exploration of the legal issues as I see them. To this end I would refer you to the written submissions of the following services: the Women's Legal Resources Centre, New South Wales; the Domestic Violence Advocacy Service, New South Wales; the Women's Legal Service, Queensland; and the Blue Mountains Community Legal Centre. I am currently employed by the Hawkesbury-Nepean Community Legal Centre and the Blue Mountains Community Legal Centre. I published a book this year on domestic violence.

In the past 20 years I have worked exclusively in community legal centres in the west and south-west of Sydney. I have worked in community and state based services in generalist and specific services. I have represented women and men. In all services, family law and domestic violence were the most common reasons for the persons contacting the services. In most cases the approach was to seek information and legal advice on how to negotiate the relationship breakdown and how to manage post separation contact with children. In most cases, clients managed to agree on a way forward for themselves and were able to make workable arrangements regarding contact and residence. However, in many other cases, this is not possible.

My experiences in the past five years in particular have shown me that those people experiencing the most devastation within their families have the least resources to negotiate the changes confronting them. I have represented between 400 and 500 women a year over the past five years in domestic violence matters. It is my observation that they and their children have had to face not only family violence but also child abuse and sexual assault and, in many cases, this has been complicated by substance abuse and/or gambling problems.

One of the things that I would like to raise in relation to substance abuse is that it would appear to me at this moment in the most serious of cases that alcohol is not the major factor. However, there is a combination of marijuana and amphetamine use which appears to be creating a great deal of violence in our community. My other concern is in relation to the myths that abound: that couples split up for the flimsiest of reasons; that they are not committed to maintaining their family for their children's sake.

In my experience, women in particular do not separate from their children's fathers except for the most serious reasons—domestic violence, substance abuse, child abuse. In the majority of cases within my experience, clients have been very reluctant to leave their partners, even in very violent situations. Sadly, it is women who usually have to leave the family home with their

children. My clients unfortunately also do not have a spare $1,000 to cover the cost of moving. They are generally dependent on their ex-partner or low-paid employment.

The other issue that I am very concerned that the committee take on board is in relation to false accusations of domestic violence and sexual abuse. It is my experience that the number of women who lie about domestic violence is in relation to saying to the police that nothing has happened; that they are lying for their partners. That would be at least 10 times the number of women who I have actually observed to be less than truthful in relation to domestic violence.

I am sorry to keep going on, but I am speaking for all of those women that I have represented over the years. My experience of women refusing their children contact with their fathers would be less than two per cent. In the majority of cases, my clients want their children to see their fathers. They say, 'He doesn't do anything to the kids, but he won't see them.' They ask me how can I make their ex-partners see their children. The large majority of separated fathers—64 per cent—see their children regularly. I believe shared parenting is best for children. However, you need the proper circumstances for each of those couples to exercise that ability. Thank you.

ACTING CHAIR—Thank you very much.

Dr Monaem—Professionally, I do research in public health areas. I am recently separated and, as you can see, I am also an ethnic person, so I am an ethnic father. I have lived in this country for over 20 years and I have been married over 14 years, my anniversary was only a few months ago. I have two daughters—10 and six years old. About three or four months ago, my wife removed the children from the school and took them somewhere else, and then I received a letter from the solicitor. I do not know much about the system here, the laws, so I do not know what to do. The solicitor said that I can see the kids a couple of hours a week. That is what I have been doing.

My problem is, as an ethnic father, should I go to the court? As I have heard from so many people around here, I am very sceptical about family courts—whether I can get a proper hearing. Coming from an ethnic background and also as a Muslim person, I am more sceptical. In a way, I am very scared of the current political situation: how will my case be heard in the court? I understand from various sources that my wife is preparing something for court so that I can be demonised as a bad Muslim, as a violent Muslim man. That really scares me to go to the court.

Before the separation, I calculated that I spent about 60 per cent of the kids' time going to the school, piano lessons, swimming lessons—all of this—but now I can only see them for a few hours a week. I did extensive research on whether joint custody is a good thing, and I have found that Bauserman and others who did extensive research—meta-analysis of joint custody—have found that joint custody is really good for the children in terms of their social and emotional development and in terms of their psychological growth. I believe strongly that joint custody should be the presumption of rebuttal in this case. Thank you.

ACTING CHAIR—Thank you, Doctor.

Robert—I am not very organised but I would like to make some comments about my own experience. Of course, I would love to go for equal time with the children. Before separation I

shared in everything in the house. After that I was denied everything about my children. My children's attachment with me—as the psychiatrist said in his report—was very strong, but he said that the attachment with the mother 'is very loose'. But then I lost them as well. It did not matter what the psychiatrist said.

Here we come to a point where we say one judge just cannot make the decision. We need a judge, a psychiatrist, and we need more people to be involved, but we need honest people as well. There are lying people and there are, of course, people who can really focus on the best interests of the children; not to use this statement to go against the best interests of the children. I found that the words 'the best interests of the children' were mentioned in nearly every single page in my hearing, whereas nothing whatsoever in the hearing was to do with the best interests of my children.

Secondly, I would like to say that the system dictates the behaviour. Women will take 90 per cent—in my case it was 91½ per cent—of the equity if we encourage them to do it. If we encourage women to take the money and the equity and everything, that will dictate their behaviour and they will be lying in order to get it. It is not only my opinion that women are lying in the courts, it was mentioned in the parliament last year when the lady said there were a lot of women manufacturing stories against men, and this was investigated in the parliament. Once someone said—I have forgotten the name—that he will be rich if he takes $1 for each woman lying, so we are talking about facts that were already mentioned in the parliament.

One point I would love to say as well about my ex-partner, or any ex-partners, they later—after they use the lies against their husbands and go against the best interests of the children—realise that they have made a mistake. If you encourage me to lie about my wife and go against her and cause her a lot of trouble, I may be happy to do that now but later on, when I get some wisdom, I will see that I did nothing but destroy my own family. That is what is happening to the women nowadays.

We need a less legal system. We need more mediation, and enforcing mediation. If the woman knows that she will get a lot after separation, she will go for it. If she knows it is equal, she will never go. That is what I meant by 'the system dictates the behaviour'.

ACTING CHAIR—Thank you very much, Robert.

Mr Torning—I am here for two reasons. I put a submission in and I also am involved with a radio program called *Dads on the Air* with John Stapleton, who cannot be here tonight. Firstly, in relation to the CSA, as Rod Hardwick said, I think it is a dodo—it is going to be extinct shortly. I ask parliament: would they put the Ku Klux Klan in charge of ATSIC for Indigenous affairs? That is exactly what they have done with the Child Support Agency. They put the WEL—the Women's Electoral Lobby—in charge of the 'I hate men agency'. That is the truth.

The second area I want to address you on is that I am the world's greatest dad. No-one has claimed that tonight. I will claim it. I have two kids. I have two failed relationships—I am the world's worst lover apparently—but my first partner and I get on great. We never went to court, never went to the Family Court of Australia at all. We never had an AVO problem, which is good. There has never been a child support issue.

With the second partner, I just cannot get out of court. Because of the incompetence of the New South Wales Police Service, they have attacked me twice. I am a former policeman of 21 years three months and five days. They have attacked me twice over AVOs, which have failed. I have been to four-plus Family Court of Australia hearings.

The CSA: you just cannot get rid of them; you cannot shake them. They are like a Labrador—no, a worse dog, a Rottweiler—grabs on to you and will not let go. I really do encourage this committee, and I compliment John Howard and all the politicians that support shared parenting because it is the only solution. Thank you.

Bob—Good evening. I come from Newcastle. Probably, like many fathers here tonight, I have not had the harrowing problem that many people have experienced in the fact that I have never had an AVO taken out against me. There have never been any allegations made against me and I am also a joint custodial father of my three children.

My case was determined in 1993 and the only problem with the case was the fact of the mediation process, which was suggested by the Family Court counsellors at the time—the compulsory Family Court counselling process—who suggested that myself and my ex-wife go to mediation. I was sort of in like Flynn on that process and I liked the idea, but unfortunately my ex-wife did not like the idea, so that was the end of the mediation process. To me, we have gone from a poor situation at the time to an even worse situation now because there was no mandatory mediation in 1993. I think I have been campaigning for mandatory mediation ever since.

I agree fully with what Michael said earlier on, as far as cooperative parenting goes, but I think the committee has to realise that reality and, as the solicitors will tell you, the motherhood statements of section 60B of the Family Law Reform Act are very different. The reality is very different to the motherhood statements in section 60B.

One of the problems I face now is in relation to all of the so-called extras. I did a 12-page submission which I sent to the committee, which unfortunately they have not received. I have been in contact with them back and forth. I had sent a 12-page submission entitled 'Family breakdown service providers' in which I indicated that the three service providers in a family breakdown situation are the Family Court, Centrelink and the Child Support Agency. Those three areas of family breakdown service providers are not coordinated in their activities.

They are certainly not coordinated in regard to percentages of care time, in regard to payments. My taxable income is $26,000 a year and since I claimed access to family tax benefit payment in 1999 I have been put through 10 changes of shared care percentages for my three children. That in itself is pretty harrowing for a person. You cannot get on with your life because the areas of service breakdown are not coordinated. Thank you.

ACTING CHAIR—Thank you, Bob, from Newcastle.

Dennis—I am a father of one. I have not really experienced any domestic violence. I am just going to quickly talk past the domestic violence issue and into the Child Support Agency itself. I firmly believe that when there is no domestic violence at all, no orders out, women—and this is not directed at all women but partners or whoever it may be who could have child support paid

to them—refuse the actual father seeing their children, for whatever reason. It does not matter what anyone says about it, it actually goes on.

Getting away from that, I myself have one child. I have been separated for eight years now. We have no problems. I see my daughter on a regular basis. I gladly pay my child support.

A gentleman was talking earlier on about incentives. You have X amount of people, and most of them unfortunately are males who do not pay their way. There is an instance where I do know a person who runs his own small business. He has had a nasty break-up. He pays X amount of money per week because he says, 'I only earn $300 a week.' You can run it back through the business again. The government of the day—and whichever one it has been in the past—has not ever looked at this, or it may have but nothing has happened. My issue is that we have heard all about what bad things people do. My issue today is that all of the people who do the right thing, like myself—I pay my child support, I see my child, I have her every holiday time, I pay for her education, I just about pay for anything that I can, or what I can afford—have no tax relief at the end of the year. This is not a money grab, it is a matter of equality. The equality is that, if I was living under the same roof, I would be able to claim for my child. Thank you.

ACTING CHAIR—Dennis, thank you very much.

Rhonda—I am here as a grandmother. The Family Law Court is only working well when both parents agree about the wellbeing of their children. Once there is disagreement between the parents rather than resolving their disagreement the court removes a parent. In my case my two infant grandchildren were abducted by the mother into a secret cult for three months. The damage done to my grandson is still evident 4½ years later. To watch him physically cling to his father and not want to go to his mother at handout is heart wrenching. To try and get some normality for these two children cost me $50,000 and, to survive, I had to sell my house as my son could not afford litigation.

This resulted in a shared parenting order for my grandchildren, which was working well for the children for about three years. Unhappy with lack of control of the children and her ex-partner—my son—the mother filed a further application for sole residency. At the directions hearing my son was refused to allow bringing evidence of the mother's previous conduct of abducting the children and her involvement in the cult. Subsequently the court went ahead with no evidence of material harm to the children by the current shared care arrangement.

The Family Court subsequently sided with the mother and criticised my son for his desire to stay at home and parent his children. All evidence brought by my son was completely ignored, notwithstanding the children were thriving under the current arrangement. Last Friday the Family Court in Adelaide took the children from my son and they have now exposed my grandchildren to further psychological and emotional harm by disrupting a well-established, equal and fair residential arrangement.

The Family Court takes little or no consideration of the permanent harm caused to children by having their relationship with one of their parents terminated. The Family Court has demonstrated, in my son's case, its absolute opposition to shared parenting. A child needs both their mother and father equally. The Family Court should not have the power to remove the parents, unless the welfare people have done so themselves. Thank you.

ACTING CHAIR—Rhonda, thank you very much.

Val—I am a father of four children and I have supported my children emotionally, financially and physically to the best of my ability. I have heard various speakers today, particularly on mandatory mediation. I think mandatory mediation is necessary, and it does save the costs of going to Family Court matters, because my solicitor did advise me when I went through that particular situation, 'It will cost you $30,000.' That was back in 1996, and there are no guarantees that you are happy with your outcome.

Then it went through Family Court counselling and then it was agreed upon with the usual half—you know, school holidays and every second weekend. I do believe mandatory mediation should be the way to go in this situation, in family breakdowns, because the numbers of marriage breakdowns is increasing at an alarming rate. I also believe that when you have mandatory mediation, it should be taken on a regular basis—just like a motor car, you have to maintain it pretty regularly—and by having mandatory mediation and court orders put in place, you must therefore review what you have agreed upon, in the best interests of the children.

I also find difficulty in the areas of the Child Support Agency—there is a lack of coordination, as Robert said. You have the Family Court make a decision but it is overturned by a senior case officer's decision, and then you have another scenario of Centrelink making another decision on the basis of their criteria, so we have three tiers of government with different criteria.

On child support side, when I wanted to support my children and have accommodation for them after a property settlement I applied for a home loan. I was working full time—and still am—at $30,000, and I applied for a home loan. I could qualify for a home loan—this is in 1996, mind you—of $70,000, with no commitments. As soon as I mentioned the words 'child support of 34 per cent', the recalculation of a home loan went from $70,000 maximum to a princely amount of $2,800. That was the amount that they were prepared to lend me because of my commitment on child support.

I asked all financial institutions, by the way, and I have put two submissions forward to the committee. In that scenario, I applied then for the Department of Housing. The Department of Housing would not issue me Department of Housing accommodation because of too much income. The next scenario was rent, and the rental side of it, of course, was dearer than the home loan repayments, so therefore I did qualify for a home loan eventually but it was because of the situation of the Family Court offsetting my child support and property settlements.

I want to mention *Me and My Kids*, which is produced by the Family Court and the Child Support Agency—help for separated parents. Unfortunately the good ideas that they do produce in that book cannot be practical under the current child support formula. Unfortunately it does not work. I have my submissions there and, of course, I hope you have read them. Thank you.

ACTING CHAIR—We will. Thank you very much, Val.

Daniel—I am 29 years old and have lived in Blacktown all my life. I have a shared care arrangement in place for my six-year-old son. It has been in place for almost two years. The shared care percentage is 38 per cent to me, 62 per cent to his mother, which is considered a

shared care arrangement. While there is a threat that this valuable time that my son experiences with me is at risk, I actively and wholeheartedly welcome this inquiry.

I personally have spent well over $47,000 thus far in two years of legal fees and solicitor fees. That is just my half. I went through stages, and still do, of pleading with my ex-partner for mediation. It is an avenue I do not think we explored at all. It is definitely an avenue that we did not exhaust before we got to the situation where we are. There was an attempt to bring an AVO against me and it was just that—an attempt. It was quashed. That alone, that single attempt of the AVO, cost me about $4,900—almost $5,000. She had police representation, and after the AVO was quashed I tried to recover costs against the police. Even thought it was proved that the AVO was not needed, that there were no grounds for an AVO, because I was taking on a judge in a sense—in trying to get him to find costs against the police—he looked at me and he said, 'Do you know what you're asking me to do?'. Like it was almost impossible. And he said, 'I have to tell you also that even though the AVO was proven not required'—because I was going to take him on and try and get costs against this police officer, he had the right and the obligation to enforce the AVO, even though it was proven that it was not required. So, with the current proceedings, I did not proceed with the application for costs.

ACTING CHAIR—Thank you very much, Daniel.

Mr B.—Members of the standing committee, I am resident in Sydney and a divorced father of two children. I sent in a 14-page submission to the inquiry which, after phone calls to follow up, I find it has been received, so I hope you all read it. There are a few comments I would like to make about my submission and some comments I have had from other people that I have discussed the submission with.

First and foremost, what are the best interests of the child? It can be clearly seen by all the men here that the fathers who are interested in taking on a parenting role should have equal rights, the same as the mothers', to be parents, and that the reality of the situation is that that is far from the case. I have found over time that my situation is actually an exception. I have residence orders—that is, both my ex-wife and I are jointly responsible for the care and protection of our children; that I have them two weekends out of three, basically substantial care.

But for those other people I have been involved with in the situation of going through the Family Court, the court seems to be very reluctant to grant equal responsibility to both parents. In fact, in my situation, because of the various facts of the situation, the children had separate legal representation at the time. I was going for custody, due to the situation of the matters. The recommendations from my solicitors were that what I was being offered was the best I could have received. After agreeing to that, the children's separate legal representative came up to me and asked why I settled. Her view was that I would have been entitled, and she would have supported my position.

The legal people were not talking to each other. To say that the Family Court is non-adversarial is a joke. It is a very adversarial environment and it costs a lot of people a lot of money and it does not have the best interests of the children at heart. I think there are plenty of examples of where that has been the case. Certainly we went through mediation, and the mediators that I have had experience with have been almost saintly in some of their patience. Twice they have told my ex-wife that they do not know why she is there.

I went and worked in Japan for a couple of years. My ex-wife refused to let the children out of the country on any pretence because she was sure I was going to abscond with them. It would have cost me my profession to have done that but she did not see that that was of much relevance. The court was at her and at her to get some grounds on which they would grant the leave of the children out of the country and eventually made rulings despite her. That cost me in excess of $6,000 because she would not agree to an offer that I made before court that was seen as normal and reasonable, and it always went through the court, it always had legal representation, until the point she had run out of money. Then, in the last instance, where we had a recent review of the residence arrangements, she had to represent herself. She could not afford anything else. I represented myself. It went through mediation and it went through fine and it was settled very easily and very quickly, but it was not until the money had run out. With the two children, 67 per cent of the assets of the marriage went to my ex-wife. Over seven years she has spent every penny of that, plus the maximum under the act for two children—22 per cent—of the child support that I have given her. There is no way I control what happens with the child support after it has been paid to her; whether she spends it on her personal interests, her business that she is trying to get off the ground. For her to earn an income to what I am paying her from child support, some $24,000 after tax, she would have to be earning over $50,000.

There is no way she is going to give up being a full-time housewife with no requirement to work and the stresses of trying to raise children to try and earn that money, yet for me there is no tax deduction for that. The fact that it is after tax income to her—it is not taxable—and it is an after tax deduction for me is not a fair situation.

Another situation from a mother's point of view when you are raising children is that the cost of child support, if you do want to go to work, is also not tax deductible. There is no encouragement for those mothers who do want to go out and work and support their children to pay for child support in a tax deductible manner, unless it is company provided. I think there are a lot of issues that you are to face. You have a lot of submissions and you have a very big task ahead of you. I wish you well.

ACTING CHAIR—Thank you very much.

Mr Dunn—I am the secretary of Lone Fathers Newcastle. We have put in a submission advocating fifty-fifty shared parenting with a rebuttal, so that in each case it can be negotiated up or down. The reason I came to Lone Fathers was that I went through a very nasty, savage and brutal hearing to get access to my three daughters aged eight, six and four. I have not seen them for two years, so the four-year-old will not remember me.

My ex comes from a family where they lie, cheat and steal. I did not know this until I married her. I found out, much to my horror, that when she decided to throw me out she had a whole lot of accusations ready, including sexual abuse. None of them has been proven and none of them was true in court. She confided in me, when she was sucking up to me last year to spend money on bikes for the kids, that it was all a lie and it was just to get even with me. She also made allegations against other people and my family, which never got to court.

She was also seeing a psychiatrist who after a year put a report in, which we quashed, which said horrible things about me—and I had never seen him. That was passed on to the independent psychiatrist, who turned around and used those same words to deny me access to my children,

saying that I was cavalier, I could not be trusted with women and I should be virtually locked up. I found out later that that psychiatrist was in the *Weekend Australian* of 6 June 2000 for his part in lying in a court case. The evidence was lost, so the whole thing was dropped.

During the breaks in my court case I heard the barristers whingeing and bitching that they were losing work because people were sorting out their problems. When they realised I was still sitting there, they asked me to leave. My ex would not have gone to the extremes she did if she was not guaranteed that she could do me over and put me in jail on the flimsiest grounds and keep the children, which are really her cash cow because she is useless as far as getting any work goes. I knew her 20 years ago and we broke up. We had one daughter who I never saw until she was 12. She said she had changed. She had not. She had left a string of guys all over Australia—South Australia, Queensland, New South Wales. She had used some sort of allegation to try to get them arrested and claim compensation.

The system allows people to do that. They can get away with it, because they are guaranteed immunity. They can get away with false allegations, because perjury is not included in the legislation. The judges and the specialists seem to always side with the woman and you get told by a registrar that there is no such thing in Australia as hired guns. When I offered more proof, including a lie detector test, they said, 'We don't want to know about it.' I found myself frustrated that the courts would not enact their own laws and look at things with a true eye to give both sides a fair go. Thank you.

ACTING CHAIR—Thank you very much, Jeff. I thank all the people who appeared before the committee today in this community statements segment. The committee will continue to encourage input from communities as it moves around the country, and I thank all of you for your cooperation. I also thank those who appeared before the committee today in the public hearing.

Resolved (on motion by **Mr Cameron Thompson**):

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

Committee adjourned at 6.25 p.m.