COMMONWEALTH OF AUSTRALIA

Official Committee Hansard

HOUSE OF REPRESENTATIVES

STANDING COMMITTEE ON FAMILY AND COMMUNITY AFFAIRS

Reference: Child custody inquiry

WEDNESDAY, 24 SEPTEMBER 2003

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HOUSE OF REPRESENTATIVES

STANDING COMMITTEE ON FAMILY AND COMMUNITY AFFAIRS

Wednesday, 24 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: Mrs Draper, Mr Dutton, Mrs Hull, Mrs Irwin, Mr Pearce, 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

Committee met at 9.41 a.m.

CHAIR—I declare open this 10th public hearing of the House of Representatives Standing Committee on Family and Community Affairs inquiry into child custody arrangements in the event of family separation. This inquiry addresses a very important issue which touches the lives of all Australians. To date the committee has received over 1,500 submissions, 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. This is one important way in which the community can express its views.

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

The public hearings the committee is undertaking are focused on regional locations rather than just capital cities. At these hearings the focus will be on individuals and locally based organisations. Later in the inquiry we will hear from the larger organisations, such as the Family Court and the Child Support Agency in Canberra, all via videoconferencing. Today we will hear from eight witnesses; two individuals and six locally based organisations. 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 that you do not refer to cases which have been or are now before the courts.

In recognition of the personal and sensitive nature of this inquiry, the committee has recently decided that when individuals appear before this committee in a private capacity at a public hearing—that is, not representing an organisation—the committee will use an individual's name during the course of the hearing, but the name will not be reported in the *Hansard* transcript which goes on the committee's web site. Rather, in that transcript, the individual witnesses appearing in a private capacity will be referred to as witness 1, witness 2, witness 3 et cetera. The transcripts of public hearings currently on the committee's web site will be modified to reflect this decision. This is being done so that the committee can maximise the availability of public information while still protecting individuals and third parties. I particularly ask any media present that they not report the names of individuals who appear publicly at the hearing in a private capacity.

There have been about six hours set aside for this public hearing today, followed by about an hour and a half for community statements of about a three-minute duration each. I remind the audience that at times television cameras may come into the room. If you do not want to be filmed in the audience, you should leave the room when the cameras come in.

[9.45 a.m.]

WITNESS 1, (Private capacity)

CHAIR—I welcome you 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 do not refer to cases before the courts.

As you are appearing before the committee today in a private capacity—that is, not representing an organisation—in order to ensure that your privacy and that of third parties is protected, while we will refer to you by name within this hearing, in the transcript record which goes onto the committee's web site we will refer to your evidence as being from Witness 1. You will know your evidence, but you will not be publicly identifiable to others. Would you like to make a short five-minute opening statement before I invite members to proceed with questions?

Witness 1—At no time has the system taken into account the care I have given to my child or the relationship I have with my child. I can only speak from the heart and my own experience. I would like to thank the committee for allowing me the opportunity to participate in this timely review. I acknowledge all participants' inputs and views in this government inquiry.

The system simply categorised me as, 'You do not want to pay child support and you really do not care about your child.' This is far from the truth. I am of the view that the current system has developed a culture where it encourages further disharmony between parties, in particular where children are involved, from lawyers who inflame already emotional situations—I believe so that they can earn more fees—to the Family Court itself.

Outlined in my submission are experiences I have had with the system and actions for the committee to consider. All I ever wanted to know was that my child was going to have the best upbringing that she could receive and that I would play a part in it. I am of the opinion that the system fails to ensure that this happens. In court orders, non-custodial parents have a responsibility to major issues regarding the child. As a non-custodial parent, my child's education or health issues are not discussed with me. Unfortunately, I receive information on these matters after the event, which leads to further disharmony.

Everyone who has been involved with the Family Court or the Child Support Agency has had a painful experience. The system simply must change, as it does not work. It fails to achieve its goals of providing for the best interests of the child and I believe it must consider to a greater extent the non-custodial parent for this to happen. In finishing, no matter what the outcome of this review, let us all not forget the vulnerable child and parents. Thank you.

CHAIR—Thank you very much.

Mr PEARCE—Thank you very much for taking the time to come today. Thank you for your submission; I appreciate the way you have formatted it in terms of points. Bearing in mind that you have touched on several points within the submission, based on your experience what is the one single most significant thing that you think we could do to make the system better?

Witness 1—I think the most painful part has been the categorisation: 'You are a male. You just have to pay, and you really don't want to'. It really hurt me. I am an individual. I have a child that I care for and nowhere through the whole system was that taken into consideration.

Mr PEARCE—Are you saying that from day one you felt that you were put into some sort of process where, regardless of your individual circumstances, you were treated the same as everybody else? Is that what you are saying?

Witness 1—Completely, yes.

Mr DUTTON—Thank you very much for your evidence and your submission. Can you tell me a little bit more about your experience with the Family Court? What sorts of costs were involved? What period of time did the trial take place over? What parts you were not satisfied with in the process?

Witness 1—As I said in my submission, I saw it as a very simple case. I spent about $7,000. It was probably 18 months before it got to court. The first part of the court process was that you had to go to mediation, which was a complete waste of time. We went in and the lady asked, 'Do you think you can reach agreement?' One of the parties said no and that was it. What was the point? You were asked if you could reach agreement and, when you said no, she said, 'I'll set it up for a hearing.' At the hearing, two lawyers got up and said what they wanted. I asked my lawyer to put a couple of points to the judge and she would not. She said, 'I'm not going to upset the judge. This is what you're going to get and that's it.' I thought it was a complete waste of time.

Mr DUTTON—You make a statement in your submission where you say:

> There needs to be a system put into place whereby the Child Support that is paid is actually spent on "Supporting the Child" and not assisting in the lifestyle of the recipient.

Can you explain a bit more what you mean by that?

Witness 1—My ex-partner did not work for a year so I have made an assumption that some of the money was supporting her. My own experience and that of some other people I have heard about, is that you pay the money—and gratefully—but when your child comes to you, you have to buy clothes. I am still buying clothes. I am still giving money: 'Dad, we need this.' You would think that is covered under the child support, but I am still giving extra money so that the child can do other things like sporting activities and get new runners. I still pay the extra.

Mrs IRWIN—Following on from Mr Dutton's question regarding child support, in your submission on pages 4 and 5 you gave some figures. On page 4 under the heading 'Current Assessment' for the paying parent you quoted an amount of $55,943. You explained the exempt income amount, and then the annual rate, I gather, for child support on that amount of money

was $7,785. On the next page you have, 'Proposed Assessment' and then 'Non-Custodial'. You are quoting that from an income of $35,000 up to $100,000 the child support should only be $3,141.45. As you have suggested a sliding scale, can you explain to the committee how you came to these percentages? Would these change if there were more than one child? I gather that you worked it out on what you would like to see changed and you only have the one child.

Witness 1—I put those figures in percentage-wise. I was only using my own experience of one child. I put those percentages in to show a sliding scale. As I say, I work long hours. I have a lot of responsibility and I do not reap any reward from it. I get called out very late at night. What do I get for it?

Mrs IRWIN—How often do you see your child?

Witness 1—Not every fortnight. This term of school—it is about an eight-week term—I have probably had her for one full weekend and for Father's Day.

Mrs IRWIN—You also stated on page 2 of your submission:

... lawyers and the Family Court are there to confuse and make you disheartened. I walked away feeling that the whole process was not there to reach agreement ...

You did try mediation, you stated, before you went into court?

Witness 1—Yes. My partner would not go to mediation. Everything had to go through lawyers. The mediation was the process before it went to the Family Court.

Mrs IRWIN—You went on then to state that there must be a complete change of culture throughout the whole process, starting with family lawyers. I would like to know from you, for the public record, what changes you would like to see regarding mediation, the Family Court and particularly lawyers? We have heard from a lot of people who have come before this inquiry. Some are like you and have paid $7,000, but I think there was one gentleman in Victoria who paid up to $120,000.

Witness 1—You just get the feeling that it is a process. I was not seeing my child on a constant basis. They said, 'You need to go and get court orders.' You go through the process of getting court orders and getting papers signed, going backwards and forward. The other partner's lawyers fill out the papers wrongly or do not give you the information; then they send it to yours. Yours have to reply saying, 'You didn't give us this and that's wrong.' It goes back and forth until you correct it yourself. When I came out I said, 'I've got court orders. At least I'll be able to see my child on a constant basis and have some responsibilities.' On that day I walked out, she said, 'You've got the court orders but that does not really mean now that I have to abide by them.' Why didn't they tell me that at the start? I wouldn't have got court orders. If she does not abide by the court orders, why did I have to go to court?

Mrs IRWIN—Finally, you stated that you worked long hours. I gather that you are a supporter of shared care, fifty-fifty. How would that work in your case? If there was a decision by the court that you would have the child for 50 per cent of the time and your ex-partner would have that child for 50 per cent, how would that work out in your case?

Witness 1—I have heard Trish on the wireless and I have heard other members and, as a starting point, I think it is good, but then it has to go on an individual basis. Maureen, my ex-partner, has another child, therefore, firstly I would not want to split the two children up. I could not ask for fifty-fifty. It is a good starting point but in my case it would not assist.

Mrs IRWIN—As you stated, there are individual circumstances.

Mrs DRAPER—How old is your daughter?

Witness 1—She is 10.

Mrs DRAPER—The terms of reference for this inquiry, and under the auspices of the Family Court, are that what we are looking at is in the best interests of the child. There is some provision already for a child at about the age of 12 to be able to decide for themselves whether they would like more contact and access with mum and/or dad—whoever is the non-custodial parent. Do you think perhaps more weight should be given to what a child feels in terms of their advocacy?

Witness 1—At the age of 12, or later on, or now?

Mrs DRAPER—I am interested in your opinion. Generally the courts and the lawyers would say 12 is a mature enough age to make that decision. I am interested to hear your opinion as a non-custodial parent.

Witness 1—It does not matter what age she is. My aim is to be able to have contact with her and give her a choice. At the moment I do not force her to come down. I am in circumstances where I will not do that. I do not force her and say, 'You must come down on a fortnightly basis.' They do have other activities which influence them. Why should she miss out?

Mrs DRAPER—Sure. What I am asking is if you think that would help the process? A rebuttable presumption, I believe, is a good starting point. It does not necessarily mean that everybody ends up with fifty-fifty residency and/or responsibility, but it is a fair starting point, in my personal view.

Witness 1—Yes.

Mrs DRAPER—What I am asking specifically is: should we be looking at taking the children's wishes and concerns more into consideration? That is the point I want to make here.

Witness 1—Yes, I think you are right; they should be taking the child's thoughts into it.

Mrs DRAPER—Bearing in mind that may or may not be helpful for the non-custodial parent. What we are really looking at, from my point of view, are the best interests of the child.

Witness 1—Yes. The child is paramount. As I have said, there are situations where one of the parents may get hurt themselves. But the worst thing, from my own experience, is that because I am not there, there are the influences the custodial parent puts on that child. Father's Day has just gone. There was a comment made during Father's Day that helped me with my situation.

She was asked to go somewhere else on Father's Day but she said, 'No, I'm going down to my dad's'—which was very nice; it really was a heart-warming thought from my child. But the influences that parents can put on children when they are in their care can be detrimental.

Mrs DRAPER—Without being condescending, and for the record for *Hansard* I noted you said that you gave extra money—which I guess many non-custodial parents do from time to time—

Witness 1—Yes.

Mrs DRAPER—for sporting activities, extra expenses and clothes. Again, without being condescending, but for the record, are you aware that through the Child Support Agency if you keep those receipts you can offset some of your child support liability payments?

Witness 1—No, I was not aware of that. I am speaking as an individual and it does hurt that you pay extra. I give my child extra money and all that and I am not trying to pat myself on the back.

Mrs DRAPER—I do not mean pocket money, but for specific activities, sporting events and things for school, uniforms and stuff like that.

Witness 1—Yes. If I kept them and took it into consideration for child support, the child still can get hurt because somebody might say to her, 'You're not getting this money because your father is offsetting it.' It can work against you. But I did not know you could do that.

Mrs DRAPER—Thank you.

Mr QUICK—In submission 114 that our committee received, the person states, 'The best interests of the child partly depend on a calm, consistent home base. Is this possible with equal joint custody?' It then goes on to suggest that at separation a parental plan be put in place where points are allocated, much like we do with our immigration system. Rather than having a joint rebuttable fifty-fifty, at separation there ought to be some sort of tribunal—keep the lawyers out of the system—and points allocated for financial support, school support, school sport, medical and dental fees et cetera, physical support, housing, clothing, food, transport, emotional, social and vocational support and the like. What are your views on that?

CHAIR—Would you like to take that question on notice because it is a difficult thing to be—

Witness 1—It is a difficult one, isn't it?

CHAIR—Yes. If you would like to have a think about it, we can give you that question in writing.

Witness 1—Yes, if you do not mind.

CHAIR—Then you could come back to the committee with a response if you so wish to.

Witness 1—Yes, if I can.

Mr QUICK—Should there be a system of checks and balances for the spending of child support money by the custodial parent?

Witness 1—I think that is a good suggestion; it would stop some of the disharmony between the parties.

Mr QUICK—How would you see it working? Should we set up a bank account where money is deducted?

Witness 1—It could become a bureaucracy, just to check figures. I would not want to go down to the last cent, but you would like to know that X amount of dollars was spent on a school activity or clothes; just so you know it is being spent on the child. We need checks and balances but I would not want to have to go down to fine details such as, 'I bought her an apple.' You would not want to go down to that but you would like to know that some of the money is being spent on her; fore example, that she is getting some clothes.

Mr QUICK—In your submission you mentioned variation, sliding scales of percentages and the like. I am interested in your views on the cost of raising a child. As children age there are different financial requirements. Also linked into that is: should part of the Child Support Agency money you pay, or any other non-custodial parent pays, go towards setting up some 'educational foundation' for the future education of the child, whether it is university or TAFE? Should that be considered as part of this modification of the child support payment scheme?

Witness 1—You are chucking up things that do not give you much time to think about, but you could expand that. Education is an important aspect of the child's upbringing. You could have a fund where the custodial or non-custodial parent could go and ask for money for a certain reason. It might not have to be education. I see going overseas and seeing a different country as education. It might not have to be that big. There could be money set aside for the larger expenses.

Mr PRICE—You told the committee you were paying in excess of your assessment—and well done for that—but, aside from that money, are you paying any money directly towards health insurance or education, up to 25 per cent?

Witness 1—No.

Mr PRICE—Are you aware that you can?

Witness 1—That the partner can ask for that money?

Mr PRICE—No. You can directly pay those things.

CHAIR—You can choose to pay 25 per cent of your child support payments toward a directed outcome. I think that is what Mr Price was asking: are you aware of your entitlements with respect to being able to choose to pay 25 per cent of your child support towards an acceptable directed outcome?

Witness 1—No.

CHAIR—There is a list of things that are acceptable. Are you aware of that?

Witness 1—No.

Mr PRICE—I was really interested in your conclusion. It says:

The whole process of contact with your child has become a "tug of war" with lawyers trying to keep your contact under or over the prescribed 110 days.

That tug of war seems to me to have nothing to do with the best interests of the child.

Witness 1—Definitely.

Mr PRICE—At the moment 96 per cent of child support cases are stuck in sole residency and only about four per cent have the various aspects of shared residency. What can the committee do to shift those percentages? Would shared residency suit your circumstances more than joint residency?

Witness 1—When you make a guideline or a law and it has a set point—

Mr PRICE—It has an entrenched effect.

Witness 1—Yes. All I have to do is get 111 days and I can get a two per cent or one per cent discount, which is ludicrous. You have this rule to get on and they are trying to keep you below that so the person they are representing gets the full child support. Yours says, 'No, you should get more. You should get more.'

Mr PRICE—Let me put another proposition to you. Given that in the UN Convention on the Rights of the Child it is quite clear that children should have access to both parents, should the committee provide a lesser amount of child support where there is sole residency but a higher rate where there is shared residency or categories of shared residency? In other words, the committee is forming the view it would like to see greater contact between both parents.

Witness 1—Because you have two people who have come to a situation where they are not going to agree on anything, to try to get an agreement is damn hard and the child is forgotten. The imperative is the child in violent situations. I do not want anything to happen in any violent situation; do not allow that. In my case the court said, 'Your ex-partner has to encourage your daughter to come and see you.' I do not even get a phone call. If I am going to pick my child up on the Friday night, I will ring up on the Thursday and they say, 'No, she's not coming down this weekend.' And my response is, 'Sorry, when were you going to tell me?' If I do not ring, I do not get any phone calls. I have a situation at work where my employer has been very supportive, over and above what you would say is the norm. I have taken my week off in the school holidays, put in my forms, thinking I am going to have my child, but I do not get her so I just go back to work.

I do not want to have laws but to have the parties get an understanding that it is in the best interests of the child to have contact with both parents and to have some guidelines and to have

some proper mediation where a person can sit down and say, 'Listen, this is good for the child. Do this and do that,' instead of, 'Are you going to meet? No? Then go.'

Mr PRICE—Thank you very much.

CHAIR—Do you work in the public or the private sector?

Witness 1—Private.

CHAIR—Thank you again for coming before the committee this morning. You have taken an enormous amount of time and effort to put your submission together to give the committee scenarios as to how the process might work. The scenario that you have put between the proposed assessment of non-custodial and custodial parents, with the make-up of the difference, is quite an interesting concept. We certainly appreciate the time you have taken.

Witness 1—Thank you.

[10.16 a.m.]

LEWIS, The Hon. Peter, Patron, Richard Hillman Foundation

CHAIR—Thank you very much, Mr Lewis, for coming along 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 that are currently before the courts. Do you have anything to add to the capacity in which you are appearing?

Mr Lewis—I am the member for Hammond in state parliament and I am its Speaker. I am here in my capacity as patron of the Richard Hillman Foundation.

CHAIR—I now like to invite you to make a short five-minute opening statement, then I will invite members to proceed with questions.

Mr Lewis—May I commend the committee for the diligence with which they approach their work and more especially the House for its decision to establish the committee to do the work which I consider to be of the utmost importance in redressing some of the social ills—indeed social evils—that have been created by those who have sought to engineer society in ways which fit their model rather than reality.

I understand that the inquiry was established in the first instance because of the justified and continuous criticism of the present sole custody system which has been with us for some 25 years now. There has also been the realisation of the mounting costs to society not only in increased welfare payments, not only in delinquency, not only in mental health problems, not only in physical health problems and not only in children dropping out of education but also in the loss of life itself. These arise from the underlying ill-founded assumptions adopted within the law and practised by the Family Court, which has the view that the model of single parenting is an appropriate concept.

We believe that the first question the committee has to address is whether or not they want to recommend changes which will give positive outcomes for the children of separations or divorces and thereby reduce suicide, especially amongst men denied reasonable access to their children, both by the Family Court's decision-making processes and the mistaken underlying assumptions upon which they are based; as well as the manipulation which occurs after the event of the Family Court's determination.

The virtues of the joint parenting approach need to be understood, but are not something I will go into today. There is ample evidence provided on the record from research that has been done in other societies, particularly in America. My remarks are supportive of the views held by people from the Joint Parenting Association model which will be put to the committee by Yuri Joakimidis. He will do that later today as I understand it. He is, to my certain knowledge, a scrupulously fair person, presenting all sides of the argument. If he follows previous practice, in

which I have had discussions with him and, more particularly, in which I have heard him make presentations publicly, his remarks will be based on sound research, to which he will refer.

It is legitimate for us to assume that if people persist in the view that the present system works, then they will need to find the research that supports that view—I cannot. The major aspects of the present system that cause me to take time out this morning from the other things I would otherwise do include the alienation that arises in consequence of the processes adopted by the Family Court and the bureaucracies that hang off it and the legal profession that live off it, the conflicts that arise from it and the mediation that fails to address either or any of those problems.

It is not just an emotive issue for me but for thousands of other people who have sat and listened to the very distressing evidence presented case by case and individual by individual whose lives have been shattered by the decision-making processes and the law upon which they are based. The only way we will solve the problem is to simply restructure the law of the Family Court and the way in which it is practised within that court.

The underlying assumption upon which the Richard Hillman Foundation depends in making its submission is that homo sapiens is a social animal. Regardless of sexuality, all of us seek to be identified as worthy members of that society to which we belong, like it or not. Aberrational forms of behaviour that result in the development of a few hermits cannot be taken as evidence that it fits the general model. I do not need to go to a list that would cover pages of sociologists' evidence on that point where the research has been done in a wide range of cultures regardless of whether they are on one or other of the continents on which we all live. I believe that, not only should we be aiming at reducing the incredible injustice that results in suicide amongst separated men but, more importantly, our focus should be upon the best interests of children. Any other factor is secondary.

There needs to be an underlying assumption within the law which says that joint parenting is the most desired outcome. There is plenty of evidence to support that from those places in which the assumption has been introduced as a part of that law. In the first instance, both parents are considered important to the child's development. Authors throughout history who have come from family situations where only one parent is present document what they have known to be the challenges and disadvantages of such family life. Our law ought not to impose those challenges and disadvantages unnecessarily on a greater number of children than could otherwise be obtained from an amendment to that law.

Equally, can I say, both parents ought to be regarded as of equal significance in the decision-making process. Competency as adults has nothing to do with sexual plumbing. That, in my judgment, extends to parenting. It is a myth perpetrated by feminists and their friends—and therefore sexist—to believe that one or other of the sexes is more capable at being an adult human being and a parent in the life of a child than the other.

I believe that the simple things that have to be done—as basic and as far-reaching as their implications are—are to simply change the law; then dispense with the old case law in the Family Court as a written and deliberate expression of that law thereby accepting that the status quo cannot be a solution. In my judgment, the Family Court and the law that establishes it must treat all members of the family as equal and focus its best attention upon the interests of the

child, paying attention also to the mental health of the parents which will flow as a consequence of decisions they might make.

Finally, let me say, with even more emphasis perhaps than any other thing I have said, that if this committee does not recommend that perjury in the Family Court be treated as a felony with very serious consequences for those who perpetrate it, then I believe the committee will have failed in its duty to the House and the public. More distress is caused by lawyers who have coached witnesses to lie in this court than any other single thing that I have come across as a category of bad influences in the structure of justice in society. Thank you.

Mr PEARCE—Mr Lewis, thank you for taking the time to come along today. Just tell us a little bit more about the Richard Hillman Foundation. Who was Richard Hillman? What is the basic charter?

Mr Lewis—He was a man who died in consequence of the injustice that was perpetrated and perpetuated in his life.

Mr PEARCE—Through a Family Court issue?

Mr Lewis—Yes.

Mr PEARCE—How long has the foundation been in place? What are its basic operations?

Mr Lewis—It is fairly recent. I cannot tell you exactly, but it has been there for several years. When I say 'recent', it does not have its origins in Federation or in that era, nor does it have its origins in post war Australia. It has its origins in the last quarter century; injustices perpetrated by the changes to family law that were made in the mid-seventies.

Mr PEARCE—Have the remarks you made today and the positions you have stated in your preamble this morning largely been obtained through your involvement with the Richard Hillman Foundation?

Mr Lewis—No. They come from my case notes. I came across the Richard Hillman Foundation after I became interested in this issue and unfortunately had needed to try and counsel some separated or divorced men against suicide. Although I had succeeded in many instances, I failed in too many. That arose in consequence of the rural recession—you know, the thing we had to have, or part of it. The asset value of people living on farming properties was destroyed as a consequence of changes in fiscal and financial policy by the federal government during the eighties, which brought on not a recession but a depression. You may know that three of the poorest 10 postcodes in Australia are in my electorate. You may also know that it is a very large federal electorate in which those less well-populated or more sparsely populated areas have had difficulty getting access to their local federal member—whether that was James Porter, Ian McLachlan or Patrick Secker.

Mr DUTTON—Mr Lewis, I have a question based around the Family Court. We have received, by way of evidence, a lot of criticism towards the process that the Family Court adopts. Have you had any experience with the Family Court and the way in which events seem to take

place over a protracted period at great cost to the applicants? What has been your involvement? How can that process be better improved?

Mr Lewis—I have been to the Family Court several times, most of them on behalf of constituents and, more recently, acquaintances whom I regard as friendly, if not friends. But I have been there for personal reasons as well. I have had mixed experience in the Family Court. In my personal circumstances, they are irrelevant in this context, as I do not have children and I cannot. They were not unhappy. My former wife and I are on very good terms. However, the most important element of the Family Court for me is that the underlying assumption—now quoted in case law—is simply quite wrong in that it presumes that the sexual plumbing of the individual means that women will inherently make better parents and that there ought to be a model of single parenting in providing what we know to be these days the residency needs of children.

Just because we call it 'residency needs' does not mean that that has changed the understanding of the biological parents, particularly those who are the possessive type of personality. They regard the child as their possession and the right to control the child's life and its activities as a right they have in law granted by the Family Court and its case law decisions. They use it to the detriment of the child and society at large in the ways that I touched upon when I listed the consequences of the idiocy of such an approach.

It has distressed me immensely to find judges of the Family Court accepting the propositions put by lawyers that are not based on good science and are doubtful even if they are based on case law. It has made me angry when I have attempted to engage in dialogue at a rational level. I do not entirely apologise for that anger because, even though I have no children, people are continually telling me that the anger is even stronger in those people who have had children and who have been treated so badly—that includes the children, many of whom are now adults.

CHAIR—Mr Lewis, we certainly do understand. Can I ask that you answer more succinctly to the point, because we have already gone over time. I would ask that members keep their questions succinct as well.

Mrs IRWIN—The submission was heavy reading last night, Mr Lewis. I gather that you read a number of submissions from your foundation. There were four submissions lodged.

Mr Lewis—No, I have not. I know what the foundation is there to do and I meet with them on occasions.

Mrs IRWIN—You will not mind if I ask you questions on two of the submissions, one of which was produced by John Abbott. On page 7 of his submission he said:

> One recent detail that may be of interest to you, is the community's response to the announcement of your inquiry. We have noted in our monitoring of the media over recent weeks, that after a short burst of outrage, the defenders of the currently dominant system have fallen largely silent.

In your opening statement, Peter, you mentioned social evils to fit these models. Were you referring to individual organisations? It seemed that you were taking the same sort of line as Mr Abbott's submission.

Mr Lewis—No, I was referring to the consequences for people's lives and the collective consequence for all of us, because we are the poorer if we lose an otherwise talented human being simply because they were not given an appropriate chance by a system of law and courts that was explicitly established to do that. I am referring there to the children of single parent homes in which one of the parents has been denied access by the manipulative behaviour of the other and the lawyer advocate of the other.

Mrs IRWIN—Regardless of sex?

Mr Lewis—Regardless of sex, but in most cases the assumption in the Family Court is that it will be the woman in the relationship to whom residency responsibility is given and not the man. It adversely impacts on a far greater number of men. I know of women, however, that have been equally adversely affected. I have come to know their children, likewise, who feel they were in those circumstances by being denied access to the mother. They have told me they felt part of their life was missing. It is exactly the same story in the majority of cases, where boys and girls—young men and women—have told me the same thing, because they were denied access to their father.

Mrs IRWIN—Going back to Mr Abbott's submission—and I want to read it out, because I think that the people in the audience today will know why I am leading up to the question I am going to ask—he says:

> The committee will I am sure, receive an avalanche of submissions detailing individual cases of abuses of this type and they will make heartbreaking reading. You will note how often false testimony is referred to! If we have a single recommendation to make above all others, it is this one: that in "the best interests of the child" the government legislate for "zero tolerance of false statements."

I gather he means false allegations of, say, violence or sexual abuse. What protection do you believe should be in place to protect adults and children from these false allegations? If they are proven false within the court system, what action should the courts take?

Mr Lewis—Perjury in the Family Court should be treated as a felony and should attract a prison sentence.

Mrs DRAPER—Welcome, Peter, to our inquiry. I have asked this question previously, but I am very interested from the point of view of the best interests of the children. There is provision already where a child can to a certain extent, from the age of 12, make up their mind whether they want to see the non-custodial parent more often or less often. One of the recommendations is that we give more emphasis to the child's 'free will' and what they would like to see in their family situation. I have met with some young teenagers who have said they wanted to have more say in the access arrangements, but that was not possible for one or another reason. What would your opinion be to giving more voice to the children in these situations?

Mr Lewis—I would not give primary emphasis to it. It would be better than is the case now and ought to be part of the recommendations, yes, but the most important thing is a fundamental change to the law that should assume joint parenting as being the solution. Evidence collected in those places in which joint parenting is assumed by the law to be the solution for providing residency—what the law used to refer to as custody is now residency and that is a proper shift in

mind-set—shows that it produces far more stable, reliable, dependable and happy adults from broken unions than in the circumstances in which we have placed ourselves in Australia. We need to have a law which assumes joint parenting. If that is not appropriate, then the court needs very strong evidence about the incompetence of one or other of the parents—seen to be less competent than the other to provide it—before it decides upon single parenting.

Mr QUICK—You obviously support the fifty-fifty presumption, but we are dealing with two problems. We are dealing with those that have had the court impact on them, but we also have the 50,000 divorces every year that are going through the pipeline. What would you like to see in the way of family relationships, especially in our schools, to be introduced in order to perhaps put some spokes in the wheel to stop what to me seems like having relationships but no responsibilities in our current society?

Mr Lewis—That is a good question. There ought to be a licence to have children and, if they turn up without the licence, the competence of both parents should be questioned as to whether they should be allowed to provide residency for that child. Adoption is not a bad thing. Those people 25 years ago who argued against it had no evidence. I cannot find the evidence for abolishing the practice of adopting out.

How is it that if someone wants to become a parent through adoption, even the dirt under their toenails and fingernails is examined, yet all you have to do is get yourself in bed with someone from the opposite sex and do whatever it is that is appropriate for the next few lusty minutes and you can have a child? You can have all the welfare payments without understanding any of the responsibilities that go with it and you can screw up the life of the person that results from your own gratification. That too makes me very angry, because I have met a large number of those young adults who understand the truth of that statement. It is a growing number, in percentage terms, in society. They want to see that change and I do, too.

CHAIR—Mr Lewis, I would hope that you would extend more discipline in your parliament in your answers than you are displaying at this point of time.

Mr Lewis—I thought that this was a select committee and that I—

CHAIR—It has a time frame that was given to it, thank you.

Mr PRICE—I need to confess that I am not an expert in sexual plumbing, to start off with. You say your preference is for joint parenting, but why would you not be equally in favour of shared parenting?

Mr Lewis—It is the same thing, for me.

Mr PRICE—Joint parenting comes with connotations of percentages—the fifty-fifty presumption.

Mr Lewis—Those people who are employed by the court and to whom authority is delegated are meant to consult with both parents before a decision is made about which direction the child's life will take. Madam Chair, it is about time we stopped allowing one parent to manipulate the other and assisting them to get vicarious gratification for themselves at the

expense of the development of the child and of the emotional stability of the other parent. That is crook—and the law allows it; indeed, lawyers and the law and the courts encourage it and, accordingly, they are just as crook.

Mr PRICE—Mr Lewis, one of the suggestions my colleague Mr Dutton has made at previous hearings, which I have a lot of sympathy for, is that there ought to be a tribunal rather than the full majesty of magistrate's courts—

Mr Lewis—Yes, I agree with that concept. I do not think adversarial advocacy in these circumstances is appropriate at all.

Mr PRICE—Thanks, but I would like to ask my question: given that there are constitutional difficulties in establishing a tribunal under the federal Constitution, principally around the requirement to have a chapter 3 judge as head of the tribunal, there is not the same difficulty under state constitutions and the states generally have a raft of tribunals that operate now very effectively and have been of long standing. Do you think there would be some support amongst the states, even if it were a trial in one state, to have a tribunal established under state jurisdiction to see whether or not that could afford an opportunity for quite a number of cases—not all cases, I must admit—to see how that works?

Mr Lewis—I agree with that proposition. It is one of the pleasantries of analysing the solution. If the Commonwealth were to hand over both the responsibility and the means—that is, the resources and the cash that are necessary to run it—the states should take it up. If they do not, they are derelict and I do not know where we are going as a society and a federation. Clearly, we are going into the destruction of the federation if the states will not accept it. The alternative of trying to amend the Constitution and avoid the consequences for the other responsibilities of the federation and the Commonwealth parliament do not bear contemplation here, nor is there time to engage in that dissertation and debate. That is the simple solution. You look to the states and make them discharge their responsibilities, Mr Price.

Mr PRICE—In one of the submissions you talk about the secrecy of the Family Court. Section 121 was recommended by a parliamentary committee to increase publicity of the court. Do you believe section 121 should be again amended to take out any restrictions, other than parties to the Family Court arguing for suppression and it being decided on merit or a judge, of his own volition, ordering suppression, but otherwise open the Family Court up to scrutiny?

Mr Lewis—I agree with all of your propositions there. In the kindest possible way, I say that we all make mistakes. That was a mistake. We need to free it up in the manner that your question implies. I do not say that lightly. I know what the implications are, but it must be done in the interests of fairness.

CHAIR—Thank you, Mr Lewis. Unfortunately, because you had not read your submissions, there were some questions that had been tagged that may not have been able to be asked. Thank you for appearing on behalf of the foundation this morning.

Mr Lewis—Thank you.

[10.49 a.m.]

HUME, Ms Marie Cecilia, Volunteer, National Council of Single Mothers and Their Children

JOY, Ms Heather, Member, Secretariat, National Council of Single Mothers and Their Children

McINNES, Dr Elspeth Margaret, Convenor, National Council of Single Mothers and Their Children

PARRY, Ms Yvonne Karen, Executive Officer, National Council of Single Mothers and Their Children

CHAIR—Welcome. 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 that you do not refer to cases before the courts. The National Council of Single Mothers and their Children has made a submission to the inquiry and I understand that you wish to amend that submission. Would you outline the amendments for the committee.

Dr McInnes—Yes, there is a minor amendment to the covering letter and an additional four documents being tabled today, copies of which have been made for the committee's benefit.

CHAIR—Could you please identify what the amendment is?

Dr McInnes—I do not have the old version of the letter before me, but there is an omission of a couple of sentences in the covering letter.

CHAIR—Is that the top of page 2?

Dr McInnes—Yes, probably.

CHAIR—Thank you very much.

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

That submission No. 1311 from the National Council of Single Mothers and Their Children Inc., as amended, be accepted as evidence and authorised for publication.

CHAIR—I now invite you to make a short, five-minute opening statement, before I invite members to proceed with questions.

Dr McInnes—I mentioned that I brought along another four documents. One is a paper, written by myself, on research comparing the differences for transition into single parent households for families which have not had a history of exposure to violence, compared to those who do. That is called 'Single Mothers Social Policy and Gendered Violence'. The second one documents the antecedents to the Bristol inquiry in New Zealand. The Bristol inquiry came after a murder-suicide event, similar to the sort that we have seen here in Australia recently. It documents the antecedents to that event. It also led to changes to the New Zealand family law system. I will provide that to the committee for their benefit. There is also a research document by a woman, Lynne Harne, which researches the question: when fathers who are violent look after their children, does this reduce their violent practices or not? Our final document is that prepared by one of our members here today, Heather Joy, who has detailed some of the events around her experience of negotiating contact and parenting arrangements post separation and some of the issues which arise in the context of those experiences.

CHAIR—Thank you, Ms McInnes.

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

That the committee authorises that the four documents from the National Council on Single Mothers and Their Children be accepted as committee exhibits.

Dr McInnes—In prefacing our comments to the committee, I wanted to say that I have read a number of submissions and the transcripts of a number of the hearings and I am very concerned that issues of violence and abuse and safety have not been addressed in any explicit way. Therefore we thought we would preface our comments with some insights into those concerns, as they arise before Family Court hearings and in separations. If we are talking about the best interests of children, as in the terms of reference, it is important to include within that a definition of safety and how that can be achieved.

CHAIR—I will just highlight the fact that there has been in camera evidence taken that you would not have been privy to and it has certainly addressed some of those issues. Can I assure you that we have taken evidence on that issue.

Dr McInnes—I am pleased to hear that. To speak further to that, I have Marie Hume, who has had extensive experience as a Family Court counsellor, who can provide insight into the way the court has managed these issues and the concerns which have arisen from that. Yvonne Parry also works as a counsellor, dealing with parents who have separated and the issues that lead them to approach organisations for help. I will hand over to Yvonne to talk about that, then Marie and Heather.

Ms Parry—I would just like to say to the committee that I see a lot of single mums who are still being harassed and bullied at contact and changeover. It is of deep concern to the children who are suffering as a result of this ongoing conflict. In some ways if we want shared parenting we have to, as a society, instil that early on in the piece, not as an end result after separation. We need to be changing our society in ways which encourage men to participate in parenting when they are in a family unit, rather than being the sole breadwinner.

Ms Hume—I was a Family Court counsellor here in Adelaide for 12 years and have only just recently resigned from that position and become involved in the National Council of Single Mothers and Their Children in relation to concerns about violence and abuse in Family Court matters. It is very important that we recognise that any changes which are going to be made in relation to the Family Court Act are going to impact on our ability to provide safety for children.

We know that the Family Law Reform Act 1995 had an emphasis on shared responsibility of parents and what has become known as the right to contact principle, which meant that children ought to be able to have a relationship with both their parents. In the Family Law Reform Act they also brought in the importance of children not being exposed to family violence. What needed to be taken into consideration when making orders by the court was that children would not be exposed to family violence.

What research has shown is that, in fact, that right to contact principle has overridden concerns about children's safety. The push to ensure that children have a relationship with both parents has taken precedence over the possibility of children being exposed to abuse and violence. My real concern about any fifty-fifty or joint residency move in the Family Court would be that the issue of violence would be sidestepped in that process.

We know that the Family Court does not deal with violence and abuse in a very effective manner. The Family Court itself has acknowledged that in terms of research which has been done. This has shown that because there are federal jurisdictions in the Family Court and state jurisdictions in relation to child protection, there are serious gaps in the ability of the Family Court to deal with child abuse and domestic violence. Cases are not being adequately investigated and evidence is not able to be provided to the court about the extent of exposure to children of abuse. It does not matter what our figures say in relation to how many cases there are of violence, we need to consider that every child needs to be considered to be safe first, before we make any kind of changes in any other direction.

CHAIR—Okay. Can we proceed now to ask some questions, or does anyone want to make a quick statement?

Ms Joy—Can I make a quick statement.

CHAIR—Yes, Heather.

Ms Joy—I have tabled my full document to the committee, but I will briefly sum up my personal situation in trying to negotiate contact. My son's father is still manipulating our lives, four years after the court orders were made. He lacks sufficient parenting skills and even after a few scary disasters, he will not do a parenting course. We have very different parenting styles. When my son spends a day or two with his dad, he can adjust to the differing styles, but a week at a time would distress him. Although I have supported my son in any way I can to see his dad, joint residency for my family would be a nightmare. His father's work patterns mean that he is reliant on me to be available any time to take up his contact time, when he chooses to work.

If we shared our son under the fifty-fifty proposal the reality is even more poverty. I will still have to pay all my son's medical costs, school fees, for all his clothes and uniforms, while we will get no child support. However, my son's father is able to collect family payments without

contact and disrupt my ability to work, while he is able to work any hours he wants. Although I can be brought before the court for contravention of the orders if I do not hand my son over to his father on his demand, he can flaunt the court orders at his whim and not suffer any repercussions. This is because the court considers it inappropriate to force someone to have contact with their children if they do not want to, even when they have fought through the court for that contact.

The Family Court has already considered our individual circumstances and, by consent orders, have settled on our present percentage of contact, which is 75 per cent and 25 per cent. If my son's father is given the chance to take us back to court for fifty-fifty contact it will just give him a further way to legally manipulate us. If he gets the fifty-fifty, there is a longer amount of weekly time in which to do it. We live 20 miles apart from each other. If we have to share our son, how is he going to get him to school every day and be able to go to work? From my experience I do not believe that my son's father would want the responsibility of fifty-fifty contact, but he has said that he will go for it as he would want the opportunity of reduced financial responsibility, without having to uphold the orders.

However, even if he did not take it up initially he will no doubt use it as a constant threat. Our son has witnessed his father's violence towards me. And, as our son gets older, he will realise on which day his dad is supposed to be picking him up. If there is fifty-fifty, he will have to spend the whole week waiting for his dad to pick him up, not just the two-day weekend. As difficult as it is, I do not imagine that our case will be considered as extenuating circumstances under the rebuttal joint custody provisions. For this reason—and the many I have described in this paper—I know the fifty-fifty would extend our difficulties while furthering the father's rights but with no consideration for the welfare of our son.

Mr PRICE—What do you advocate should happen in relation to violence?

Dr McInnes—The New Zealand model appears to be a workable model. It is a rebuttal presumption of no contact where violence is established on the balance of probabilities. Therefore, when a children's matter comes to the court, the court's first task is to establish whether, on the balance of probabilities, issues of violence and safety arise. If they do arise, then the centre of decision-making focuses on risk assessment for the child's outcomes. In that risk assessment the person who has used violence is required to demonstrate to the court why and how they can be considered safe to care for the child.

That might be things like going to a parenting course, arranging supervision, or it might be a range of strategies which affect their capacity to see their child and have a relationship, but at the same time privilege the child's safety. It seems to us that is a workable outcome.

Mr PRICE—How effective has that been? You are saying that they can do parenting courses and a range of other things. How successful has that element of the New Zealand arrangement been?

Dr McInnes—I do not have the data on that. I am not aware of any evidence coming out of New Zealand to say that it is an unworkable situation. Children are still seeing their parents. I do not think there has been another Bristol-type mass death of the sort that we have been seeing in Australia since that time.

Mr PRICE—You have very strong objections to the presumption of rebuttable residency. At the moment, in terms of child support cases, 96 per cent are sole residency. The shared residency is around four or five per cent. Does your organisation have a view about shifting those percentages into greater shared residency arrangements?

Dr McInnes—Absolutely. As Yvonne said, we need to work on a more equal division of parenting work within families and establish that as a social norm, if we are going to expect that when families separate those patterns are going to be replicated. I am suggesting that the patterns we see in separated families replicate, to a large extent, the division of unpaid parenting labour in couple families. I draw attention in our submission to the fact that, under the current eligibility rules for family tax benefit B and baby bonus, one parent is encouraged to withdraw entirely from the work force for five years or be severely fined and the other parent faces the reality that if the family wants extra income it is going to be by doing overtime, spending more time away from their family.

It would seem to me that if we wanted to change the degree of involvement of fathers in their families, we would need to have a really good look at the family support assistance frameworks and make it much more possible for families to choose how they distribute the paid work and the unpaid work of caring for children in families while they are together. Then that sets a platform for that kind of conduct and behaviour after the parents separate.

Mr PRICE—In those shared residency arrangements, there are financial penalties—I suppose 'penalties' is the right word—in moving from one to another, particularly from sole residency to shared residency. If we were more able to minimise those, do you think that would facilitate a greater migration to shared residency?

Dr McInnes—I do. If the family support frameworks made it a more viable option and it was much more of an established social norm in couple families—reflected in things like paternity leave, family flexible workplace conditions—then we could certainly expect a wide, whole of government expression of support for fathers would be reflected in a higher capacity to take up involved, active roles as fathers. I am surprised that in the advocacy for fathers interests, many of the members of the committee have not actually raised these issues because it seems to me to go to the heart of the matter.

Mr QUICK—The 'best interests of the children' is bandied about at will.

Dr McInnes—Yes.

Mr QUICK—What would you like to see put in place to ensure that this is the paramount issue at hand, rather than the rights of the mother and the rights of the child and the rights of the grandparents? We have a system that is so adversarial that the children are pushed to the sideline. We have the UN charter on the rights of children, but we do not have a bill of rights as such in this judicial adversarial system. What can we do to change it, to ensure that children have access to health, education, welfare, their peers, rather than two people fighting each other in lots of cases to get added or less amounts of money?

Ms Hume—I think we already have that. The Family Law Act at the moment is already saying that children's best interests is the primary principle that they work upon. That is all we can do.

Mr QUICK—How can it be, when they do not have access to both parents?

Ms Hume—I do not know what research that is based on, because my experience as a counsellor is that in the majority of cases—in well over the majority of cases—children do have relationships with both their parents. They do not necessarily have joint residency and have equal time with both their parents, but it is very rare for the court not to have a contact order with the other parent, in my experience. I think that is what the research backs up.

Mr QUICK—To me, as an individual, every second fortnight and half the holidays as a template does not take into consideration the maturation of the child and the ability of one parent or the other to contribute to the development of that child. To have a template that says, 'One model fits all children in Australia,' to me as an educator of some 23 years seems to be farcical. There are needs and aspirations of the children at various stages of their maturation to have one parent perhaps dominant in the nurturing stage and then others at other stages in their development.

Ms Hume—I do not think we have that template. That might be something that the court has ordered—

Mr QUICK—Probably 95 per cent of the evidence that we have received is that it is easy for the judges in family support to whack a template out in 95 per cent of the cases and it costs you up to $100,000 to make something different.

Ms Hume—We are also looking at, if we brought in a shared parenting template, are the same problems—that we are not necessarily fitting the needs of children in individual cases. We will be pushing for each case to be looked at as an individual case in terms of what is in the best interests of that particular child.

Mr QUICK—How do you do that in an adversarial setting where Family Court lawyers are reaping in money hand over fist and not having anything to do with the interests of the child—just their own self-interest?

Ms Hume—Again, I do not know that a joint custody template is going to resolve that problem, because you are still going to have the problem of people rebutting that. For example, you were talking about that primary care parent principle at an early age. How do you determine at which age a child can then move away from that? Each individual child is different. Do three people say, 'Now they're ready to have a shared care arrangement' or would you say it is five or 10? Each child is very different and that is why you need to look at each case on its own and make decisions in relation to what is in the best interests of that particular child.

Mr QUICK—Dr McInnes said men want to opt out and women want to enter the workforce and the like. For my mind, rather than have one model, the parenting plan that should be implemented at separation should consider, 'Okay, the child is 12 months old now when the parents separate.' The needs of that child are different from children who are 10 and 12. The

parenting plan should be put in place at separation, perhaps through a tribunal, rather than having lawyers' interests dictating what the interests of the child are.

That is where I see the parenting plans taking into consideration a lot of the things that Dr McInnes is saying—that we have a changing workforce; we have second relationships—that an individual parenting plan for my kids will be different from every other person in this place. At the moment we seem to have one template which is annoying everybody and we have a child support industry and lawyers and everybody is upset.

Dr McInnes—I really think you have a particular characterisation of the template that is not matched by reality.

Mrs DRAPER—Dr McInnes, you referred to the New Zealand model. I do not want to go into all of those details, but from some of the opening statements you did say—and the chair addressed the fact—that the issues of violence, abuse and neglect may or may not have been addressed by the committee and you commented about looking at the safety of the children and them being safe first. Could I put it to you—and I would like a response from either one of the panel—that today, by the time a family gets to the divorce courts, if there is violence within the family that case has already been substantiated by lots of police visits to the home if the violence has been perpetrated against the mother. Most of the street would probably know there is a domestic violence issue in that household, generally speaking. I am speaking generally.

Dr McInnes—I do not think that is an informed understanding of domestic violence dynamics. It is normally quite secret and radically underreported. The research suggests that something like six times out of 10 it is not reported. Perpetrators quite often deliberately restrict the visible injuries to non-visible areas, like under the hair or on the torso. Sometimes neighbours might know, but in many cases they have no idea.

Ms Parry—I would like to add to that. In my own case, the phone was locked and I was not allowed to use the phone. I was not allowed to contact my relatives or family. I had fully-loaded firearms placed against the side of my head. Nobody knew that was happening. It was a GP who said to me, 'Yvonne, you're coming to the doctor too much. What's going on?' I continued to work. I had bruises. I was beaten every third day. I had bruises all over my torso and my upper thighs. None of that came out until after we went to the Family Court, until after we were trying to negotiate contact arrangements. I was terrified because of my husband's lack of control over his anger, that if I was not there to beat, he would beat my children. That was, in fact, what happened on one occasion during contact.

Mrs DRAPER—That was my point—whether or not we can agree that there has been some intervention at some stage for some domestic violence situations; yes, there are situations where neighbours do call the police on behalf of the family, but I reiterate my point that by the time those violent cases do get to court and the evidence is there, surely in a rebuttable presumption of fifty-fifty that could be put before the court and the judge or tribunal or panel or whatever would be able to take that evidence into account; to at least come to the courts or to the system with an assumption that each parent, unless proved otherwise, has a right to have some access to that child.

Ms Hume—In relation to how the Family Court operates, currently they have what are called interim hearings, where they determine what is going to happen to the child before the case proceeds through court. Research has shown that clients of the court do not have time to prepare or to present evidence about abuse or domestic violence at the interim hearings and, because of that, contact is almost always ordered at those interim hearings, regardless of any history of abuse. That has been well documented and researched.

Ms Parry—We sometimes have a case where the state based child protection organisation will come to a mother and say, 'You must leave this person because they are too violent and the children are at risk.' So she does leave and she takes her children with her and the first thing the Family Court does is order unsupervised access.

Dr McInnes—To go back to your point—why would not a rebuttal presumption deal with that? The concern I have is that there is a delay between the point of departure and the appearance in a court, regardless of access to any level of evidence. What the rebuttal presumption posits is an extra hurdle, a legal hurdle, focused around adult proofs through a domestic violence, children protection and family law system. The child's safety in the interim between the departure from the violent setting and the decision of a court to vary a rebuttal presumption, would be that that child had no protection from continued exposure. I do not think that can ever be in a child's interests. The data on what happens to infants' brains, what happens to infants' development when they are exposed to violence is horrifying and it is too big a risk to just leave to an eventual process, some months down the track, when the child has been living in circumstances which are hazardous.

CHAIR—Thank you.

Mrs IRWIN—Thank you for your excellent submission and the number of case studies you have given the committee. I am sitting here reading some unreal written abuse that your council has received since the announcement of this inquiry in June, mainly because you have opposed publicly the rebuttal presumption of fifty-fifty joint custody. Has this abuse stopped, or is it continuing?

Ms Parry—No, it is continuing. We have been receiving at least one a week via the mail.

Dr McInnes—We put all of the reports on file with the police.

Mrs IRWIN—Have they taken any action?

Ms Parry—No. Not to this point, no.

Dr McInnes—Presumably, they would if there were an event. The problem is we are dealing with volunteers and workers who often have abuse histories and they are being re-abused by virtue of simply holding a view and expressing it publicly.

Mrs IRWIN—It is unreal. It sends shudders. 'May you get cancer and die a horrible death.' 'Get f...ed, stupid C... and get out of the way.' 'May you rot in hell, Amen'—terrible. Regarding your organisation's reasons as to why you are against the fifty-fifty rebuttal presumption, has

your organisation considered other approaches which might increase the opportunities for children to have both parents involved in their lives?

Dr McInnes—I go back to the situation of adjusting family support frameworks, which enable couples to choose to distribute family work and paid earnings work more evenly between them. That, to me, would seem to be a fundamental reform which signals quite clearly that this country believes couples have the right to make those determinations in a responsible way. Also, we could move to enable people to be more informed about the post separation process and to see it as a process rather than an event in which people win or lose; to understand that quite often there is going to be a need to renegotiate how post separation parenting arrangements are made and to have avenues to do that which support both parents in being informed about the issues, in being child focused in their decision making and in coming to arrangements which are workable and meet the child's needs around their basic human rights of health, education, safety, access to social life and access to dental and medical care.

One of the concerns with the rebuttal presumption is that it is going to really change for different children in different families at different times. By having a presumption that eliminates in the first place all consideration of that child's needs, it simply says each parent gets half a child. Each parent is entitled to half a child. Which half of the child shall which parent get? To me it is an offensive characterisation of children. It treats them as property and it does not treat them as whole human beings deserving of absolute care and consideration uniquely for their situation.

Mrs IRWIN—During this inquiry we have heard from a lot of organisations and individuals and a number of them are virtually saying to us, 'Yes, you're hearing our point of view; you're hearing the views of the mums, the dads, the grandparents, the aunts, the uncles, virtually the extended family, but you're not hearing the voices of the children.' What is your feeling on that? Do you feel we should have some of the children coming before the inquiry—naturally we have to take into consideration their ages and we would be looking at it in camera—but do you think that would be a good idea?

Dr McInnes—Personally I think it would put incredible pressure on children. One of the reasons the Family Court has excluded children from direct representation is the task of saying, 'Come here. Tell us which parent you like best,' puts an intolerable burden on a child. I do not think that we disregard children's voices, but we must protect children from bearing the burdens of their parents' distress.

Ms Hume—Yes, as a Family Court counsellor one of my roles was to be involved in interviewing children for family reports. It can be very distressing for children to have to talk to somebody about trying to resolve their parents' disputes and coming up with the answers their parents cannot work out for themselves. I would agree with Elspeth; that is really a tremendous burden for children to bear. I think we listen to children by having a process which means they can talk to somebody who is appropriate to talk to, in terms of a counsellor or whatever, who is well trained in interviewing children and also being aware of all different kinds of dynamics that go on. I think that is the way you get children's voices heard and also making sure that legal representation is available to them through the court.

Mr PRICE—Is there not a double filter through the counsellor then, that the Family Court children's representative then looks at the court reports?

Ms Hume—The report is available to the court. It is a court report.

Mr PRICE—Yes, but then the children's representative—if one is appointed—actually looks at the report more than interviewing the children.

Dr McInnes—The report writer does not necessarily interview the children either. They might see them, but they might not necessarily interview them; nor do they have to take the child's views into account in framing their report.

Mr PRICE—Yes.

Dr McInnes—But it is also worth noting that those are tertiary cases at the high involvement end of the process, not the majority of separating couples.

Mr PRICE—Thank you.

Mrs IRWIN—I have an important question which I need to clarify. In my electorate I received a number of phone calls from men, women and also, I think two, from a 16-year-old girl and a 14-year-old boy. I want to know if you are hearing this in South Australia, because I am hearing it in my electorate in New South Wales. Since this inquiry was announced in June—submissions closed, as you know, on 18 August this year—a lot of the kids going home now, whether it with is mum or dad, are virtually being told, 'Because of this inquiry at the end of the day when the government comes down with the recommendations, I can have fifty-fifty. That means that you can live with mum for six months of the year, you can come and live with dad for the other six months of the year.' That seems to be affecting a lot of people. Are you hearing the same message here in South Australia?

Ms Parry—Yes, we are. There have been a lot of mothers where, for whatever reason, their ex-partners do not want contact with the children, and the children are becoming really distressed at the thought of going to live with someone whom they actually do not know. But we are hearing a lot of concern about arrangements that have been worked out that are very amicable and which have been worked out outside of the court process. We have to remember that most people do work out their arrangements amicably, outside the court process and they are really distressed to think that the government could make a law that would force them to do something that neither party wants—neither the mum or the dad wants.

CHAIR—Thank you very much. I am quite concerned that within the submission it primarily speaks about the less than five per cent, supposedly, who go through the Family Court and we are not relating to at all those people, the supposedly 95 per cent, who amicably come to an agreement. I would ask you if you honestly believe that 95 per cent of people are coming to an amicable agreement, or do you think that many of them are just accepting agreements because they have not got any money to go any further with the process, or because it is just all too hard?

Dr McInnes—We are captured by the Family Court data as well, in the sense that I think we have all got access to the same information. The break-up Mr Justice Nicholson gave was that

50 per cent of separating couples never go near the court at all and work it out somehow; of the remaining 50 per cent, 45 per cent drop out some time before final orders. I think the reasons you name as to why they drop out are true. People give up. People run out of time. People run out of money, out of energy. You have worked there, what do you think?

Ms Hume—Yes, I would agree with that. But what is really important is to look at that 50 per cent who go through court and the kind of families we are looking at. There has been research saying that at the halfway point in proceedings in the court, with 50 per cent of those people there are allegations of serious and multiple forms of family violence. That is what our concern is here. The ones who do proceed through the court system are the ones where there are real concerns about violence.

What you have heard also, from my knowledge, is that lots of fathers are obviously saying that they have to drop out and come to an agreement. Lots of mothers do, too. They do so at risk to themselves in those kinds of situations. They are forced to reach an agreement not only because of all the other things we have been talking about, like access to legal support—financial things, but because they are feeling intimidated and harassed by continuing to go through court. In fact, violence escalates because they are standing up and saying, 'No, I want safety here.' They compromise on that safety for themselves in order to try and get out of the court system and that is my concern.

CHAIR—May I say that you continually seem to have an assumption that we are hearing from non-custodial fathers and that we are basically being influenced by that, but there are a lot of non-custodial mums out there as well, who are experiencing the same issues that we need to recognise. Again, within your submission, might I add—and within your covering letter—it indicates that there is some preconceived outcome. May I assure you that that is not the case. The bill that you refer to is a bill in the Senate. Clearly there is a bill in here that you refer to saying, 'of fifty-fifty presumption'. It is in the Senate. It is not a bill that we are looking at here. I will refer you to some of that information.

On page 4 we have an indication from you, in the fifth paragraph, 'Children's lives are not usually packaged around fifty-fifty time with each parent during the parents' relationship and there is no evidence that is a common pattern of division of labour in intact families. Mothers invest their bodies, their work opportunities and their time in gestation, birth and breastfeeding in ways which contribute to the primary carer status during and after relationships. Legislatively presuming that fathers will take on this role does not reflect contemporary social realities of gendered parenting behaviour.'

My husband is an absolutely different father to his children than my sons are to their's. Time has changed. Is there a recognition that the way in which we now have contact with our children, and men have contact with their children, vastly differs from years ago when men were primary breadwinners, woman were primary caregivers and never the twain shall meet, so to speak? It is a vastly different world. Do you recognise that?

I found this just astounding, saying that presuming these contemporary social realities of gendered parenting behaviour is not reflecting the reality that things have certainly changed and that parents, particularly men have changed. I am not doing this for applause. I am clearly wanting to understand if you have a reality check for yourself that parenting has changed and

that men have a far greater role in their children's lives than they may have done 25, 30 or 40 years ago.

Dr McInnes—I based that on the 1997 time use data. It is as good as the Australian Bureau of Statistics analysis of direct provision of care for children. Also, some things have not moved on and I refer quite specifically to the biological processes. They have not shifted; women still do the gestation, birth and breastfeeding.

Members of the audience interjecting—

CHAIR—Could I inform the audience that we have in front of us a panel of people who really should be able to be heard and to put their views forward in a democratic way. We will listen to everybody's views in the same process. You still need a father to have a child.

Dr McInnes—Absolutely. The point is that to give birth to a child the father may or may not be present. He may or may not want the pregnancy. He may or may not want a role in the child's life. He may or may not take up an active fathering role. As I say, I am directing you to the Australian Bureau of Statistics 1997 time use data around the ways in which Australian parents in the 1990s organised who would focus and prioritise earning and who focused and prioritised home life. Whilst there are individuals and pockets of the workforce where men are able to work this out, it is not reflected in the employment patterns of individuals.

In part-time care, it is mothers who are much more overrepresented in this kind of workforce engagement than fathers. It is also, as I say, embedded in the family support structure for family tax benefit B and the baby bonus, where only if you have a single-income earning family are you eligible for the maximum payments. Yes, I am in touch with current government policy and the way it works for families and produces a continuing polarisation of gendered parenting roles, which I think is quite unhelpful to the agenda of getting fathers involved in families.

Mr CAMERON THOMPSON—When I listened to what you were saying there, I think about myself. I am from a couple family. I am here today and because I am here today and because my wife is at home, you seem to assume that my children care less for me than for my spouse.

Dr McInnes—Do not assume that at all—verballing.

Ms Hume—What we need to look at is in terms of primary parenting and primary attachments that children make. We need to look at it from a child's perspective. If you have a three year old, for example, who has spent the majority of time in the care of the mother because the father has been out at work, then think about what impact that is going to have if that child is in a situation where they are one week with their father, one week with their mother. You need to think about the stability and the attachment that children have in that kind of situation. You need to look at that from an individual perspective. Some children may well think, 'This is great. I can spend fifty-fifty with mum and dad.' But there are other children where that might cause serious disruption to their emotional development in terms of having to change.

Mr CAMERON THOMPSON—Do you think that the statistics that show that nine out of 10 are in a position where they are with their mother are accurate? You say in the same submission

that under the family law and section 68F the provisions ensure that the situation of individual children is varied. You also say that the ABS shows that nine out of 10 live with their mothers after separation. Do you think that is a balanced scenario?

Ms Hume—I am not sure that I understand your question.

Mr CAMERON THOMPSON—You are saying that there is a bunch of criteria working out the interests of the child and that that ensures the situation of individual children is valued. That is what you say on page 3 of your submission. Then on page 4 you say the ABS shows that nine out of 10 are living with their mothers. Are you saying that that is in balance?

Dr McInnes—One of the things that you are perhaps not getting in that juxtaposition of figures is that only five per cent are determined by a final court order. When we are looking at the use of section 68F in family law to make orders about where a child shall live, the data shows us that that is a five per cent decision making by the Family Court. Prior to that, for a whole range of reasons, couples come to their own arrangements. When you look at how section 68F is applied, it is not actually applied by the court in the majority of cases.

Mr CAMERON THOMPSON—On page 5 you say, 'Separated parents who choose to share care currently face substantial financial disadvantage because only one parent is eligible for parenting payment single and neither household can receive an adequate level of family assistance.' I am wondering if that is more to the point on this. It is the money.

Dr McInnes—I agree with you. Why is child support here?

Mr CAMERON THOMPSON—Sorry?

Dr McInnes—I agree with you. Child support and custody have been linked very strongly by this inquiry and there has to be a reason for that. It would seem to me that it does go to money, because otherwise why would you link child custody and child arrangements in this way?

Mr CAMERON THOMPSON—So if the step between one and the other, between the sole situation and the shared situation in terms of dollars was taken away—I am not saying that you ramp one up to the other or whatever, maybe you plateau it out somehow or other, but if there was no such step—.

Dr McInnes—Men are welcome to join in the life on income support, you mean? They do, indeed, but where each parent is caring for children, we should not have differential payments applying to them. At the moment, with one child A, only one person can claim parenting payment single. The other person, who might have 50 per cent care, must claim Newstart, must meet higher activity tests, must face risks of mutual obligation which are quite harsh and not compatible with caring for children.

I would take an approach of removing barriers. Rather than imposing universal outcomes on a population. I would take the path of promoting more equal arrangements and of removing barriers to that arrangement. Certainly it is unfair to pay one parent parenting payment single when they are doing substantial care and the other parent a lesser payment under much harsher conditions. It is not fair and it is a perpetuation of a differential arrangement.

Mr CAMERON THOMPSON—So the bloke who earlier told us that all we have under the current system is a bunch of lawyers trying to drag the amount of exposure one side or the other of the 110 days for financial benefit really was highlighting a barrier that should be withdrawn.

Dr McInnes—There is a range of financial contexts. There is income support, there is family support payment and there is child support and each of those is impacted upon by arrangements for care of children. It is a little bit limited to consider only child support and leave it outside issues of income support and issues of family assistance structures. That is a limitation of the terms of reference of this inquiry if there is a genuine desire to move along more equal parenting arrangements in society and access to that. Why limit it to child support? I suspect it is because child support is the impact point for payer parents in a financial way. It is, as we know, their lobbying and their work that have put up this inquiry to the Prime Minister and enabled it to get off the ground.

Mr DUTTON—We have received some evidence which I think is quite disturbing, in that there are a million children—if my memory services me correctly—who will go to bed tonight without one or the other of their biological parents being present in the same home.

Dr McInnes—You mean both parents, or no parent?

Mr DUTTON—No, one or the other will not be there. If we use that statistic of a million children—

Dr McInnes—And the father is at work?

Mr DUTTON—No, they have separated. They are with one parent or the other. Of that million children, how many of those, do you think, would have been subject to a partnership between their parents whilst it was still intact, where there would have been domestic violence or sexual abuse present?

Dr McInnes—They are very hard figures. The community studies on child sex abuse say one in four girls, one in six boys. The source of that is obviously not going to be parents in all cases and is actually in the minority. That is one figure we know, but we also know child protection figures of reports, substantiations and out of home placements are rising. We have a lot of evidence that child abuse is rising. I have just been reading reports out of Queensland that domestic violence reports are rising. There is a lot of evidence that there are rising levels of violence and abuse in our society. How that translates to that proportion of children—and I am not sure where you sourced the figures—but if you are talking about children of separated parents who do not live with both parents, there has not been research done to get representative figures of that population and the incidence of violence and abuse.

Mr DUTTON—They are two separate issues: one of domestic violence, one of sexual abuse perpetrated on the child—if I can separate the two.

Dr McInnes—I do not think that is fair separation.

Mr DUTTON—What you are suggesting, that where there is domestic violence, there is sexual abuse of a child?

Dr McInnes—Domestic violence is a risk factor, an identified risk factor for sexual abuse of children; that it is more common in domestic violence relationships than in non-domestic violence relationships.

Mr DUTTON—And of sexual abuse that is perpetrated on children, because you seem to put this up as a particular barrier to a rebuttable presumption or whatever the case may be—

Dr McInnes—It is a barrier to children's safety.

Mr DUTTON—Can you just let me finish my question.

Dr McInnes—Sure.

Mr DUTTON—That way you might be able to answer it in an informed manner. Could you tell me how many cases of sexual abuse perpetrated on children in Australia are perpetrated by one of the biological parents?

Dr McInnes—I do not have the data in front of me, no.

Mr DUTTON—How many cases of, say, sexual abuse which are perpetrated by the father, which is what your submission may be—

Dr McInnes—It is not.

Mr DUTTON—as opposed to introduced male partners in a partnering situation subsequent to the first marriage or partnership—

Dr McInnes—Stepfathers are more often offenders against children they live with than biological fathers.

Mr DUTTON—I understand the circumstances of some of your members and I have a lot of sympathy for those people who have been victims of domestic violence. If we are looking at a rebuttable presumption, many people have suggested that that would be the first point of rebuttal and I would agree with that. In the vast majority of cases where people's relationships have broken down it is because they have been bad partners, one toward the other or whatever the case may be, but that does not mean they are bad parents. Somebody who has been a good mother or father pre separation remains a good mother or father post separation, so I am disturbed by people who put that it is the norm that domestic violence or sexual abuse exists in our society and, therefore, those good mums and dads that exist out there are unable to have an adequate amount of time post separation with their children.

Dr McInnes—I think that is misreading, in a deliberate way, the argument. The argument is that the safety of children should be privileged. I do not know that you would disagree with that.

Mr DUTTON—What I would like you to do, instead of talking about deliberate actions or not, is to comment on what it is that I have said. What I base that upon is the evidence that you have provided to us today.

Dr McInnes—I have said to you that, where parents are engaging in that role pre separation, why would they not post separation? I agree with you that child sex abuse and domestic violence are not the majority, but that does not mean that we must not privilege safety for those people who are targets to it. In the proposal of a rebuttable presumption of fifty-fifty, there are extra legal hazards to be overcome in achieving safety for whoever is subject to violence or abuse.

Mr DUTTON—If you had a scenario where one of your members came to you and there was no domestic violence, but the relationship—for whatever reason—had broken down; the mother took the child and it was an 80 to 20 split, say, every second weekend and half the school holidays that the father saw the child; the mother then went into a subsequent relationship where there was domestic violence—not sexual abuse, but domestic violence—would you then advocate that the child should go to the biological father for 80 per cent of the time or that the biological father should then take the majority of custody of that child?

Dr McInnes—I would make a mandatory report.

Ms Hume—What we would advocate is that—

Mr DUTTON—Excuse me, Ms Hume. Could you just—

Dr McInnes—A mandatory report. When a person is made aware of a situation of a child's exposure to a risk of violence or abuse, there is a requirement for workers in our organisation to make a report to the Child Protection Authority.

Mr DUTTON—That is good, but what would your advice be to the mother, a member of your organisation?

Ms Hume—I would—

Mr DUTTON—With respect, I directed the question to Dr McInnes.

Dr McInnes—To end the children's exposure to violence.

Mr DUTTON—What would your advice be to the single mother parent, a member of your association?

Dr McInnes—To end the violent relationship, to stop the child's exposure to violence and her exposure to violence.

Mr DUTTON—Would you suggest that would be facilitated by removing the child and placing that child with the biological father, who has expressed no violence towards either that person or the child?

Dr McInnes—I would not see myself as having jurisdiction over those recommendations and would see that as an entirely additional set of recommendations.

Mr DUTTON—I think that paints a picture for me, thank you.

Mr PEARCE—Thank you all very much for taking the time to come along this morning. I think one of the most important responsibilities that a member of parliament has is fairness, objectivity and balance in anything that he or she considers and looks at. We are confronted each and every day in our constituencies and in parliament with issues that are very broad ranging, and it is a fundamental obligation that we have to be very balanced and to try and listen to both sides of the story.

I have detected quite a degree of cynicism about this inquiry from you and I regret to hear that. I have a little boy who is aged 3½ years, and if I thought for one moment that there were predetermined outcomes in this inquiry I would not be leaving him and travelling all over Australia. I left my home this morning at 4.30. I would not do that if I thought there were predetermined outcomes. I would much rather spend the time with my son. If we took the same approach that you have taken with us, we probably would not have bothered talking to an organisation with a name that has Single Mothers and their Children—

Mrs IRWIN—What point are you trying to make?

Mr PEARCE—The point I am trying to make is that I am—

Mrs IRWIN—This organisation has the right to address their concerns.

Mr PEARCE—If we took the same approach as you we would not have bothered, but we had genuine intent to listen to your point of view. I am disappointed that you say in your submission, 'There is some foreshadowing of legislation and it gives the impression that there has been a predetermined outcome.' We are travelling throughout Australia spending hours trying to get a genuine position on that, to ensure there is balance and objectivity in what we do. At the end of the day, is it fair to say that your preference would be for things just to continue as they are? Is that what you are saying?

Dr McInnes—What things?

Mr PEARCE—The Family Court system, the law and the way that things are being determined at the moment. Is it your preference that they remain as is?

Dr McInnes—No.

Mr PEARCE—We have had an enormous amount of evidence, not just through this inquiry, but—bearing in mind that we are MPs—we hear it each and every week in our electorates. I have people coming to see me each week. I have couples that have separated who still live in my local area. I see the mother on the Monday and the father on the Thursday. When you listen to both of them, you would think they were living on different planets. That has happened time and time again.

In relation to residence, given that it is quite clear to anybody who takes an objective view that the system has problems, what do you suggest be changed? It is not clear to me in your submission what you are advocating. You are saying you are opposed to a presumption of rebuttable joint residence and now you are saying that you are not happy with the current system. What would you advocate?

Dr McInnes—Advocate for more information, more free counselling, more opportunities to come to agreements, more opportunities to make child focused decisions—and to understand what that means—and more opportunities to vary agreements in a way that meets the needs of children.

Mr PEARCE—I suspect that you have all been through it and that you have seen it happen to many friends. I went through it myself for many years in the court. Given the reality of the situation, how does that happen? How do you move to put in place laws and legislation? What can governments do to accomplish those things you have talked about?

Dr McInnes—Going back to reform to the support frameworks for families, which signal that there is an acknowledgment that parents work out for themselves the division of parenting labour; putting in equal frameworks. Whoever has care of the children should not be in a lesser position than the other person having care of the children. Both parents should experience parenting as a valid behaviour. There is a lot of mileage to be gained in enabling people to think about child focused decision making.

At the moment, we have user-pays access to counselling and user-pays access to mediation services for people to make agreements. There is no easy access to a process whereby separating couples are invited to think about what their needs are and what their child's needs are and to think about what they would want in a post separation framework, which is quite different from mandatory mediation, which I have read is being proposed. It is about removing barriers to people thinking about making workable post separation arrangements and also reforming the family law system to prioritise the safety of people who are exposed to violence and abuse.

Mr PEARCE—Thank you for that. We have heard a lot of information from you today around the area of families that have separated where there is abuse and there is violence. All of us in the parliament are concerned about that issue and I am sure all of us would agree that the safety of the children is paramount. What about in those cases where there is none of that; where there is no evidence of abuse or there has never been any history of violence and both couples admit to it? The father says, 'My wife has never abused me,' and the wife says, 'My husband has never abused me. We have been in a loving relationship for 12 years. We have just grown apart. We have gone our different ways. There has been none of that. We have loved each other. We have had a wonderful life. We have two wonderful kids. There has never been any issue of violence or abuse'—what do you say about those scenarios and the current system?

Ms Hume—Those are the people that tend to respond really well to mediation. Getting them together and talking about what is in the best interests of the children and what fits for both of them is the most successful outcome for those people.

Mr PEARCE—Would you say keep the system the same, but have a greater degree of mediation there?

Ms Hume—In relation to those issues, but one of the concerns that I have is separating issues of violence from those who are not violent. We know that the majority of people are not violent and abusive. The problem is that any one change impacts on those situations where there is violence. Again, that safety issue for children has to be taken into consideration. We cannot say we will make a law for those who are not violent and those who are. That is our problem.

Mr PEARCE—Thank you.

CHAIR—On the issue of bowing to lobbyist groups being the reason that the inquiry was called, I assure you that is not the issue. The issue is clearly as in the terms of reference in front of you. I think you are quite aware of that. I do not understand how anyone could perceive that as bowing to lobbyist groups. It is looking at the interests of children. The reason we are looking at this issue is because we want to ensure that our children's best interests are being recognised in an ever-changing world. You should not just expect to put in legislation at some stage in life and never look at it again, because you would have every reason to come before us and complain if that was the case. I make that statement right now.

You have talked in your submission, significantly, about presumption and a host of areas. You have given us a list of actions that you would call for, numbered from one through to 15. You talk of child support and say that the maintenance income test threshold should be increased by 50 per cent. You say, 'The payee's income should not be a contributing factor in the calculation of a payer's child support, as it does not alter the payer's obligation to support the child.' What are your comments on the issue of paying child support and having perhaps a shared care arrangement or a significant amount of care and residence with your children and still having to pay—whether it be the male or the female who has the residence of the children—for the time that you have the children in your possession, yet you are still paying your partner, supposedly, to support the children? Do you have an understanding or a comment that you would like to make as to the fairness and equity of a person paying child support for a child, having the child in their care and their residence and still having to pay out whilst paying to have them in the residence?

Dr McInnes—Who will be responsible for meeting the child's ongoing costs—such as health, education, clothing and toys—needs to be agreed between the parents. Under the characterisation that we have at the moment, one parent tends to be more often primarily responsible. The child support system reflects that. One of the issues which Heather alluded to and which our submission raises is that in splitting the children's care in half there is no mechanism to split the responsibility for the children's costs in half. Therefore, one parent can vacate the costs of the child and leave them all to the other parent.

CHAIR—I am not referring to that. I am talking about the currency of child support and the way in which it is paid. I have a mother who is the non-residential parent and a father who is the residential parent. The mother pays child support to the father for basically him being the residential parent. Then when she takes her contact arrangements with her children, which may be 109 nights per year, she still has to pay that residential father whilst she has those children in her residence.

Because you have been so succinct in your submission and you have addressed so many things, do you have a view on the way in which child support payees receive child support whilst they do not have the children in their residence? You can take it on notice and come back to me if you would like to.

Dr McInnes—These issues are articulated in the reference, *ACOSS 2001: Flaws in the new family payment system for separated parents*. That document presents the argument that the residential parent continues to meet the ongoing infrastructure costs of the child's needs. The

resident father would be responsible for the child's education costs, their clothing, enrolment in their sporting activities, the purchase of sporting equipment, enrolment in musical activities, the purchase of music equipment and paying for the music lessons.

The parent who has the child on the weekend does not have those ongoing costs around the child's overall needs for education. They are going to meet that child's daily costs—perhaps some transport, perhaps a movie ticket, certainly food and drink—but there is no obligation on that parent to meet, for instance, the costs of the child's soccer fees if there was a soccer game that weekend. That would be paid by the parent who has the ongoing residential care normally. That is what the child support system is aimed at reflecting.

CHAIR—Do they not have an ongoing cost of having a roof over their head, a vehicle or some support mechanisms to drive the children to the sports game that somebody else is going to pay the cost of?

Dr McInnes—But they have a car anyway.

CHAIR—No, you are assuming; that is an assumption.

Dr McInnes—They may need to buy a bus ticket.

CHAIR—It is an assumption that we have all of those things. Who meets the primary costs of the overheads of home, transport, gas, electricity, water, shampoo, et cetera, whilst the children are in, say, weekend access?

Dr McInnes—It depends a lot between children. Some residential parents report sending their child with full sets of clothes, with medication, with packed lunches. It just depends. If you are a person on Newstart who is a non-residential parent, you are going to be living in a very poverty-stricken situation. As you say, you might not afford a car; you might have to rely on public transport.

Those costs are certainly there and they are recognised currently under the distribution of family tax benefit payments above a threshold of 10 per cent. The family assistance payments which go to the child are distributed proportionately to the parent for the time they have care of the child, to meet those immediate living costs of the child. Obviously, when there is a more substantial care arrangement in the distribution of care, child support is varied to reflect that. That is the difference from our perspective.

Mr PRICE—We had a discussion a little earlier about the barriers, particularly in terms of increasing shared parenting arrangements. I would be most grateful if you would take it on notice and get back to us, if you are of a mind to do so, with any views you have about how we might change some of those barriers; any suggestions you might have there.

Dr McInnes—Thank you. Just in closing, I would add that I do respect the time and energy and efforts of the committee in pursuing the best interests of children, as we all do. The characterisation that I alluded to was actually derived from the reports in the national press, reporting the Prime Minister's statements at the time of announcing the inquiry. That has not ever been repudiated or withdrawn by the Prime Minister, so I was of the belief that his

statements at the time were in fact the statements he was prepared to stand by—and he did foreshadow legislation.

Mr PEARCE—Do not ever believe what you read in the press.

Dr McInnes—That is a good piece of advice.

CHAIR—I need to clarify that. The comment I made about what was in your covering letter was, 'NCSMC notes that the foreshadowing of legislation to give effect to a rebuttable presumption of fifty-fifty joint custody after separating provides the impression that the inquiry has a predetermined outcome.' Because of the fact there is no foreshadowing of any legislation, I assumed that you must have been speaking of a private member's bill that went in the Senate because, to me, that was the only foreshadowing legislation that had even been alluded to. There is no foreshadowed legislation at this point in time at all.

Dr McInnes—On 24 June the Prime Minister was reported as saying that he wanted legislation introduced by next year.

CHAIR—Many times the press does not report accurately what people say.

Dr McInnes—Yes. That is regrettable.

CHAIR—Having been a recipient of that myself. I thank you, ladies, for coming along this morning. It is difficult to put a point of view that may be contrary to the points of view of others that you might have to appear in front of. We certainly recognise that and we give you respect for having put your submission in and for the time that you have taken in compiling that submission. It will be taken into consideration when the committee makes their deliberation on this inquiry. Thank you for attending this morning.

WITNESS 2, (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 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.

As you are appearing before the committee today in a private capacity, in order to ensure your privacy and that of third parties is protected, while we will refer to you by name in the hearing, in the transcript record which goes into the committee's web site we will refer to your evidence as being from a witness number. You will know your evidence but you will not be publicly identifiable to others. Would you like to make a short five-minute opening statement before I invite the members to proceed with questions?

Witness 2—I do not have anything further to say than what was in the submission, other than my ex-wife and I get along quite well, so it is all amicable most of the time.

CHAIR—Thank you very much. I will pass over to the deputy chairman for the first question this time.

Mrs IRWIN—Thanks for your honesty in your submission. It was mainly to do with the Child Support Agency, so these are the sorts of questions I am going to ask you. You wrote to the inquiry on 30 July and stated, 'What I do not agree with is the fact that overtime is included in the calculation for child maintenance.' On page 3 of your submission—and I am going to read it into the *Hansard* so the audience will understand why I am asking this question—you had a few suggestions regarding child support. There were four points. Number 1, the maintenance payment calculations are done on the payer's net income. Number 2, the maintenance payment calculations are based on the payer's base wage—and you gave an example of 38 hours per week; then as per dot point 2, with a much smaller overtime component, including an example of 10 per cent. Number 4, base the calculation on a rate that drops on a sliding scale. You are talking here about a sliding scale according to the income tax level.

Can you give the inquiry some more information about these suggestions because that is virtually all you have given us here. I noted that also on page 2 of your submission you have given us some examples of base net to gross.

Witness 2—I am not sure where to start.

Mrs IRWIN—You have given us some examples on page 2 of your submission; for example, if you earn $51,000 gross, the tax that you would pay and what the child support would be. Then you have given another example on a higher income. You have also stated your concerns and that you are only surviving financially, after paying child support, on the overtime. The concern that I am reading into this submission you have given us is that they are also taking into account the overtime you are earning.

Easy question: if you were the head of the Child Support Agency, what changes would you like?

Witness 2—I would like to see it done on a base wage. I do not see why me doing 70 hours a week should be going to my ex-wife. She is not working, I am.

Mrs DRAPER—I have a fairly simple question. Thank you very much for coming to the inquiry today. We welcome you here. You have made quite a substantial submission in terms of the Child Support Agency formula and overtime and things like that. While the notion of having the Child Support Agency on net wages sounds quite sensible, to me anyway, the major problem we have as a government—and I apologise to any self-employed business people here, if there are any—is that some non-payers are self-employed people who, one way or another, are able through a whole range of expenses—quite legally, I would like to say for the *Hansard*—reduce their income to almost nil and therefore not have to pay the Child Support Agency anything.

I suggest the majority of fathers are quite happy to pay towards the upkeep of their children, but how does the government then look at the issue? If we have one rule for PAYE people such as yourself who are, fair enough, on net wages, how do we then say to self-employed or small business people, 'You're going to have another set of rules and we'll take you on your gross?'

Witness 2—That was the main issue of my submission: there needs to be more than one form of it. There are a lot of different working situations. You have people making money on investments. Everything has to be looked at differently. They were just ideas—those four points.

Mrs DRAPER—Yes.

Witness 2—Just trying to prompt the committee into coming up with more formula to cover the different things.

Mrs DRAPER—Some different ideas.

Witness 2—When it goes to self-employed, they generally pay less tax than people who work for a company.

Mrs DRAPER—Yes, that is correct.

Witness 2—And they can drop their taxable income as well, not just their net income. It is just that we get into that 48½ per cent bracket and, in my case, paying 27 per cent child maintenance. I am left with less than she is and she is not the one doing 12-hour Sundays.

Mrs DRAPER—Certainly. Thank you very much, for your presentation to the committee today.

Mr QUICK—Yes, thank you. It is not easy. We are both in Pandora's box. We are not too sure what to do and how to do it. You are part of the system. What checks and balances should we put in place to ensure that the money you, and any others, pay is spent wisely on the child? Your kids are nine and 10, I think, at the moment. They have particular needs and as they get to year 11 and 12 they might have other aspirations. How do we ensure that some of it is squirreled

away? It is easy to say you are paying 17 per cent or 23 per cent. How would you like to see it spent wisely?

Witness 2—I do not know. This is off my topic, really, isn't it?

Mr QUICK—You have the best interests of your children at heart.

Witness 2—Yes. I do not have a problem with paying maintenance, but when you are starting to pay $400 or $500 for two children—and I am supposed to be paying half their welfare, not the whole lot—it is ridiculous. It is a lot of money and they do not cost that much to raise.

Mr QUICK—But we have had evidence from other places that when kids turn up every second weekend and half the school holidays that the payer has to fork out money to buy new shoes and things because the money has not necessarily been spent on the child. What I am asking you is should there be some sort of check and balance that the money you provide is spent wisely on the child with a view not only for looking after their needs right now, but also their needs long term?

Witness 2—I do not think there can be a check unless she is going to give you a receipt for everything she spends the money on. No, I do not know where to go with that.

CHAIR—That is all right. You only need answer what you feel comfortable with. You have primarily concentrated on the child support formula and the amount of money paid for child support from overtime in your submission. That appears to be where your comfort zone is.

Witness 2—Yes.

Mr QUICK—I have another question. This whole issue of separation, family payments and child support and the Family Court is a bit like cancer or AIDS—if it does not affect you, you do not want to know about it. It has been said today we need to inform people about the things that are going to happen once they separate. What do you think we need to put in place, especially in our schools, to ensure that kids, as they enter the stage of relationships, understand that there are a lot of complexities that can hit you over the head with a hammer once you enter relationships and start having children?

CHAIR—Do you want to comment on that? As I said, feel free to.

Witness 2—I do not know if there is anything you can put into place. There is enough happening around the place now that kids see. Most of my kids' friends' parents are separated and they can see what is happening to their families. I do not think there is anything you can put in place in schools, as such.

Mr QUICK—Nothing about rights and responsibilities in relationships; that you have lots of rights but what if you do not accept the responsibilities of your actions?

Witness 2—Yes, I suppose you could do that. Yes. I am not really sure.

CHAIR—That is fine. No problem.

Mr PRICE—Would you share with us how old your children are?

Witness 2—They are nine and 12. One has aged since that letter.

Mr PRICE—Sorry, yes, I did not see it in your submission. If you have repartnered, I understand that if you can demonstrate you worked overtime to help your new family, then that does not get included in the calculations?

Witness 2—If you work overtime for any reason. I work a lot of hours and it is very annoying on a Sunday when you know you are only getting 24c of your dollar.

Mr PRICE—Yes. I must say, in the past, I have resisted what you have urged, but I am coming around to your perspective.

Witness 2—Currently overtime is very short in my work and I have to borrow money to put in my account to balance my bills at the moment. I do not have cash left over, because I am committed to working this overtime.

Mr CAMERON THOMPSON—Do you have any view at all on this business about shared care?

Witness 2—I would love to have my kids all the time, but I leave for work at 6.00 in the morning and what would I do with them then? I am home in time to pick them up. I knock off at 3.00 most days, but I cannot see my kids getting up at 5.00 in the morning. They would not be able to go to school. They would be buggered before they got there.

Mr DUTTON—Obviously, when you separated—you say two and a half years ago—your kids would have been about nine and seven, or something in that order. Can you make an estimation of what sort of money it would have cost, on a weekly basis, to raise those children? Just while you are thinking about that, in your submission you say that you are now paying $496.

Witness 2—I expected to pay $496.

Mr DUTTON—Yes, so on a gross income of $108,000 you would expect to pay just under $500 a week.

Witness 2—Yes.

Mr DUTTON—What sort of money does it cost to raise two children? What would you estimate for your wife—

Witness 2—Certainly not $500.

Mr DUTTON—No.

Witness 2—In the child support books it says I am supposed to be paying for half of their upkeep and if that is more than a few hundred dollars a week for kids of that age, you know, in Adelaide in the public schools, it could not be more than a couple of hundred dollars a week.

Mr DUTTON—A couple of hundred dollars. Then you are saying your expectation would be that that splits between you and your wife or $100—

Witness 2—That is how it is worded in the child support.

Mr DUTTON—What happens to the rest of that money, the rest of the $500?

Witness 2—I do not know. That is why I am here. I give it to her. It goes out of my pay each week and I do not see it.

Mr DUTTON—In your current financial situation, if you were to repartner and have subsequent children, how could you afford that scenario? Would you be able to provide $500 a week to them?

Witness 2—No. I would not have that sort of money left over. You have a child, the formula changes and another $12,000 is taken off. But when you work that out, it is only $50 a week, 27 per cent of $12,000 or $13,000 and divide by 52 and it is not much more than $50, I think. They are saying that new child is worth $50 a week but my previous two are worth $500. It does not make sense mathematically.

Mr DUTTON—Thank you very much.

Mr PEARCE—Yes, thank you very much for taking the time to come in. You are paying around about that $500 per week at the moment, or you expect to on a salary of $108,000.

Witness 2—I am expected to.

Mr PEARCE—Do you think that your former wife would say to you that that is too much?

Witness 2—She has said it. She laughs about it.

Mr PEARCE—She laughs about it.

Witness 2—Yes.

Mr PEARCE—In terms of it being too much?

Witness 2—I am not paying that now.

Mr PEARCE—No.

Witness 2—Because I do my tax. I know that is worded wrong.

Mrs IRWIN—I think it is almost $300 you were stating—

Mr PEARCE—Right now.

Witness 2—Yes, close to $330-something now.

Mr PEARCE—Right. But when you do your tax—

Witness 2—Yes, it is going go up to around the $490, $500 mark.

Mr PEARCE—And your wife laughs about it being too much money; a lot of money?

Witness 2—Yes, but she is not going to give it back. She will take everything she is entitled to, though, as you would. I would take it if I was entitled to it. It is laughable, I think, paying that much for two kids, in Adelaide in a public school.

Mr PEARCE—I have no other questions. Your submission was very good and very much to the point. It will be very useful. I wish you all the best.

Mrs IRWIN—I promise this will not be a confusing question and I apologise for the other one. You are virtually saying, in your submission and what you have just stated to the inquiry today, that you would prefer to see your child support calculations on your net amount instead of your gross amount. Is that correct?

Witness 2—Yes.

Mrs IRWIN—Fine.

CHAIR—Net of overtime.

Witness 2—They are just ideas. Preferably I would like to see it done on net of my 38-hour week, the same as 90 per cent of the world do. But if it is done on the net, at least then the tax has come out of it already and you are not getting slugged twice, basically.

Mrs IRWIN—A number of people who have come before this inquiry already, who are paying child support, have suggested to this committee to look at claiming it as a tax deduction. They did not mind if it was kept at the gross, but at the end of the year they could put it in as a tax deduction. What would your feelings be on that?

Witness 2—Would that not be pretty well the same thing?

Mrs IRWIN—I just wanted to get your opinion. Finally, I just want to know how you came to this settlement? If it was mediation? You stated in your submission that you agreed that you left the marital home to your wife. You took all the debts from the marriage, in exchange for your superannuation. How did you come to that decision? Did your ex-partner and yourself sit down with mediation or counselling?

Witness 2—No, that was all my idea. She was quite happy to sell everything but I have seen, especially with my daughter's friends—a lot of them were living with their mothers when I would pick her up from their houses—they have moved house; they are just renting one house for six months, then the next house. I just did not want them to be doing that.

Mrs IRWIN—So you did not have to go to the Family Court at all; it was all decided outside the Family Court?

Witness 2—Yes. If I had to do it over again I would probably change it because of that debt I am trying to pay off. I am finding it very hard to do that, pay maintenance and move on.

Mrs IRWIN—Is your ex-partner in a work situation or not?

Witness 2—Yes, she is.

Mrs IRWIN—Full-time?

Witness 2—She works three days.

Mrs IRWIN—Have you ever tried to come to an agreement with her instead of going through the Child Support Agency regarding child support?

Witness 2—I have not fronted her about it. She just went to them straightaway; the day after we split up.

Mrs IRWIN—Okay, fine. Thank you very much.

CHAIR—Thank you for your very good submission. It is an excellent submission. It focuses on the one area and it is something that certainly has resonated in many of our hearings. We thank you for the time that you have taken to put into that submission. What you have done has quite clearly demonstrated the inequity of what is currently in place, particularly in your circumstances. Thank you for coming before the committee. It takes a lot of courage. It is something we certainly appreciate and value in order to come to an outcome of this inquiry that hopefully will bring some changes or benefits to many people. We appreciate you coming today. We are now going to have a half-hour break for lunch. We will adjourn and come back to hear from the Joint Parenting Association. Thank you very much, ladies and gentlemen.

Proceedings suspended from 12.29 p.m. to 1.08 a.m.

JOAKIMIDIS, Mr Yuri, Director, Joint Parenting Association

CHAIR—I welcome the representative from the Joint Parenting Association, Mr Yuri Joakimidis, 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 currently before the courts.

The Joint Parenting Association has made a submission to the inquiry and I understand that you wish to amend that submission. Could you outline the amendments for the committee?

Mr Joakimidis—Thank you, Madam Chair. The amendments that I would like to outline are found in the section dealing with family law reform in Australia. I would like to omit all the advice preceding the statement made by Peter Duncan that I refer to in that particular piece.

CHAIR—Page 40. Could you repeat that, please?

Mr Joakimidis—Yes. It is from the first introductory paragraph, which is a quote from the Family Court of Australia about its objects, up to the observation about the joint Senate committee which occurs prior to the paragraph that starts with the words: 'Late in 1995 the federal parliament took steps ...'

Mrs IRWIN—What page was that, please? I am on page 40 and it goes over to what page?

Mr Joakimidis—I am not familiar with the pages that you may have because I have an older version of my submission before me.

CHAIR—I will get Bev to organise it with the report that you have in front of you.

Mr Joakimidis—Basically, ladies and gentlemen, it is from the text accompanying footnote 1 up to the text accompanying footnote 15.

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

That submission No. 1153 from the Joint Parenting Association as amended be accepted as evidence and authorised for publication.

CHAIR—Yuri, could you give a short five-minute opening statement before I invite the members to proceed with their questions?

Mr Joakimidis—I would like to thank the committee for the opportunity for the Joint Parenting Association and others to address the committee with our specific concerns. The points I would like to highlight in my contribution focus on advocacy which I believe was designed to mislead federal inquiries in the past. I refer specifically to submissions made by the Family Law

Council and the Family Court of Australia to the 1992 Senate inquiry. Both of these organisations incorrectly reported to that inquiry that the state of California had enacted a joint custody presumption. They went on to argue that the presumption was repealed, and then made a conclusion and recommendation to the Senate inquiry:

> Because the joint custody presumption has been repealed in at least one major jurisdiction, we therefore make the conclusion and recommendation that there ought not to be family law reforms focusing on a rebuttal presumption in favour of joint custody.

My organisation queried that incorrect reporting and, after a paper war that lasted for about 18 months, the Family Law Council eventually, in an indirect manner, agreed that that reporting was incorrect. However, they were unwilling to formally advise the Attorney-General or to accept responsibility for that particular misinformation. The excuse that was offered by the Family Law Council was that the council, as constituted in 1996, did not make the mistake that the 1992 committee made, nor were the papers that were used by the 1992 committee available. For that reason, the 1996 council washed its hands of the sad and sorry affair.

The Family Court, to justify the same claim, used a sentence from the *San Francisco Chronicle* which was inserted into a paragraph and, when you read the sentence plus the preceding words of that particular paragraph, it made sense that their advice that California had enacted a rebuttal presumption was correct. In fact, California has never had a presumption in favour of joint custody. That mistake is often made by people who advocate joint custody. I would argue that the misrepresentation was made by the authors of the Family Law Council submission and on the Family Court's advice.

The misinformation about California also surfaced recently in New Zealand, where there was debate on the same sorts of things that we are talking about. Dr Muriel Newman of the ACT party in New Zealand, I understand attempted to introduce legislation which enacted fifty-fifty parenting, and government advisers in that jurisdiction repeated, I say, the same lie to the particular inquiry convened in New Zealand. I also notice that the Attorney-General's Department has revisited that issue and they are saying exactly the same thing.

I find that very curious, because my concerns about the California problem have been relayed to the Attorney-General's Department in the past. I offered them the absolute proof of the truthfulness of what I have been arguing, and this included the analysis of the operation of the family law in California by Justice Peter Nygh, who unfortunately passed away a few years ago. He was a member of the Full Court of the Family Court and in 1985 he clearly articulated in a paper published in one of the law journals that California never had a presumption in favour of joint custody. This information was known by researchers, I would argue.

As a demonstration of that, I will focus on one particular submission made by the National Committee on Violence Against Women to the 1992 select committee as well. I found out subsequently, after I made a complaint to the Office of the Status of Women about California, that Professor Regina Graycar who was an associate professor of law was commissioned by the National Committee on Violence Against Women to produce the report for the 1992 select committee inquiry. In her paper and contribution, she addressed the issue of whether there was gender bias in family law processes and argued there was not. She also referred to the assertions

made by the Family Law Council and the Family Court about the operation of family law in California.

I believe that Professor Graycar 'prostituted', for want of a better word, her academic canons. The evidence is this: in her argument that there was no gender bias in favour of mothers in the Family Court—and I am not going down that path—she cited the article by Justice Peter Nygh that I have referred to. We are talking about a professor of law; we are not talking about a layperson. Presumably, she would have read this particular article by Justice Peter Nygh because she used it as a citation. She failed to report that, contrary to the advice by the Family Law Council and the Family Court on the operation of family law in California, that advice was opposite to the analysis given by Justice Peter Nygh.

I think that sorry episode needs to be investigated by the committee because that lie—and I am saying it is a lie—has resurrected itself in the current debate. You just cannot dismiss it. In my view, people ought to be held accountable and responsible when prima facie the evidence suggests that there may have been deliberate attempts to mislead family law inquiries in the past. If that is proven to be so, it is simply outrageous.

In the context of selective information, I would also like to highlight some reporting made by the Australian Institute of Health and Welfare on the issue of child abuse. In 1996, for the first time, the institute published data based on gender. The data was available from reports produced by the Northern Territory, the ACT, and also Western Australia. It was found in 1996 that, contrary to conventional wisdom, the primary abusers of children from those three jurisdictions happened to be females. The figures that I can recall were about 1,138 women and about 968 men were allegedly substantiated child abusers. Angus and Hall, who compiled the 1996 report, made a comment about this data and said, 'This data added a new dimension to the understanding of the problem.'

In 1997, for some reason, this gender based information was omitted from the reporting mechanisms of the Australian Institute of Health and Welfare. When I queried that decision, the lame excuse that was given to me was 'a lack of publishing space', and it was then qualified by, 'We're not publishing that data because there's incompatibility between the reporting mechanisms of the different state agencies.' I would argue that that excuse should also be rejected, because under that excuse of 'incompatibility of data', we might as well not publish any data. Why was a decision taken not to publish data based on the gender of abusers? I have my own personal opinions; they may be right, they might be wrong. I would suggest that one of the primary reasons for the non-disclosure is that it does not fit in with the conventional wisdom that some people in the shelter movement try to imply, which is that most abusers in Australia are males.

We also know that, in terms of child abuse, the most dangerous environment for a child in Australia is a single parent household. This is not an attack on single parents. This is just a pragmatic observation. In actual fact, the risk of any form of child abuse in a single parent household, when compared to the intact family, is seven times greater. There is no reported data, to the best of my knowledge, showing any child abuse occurring in joint custody households and I think that figure is very pertinent to the current debate

With respect to filicide there is also important data from the Australian Institute of Criminology. Again, contrary to received wisdom, biological fathers are not the main murderers of children in Australia, as some people within the shelter movement try to argue and also some people try to argue against joint custody.

CHAIR—Yuri, I bring to your attention the fact that primarily a lot of that is covered in your submission. All of the members have your submission and I am sure have read it with great interest. Because we are limited in time, and members clearly would like to ask you some questions, is there anything that you would like to bring forward that would not be in your submission. Could you succinctly do so, so members can ask questions.

Mr Joakimidis—I would like to talk about the Peter Duncan speech. I have just commented on what he said but I think it is also important to analyse the speech, because I would argue that the speech made by Peter Duncan in 1995 clearly articulated that the 1996 parliament passed the present laws—the laws that they were debating and passing was law which enacted a presumption in favour of shared parenting. I would argue there is no need to reinvent the wheel in the present debate.

What is really needed right now is a series of clarifying amendments to give substance to the meaning of the law as articulated by Duncan in his 1995 speech. I think it is important that we revisit the speech. On 21 November 1995, he said: 'The intention of the late Senator Murphy's 1975 Family Law Act was to enact a rebuttal of presumption in favour of shared parenting. This presumption has been ignored by the Family Court, and it is hoped with the new amendments that the Family Court takes full and proper note of the intent of parliament.'

In my view, that statement is black and white and clearly articulates the intention of the amendments moved and passed by the 1996 parliament. The problem is that, despite the articulation of the intent of the 1996 law, the black letter of the law does not codify that. I would argue that what is simply needed now is a series of clarifying amendments to give substance to the law that was passed in 1996.

I have brought this problem of the Duncan speech to the attention of ministers in the past and the importance of the speech has been discounted. I believe the Family Court knew the intention of the Duncan speech, and I will give you some evidence. In the famous case called B v B, which was the first test case heard after the enactment of the 1996 amendments, Daryl Williams was invited by the Family Court to attend that particular hearing. Mr Williams gave the court a number of helping instruments and, if you read the transcript, you will see that one of those helping instruments included the Duncan speech. The court referred to the Duncan speech by date. However, they chose not to analyse the meaning or debate the words said by Duncan. I would argue that the words said by Duncan are very pertinent to the current debate.

I also have some personal knowledge about the thinking of the Labor Party at the time, and Duncan, because I and a couple of representatives from children's advocacy groups attended with Mr Duncan at his Makin office, which I believe the Hon. Trish Draper is in. At that meeting, Duncan had a discussion with all of us there and he made us a promise, which I made him repeat three times. He said, 'I've read all the submissions, I've read all the arguments and you people are going to get what you want,' and I said, 'What are we going to get, Peter?' and he said, 'You're going to get joint custody as a rebuttable presumption.' I was floored by that advice

so I asked him to repeat it three times, which he did. So we all wandered off, thinking that the children of Australia were to, at last, have their human right upheld to be brought up equally by a mother and a father.

Duncan also repeated the criticism of the court and also the speech he made in the parliament in a newspaper article in the *Age*, and no-one from his side of politics has ever said publicly or in written submissions to my organisation that Duncan did not mean what he said. In fact, the Hon. Kim Beazley, in a radio interview on 5AA here in Adelaide almost thumped his fist on the table when I asked him about that speech. He said, 'Peter Duncan meant every word he said in parliament, and that was the intent of the law, full stop.'

I would ask the question: if that was the intent of the law, how come that intent is being ignored in family law processes? In a number of cases, the Family Court of Australia has refused to start from the presumption of joint custody. Just on that issue, I would like to also highlight some of the false arguments put forward by opponents of joint custody. They argue that organisations like mine and others who argue in favour of joint custody are saying that it ought to be mandatory. What nonsense! I would say that that argument is also being used to confuse people. The word 'rebuttable' is not the same as 'mandatory'. That has to be clearly understood.

I would also like to highlight a couple of points which I do not believe I highlighted in my submission. The point of emphasis here is a paper produced by the Family Court of Australia on the issue of mandatory mediation. There was an assembly of participants in the voluntary program conducted by the Family Court in its southern registry in Melbourne. The report said that in all areas of satisfaction and agreement there was about a 70 per cent success rate. The authors of that report also chose to mention a study done by Dr Mary Duryea of the Conciliation Court in Los Angeles. Members here might be aware that California has a law which insists that people try mediation before they open the courtroom door.

Dr Duryea did an analysis of the operation of Californian mandatory law and the satisfaction rates. The agreement rates mirrored almost to the exact percentage point the satisfaction rates and the agreement rates reported on by the Family Court in its submission. However, the Family Court still chose to argue that we ought not to have mandatory mediation in Australia. There was no attempt by the authors to analyse the results of the Dr Duryea survey. The authors just chose to quote the survey's title without any discussion about the results. I would say that if there were discussion on the results that the court's opposition to mandatory mediation was very flimsy. At first blush, if the results of satisfaction and agreement rates in both voluntary programs and mandatory mediation programs are exactly the same, how can it be seriously argued that Australia ought not to go down the path of mandatory mediation?

CHAIR—Yuri, can I ask that we now move to questions, unless you have any succinct, pertinent points that you want to raise.

Mr Joakimidis—Thank you.

Mr DUTTON—Thank you very much, Yuri, for your evidence. Can I take you to page 83 of your submission. I know that the copy you have is not numbered. You are talking about increased risk for child abuse.

Mr Joakimidis—Yes.

Mr DUTTON—We took some evidence earlier today, and certainly have in previous hearings, about how a rebuttable presumption would not work because of the existence of sexual abuse towards children in our community. The evidence that you provided on page 83, where you talk about—

CHAIR—Would you like a copy?

Mr Joakimidis—Yes, I would like that but I wrote the report and I know exactly what he is talking about.

Mr DUTTON—I thought you might. You seem to dispel some of those myths and you talk about where cases of abuse are perpetrated.

Mr Joakimidis—Right.

Mr DUTTON—Could you just expand a little on that, because I am sure nobody on this committee or Australia-wide wants to put children in a position where they are going to be at risk. I am sure that we all start from that base but I just wanted you, if you could, to expand a little on some of your comments there.

Mr Joakimidis—Thank you very much for that very important question. It really focuses on another attempt made by opponents of joint custody to confuse the debate. No-one is seriously arguing that a presumption in favour of joint custody cannot be overcome if there are demonstrated histories of child abuse presented to the Family Court; the same way as if there is a demonstrated and proven history of family violence. It is a nonsense argued by opponents of joint custody against the concept of joint custody.

The figures that I rely on in my contribution are based on statistics gathered by the Australian Institute of Health and Welfare. I used the data in 1996 and in 1996 we found that most abuse in Australia occurred in the single parent household. I demonstrated, by a mathematical formula in my contribution, that the overall risk of any type of abuse in the single parent household when compared with the intact family is seven times greater. The overall risk of sexual abuse in the single parent household when compared with the intact family is eight times greater. We also ought to be cognisant of the fact that there are no reported results of any abuse occurring in the joint custody household. If there is no evidence of abuse in the joint custody household, how can it be seriously argued that joint custody places children at risk of child abuse? It is a nonsense.

Mr CAMERON THOMPSON—Thank you for the submission, which is very informative. I want to pick out an area of this too on page 90, since you have it there. Is there any other body of evidence to support the United States federal Department of Health and Human Services study? It says:

> Girls without a father in their life are two and a half times more likely to get pregnant and 53 per cent more likely to commit suicide. Boys without a father in their life are 63 per cent more likely to run away and 37 per cent more likely to abuse drugs.

Have there been any corroborating studies on that? It is an interesting way of attacking it.

Mr Joakimidis—There have been. I cannot cite the surveys, but I would be very happy to get hold of the information and forward it on to the committee. I used that particular survey because it is authoritative. It was not done by individuals; it was done by a federal government department. Based on that fact, I thought that would add to the understanding of the problem of sole custody with respect to the welfare of children. That is why I offered that information.

Mr CAMERON THOMPSON—Nothing in Australia?

Mr Joakimidis—There may be, but I am not aware of it. I know that Professor John Giabaldi, who is a professor of child psychology at Kent State University in the state of Ohio, made a couple of conclusions which were very similar to that report. I think it is also important that we consider Giabaldi's survey on the issue of divorce. Professor Giabaldi did a survey of divorce rates in three types of jurisdiction which exist in America in terms of joint custody versus sole custody.

In 1996 he published a survey based on American Bureau of Statistics divorce figures and he discovered that in states which he described as high joint custody states—and he defined high joint custody states as states in which, in any two contested matters, the child's right to an equal relationship was agreed by the court in 50 per cent of the outcomes—divorce rates were falling eight times as fast when compared to the divorce rates in the sole custody jurisdiction in the United States. Both jurisdictions operated within no-fault divorce.

He then examined the divorce rates in jurisdictions which he described as medium joint custody states—and he defined medium joint custody states as jurisdictions where, in three of every 10 contested cases, the child's right to have an equal relationship with mum and dad was upheld—and he found that the divorce rate in those jurisdictions was falling four times as fast when compared to the sole custody jurisdiction.

Family Court statistics in Australia clearly show that Australia is a sole custody jurisdiction, because we know that in fewer than three in every 100 contested cases the child's right to be brought up by mum and dad is upheld. I think that that survey by Giabaldi is important and ought to be considered by policy makers, particularly when it has been corroborated by other large scale studies. I will focus on a survey done by—

CHAIR—Sorry, Yuri, I need to give the committee an opportunity to ask you questions. As I say, you have an enormous amount of information there.

Mrs IRWIN—Yuri, thank you for an excellent submission. There were a lot of questions I wanted to ask you, but you have answered them in here. I want to go back to a question that Mr Dutton asked. We know that you support fifty-fifty presumption. What do you consider are the circumstances in which a presumption of equal time should be rebutted? Are you saying that it should be rebutted if it is proven that there has been family violence or sexual abuse?

Mr Joakimidis—I think that it is self-evident that those sorts of situations cannot be tolerated, and no-one is seriously arguing that they ought to be tolerated. I would say that that extreme situation would be the average situation where the court would rebut. The issue is that, in the

average case that comes before the Family Court, we have two parents who love their child. Neither parent wants to lose their parental role. What do we do? We force these people to go for the jugular, because that is how our legal practices are enacted in Australia. After the squabble is finished, we expect them to suddenly walk away, put aside all their differences and cooperate. It is ridiculous.

The operation of a joint custody presumption really is for those people who cannot put aside some of their differences, because it is an instruction by the state and also by the Australian people. The presumption in favour of joint custody is basically saying to people, 'This is acceptable behaviour that we want you to effect in your particular situation. We know that you both love your kids. You wouldn't be here squabbling and you wouldn't be trying to defend your parental role if you didn't.' Unless there are any proven situations of child abuse or family violence, the state ought to recognise the parental role of both parties. The state ought to rejoice that there are two interested people who both love their child and want to do something about the care of that child, but they are encouraged by legal processes to go for the jugular.

Mrs IRWIN—In relation to parents working it out themselves, what strategies are needed to help parents manage shared parenting or equal time? What would your association like to see?

Mr Joakimidis—That is also a very good question, and Dr Frank Williams has addressed that. Dr Frank Williams is the director of child psychiatry at the Cedars-Sinai Hospital in Los Angeles. His faculty gets some of the most disputed squabbles that the Family Court cannot resolve. They are referred to him. He says, first of all, that there is a myth in some social work and legal circles that joint custody cannot operate when people disagree. He then refers to what is required by the court and has basically gone over 20 years of experience. He said that if the Family Courts issue joint custody awards—which are precise—dot all the i's and cross all the t's, allow no room for manoeuvring and also explain to the parents that, if either of them comes back to the court without a reasonable excuse, they are going to lose the privilege of joint parenting. He has found that that approach works.

It is usually one parent, not both. The parents usually have a look at the situation and they learn to live with it. From the perspective of one parent—usually the mother—she is getting relief from child-rearing responsibilities under that approach. She can go and pursue a social life or a career. From the perspective of the father, he can continue with the loving relationship that he had in the marriage. We also have to consider the perspective of the child. The parenting order is often described as an instruction to the parents. I would argue that it is an instruction to the child. The sole custody order is telling the child, 'You can only have a relationship with one parent two days a fortnight.'

Consider the outcomes of that sort of approach. In the marriage, the child had unfettered relationships and contact with both mum and dad and the child could go and see mum and dad at work. Suddenly, when mum and dad make the decision to divorce, the ability of the child to have that equal relationship is stopped or thwarted. We see the consequences of that in the streets. Most researchers know the negative outcomes of sole custody. I have attempted to highlight them in the paper.

Mrs IRWIN—You mentioned mums and dads, but it is also grandparents.

Mr Joakimidis—Yes.

Mrs IRWIN—They are also the losers.

Mrs DRAPER—I wanted to comment particularly on Peter Duncan's speech in 1995. I read it with great interest, because the debate at that time was about shared parenting and what should happen in the Family Court. The fact that those sentiments seem to have been largely ignored, I suggest, is because by the time they get to court the Family Court is looking at the status quo.

Mr Joakimidis—That is right.

Mrs DRAPER—That seems to be the problem. Logically, if you go along those lines, the status quo is where the non-custodial person or non-shared parenting person or whatever you like to call them—usually the dad—is not in the family home and the status quo at the time is mum with the children.

CHAIR—What is the question?

Mrs DRAPER—That is where the problem is, and I would like Yuri to comment on that—if that is where the main problem is—because men who are the non-custodial parents then have to go through the expensive court process to change that decision about the status quo.

Mr Joakimidis—Thank you, Mrs Draper, because that is also a very important observation you make on that issue. I would say that the real problem in terms of the Family Court is that there is no instruction contained in the black letter of the law that says to the Family Court that they have to start from a presumption in favour of joint parenting. The Family Court in effect rebut a presumption. They use a number of rules of thumb which they have developed themselves to justify their opposition to joint custody. One of those rules—and I would like to comment on that rule of yours—is that they have argued that what is more important than the child is the artificial relationship that exists with the parent who has physical possession of the child from the time of separation up to the time of the court hearing. They do not contemplate what is really more important in that decision-making process, which is the relationship of the child with both mum and dad and other important people, from the time of birth up to the time of the custody hearing.

The relationship that exists between child and both parents is one that has been described by some people as a psychological parent relationship. Researchers clearly argue that children form multiple attachments. They form attachments with mum and dad, with their mates, with their grandparents, with their aunties and their uncles and their schoolteachers. If we are to look at that problem of how to decide what is best for children, the court's inquiry ought to settle on those issues. But the court say, 'Yes, that is probably a good line,' but in practice what they do is highlight the relationship of the parent who stays at home during that marriage and describe that parent as the primary parent. They give greater weighting to the claims of that parent as compared to the contribution of the parent who goes out to work.

That is one of the reasons why a lot of people, particularly fathers who happen to go out to work more often than mothers, are losing their relationships in Family Court proceedings. I think it is absolutely outrageous that the Family Court of Australia, instead of celebrating and

supporting both parental roles, is in fact saying that one parental role—namely, the parental role of the person who stays at home—is more important to the child than the person who goes out to work.

That implies, both to women and men—and I would suggest, with great respect, to people on this panel—that, if you work 80 hours a week looking after your constituency, if you ever go into the divorce court, God help you, because your contribution will not be given the same weighting as that of the parent who stays at home. That is simply outrageous and something ought to be done by the legislature to overcome that nonsense which has been accepted by the Family Court. That nonsense is being pushed to the Family Court by their advisers.

CHAIR—Yuri, can I interrupt you. I will make a comment to the members of the committee. We will be speaking with Yuri at a later date.

Mr QUICK—Can I ask why we are seeing him again?

CHAIR—Some members of the committee have suggested we look at perhaps—

Mr QUICK—To me it seems strange that we are also seeing—and I am not doing this out of disrespect—the South Australian branch of the Lone Fathers Association and, later on today, the Shared Parenting Council of Australia. I notice on page 5 of the Shared Parenting Council of Australia a list of 28 affiliated organisations. Are we hearing the same story three times over today and then hearing Yuri again later on?

CHAIR—I would hope not, but I will take that up with the members at a later stage.

Mr QUICK—We have been going for 50 minutes and we have not even got around to the last two questioners.

CHAIR—I am just giving you an opportunity, Mr Quick. Would you like to ask a question?

Mr QUICK—Yes, I would. Did you set up the Joint Parenting Association?

Mr Joakimidis—Yes, I did.

Mr QUICK—When did you set that up?

Mr Joakimidis—Back in 1996.

Mr QUICK—For what purpose?

Mr Joakimidis—To advocate the child's rights for an equal relationship with both their mother and father.

Mr QUICK—Why did you set it up?

Mr Joakimidis—Because I was made aware of the literature on child adjustment following separation and divorce. I was educated on that problem and for that reason I formed the Joint Parenting Association.

CHAIR—From your own experiences.

Mr Joakimidis—I went through a divorce, but that is not necessarily why I set up the Joint Parenting Association. The Joint Parenting Association was set up simply to advocate, not the rights of Yuri or the rights of individuals, but the rights of children to have an equal relationship with their mum and dad. It is a pretty simple basic right. I would argue that it is a given right.

Mr QUICK—What do you mean by 'an equal relationship with their mum and dad'?

Mr Joakimidis—I mean the relationship the child had in the marriage ought to be same sort of relationship that the child has post divorce.

Mr QUICK—That is on the assumption that both the male and female, after separation, still want to have some relationship with the children.

Mr Joakimidis—Exactly.

Mr QUICK—So having a rebuttal fifty-fifty is the same sort of inefficient template we have at the moment, every second weekend and half the school holidays.

Mr Joakimidis—No, because if people want to make private agreements they are allowed to make private agreements. If they are in dispute that is when the presumption operates. I will give you an added—

CHAIR—Yuri, I am sorry. We have a time frame to stick to. You have most of your material and your assertions within your submission. I ask that you answer the questions as succinctly as possible.

Mr QUICK—Assuming this committee comes up with a rebuttal fifty-fifty and legislation is put in place, down the track do you see pregnancy rates, suicide rates and prison rates falling?

Mr Joakimidis—I would suggest yes, because the correlation between particularly father absence caused by divorce and the problems that children suffer and often fathers suffer by self-definition will be minimal compared to the sort of situation you have now. When research is clearly saying that one of the—

Mr QUICK—American research, with due respect, is saying that. Is there comparable Australian research? Your submission of a couple of hundred pages here quotes California, Colorado and other places, but there does not seem, from my reading of the situation at the moment, to be very much research as far as Australia goes. Organisations from both persuasions seem to rely very heavily on what is coming out of America. With respect, in lots of areas of social policy and social mores, people are saying that Australia is 10 or 15 years behind America and on the slippery slide. It really worries me that they are the font of all knowledge and it is a bit of an indictment on Australian researchers in that they cannot present us with facts and

figures relating to us. You cannot compare apples and oranges and I think that is what we are doing.

Mr Joakimidis—That is a very good observation and I would agree with your criticism. But there is also a problem in Australia in that Australia is a sole custody jurisdiction: we do not have the environment in Australia that can be observed. But we know that in the United States there is a variety of approaches on family law and—

Mr QUICK—Only in about 19 out of 50 states.

Mr PRICE—If, ultimately, as a result of this committee's work, we were able to shift Australia from a sole residency country to a shared residency country, would you see the committee as having failed?

Mr Joakimidis—If we went from a sole custody jurisdiction to joint or shared?

Mr PRICE—Shared, yes.

Mr Joakimidis—What do you mean by 'shared'?

Mr PRICE—It might not be fifty-fifty, but it would be shared and more—

Mr Joakimidis—I am sorry, I am not being funny with you. What do you mean by 'sharing'—two days a fortnight or something approaching seven days a fortnight? If you mean two days a fortnight, I would suggest you are still going to have the same problem and it would be a sham. People will react to that and children will react to that. What children need is as much parenting time as both parents can give them. If we have a regime of two days a fortnight disguised as shared parenting, or joint residency—or whatever we want to call it—it is a nonsense.

Mr PRICE—I suppose one of the points the committee has been making in coming to grips with the concept of joint residency is that that should be the starting point.

Mr Joakimidis—Yes.

Mr PRICE—Would you agree with that?

Mr Joakimidis—I would agree with that.

Mr PRICE—If it was acceptable between the two parents—that is, they started with a presumption of fifty-fifty, but they ended up with 80 to 20, mutually agreed, or 70 to 30, or 60 to 40—would you see that as a satisfactory outcome?

Mr Joakimidis—Yes, of course, provided the agreement was—

Mr PRICE—Mutual?

Mr Joakimidis—The problem is that there is no definition in the Family Law Act about what is meant by 'shared parenting'. I think that is really required.

Mr PRICE—Child support report their cases in terms of shared parenting. They have definitions of shared parenting.

Mr Joakimidis—They have definitions in terms of time.

Mr PRICE—Yes.

Mr Joakimidis—But the Family Law Act has nothing to that effect.

Mr PRICE—No, I accept that.

CHAIR—Thank you very much, Yuri. We appreciate you coming before the committee. I am sure the committee have other questions to ask you; however, we do have a hearing schedule today which we really must meet. The committee certainly will have other opportunities to be able to discuss issues with you. Thank you for coming this afternoon.

[2.01 p.m.]

HOOD, Dr Mary Kathleen, Committee Member, Australian Association of Infant Mental Health, South Australian Branch

CHAIR—Dr Hood, thank you very much for coming along 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 do not refer to cases before the courts.

The Australian Association of Infant Mental Health has made a submission to the inquiry. Would you like to make a short five-minute opening statement before I invite members to proceed with their questions?

Dr Hood—The Australian Association of Infant Mental Health is made up of academics and clinicians throughout Australia who want to alert the community to the importance of the early years of life. In considering the issue of child custody and the presumption of joint custody, it is vitally important that infants be considered separately from other children. By 'infants' we are meaning children of three years and under. We think that there are different factors impacting on them.

We do tend sometimes to overlook infants because they are less able to indicate clearly what they need and how they are affected. The research evidence has become indisputable that the first three years of a child's life are vitally important to his or her development—that is, intellectually, socially and emotionally. There are two main areas of research. We have alluded to this in our submission but I just want to expand on those a little.

The first is research into brain development across all disciplines—neurologists, doctors, psychologists. Early childhood, as you would guess, is a period of rapid brain development. While infants come into the world with some brain pathways set in their genes, what we are now finding out is that much brain development is still to take place. Early experience forges connections within the brain that become solidified into permanent pathways. This is true not only in learning about how things work and how to manipulate objects and how to do physical things but also in social relationships. What we know, and what we are now learning, is that the social environment that envelops the infant moulds the very structure of the brain. What happens in this early care is important for the child to be able to go on and fulfil its potential in life.

The amazing capacity of the human brain to develop in that use-dependent fashion—growing, organising and in response to the development—means that experience is really important. For infants this includes learning how to feel properly connected to other human beings. In order to learn empathy and conscience, the infant has to be shown empathy and conscience. People have to treat the infant in that way for the infant to take on that way of operating.

The brain research is important to this issue because stress influences brain development. What we are talking about here is the potential for infants to be in stressful situations if there is conflict over child custody issues. The lesson from brain research is that infants can be adversely affected by stress and that is because certain hormones become activated if the infant is under stress. To quote Bruce Perry, who is a researcher in the United States, I am sorry to say—

Mr PRICE—He is respected, though, I take it.

Dr Hood—Yes, he is very respected. He has been to Australia and certainly we have quizzed him on these things from time to time. He says that threat activates the brain's stress response. If that happens often enough then, as we said, that can lead to the structures of the brain being changed. While exposure to consistent and moderate stress can actually help the infant develop certain adaptation and coping abilities, if you have exposure to unpredictable and chronic stress it can obviously result in the infant becoming poorly adapted to meeting life's experiences later on and being a lot more vulnerable to future stressors if they arise.

CHAIR—Thank you, Dr Hood. We will move to questions now.

Mr PEARCE—Thank you very much, Dr Hood. I am particularly interested in a comment that was made in the submission. You say, 'We recommend that the judiciary and legal professions involved in this work should have some training in children's early developmental needs so there is a general understanding.' I am particularly interested in this area. I am very concerned about the accountability of our Family Court system. We talk a lot about the children's best interests. I have asked the question directly of some judges, 'How would you know what was in the child's best interest?'

I have a great deal of empathy with this concept about training and professional development for judges as well as legal people. If that happened, how would it take place? What do you envisage that sort of training would be and would it be on a regular basis? Would it be workshop based? How would that operate if there was an opportunity to have our judiciary trained in this area?

Dr Hood—It could be in response to what is obviously available. That is one of the difficulties of getting time for the judiciary to put towards training. Certainly our members would be willing to participate in workshops set up at certain times over the year to inform and perhaps build. The first workshop should cover certain areas and be built onto throughout the year.

Mr PEARCE—Does the association have any program structured at the moment?

Dr Hood—We do not, but our members would be able to set something up.

Mr DUTTON—Dr Hood, we have taken some evidence when speaking about the rebuttable presumption. Some people argue that it would cause more stress at the point of separation when people are trying to reach agreement; others suggest that it would remove some of the tension from the situation. I know your submission is fairly specific but do you have a view on that particular body of evidence we have before us?

Dr Hood—I do. In relation to infants, the difficulty is—as the previous speaker mentioned—that children and infants can attach to a number of different people. We know that. But if they are not yet securely attached to a parent, then to remove that infant from that parent without any graduated process of development of that relationship with the other parent is going to be stressful and possibly damaging for the child.

That applies to older children as well, certainly in the primary years. We have to really look at the quality of the relationship with both parents in order to answer that question. For some children who know both parents well, as the previous speaker said, that may be a tension reducer. But if you have a parent where there has not been contact and all the child has seen of the other parent is in a conflict situation, so they are very anxious about how they would go if they moved into a relationship or were living with that other parent, it will be a problem for them. We have to look at the way in which it happens in much more detail and not just make orders where, all of a sudden, a child is going to go to the other parent without any process of introduction.

Mr DUTTON—Is that part of the difficulty with the system at the moment, where we have this template, as I think Mr Quick calls it, where the non-custodial parent is entitled to contact every second weekend and then half the school holidays? Is it difficult when the amount of time the non-custodial parent can share with that child is restricted to a small amount of time? Does that make it difficult for a bond to develop?

Dr Hood—Yes, it does. If they have not known each other before and they have not had anything to build on, there is obviously a difficulty if you have less time there to start developing that close trust and security. There is also information that people need—those who have not been looking after children—about how to interact with children. That is important as well. It is a difficult question but time is not the only important factor; there is also the quality of the relationship. As we know, you can obviously have short interactions with children that the children value and love, so it is more about how it happens.

We are finding out from research about the detail of how people interact with infants particularly—the sensitivity, the synchrony that you have in knowing the child needs something and the parent recognises the child needs it and responds to it. The child realises that the parent is responsive and trustworthy and there for their needs. It is those small details we need to understand when we think about quality of relationships.

Mr CAMERON THOMPSON—Can you tell me about your organisation, Dr Hood? I have very little information about the Australian Association of Infant Mental Health. Is it a national body? Are there doctors involved in it?

Dr Hood—It is a fairly national body. I should say that I am not a medical doctor; my doctorate is in social science. It is a body that has been going probably for 15 years across Australia. We have branches in every state except, I think, the Northern Territory. As I said, it has clinicians and academics across all disciplines: medical doctors, psychologists, whatever. We hold annual conferences. A lot of researchers that are mentioned in people's submissions here have been brought out to Australia by the Infant Mental Health Association. It is not especially well established and longstanding—because this area of knowledge about infant development is fairly new—but it has been going for 15 years or so.

Mr CAMERON THOMPSON—Given the criticism of overseas based research, do you have relevant Australian based research that perhaps we could ask about?

Dr Hood—There is some now coming out. Certainly Dr Julie Quinlivan in Melbourne, a paediatrician, has done some work on the topic that was being discussed. It was not exactly about fatherhood and later, but it was about family break-up and pregnancy in teenage years. She would certainly be somebody you could contact. I could certainly supply you with a list of other researchers on these sorts of areas of child development.

CHAIR—That would be very helpful, Dr Hood.

Mr CAMERON THOMPSON—When it comes to the question of shared care or joint care—apart from the issue of violence—occasionally the question of breastfeeding is raised and that disruptions to breastfeeding in a shared care type arrangement would be a negative. Is that an area which you can advise on?

Dr Hood—I could make some comments on it because I happen to work in an organisation here that deals with it. It would be a problem. I am coming to understand more recently, too, from contacts that breastfeeding is a very sensitive thing that is difficult to establish and maintain. Breast milk supply is disrupted by stress as well. A lot of these factors come into the answer to that question. If there is breastfeeding going on, it does really complicate the fact of a child moving to another household or being cared for by another primary carer. Obviously there are the possibilities of expressing breast milk but that is a fairly stressful and complicated process in itself, so it is a real difficulty. If the child has it and then does not have it, it is a difficulty for the child to have to go through that process. Not only the breastfeeding and feeding but also the relationship they have during the feeding are very good for infants while that is happening.

Mrs IRWIN—I want to go back to a question Mr Pearce asked. Like Mr Pearce I was very interested in your recommendation. You stated that the judiciary and legal professions involved in this work should have some training in children's early development needs, so that there is a general understanding of what is in the best interests of the child. How would this training be delivered? I would like to see that sort of training. Who would you suggest to give the judges and the lawyers the training?

Dr Hood—There probably are researchers and clinicians in Sydney and Melbourne and some here. Dr Anne Sved-Williams at Helen Mayo House is a psychiatrist. Beulah Warren is in the Royal Children's Hospital in New South Wales. There are also people like Dr Robin Dalby at the University of New South Wales Social Policy Research Centre. These are all people in our association. They are knowledgeable of early child development and are doing research in the area of attachment relationships. When we talk about 'attachment' that is often a word that is misused or used very loosely. When researchers are talking about attachment relationships, they are talking about studies that are very closely defined, longitudinal studies that show second generational effects of these things. I can also possibly supply the committee with a list of people that we would recommend to do that.

Mrs IRWIN—Would you take that on notice?

Dr Hood—Yes.

Mrs IRWIN—A number of organisations and individuals that have appeared so far before the inquiry have stated 'You might be listening to us and you're listening to the mums, the dads, the grandparents, the extended family, but sometimes you should be listening to the voices of the children.' When we are talking about children under the age of 18, how do you think the committee should approach that? Should we do it in camera? What age group should we target? What association would you suggest might be able to help us to hear the voices of the children?

Dr Hood—That is a good question. Adolescents—from 10 onwards—are often very capable and very able to express exactly what they think. I heard a speaker this morning—they worked with Relationships Australia for many years—saying how clearly children can express the simple and obvious solutions to some of these situations if they are just asked by their parents perhaps in the first instance. Children 10 years and up you could hear in camera; that would certainly be a possibility. With younger children it is difficult because of their problems with loyalty. They are not so able to speak out about their own opinions because they are worried about affecting either of their parents, or hurting either of their parents. It is always more difficult when you ask younger children and put them in that position.

Mrs IRWIN—Would Relationships Australia be able to help?

Dr Hood—Relationships Australia, yes. Some of the people who see families in counselling have seen children in relation to that. You want to get away from the organisations that do assessments in relation to the court.

Mrs IRWIN—Yes.

Dr Hood—But some of the organisations that do counselling have seen children in that regard so that would be a good avenue. Centacare and Relationships Australia would be good ones to try.

Mrs DRAPER—The question I wanted to ask was asked by Julia, but that is fine. Dr Hood, is the Australian Association for Infant Mental Health privately funded or government funded? If government funded, what sort of budget does the association have? You mentioned the longitudinal studies in process at the moment—is that being done by the association?

Dr Hood—No, it is not, unfortunately. I was in the United States for a while and I heard researchers speak, but it is actually in Minnesota, where they have assessed relationships with infants and then tracked them. Those infants are now becoming parents and they are looking at the infants. That was a US study as well.

The first part of question was about funding. We are not funded by government. We are a voluntary association. Many of the people work in government paid positions but the work of the Infant Mental Health Association is outside their work roles. We fundraise in some ways to get money to use, but we are not funded in any other way.

Mr QUICK—I would like to thank you for your succinct and sobering submission.

Dr Hood—Thank you.

Mr QUICK—It is interesting and very pleasing to read. You say, 'We would like to respond with reference to infants, who have the most vulnerability and whose needs can often be overlooked and misunderstood,' and I have added, 'especially by their parents when they separate.'

Dr Hood—Yes. It is a conundrum, isn't it?

Mr QUICK—We have almost 1,800 submissions, I think. You can almost put them in three baskets: the males, the females and then the grandparents, with some other small piles of spouses of second relationships, but there are very few submissions with the best interests of the child at heart. Having been an ex-teacher for many years, I would like to compliment you.

Dr Hood—Thank you.

Mr QUICK—Again, my favourite hobbyhorse is research. It is pleasing to hear that there are Australian researchers attacking this very vulnerable problem. Our previous speaker painted a bleak picture. If some of this information is put into our high schools in years 9, 10, 11 and 12, where children are being taught mental health, sociology and other things, as well as relationships and responsibilities and rights of Australian citizens, I think it will go a long way to hopefully addressing some of the issues. Thank you very much for your submission.

Dr Hood—Thank you. May I just make a comment in relation to that. I think what is happening in a lot of government departments, in Family and Community Services and the Commonwealth government as well, is that people are looking at early intervention now. Both Commonwealth and state governments are putting money into funding early intervention. We see that what happens in those early years of life are important to the child being able to fulfil the potential later on—and not get caught up in going off into criminal activity—doing well at school and being able to go on to work and participate in society. It is being recognised now. So hopefully there are positive things there.

Mr QUICK—It was a simple, two-page submission that was very challenging and I thank you once again.

CHAIR—Thank you, Dr Hood. Thank you very much for appearing this afternoon. We certainly do appreciate your coming along. Obviously you came along at short notice, because I was not aware that you were making the changes. Thank you very much.

Dr Hood—Thank you.

[2.26 p.m.]

SMITH, Mr Thomas William, President, Lone Fathers Association, South Australian Branch

TUDDENHAM, Mr Robert David, Publicity Officer, Lone Fathers Association, South Australian Branch

CHAIR—I now call the representatives from the South Australian Branch of the Lone Fathers Association who have agreed to come along, due to another group not being able to attend. The committee might like to recognise that this is on your supplementary papers. I would like to ask that one of you only will be the speaker. Thank you.

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.

The South Australian branch of the Lone Fathers Association has made a submission to the inquiry. Would you like to make a short five-minute opening statement, before I invite members to proceed with their questions.

Mr Smith—Thank you, Madam Chair. I do not want to continue with what has already been put before the committee for the last five hours. My major concern is, as President of the Lone Fathers Association and also taking the phone calls, that I am at the coal front where most of the problems arise. I take approximately 30 phone calls per week which may come from fathers, grandmothers, the wives of new partners, et cetera. We must have a starting point somewhere to try and fix up the problem that we already have.

When you are talking to the father, it is usually within about the first 28 days of busting up when the reality check that this is happening starts to kick in. They have usually gone through a bit of the anger, they have most probably kicked the cat or the dog, or whatever they have done in their life, and they start to come back and realise they not seeing their children. The next point of call is usually to the Men's Information Bureau, which in turn gives them to me. I then have to try and sort out their internal problems—that is, the process they have to go through to try and get to see their children for any sort of time. You hear, 'I want half custody,' 'I want full custody,' 'I want this, I want that,' and I say to them very strongly, 'There has to be a starting point for you to get to see your children.' So we go through the process.

The biggest problem we face is that the Family Court system at the moment, regardless, has a three-month waiting list to hear cases. The father writes out an affidavit, accompanied usually, I think, by a 3A which then goes to his wife's solicitor—if one can find one's wife's solicitor. Then they wait for the solicitor to get involved and go backwards and forwards in this time. Three months later, you end up going to court. I explain to them that there are a few things that will happen. Usually the DVO comes up. This is a way of stopping it. If you go before any of the

registrars in our Family Court and one of these alleged DVOs—and they are purely alleged—come into force, very rarely will the father ever get to see the child. It gets adjourned, usually because they want a family conference or something else along the way.

That consequently gets dropped along the wayside for another two months. If the father does get into the court to try to get some quality time with his child, it can be up to five or six months later. The bonding is already starting to be dragged out. He has not been able to see the child. He could be lucky and see the child in the Family Court, if the mother happens to be there—in most cases they are not because there is a creche within the Family Court system. That is where the child is brought to bear.

Out of all this comes the fact that the children now have had no physical contact for five months—I am talking of grandparents, uncles, aunties, cousins or whoever it might be. All of a sudden, one side of the family that the child has had contact with is picked up and taken away for five months. That bonding is starting to drift. We need to get a joint rebuttal of parenting as a starting point.

My other major concern is that we must get DVOs that are actually produced in our Family Court. They have to be heard by the Family Court. What is happening is that the minute you get a domestic violence order it is not heard in the Family Court; it is proceeded with and heard in the magistrate's court. This is now a double-whammy expense for the father. He now has to defend himself in the magistrate's court on an allegation of whatever it may be. He now has the expense of trying to see his children. If he is working he cannot get legal aid. Now he has two sets of problems that he has to face within our court system—and that is just to see the children.

The mother, if she is on a single mother's pension, promptly gets legal aid; the father does not. Legal aid should be provided either to both or neither, because it is unfair on fathers who have to wear the cost of the magistrate's court and the Family Court. By the time they get to the Family Court, they cannot afford a lawyer. They are broke. Besides that, they are paying child support, because that will come in before they get into our court system.

CHAIR—Thank you, Mr Smith. Do you have any comments that you want to make to wrap up, because the committee would like to ask some questions?

Mr Smith—No, I do not have any more.

Mrs IRWIN—On the front page of your submission you say:

> Once the Family Court of Australia has settled the divorce, approximately 95 per cent of all children of divorced or separated parents reside with their mother. They are now in a single parent family situation and disadvantaged by the denial of appropriate interaction with their fathers.

Then you say:

> Approximately 200 children a day are placed at risk by these orders of the Family Court.

My question, gentlemen, is how did you get that figure of 200 children per day?

Mr Smith—Let me go through it. The average family is 2.3, if you listen to TV adverts. On average, the registrar in the Adelaide Family Court hears between 15 and 18 cases—that is, one duty registrar. If she is hearing 18 cases in relation to these matters—because they go before the duty registrar first—and multiply that by 2.3 and now add in another four that are heard in the other court—by either Justice Strickland, Justice Murray, Justice Dawe or Federal Magistrate Brown—every time one of these matters goes into a court, taking just 2.3 children, it is not hard to come up with that figure with five judges handling that number of cases per day.

Mrs IRWIN—That is a figure that your group has come up with?

Mr Smith—No. You only have to go into the duty court registry in the Family Court and look at how many cases are on to appear before judges. That is openly there for the general public to see.

Mrs IRWIN—Let us talk about US studies. On page 2 of your submission you have stated US figures: in child abuse, 90 per cent of the cases are girls; victims of suicide, 75 per cent of the cases are boys. Then you state, 'Overseas research also supports what we find in Australia.' Can you refer the committee to the research which supports the statement you made on page 2 of your submission?

Mr Tuddenham—You would probably have to ask Barry Williams, our national president, who keeps all the studies. He will be able to provide that fairly easily. I think you are going to have a big meeting in Canberra where Barry will be speaking for about 1½ hours. I would say that Barry will have that information and he has a legal adviser who will also provide it for you.

Mrs IRWIN—It might help the committee if you could take on notice the question that I have just asked you and refer it to Mr Williams. It would help us if we could have that prior to his coming before the public hearing in Canberra.

Mr Smith—Yes, we will do that for you.

Mr CAMERON THOMPSON—You say in your submission that nothing should be done in relation to an allegation of abuse or violence and that 'Domestic violence restraining orders should only be considered by the Family Court if they have been investigated and proven to be correct, not while they are still an allegation'. I know there is a lot of concern out there about falsehoods being presented, but the case for not pursuing something like that could be quite unforgivable if a mistake was made, couldn't it?

Mr Smith—If domestic violence orders are brought forward, they should be checked by the police. In almost all cases, I would say, most fathers—some of them here today—will tell you that they arrive at your door after two months, one month, six weeks and this person has never been interviewed by the police. They are just issued. To reiterate: for example, a father was 7,000 metres up in the air in an aeroplane and was issued with a domestic violence order; another father was issued with a domestic violence order and, on the day alleged, he was at the Wailing Wall in Israel. They just get put in and used as a tool. We would like the police to at least do some investigation.

Mr CAMERON THOMPSON—I suppose you are after some sort of instant assessment of these things, are you?

Mr Smith—I would like the police to do an investigation before they take it before the magistrate and lay a formal charge. He is presumed guilty before he ever gets into court to defend himself.

Mr Tuddenham—I will give you an example: I had a father who came to me and stated that he had set up a relationship with a new lady. The new lady did not have a property—unfortunately, we are coming down to money. She wanted to move in with him. He said, 'No. I went through a marriage breakdown. It has cost me a lot of money. I don't want to take that risk of sharing my property again.' The lady tried to persuade him but he would not have a bar of it. She fell behind with her rent for four weeks and got kicked out. She had nowhere to live so she moved in with him. She then went to the Christies Beach police station and had orders issued for him to be evicted from the property—that he owned personally—for domestic violence.

Just before Christmas, when he challenged it in the court—and I was there with him to give him some support—she dropped the charges. Just after Christmas, she reissued the charges. Within two days I received a phone call from his mother. He was found in the garage, sad to say, with a rope around his neck, because of false accusations.

I started off Lone Fathers here in South Australia six years ago, with the help of Graeme Andrews. Believe me, I have heard some horrendous stories. I could make your hair stand on end. I have cried. I have been to visit people in the Adelaide Clinic. I have been to hospitals and brought them home with me. I have looked after them. I have been to courts with them. I have been belted from arse end to breakfast time by a de facto, when I have done a child handover. I have been marked and photographed by the police but the police have failed to take action against that person.

Some people think that these things do not happen. I am very passionate about Lone Fathers. I am not a violent person and I do not believe in black shirts and all that stuff that goes on. We are totally away from that. We just want to help mums and dads. Our committee in South Australia comprises four women. Our vice-president is a woman.

Mr CAMERON THOMPSON—I understand that. The issue I am asking about is: how can you bring forward some greater scrutiny of these DVOs?

Mr Smith—Do some proper investigation. Get the police to do a proper investigation—

Mr Tuddenham—Substantiate it.

Mr Smith—to substantiate whether the alleged charges are there. They have to do it. Some fathers have appeared in the magistrate's court and they do not even have a copy of the allegation of what they have done. The magistrate in the court has to hand them a copy of what they have been charged with.

Mr Tuddenham—We had a father who spent 42 days in gaol. He had 12 charges against him. It went through the court for 12 months and 11 of the charges were dropped in the end. The only

charge that stuck on that guy was because he wrote a letter to his wife and told her he loved her. That is why he spent 42 days in gaol. Do you think that warrants that? No, sorry.

Mr DUTTON—I suppose out of all of this everybody's intention is to try and take as much heat out of some of these situations as possible and provide an amicable situation for children to grow up in.

Mr Tuddenham—A fair situation, yes.

Mr DUTTON—One of the things we have spoken about in this committee over a number of public hearings is the prospect of removing from the Family Court this process; taking it away from lawyers and from the adversarial process and setting up a tribunal. The tribunal may consist of, say, three members: perhaps a child psychologist, somebody legally qualified and somebody with some mediation/counselling skills. Is that a process you would support, or that you would see working?

Mr Smith—Yes. I agree 100 per cent with it. If we can we should take out the adversarial part of family law and two parents, along with lawyers and everybody else, getting involved in it and arguing and fighting. The losers are the children. I do not think anybody understands that. Lawyers do not do it unless there is a dollar in it. You only have to ask them. Before anybody ends up in the Family Court I would prefer to see them attend a conference and find out what their obligations are, who is going to be affected, who is going to get hurt. I could not speak more highly of that sort of thing. At least we take it away from the court and get it away to make it work.

Mr DUTTON—We heard some evidence—and I think you were part of the audience today—from a gentleman who was talking about the inequities he was experiencing from the Child Support Agency. He was being paid a relatively high income and was in a situation where he had to pay up to $500 a week, which seems inequitable. At the end of the scale, there are some parents, some non-custodial parents, who pay either zero or as low as $5 a week.

Mr Tuddenham—They would be dads.

Mr DUTTON—I have difficulties with both sides of that. We see constituents on a daily basis who come in with those complaints. What do we do about the people who have an obligation to pay, but do not?

Mr Smith—Child support is one of the most difficult issues, I agree with you. The unfortunate thing is what the other gentleman who was here said about the way child support is actually handled in that it is on gross income. If anybody tries to get a loan from the bank to get a house, buy a car, go and open a John Martins account, Myers account, Bankcard, they do not ask you what your gross salary is. They ask you what your net is, what you take home. If fathers were given more time with their children and they could spend quality time with their children—and their grandparents—and you take away what they do not have, you will get more men paying it. We have to remember when this stupid system was brought in—sorry, I know some gentlemen are from parliament—

Mr DUTTON—Can I just clarify that we did not bring it in.

Mr Smith—No, I just said that I agreed with certain gentlemen. There is no such thing, ladies and gentlemen, as levies—this new word we have in our system. Petrol was about 68c a litre and it is now about 98c a litre. All fathers should pay child support and have a responsibility to pay child support. That is what they should be paying. But if we give them more responsibility on their part and adjust it accordingly on a 38-hour week of working, then they can get on with their lives and spend some more time. There are a lot of inadequacies in the Child Support Agency and how they chase fathers.

Mr DUTTON—What if a payment was determined on cost of living or bringing up a child? Is that something that would work? Are we able to establish how much it costs to raise a three-year-old? Obviously it would change over time.

Mr Tuddenham—Usually the dads get the kids back when it comes to the costly end of the relationship, believe it or not, when they want all the designer labels et cetera, when they become too expensive. I had a father who tried to commit suicide. He had a mental breakdown. Child support were giving him hassles over money. He was in the IT industry. I nursed him back to work. I had individual help with this particular person down at the Adelaide Clinic. He went back to work one day a week, then we got him back to two days a week. He was earning roughly, for one day per week, $10,000 per year. He was deemed to be earning $40,000 per year for a four-day week. One Friday he had a court order stating he have custody of his child. The Family Court hit him with the potential earnings capacity saying he could potentially earn $65,000.

He came to me and I spoke to him about it. I took the matter up with the Child Support Agency. They said quite clearly, 'I'm sorry, it has exhausted all its appeals, it has to go to the Family Court.' I said, 'Come on, it's going to cost him $10,000. The guy has been suicidal. He has been in the clinic. I'm trying to help him.' I sat down with these people and said, 'If you pursue what you are doing now I will take you to the papers and I will take you to the radio stations.' What happened was they reopened it and looked into it and stated that they could not find anything wrong with what they had done. I said to them, 'Look, you've said he has a potential earning capacity. You want him to actually work on a Friday. You are above the Family Court orders that he has been issued with.' I said, 'If you want to challenge that you will lose.' What they did was withdraw in the end. This guy could actually go on his merry way, working four days a week and seeing his child on the fifth day.

They are the issues you have with child support agencies. They force the issue with certain people, but with the self-employed they do not. What they should do with self-employed people is go around and garnishee some of their property. Have a go at that side of it. Maybe that is another way to go. If they are playing around with their wages—and I understand some people do that when they are paying $500 a week for one child—yes, I can see why they are doing it. But somebody who is paying a minimum—that is, of $21.60 per month—I cannot see it, I am afraid. The burden on the taxpayer is huge and why should we, as taxpayers, pick up for what they have done?

Mr PEARCE—Thank you both very much for taking the time to come in today. I want to talk about the area of enforcement of family law orders and your experience. I am interested in your comments. We have been presented with quite a bit of evidence in the submissions and also the hearing right throughout Australia so far about mothers who do not allow access to the fathers of

the children and vice versa; fathers who do not allow access to mothers who have custody. What is your view about enforcement of the Family Court orders? Do you have much experience there? Have you had many fathers or mothers approach you that have not been able to get access? What do you think should be done in the area of enforcement, particularly in relation to contact?

Mr Smith—Because I basically take most of the phone calls and I am on call 365 days of the year—which, by the way, does include Christmas Day, which has happened.

Mr PEARCE—We know the feeling.

Mr Smith—Yes. Good, I am glad you do. We do it voluntarily.

Mr PEARCE—So do we.

Mr Tuddenham—We get no funding from anybody. We run the Lone Fathers out of our own pockets.

Mr Smith—As I was saying, in the Family Court once an order is issued it is too easily broken. Nobody is made accountable. The judge should be telling his or her solicitor, when they are in the court, what the order means. They should sign off that they understand what the registrar or the judge's order is and that you are made accountable for it; not that you breach it and you take it back in for breaching and are told, 'Naughty boy'—or 'Naughty girl'—'there is a bag of Smarties, don't do it again'. You now have to get a recovery order and have it heard in the Federal Magistrates Court.

Mr PEARCE—My question is: are you finding that this is a common occurrence?

Mr Smith—It is a common occurrence—huge, massive. You have to remember that we are now at a point where grandparents have to take out these orders because the father cannot. They are not getting quality time. Even the grandparents are asking for orders to be issued—they want some quality time with the kids and they are not getting it.

Mr Tuddenham—When was the last time any person appeared before the Family Court—or for the first time—for perjury? You tell me when was the last time anybody appeared before the Family Court for perjury? It does not happen.

Mr PEARCE—We understand that is a problem. Ultimately governments can legislate and we can put in place frameworks. I, for one, think there is an enormous amount of change that needs to take place in the Family Law Act. I also think there is an enormous amount of change that should take place in the child support scheme as well. But, having said that, governments of any sort of persuasion can fiddle around with it, we can change laws, we can say this and we can do that and all the rest of it but, at the end of the day, it still comes back to individual responsibilities and obligations, doesn't it? It still comes back to people.

Ultimately, if you do not want to stick to the law, if you are not prepared to, for example, pay your child support, or if you are not prepared to give contact to your ex-partner because the acrimony is so bad and the bitterness is so bad that you are not going to do it—given your

experience, given these 30-odd people a week that are calling you, 365 days of the year—if we change a lot of the Family Law Act and we change the system and we put in place a potential tribunal and so forth, do you think it is going to make much difference? Doesn't it actually come back down to individual responsibility? If you accept that, what can be done, or what more can be done to try and help people understand?

Mr Tuddenham—You make people accountable for their responsibilities, whether it is paying money or making sure that Family Court orders are adhered to. You make them accountable. I will say to you now that the Family Court are toothless tigers. They threaten to do this, this and this and they do not do any of it. Therefore, people must be made accountable. Until they make that stand people will keep on doing it. I worked in the prison service for seven years and I saw the same faces coming through every day. It was just a conveyor belt. You will see exactly the same thing with the Family Court until you make them accountable and responsible.

Mr PEARCE—You must remember, too, that I am asking you questions so that we can get it on the public record. A lot of us have been through the court ourselves. A lot of us appreciate first-hand the problems.

Mr QUICK—You mentioned DVOs earlier. Groups like yourself keep remarkable statistics.

Mr Tuddenham—I do.

Mr Smith—Yes, I do.

Mr QUICK—I would be interested to know how many DVOs were issued and sustained in South Australia over the last five years. We can get national figures.

Mr Tuddenham—I keep my statistics when people phone up and I make comments on everybody. Once I get a full page it is forwarded off to Canberra to Barry Williams. He keeps all the statistics, finely written, four or five lines under everything that happens. Bear in mind, it is only one person's tale to me. They could be telling me a pack of lies. All I say to you is I only go by what the person says to me when I put them down.

Mr QUICK—Okay. Off the top of your head, is it 20 per cent which are issued and sustained?

Mr Tuddenham—I could not tell you because everything I do goes off to Canberra.

Mr Smith—I now spend a lot of my time with fathers defending them from allegations of DVOs. I am now telling fathers to stop laying down and allowing this process to go through because somebody makes an allegation. What the percentages are I do not think anybody knows. If, say, 10 DVOs are issued I think you could safely say that at least eight of them have no substance whatsoever. Fathers are now fighting. What we now have is a clogging up of our magistrate's court system with men fighting DVOs, which are getting adjourned for another three months. Surely it is worth the government's money to stop this silliness. We are holding up our Family Court system and we are holding up our magistrate's court system. We have lawyers running around in Mercedes-Benz, Jaguars and BMWs at everybody else's expense.

Mr Tuddenham—This is important, regarding the DVO. A guy rang me up and said, 'Bob, I have just had an allegation thrown against me; that my two 18-month-old twins have been sexually interfered with by me. What do I do?' I said, 'Quickly you get them in your vehicle and come down to my house. We will go to the children's hospital and get the grandparents down there also.' They went down the children's hospital. These children went through an horrendous experience. They screamed the place down. They had to have internal examinations. Nothing was found. For a mother or a father to put a child through that, just to stop the other parent seeing that child, is absolutely terrible.

CHAIR—Thank you very much, Mr Smith and Mr Tuddenham. We appreciate you coming in. Again, I refer to the fact that you came in at short notice due to another organisation moving out, so we appreciate you coming forward.

[2.57 p.m.]

BAWDEN, Mrs Matilda, National President, Shared Parenting Council of Australia

GREENE, Mr Geoffrey William, Federal Director, Shared Parenting Council of Australia

CHAIR—I welcome the witnesses from the Shared Parenting Council of Australia. 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 also 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 you do not refer to cases before the courts. The Shared Parenting Council of Australia has made a submission to the inquiry. Would you like to make a short five-minute opening statement before I invite the members to proceed with their questions?

Mr Greene—Madam Chair, we will not make a statement. You have our submission before you and we are quite happy to speed things along and let you ask us questions. I want to correct one error which is minor. In our list of associated organisations—my mistake—I left out Lifeline WA, who are a very important affiliate member and a very good source of suicide information for us.

CHAIR—We will ensure that Lifeline Western Australia is included.

Mr PEARCE—In your submission you talk about the rebuttable presumption of joint residence and you strongly support it.

Mr Greene—That is correct.

Mr PEARCE—Can you outline for us in very straightforward terms the three or four fundamental reasons why you support the rebuttable presumption of joint residence?

Mr Greene—Essentially, this is about children—children's rights, children's relationships and children's development—and all the research available indicates that children require both their mother and their father to become balanced adults. What we have currently is a family separation system that runs on what is a de facto sole custody presumption. The research indicates that those are the most dangerous households for children. We are looking at getting a better living environment for children and better outcomes for children and we believe that the shared parenting presumption will provide that for children of separated families.

Mr DUTTON—Practically, how would a shared residency situation work? Where would changeover take place? Are there any studies to say it should be on a month-about basis or a week-about basis, or a Friday afternoon through to Monday morning in some circumstances? How could it practically be facilitated?

Mr Greene—The term 'shared parenting' is a generic term for a structure that allows the free flow of children between both their parents. It is not something that is necessarily strictly

determined as fifty-fifty, week about, fortnight about or every weekend. There is a range of permutations with a shared parenting outcome. The essence of it is that both parents are recognised as parents of their children upon separation. We would like to see the terminology 'custodial parent' and 'non-custodial parent' gone from the Australian vernacular. Parents who have separated are now 'separated parents' and they have the same rights, duties and responsibilities they had when they were in an intact relationship.

One of the fundamental issues about a shared parenting outcome is that each parent has a share of the day-to-day responsibility for their child when they are in their care. Whether the parents come to an agreement that is week about, fortnight about or even every second weekend and half school holidays, if that is an agreement that the parents have come to in sharing the day-to-day responsibility for their children, that is a shared parenting outcome. If it is enforced upon a parent in a sole custody determination, where the parental duties and responsibilities of one of the parents are removed, that is a sole custody outcome. The times may be the same. It is more a mental mind-set, or an approach to raising your children after parental separation, than a structural week about.

Mrs Bawden—In terms of working out the optimal solution for any particular family, the mandatory mediation process that we have outlined—and the submission on that part of it could have been another 80 pages at least, but we had to keep it brief—is one of many tools that can be used to ensure the optimal situation for each individual family. Whether it be through parenting courses or family preservation plans—there are 1,000 different scenarios—all of this is going to be a really important part in making sure that it is unique to that particular family or that the services are available to that family.

Mr DUTTON—This goes back to the point Mr Pearce was making before about enforcement. If we were to adopt the presumption of a fifty-fifty starting point and we had a scenario where, because of the husband's work requirements, it came down to 60 to 40, for argument's sake, what happens where one or the other party continually breaches the agreement or the arrangement? It might be that changeover is at 4 o'clock on a Friday, but one or the other party does not turn up or the child is alleged to be sick or whatever the case may be. How do we enforce the arrangements or the agreements that would otherwise be in place?

Mrs Bawden—Again, through the mandatory mediation process, making available counselling services. The whole range of counselling services that families may need is going to be crucial in ascertaining whether or not intervention is warranted. Alternatively, are we simply talking about communicating with the parent and explaining to them the importance of punctuality and routine? The other thing is where a parent is really fed up with plans being violated or not complied with—again, we have that rebuttable provision, which is always available.

Mr Greene—On the enforcement issue, whether there is a shared parenting order, a sole custody order or some other kind of specific order really does not make any difference. The situation is that a court should uphold that order—and we do not have to go too far for this—in the same way it happens in any other legal institution for, say, a breach of contract where that is enforced. In the case of losing time with the child and it has already been determined by a court that that time should proceed, there should be a make-up time order, so that there is no benefit to withholding a child.

In the first instance you can say, 'We want you to get some counselling over this, because this is a serious issue. We are going to order make-up time, so that there is no disadvantage to the child losing out because of your actions. On a second offence, if you are back here again, the make-up time will be doubled. On a third offence, your day-to-day control of the child will be removed. On a fourth offence, residence of the child will go to the other parent.'

It is about putting in a range of steps to ensure that the original order or contract or agreement or parenting plan is upheld. If a party has some problem, or some circumstances have developed in that family that require a change, an application should be brought, new evidence should be brought and a change made. Until that happens, you have to stick to that contract, as you would in any other contract law in the country.

Mr CAMERON THOMPSON—Earlier, when we were speaking to Yuri, we came across American research. I see in your submission you have spoken about research from London in relation to the impact on children that grow up away from their biological fathers which, remarkably, seems to reflect pretty much what the American research said.

Mr Greene—It does, yes.

Mr CAMERON THOMPSON—Could you comment on the level of conflict that might emerge in relation to moving from the current system to a rebuttal presumption of shared care or whatever? There have been claims that it would be more litigious, the sky might fall in and all kinds of things might happen. What would be the impact, in your view, on the level of conflict between the parties?

Mr Greene—The research indicates that shared parenting outcomes over time reduce conflict. That is probably commonsense to most of us.

Mr CAMERON THOMPSON—Where does that research come from?

Mr Greene—In our submission we have quoted various research from all around the world, but I think Williams will probably give you the best example, where there is a determination of a shared parenting order that is quite structured and unequivocal. The parents know where they stand. The conflict in those relationships reduces over time.

Going back to the issue of whether bringing in a rebuttable presumption is going to increase litigation, the honest answer to that in the initial sense is, yes, it will. Why? Because you will have a range of people—which is why you are having this inquiry now—who will not be satisfied with the current arrangements under the current system who will need that to be corrected. Once those initial applications are dealt with, processed and resolved to a more appropriate outcome, litigation will fall away dramatically. That is the evidence of the jurisdictions in the United States that have shared parenting. There was a little kafuffle and then it all fell away.

Interestingly, that was an outcome in Australia in 1996, because a lot of people thought there was a shared parenting presumption. There were a lot of media articles about the 1996 reform act that brought in shared parenting. There were a lot of applications for shared parenting. There was an increase in litigation for about 12 months and then it started to drop away. I actually do not

think it dropped away, because they never got what they wanted. I think that is why you are here today.

There is one other issue that I wanted to raise, which is important. In the Federal Magistrates Court submission you will notice that, appropriately, they have not taken a view on this and have left it to this committee and the parliament, but they have raised the issue that there has been a discernible increase in shared parenting applications since the announcement of this inquiry. We expected that to be the case.

What that is really showing you—which is contrary to the evidence given to you by the Attorney-General's Department—is that there is this pent-up demand from people who want shared parenting. Just by the announcement of this inquiry, people think, 'There's a new change in the law. I've got a chance to get what I want,' and in come the shared parenting applications. I think that evidence from the Federal Magistrates Court is indicative of the blockage to shared parenting that is in place now and, where there is this pent-up demand, people want that sort of outcome.

Mrs IRWIN—Nationally, how many members would the Shared Parenting Council of Australia have?

Mr Greene—We are a representative body of affiliated members. We now have roughly 31 affiliated members. We recently—in the first six months of this year—introduced individual membership to the council. That was only to provide us with a little bit more of a resource base, because we are not funded. We have no other avenue of assistance. In that sense, we would have less than 1,000 individual members. As to our affiliates and membership of the affiliated organisations who support the policy objectives of the Shared Parenting Council, particularly when you include the church groups, we are talking hundreds and thousands of people.

Mrs IRWIN—Matilda and Geoffrey, are you in a situation with children where you are have shared parenting?

Mrs Bawden—I am actually quite happily married at the moment—and I hope to stay that way, although nothing is a given, is it? I have two kids of my own and looking after a third at the moment. From my point of view, listening to some of the earlier submissions, especially things like breastfeeding and the imposition of that on child-parent bonding and contact—to me, that was just utter nonsense. I breastfed and expressed and my husband enjoyed the bottle feeding routine when I was sleeping. I am sorry, but pure and simple all of that stuff is workable.

Yes, I do think things like breastfeeding are important. As a mother, having breastfed, I think it is important. But to argue that somehow breastfeeding should rule out shared parenting arrangements is just the biggest load of nonsense. I also work full time and at various stages throughout my children's lives I have been sharing the fifty-fifty role and responsibility within the household. At other times I have been less of the primary caregiver when my work commitments have increased. All the lobbying that I do for the community has also taken my time away from my kids. The bottom line is that if you were to judge my parenting on the basis of a parenting template, as is being possibly put forward to be one option that is considered in determining shared parenting arrangements, I would lose out. I would be a non-custodial parent.

Mrs IRWIN—What made you get involved with this council if you are in a stable relationship?

Mrs Bawden—Largely because I am a social worker by qualification. Incidentally, having observed the women that have appeared before this committee so far today, I believe I am the only one who speaks fervently in favour of shared parenting or joint custody—use whichever terminology you wish. It becomes even more troubling when you realise that four of us are social workers.

Mrs IRWIN—Geoffrey, are you in shared parenting?

Mr Greene—I had a shared parenting arrangement for three years. I have had lots of experience in litigation in the Family Court. I have had situations with my children that have been sole custody arrangements and I have had shared parenting. I can assure you, out of all of them, what the kids wanted the best was the week about. Nothing is more crystal clear to a kid than 'my turn, your turn; my share, your share'. I go through this with them in the car every time: 'Dad, it's my turn to sit in the front.' 'No, it's mine.' 'Okay, we'll come to an arrangement. You can sit on the way there, you can sit on the way back.' They understand this concept more than everybody else. If you really want to get to the bottom of what is best for kids, you ask a five-year-old child and he will tell you, 'I want mum and dad.' They all will.

Mrs IRWIN—Let's talk about the grandparents.

Mr Greene—Yes.

Mrs IRWIN—It is a little bit disappointing; you have only got one and a half pages here in your submission but they are a very important factor in our children's lives.

Mrs Bawden—Absolutely.

Mr Greene—Yes, they are.

Mrs IRWIN—You have a recommendation here that you would like the Family Law Act to be amended to provide sufficiently for a grandparent of a child. Do you have a lot of grandparents that have come to your association with concerns?

Mr Greene—Yes, we have. The Shared Parenting Council was only formed about a year ago. Of course since this inquiry has been announced you have run up our phone bill enormously. We are getting them from all around the country. The make-up of the people who contact our organisation would be fifty-fifty men and women. A lot of the women are second wives or sisters of a father who is in trouble or with kids they cannot see. Grandparents of course are very strong.

The issue for grandparents is critical. Kids need extended family. It is not just about mum and dad here; it is about their whole family network. You, as members of parliament, I am sure have had numerous approaches from grandparents who cannot see their grandkids. I know how distressing these conversations are for me, so I understand how they are for you. We believe that the shared parenting presumption in family law matters will resolve most of those issues with the

extended family. The kids now have an opportunity, for want of a better example, of one week with one big family and one week with the other family.

If there are circumstances where there is an issue of unfitness of one of the parents, that is when you are going to have problems with the grandparents. Grandparents are fit, the extended family is fit, but there is some problem with one of the parents that has caused a custody order to restrict contact of a child with that parent. They are the circumstances where grandparents should have the capacity—with a provision under the Family Law Act—to make an application for contact in their own right.

Mrs IRWIN—You talk about a provision; are you aware that grandparents can take their concerns to the Family Court now and some grandparents have done that?

Mr Greene—We are. We have seen very few successful outcomes from that process and we have seen enormous costs to the grandparents. It is almost like the Family Court treats grandparents with an application as, 'You are far less important than other parents we've got here. We'll adjourn you away. We'll send you through a costs process that's going to make you go away.' That is the anecdotal evidence we have seen. Grandparents get a rough deal.

Mrs Bawden—On that very issue of grandparents, it should shock this committee to realise now what I have recently discovered myself; that possibly the longest ever Family Court trial—of 54 days and I believe that remains a record—involved false allegations against grandparents of satanic ritual child abuse of a sexual nature. Some of the parties are present here today and at least two of us as witnesses. I was representing the mother in part of that case. If this case has not cost the taxpayer far in excess of a quarter of a million dollars, I will be shocked and horrified. This is the sort of stuff that the Family Court has entertained throughout decades. This sort of stuff should never have made it to the courtroom. If one looks at all of the things that went wrong, that should not have gone wrong; it is inexcusable and absolutely unforgivable. The role of the professionals in this was deplorable at best. The longest ever Family Court trial on record was a false allegation against grandparents of satanic ritual abuse.

Mrs IRWIN—Would you put that down to greedy lawyers who are only after money—on the record?

Mrs Bawden—On the record? Yes, I am quite happy to put it on the record. But over and above that I think we have a gravy train that is built up by professionals for professionals and the career professionals. I could make a very good living if that was what I was doing.

Mr PEARCE—You are also saying, in addition, that the court process did not help either, aren't you?

Mr Greene—That is right.

Mrs Bawden—It was absolutely one of those whirlpool situations that the entire family got sucked into.

Mr Greene—Family Court cases often take on a life of their own.

Mrs Bawden—Absolutely.

Mrs DRAPER—I would like to pick up on some comments Mr Greene made about the obvious capacity of children to have a say. I apologise to all of the people who have been here all day and have heard me ask this question probably five or six times now. For me it is important to have it on the *Hansard* record. Do you think it is important for the committee to have some kind of recommendation that children have more of a say and that their say is recognised both officially and by the parents as to the children's wishes? There is sort of provision at the moment for children around the age of 12 to make a reasonable decision but do you think that would be something the committee should look at recommending?

Mr Greene—Yes. The Family Law Act in section 68F has that provision about the court examining the wishes of the child. You have put a figure of about 12 years. There is no age figure in the act but our evidence would indicate it probably would not be until a child is about 12 that the court listens to it. Essentially it is almost one of those meaningless provisions in the act if the court chooses to ignore the wishes of the child. Usually what the court would do to ascertain the wishes of the child is order a family assessment by a counsellor or psychologist who would interview the children, assess the children's relationship with both their parents and come back with a report to the court. In that report to the court they would ascertain what the child's express wishes are and then give their interpretation of those wishes. Often you will see a situation where the child has expressed a wish that he wants to live with his father. Then you will see an explanation for that saying, 'The father has power over the child and has influenced the child to make those comments. Therefore, the child should live with its mother.' You can get these sorts of outcomes from psychologists' reports.

Mrs DRAPER—That was my concern.

Mr Greene—That is a problem. If you are working on a rebuttable presumption of shared parenting as your new platform, then that is less of a problem, but when it comes to a situation where a court has received evidence from a court appointed counsellor that indicates a change of residence to the child, then at the very least we should do what we would do in a normal medical circumstance: get a second opinion. You would not have your leg cut off on the basis of one opinion. You would get a second opinion from a doctor and he could say, 'Yep, the leg should come off' or 'No, it should not.' If you have one person with the capacity to come in here and destroy the lives of a whole family, the very least the court should do is get a second opinion.

Mrs Bawden—I noticed, Ms Irwin and Mr Quick, you previously asked some of the speakers to clarify the issue of US research and statistics compared to what is available here in Australia. Earlier speakers from the Lone Fathers Association raised the concern that they have to extrapolate figures. I too, when I have gone to research Australian figures, have had to try and extrapolate stuff rather than just do a quick search on something or read a report and, bingo, there is your information. We do not fund that kind of research here in Australia. Again, as I think Mr Joakimidis also mentioned, we are not living in that environment, in a climate which is conducive to gathering that kind of research. We are right behind the eight ball to begin with.

As I mentioned before, I am one of four social workers that is pro shared parenting. It is no good doing countless family assessments when we know how they are going to be skewed. They are skewed because of feminist ideology, because that is what is taught in our universities. We

have a very anti-heterosexual view on families and relationships. I do not condone discrimination of any form. We need to accept blended families but why can't we include the paternal side of the family in that blended family? We have a rather warped understanding about the composition of families and it tends to be very genderised because of what we are taught in academia, which is funded heavily by the taxpayer. We need to change that culture.

Mr QUICK—In one of the submissions they state that the best interests of the child partly depend on a calm, consistent central home base and that development of identity, confidence, independent life choices are equally linked to stable friendship groups, to building of role models, education and community participation. How is that going to work in equal custody?

Mr Greene—The same way it does now in an intact family.

Mrs Bawden—Absolutely.

Mr QUICK—That is assuming they all live in Modbury. One could live in Whyalla and the other could live in Mount Gambier. I am just being the devil's advocate here.

Mr Greene—Yes, sure. I understand that.

Mr QUICK—If we put fifty-fifty and dad is working in Whyalla and the ex-partner is living down at Mount Gambier, how is it going to work?

Mr Greene—A fifty-fifty arrangement would not be an appropriate shared parenting arrangement in a circumstance where you are living such huge distances away.

Mr QUICK—But in order to change that, if we have a rebuttable presumption, they are going to have to go through the process again and who is going to end up with the money?

Mr Greene—I am sorry, I do not understand the question.

Mr QUICK—If we say fifty-fifty is the given but dad is at Whyalla and mum is at Mount Gambier—and we are talking about the best interests of the child, stability and role models and the like—as an ex-teacher I know that having your kids at two different schools is hopeless.

Mr Greene—We do not support being at different schools.

Mr QUICK—But there will be additional costs for both partners to have to go to the Family Court to say fifty-fifty does not work.

Mr Greene—No, we do not necessarily think that is a circumstance which would result in fifty-fifty not working; it would be a circumstance that would result in a week-about arrangement not working. You could have a shared parenting arrangement in that circumstance that was term about, year about, with schools holidays. This year they live with you during school terms, I have maybe one or two weekends in the middle and school holidays. There is a whole range of permutations. This is one of the key things where shared parenting has been attacked as a 'one size fits all' model. It is not a one size fits all model.

Mr QUICK—There is one phrase I have not heard. We have joint parenting being mentioned, shared parenting, reliable parents incorporated and non-resident parents, but we have not heard the phrase 'cooperative parents'. To my mind, even after they have split, cooperative parenting is going to resolve a hell of a lot of things.

Mr Greene—Absolutely.

Mrs Bawden—That is proper mediation and proper counselling, where children and mothers and father are taught to cooperate. I do not think the system, as it is now, teaches people that; I do not think it encourages that.

Mr QUICK—If we took the lawyers out of it, could we get more cooperation?

Mrs Bawden—Please. We are screaming for it.

Mr Greene—Mr Quick, the whole problem is that we are addressing family breakdown as a legal issue. It is not a legal issue; it is a human relationships issue. Two parents who are separating are in conflict and it is obvious, isn't it? Of course they are in conflict. Why do we want to inflame that? What we want to do is calm that down.

Mrs Bawden—Absolutely.

Mr Greene—The best way to calm that down is to have processes that are not adversarial. The only time that you should be looking at some type of structure or system, or court possibly that is going to engage that, is when you have entrenched problems, or there is a child at risk issue that needs to be determined.

Mr QUICK—But human nature being what it is, when you have a house worth $400,000, you want your fair share of that.

Mr Greene—A fair share is what we are all about. If you are saying you have an asset worth $400,000, on a separation it should be $200,000 to you, $200,000 to you. You can set up a house where you can raise your children and you can also set up a house where you can raise your children. That should be the basis of property settlements where there are children involved. It should be to facilitate the establishment of two homes afterwards. That is how property matters should be dealt with.

Mr QUICK—We hear in America of prenuptial arrangements. Would that solve things? We have all these people down the end of the pipeline and we have 50,000 coming in every year. Do we say to people, 'Sort it all out before you put the ring on your finger? At least that is going to stop the greedy lawyers from taking a great chunk out of your life.'

Mrs Bawden—There is a reality that, amongst other things, one of the possible solutions would be—and I think a similar judgment was handed down in the Northern Territory some time ago—where children are ordered to stay in the family home and mother and father commute backwards and forwards. Fine, if that is the way it is, then let that be the way that it is. There are creative ways. There are many creative ways of this working. I worked in the country for 18 months because I could not find work here in Adelaide. I largely was, I guess, the visiting

parent in a marriage situation. I did not have much control over that but my husband was also very active in helping commute backwards and forwards and so on. If we were to have actually counsellors or people who were there to help us negotiate workable arrangements for sharing the care of our child, that could always have been an option. Those sorts of things need to be taken into account so that you share the cost. By golly, if you have to share the costs, you are going to be careful how you spend it.

CHAIR—Thank you very much.

Mrs IRWIN—Regarding shared parenting—and we are talking about school age children here—for it to really work, mum and dad should live close to each other in that school area?

Mrs Bawden—Ideally.

Mr Greene—It is helpful but not critical.

Mrs IRWIN—I will tell you the reason why I have asked this question. I was contacted recently by a 16-year-old girl who idolises dad and idolises mum, but she is with mum. Mum and dad naturally do not like each other; they do not really speak. The mum has never denied her child the right of seeing her father. She can ring up dad any time she wants to. Dad can phone, dad can even knock on the front door.

Mr Greene—Free flowing.

Mrs IRWIN—Yes. The concern that this 16-year-old has—she loves them equally—is that dad is two hours away. Once he heard about this inquiry, he said to his daughter, 'Darling, this is what I've been waiting for for a long, long time. That means I will be able to have you for one term and mum will be able to have you for the other term.' She rang up in tears. She wanted clarification because she was concerned that—it was an hour and a half to two hours—she would do one term at one school and another term at the next, where she would lose her support network of her friends, her sporting activities, her ballet, her piano lessons. In that case it just would not work.

Mr Greene—In essence, what we are really talking about are young children. Once they have reached the age of 12, 13, 14—as any parent of a 12-, 13- or 14-year-old would say, 'They will tell you where they are going to be living and what they are going to do.' You cannot impose parental arrangements on children at that age. What we are really talking about—this is the critical part—are young children who need that developmental bond, who are not able to speak up for themselves.

Mrs IRWIN—Nought to five, would you say?

Mr Greene—Nought to 12 is what you are really talking about—

Mrs IRWIN—Do not forget five- to 10-year-olds have mates at school, they have Little Athletics and—

Mr Greene—That is right, they do. They can still enjoy all of that. Having a shared parenting arrangement is not necessarily going to interfere with that, except in a situation where you have to move away—you have indicated a two-hour trip away; you have indicated from Mount Gambier to Whyalla. I do not know how many hours that would be, but it is a long way. In the circumstances where those parents have separated—they were living together—we would be putting restrictions on the parent who moved away. If you are going to move away, there are going to be some restrictions on you for moving away.

Mrs IRWIN—That is the point.

CHAIR—Thank you very much, Matilda and Geoffrey, for coming in today. We really appreciate the time you have taken and the contribution you have made to the committee's deliberations this afternoon.

[3.33 p.m.]

CHAIR—I welcome everyone to today's community statements segment of the program. We have a little over an hour to complete this program. Each person will be allowed three minutes. So that we can give as many people as possible the opportunity to speak I ask that each person keep their comments to three minutes. I will advise you when your three minutes are finished. I would like to remind you that 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. I invite individuals to indicate their willingness to make a statement. The floor is open.

Lisa—I did a submission for this committee. I do not know whether it has been put on the web site yet, but if anybody is interested it is called *Mary's Story*. I would like to ask the committee how many people they have spoken to who have fifty-fifty joint custody.

CHAIR—A considerable number—in the context of our hearing.

Lisa—I have fifty-fifty joint custody with my ex-husband at the moment. It does not work, for a variety of reasons. I have children who cannot voice their opinion, who are too frightened to really speak the truth. One of the main reasons for this is because I do not think society has reached consciousness yet of recognising how huge the issue is of psychological abuse. People and society recognise the huge problem of physical and sexual abuse. You hear about it on the radio or TV every week, but my ex-husband is a master at psychological abuse, which is how I got into this position in the first place, with fifty-fifty joint custody.

I was in a crisis situation at the end of the marriage where I could not think and straightaway he took me to court. Until very soon after the marriage broke down, he had probably less than five per cent of the time with the children. It was a very traditional marriage: I raised the children; he went out to work and to his meetings and did his thing. With the problems I have now with the fifty-fifty custody issue, looking back I should have fought, but I was in no fit state to fight. That is made very clear in the Pathways report: at that time people are under so much stress that they cannot think. Nobody told me what my rights were; not one lawyer ever gave me any help or any direction. Because I had people around me going through marriage break-ups at that time who were already in a fifty-fifty situation, I was led to believe that that is how it is now, but it has been to the detriment of my children.

My children still need and want my nurturing. Men and women do things in different ways. At the moment my children need more of what I can offer, but my husband is totally inflexible—totally. When it is his week, he does not even like me to ring up. That is how inflexible he is. If the children would like to stay with me more in his week, there is absolutely no way that is allowed. This has been going on for 2½ years. I have been to lawyers. I have been to child psychologists. I have been in counselling for over two years myself, because I was in such a bad state. I have borrowed $20,000 to try and understand the abusive situation I was in before separation occurred and the abusive situation I am still in. After 2¾ years I cannot even get property settlement because, as I have said, my ex-husband is a master at confusion, a master of psychological abuse; even the lawyers are confused.

Chantel—I have not seen my father and his family for 10 years, due to allegations that my mother made of me being sexually abused by my grandparents at the age of four years and nine months. These allegations were proven in court not to be true, due to the fact that I never said anything incriminating about my grandparents, or their family for that matter. Most of the damage in my case was caused by South Australian agencies who failed to advise the Family Court of all the facts. However, when my mum went to court for sole custody, she still won due to the fact that she accused my father of being abusive. Little did I know that it was shown in court that my mum was the abusive one and he was just defending himself and me.

Part of the reason the court said to my father and his family that he could not see me was because I said so, but little did they know that the reason I said the things I did was because of my mother and what was going on behind closed doors. The court said that I was to get counselling no more than four times. However, I can recall going at least 10 times. While in these sessions I was asked many leading questions and was not happy, but was made to go by my mother. For the 10 years that I was living with my mother, I do not recall one week that my mother did not pressure me into talking to her and listening to my so-called sexual abuse story. After a while I started to believe it myself. However, she would not let me read any court papers or speak about what happened at court.

I also suffered mental and physical abuse and was hardly allowed out of the house, which did not give me much of a social life and did not help with my schooling because I was not happy. My mum did not have a social life either, so basically I lived alone with my mother in the house for 10 years. These were the reasons why I left home.

Due to an article in the *Messenger* newspaper, my father contacted me and gave me his copy of the court papers, many of which were very difficult for me to read for I realised that I was not the only one my mother had hurt for all those years and I was also not the only one she lied to. The judge in charge of the case also told my mum that she was to teach me the truth while I was in her care. This did not happen and, most importantly, when the case was over, no-one bothered to make sure this happened and whether I was okay at home. Due to the enormous lack of duty of care, I have lived 10 years of hell and have been deprived of a childhood with a family that loves me—which I now know—and had to live a life full of lies and pain.

If it had not been for my father keeping the papers in the hope that I would one day return, I would never have known the truth and would not have had the chance to finally be with my family. My case was also the longest Family Court case in South Australia, to my knowledge. It went for 54 days; not to mention the amount of taxpayers' money that was spent on my case, money that could have been spent on a case based on truth rather than on a case full of lies; not to mention the money that my family spent fighting for me—money which they needed to survive.

The court also did not take into consideration that my mum did a lot of wrong things in that case and they still gave me to her. The pain I went through was horrible. One of the things she did wrong was that the detective who charged my grandparents—who had done nothing—and made their life a living hell, not just mine, was sleeping with my mum, but nothing was done about it. Once the case was over, that was it. No-one checked up whether I was okay. Nothing ever happened. I was just alone with my mum for 10 years, That is basically it. Thank you.

CHAIR—Chantel, can I just ask your current age?

Chantel—I am 17 years old.

CHAIR—Thank you.

John—I am a grandfather. Eighty per cent of the discussions today have been related to violence and abuse and shared parenting. My points are not to do with that; they are to do with the Family Court system, which I think is obstructive and not satisfactory. I went through a joint application for children's issues with my son, which I eventually withdrew, not for any bad reason; in fact, for good reasons, because there did not seem to be any point in going on because I get on quite well with my ex-daughter-in-law and there was agreement that everything would be satisfactory.

However, the system of going to mediation, in my opinion, does not seem to work. I say that because several times we went to mediation—and later my son went again a number of times—and there was agreement every time. However, the mediator does not record anything, he does not send you anything about what was spoken of or what was agreed to. None of the parties, or the court apparently, get any copy or any reference to what happened in that mediation. Of course, if you go back to the legal aid or the lawyer or whatever, the next thing there is correspondence saying, 'They don't agree with these things.' So it goes on and on. In that system the mediator should record and report to the parties and to the court about what was discussed.

The next point is about child access. As I said, I withdrew my application and I have no trouble at all. My son lives about four hours away, so joint parenting and all that sort of thing is out of the question. However, he has them once a month and I have them once a month; his contact is made at my place, except for long weekends, holidays and annual leave. That is quite good because I see them every fortnight.

The next thing is child support, which is a very important thing to me. My son was sent to Darwin with a company and was expected to live in a house at $400 a week rent. He was subsidised for that, considerably—

CHAIR—John, I am going to have to ask you to wind up for me. If you could just make your point about that.

John—The point is about fringe benefits. Because he was getting $20,000 fringe benefits, when it came onto his group certificate it was $40,000 because they double it—multiply it by 1.9678 or something; do not ask me why. In fact, with three children, he was paying 32 per cent on $100,000, which is tax free to her. He was also paying 27c in the dollar for every dollar he gave her—that is worked out through the groups. He was also paying off debts that they both probably had incurred, so he ended up with $7 a day for food, out of $100,000—you might say a $65,000 salary plus.

CHAIR—John, I am going to have to ask you to wind up now, thank you.

John—Yes. So it should be based on the net, or there should be some rebate on that system because, even with fringe benefits of $40,000, there is no money in the pocket from fringe benefits.

CHAIR—Thank you, John.

Stephen—When you were speaking earlier to Elspeth McInnes and the other ladies that were sitting with her, she mentioned that you should look at the situation that each parent was in prior to the separation. Prior to the separation of my ex-wife and myself, I was the primary caregiver and she worked full time in the Public Service, right from the birth of my children. I bonded with my children. She never was interested in bonding.

Twelve months after the separation, the children were removed from her for neglect and emotional abuse but, according to FAYS, it was my fault. I do not know why. I would like to tell you that in no way, in no arena—whether it is the Family Court or the child welfare agencies or the Youth Court—dealing with the best interests of the child, is there any way in which a person accused of any type of child abuse, particularly sex abuse, can demonstrate their innocence. I have that in writing here, in a report that I have just received—that was ordered by a former minister, Dean Brown—by retired Chief Magistrate Jim Cramond into my case. Jim Cramond actually says that in there.

In my case, my children were removed and my case went from the Family Court to the Youth Court, because my children were then in foster care. I had to represent myself but all other parties had their representation paid for by the state government. FAYS went into this with a plan to return my son to me and my daughter to the mother. On the first day of this trial, the barrister supposedly representing the children stood up and said, 'I object to the return of any child to this man on the grounds that he's never admitted to anything he's been accused of.'

I have not seen my son now for two years and I have not seen my daughter for three years. The last time I saw my daughter, I went to the Christmas Pageant with my children under the supervision of Matilda Bawden's husband Peter, in front of thousands of people. I am supposed to have sexually abused my daughter a week before her fifth birthday while I was being supervised. I have not seen her since.

CHAIR—Thank you, Stephen.

Mark—Mr Tuddenham brought me up before. I am the man that spent 42 days in Yatala under a breach of a domestic violence order. To start at the beginning, I was 24 years old when I met my wife. I had my own house, a 280ZX sports car and $72,000 cash in the bank. My two-year-old daughter ingested 90 milligrams of Serepax because my mother-in-law is a pill freak who just leaves pills laying around everywhere. I complained to FAYS about this and they did absolutely nothing. The next thing I knew, I had a domestic violence order on my doorstep and I had two policemen escorting me from my property. I slept in my car for a month because I could not figure out what was going on.

I found out a week later another man had shifted into my house. Restraining orders had then been obtained for both my children as well. I found a piece of paper with my wife's 10-step plan in her handwriting to get me out of the house and how to stop me seeing my children. I heard my

wife on numerous radio stations, I suppose bagging me and I ended up spending three days at the Adelaide Remand Centre on the strength of a breach of restraint, which was me writing my wife a love letter. After those three days, because the Remand Centre was full, I was transferred to Yatala. My cell mate was—am I allowed to mention his name?

CHAIR—No, I would rather you did not, thank you.

Mark—All right. He was known as the Samurai sword killer. He killed the person he lived with with 69 strokes with a Samurai sword. That was my cell mate. You are talking about somebody who has never been to jail before, never committed any offence before and that is who I was put in with. Not only that, but I also had the Snowtown killers in the same general area as me. I was in B mid-east and they were in B mid-east. They were putting somebody with a domestic violence order in with the Snowtown killers and the Samurai sword killer. I was the joke of that area. Everyone was saying, 'What did you do wrong?' 'I breached a restraining order.' They were laughing at me. There were people in there wanting to go over and get my wife fixed up. Can you tell me how jail helped anybody in any way in that case?

I have been the subject of several police raids. They have raided me for drugs, which they have never found; they have raided my parents' house for drugs, which they have never found. They even raided their own police force up at Aldinga looking for drugs that they never found, all on the accusations of my ex-wife. This policeman's wife and children were also pulled over to the side of the road in 36-degree heat and had their car searched in front of the general public.

I was charged for 37 different DVOs—not 11 like Mr Tuddenham said. I was found guilty of two. Those two were me writing a love letter and the other one a poem. The gist of the matter is now that I have not seen my children in 2½ years; my wife has a $400,000 house on the esplanade at Silver Sands; she has my grandfather's stamp collection and my stamp collection. Everything I have ever owned since I was a child, she has. She had no house, she had no car, she had nothing when we entered the relationship, yet she moved away with everything. I was left with a 1992 Honda and $8,500 after 14 years.

CHAIR—Could I ask if you might like to make the points that you really want to make now, because I have to ask you to finish off.

Mark—Where has the Family Court helped me in any way, shape or form as a male? It is not necessarily male against female, but I have not seen my children in those 2½ years. What about their rights to see me? They have no rights. You have a woman making up any bullshit under the sun and getting away with it. She had me locked up, with no evidence, no proof, nothing at all and I spent 42 days in Yatala. I had to spend 42 days covering my rear end. That was the most horrible thing about that place. I doubt whether any of you have ever been in that situation. Those are my main points.

How did the Family Court help me in any way? I still have not seen my children after all this time. Where is one of these good, honest lawyers to champion my cause when they can see something that is wrong? All these Family Court people know something is wrong, because they have said it to me, but they sit on their hands and do nothing. That is what I want to know.

CHAIR—Thank you.

Suzanne—There are two points I would like to ask your group to consider. I refer to Dr Hood's earlier submission and agree with her about the primary years of a small child. But I ask the committee, when making your final submission, that you consider a small child's rights. My husband is in an awful situation. He has been involved in his small son's life since he was born. He stayed at the hospital; he stayed at his ex's house. At five months old, he started having him overnight and he has had him ever since, which is about 13 months now.

We recently sought the help of the Shared Parenting Council and the Lone Fathers group and went to court. The court ordered us into mediation. Believe it or not, I work in a professional capacity—not that it looks like it right now—but if I had not sat there, I would not have been able to believe it. The mediator, at the end of the hour, apologised and told my husband that she had never apologised to any other person that she had seen, but that she held bias against him because she could see that he had sought the assistance of the two groups that we had and felt that they were angry, nasty men and made some comment.

Of course, this did not help, because at this stage the mother of the child had gone home. Certainly she gave some advice at the end of the hour. I actually thanked her for her honesty and could not believe that she had held bias because of the groups. Further, this happened in court. The registrar stated to my husband that she had no doubt that he was an excellent father who had looked after his child since a young age, but at that point she was going to go with the status quo. This little boy goes to child care five days a fortnight, from 8 o'clock in the morning till 5 at night. I have a son. I work full time and am an elected member for a large council. My husband looks after my son quite well and they have a great relationship. To watch these two together—him and his son—and to watch him stand in court—I don't know, I am sorry.

The little boy goes home on the Sunday and I watch my husband in agony for two weeks and it is just awful. The mother now is saying things like she cannot settle the child for two weeks and that he is having separation anxiety. How can this be when the child has been going to child care since he was four or five months old? Thank you for your time.

CHAIR—Thank you, Suzanne.

Pauline—I am the grandmother who was charged with sexual abuse of my grand-daughter. Way back in 1991 I heard that I was being accused of sexually abusing my grand-daughter. It was on Easter Thursday, to be exact. We had to wait until the following Tuesday to find out what it was all about. I suppose the wheels of justice move very slowly and, by the time we ended up in court, the judge said to me, 'Don't stand up there in the dock, stand in the front.' Then he said, 'You should never have been charged with this, I'm throwing it out,' and he threw it out. There was no evidence that my grand-daughter had been sexually abused.

The travesty here was that she suffered enormously. She had four internal examinations. She had three interviews by the police department, four by the children's hospital and two by Family and Community Services. I was employed by Family and Community Services, so in 1991 my workplace was told about the things I was supposed to have done and I did not even know why I was being treated so disgustingly. My husband worked for Corrections, and he was targeted. The prisoners found out that he had been charged. They called him a paedophile and said they were going to kill him. So he was moved from Yatala and sent down to the Remand Centre for his own safety. Needless to say, early this year he collapsed. He had a heart attack a while ago and is

still off work because he cannot work any more. I am also off work, because I was attacked at work by a boy who I believe heard a discussion about this matter between my workmates.

My point is that the mother of this child had the opportunity to teach everybody what she said happened, which was a lie. There was no checking up. There was no communication between the Family Court and the criminal courts. Hearsay evidence was taken as being true evidence. Hearsay evidence from the mother was quoted as being from the child. Perjury and collusion were also involved; perjury with the mother saying that I had committed these offences and collusion when friends of hers said the same thing. Witnesses were never told at the end of the trial that we were cleared by the judge in the Family Court. They still believe that we are sexual abusers. My mother and my brother have not spoken to me for 13 years, because they believe I am a sexual abuser.

Children's services policy and the children's hospital interview techniques are very poor, I think, and they should be fixed up. Counsellors, therefore, should have better training—and very strict training—if counselling a little baby aged 4½ years. Creating a false belief is a criminal offence, but nobody would charge any of them. The police have the power and the Family Court has the power, but they will not use it. For the good of the child, we were taught that where there is smoke there is fire. I wish people would look a little bit further than what they are told is the obvious. Where is this fire? I do not believe it is with the person who first makes the accusations. Children need both their biological parents' love and care. A stable life is not one of courts and arguments. I still believe, after all of this, that children need both parents. Thank you.

CHAIR—Thank you, Pauline.

Dennis—Thank you, committee members. I know about some of you from way back, before you were preselected to parliament. My background is local here in South Australia, a product of the Catholic schooling system. I was encouraged by the church to involve myself in the Catholic Young Men's Society. I was honorary secretary of the biggest branch of the society at the time, the Newman Institute. I was a full-time union official for about 10 years. I gave it away as I had four children on my hands.

As far as I am concerned, based on my experiences over the years with the Family Law Act and the people involved—including politicians, certainly the police force and others—I regard it as a corrupt faggot-ridden system and it has been that way for a very long time. I was cast in the role of having to help men and their children in various registries, mainly in New South Wales. We had a group called Families Against Unnecessary Legal Trauma. We had an office. We had some outstanding successes. We wore ourselves out by having to earn money and then spend money on other people—strangers and so on—in desperate circumstances.

It has almost turned full cycle, in that I became aware of the culture of corruption—particularly amongst politicians—and the political processes of major parties generally. There are a lot of fine people here today and I bet some of you have very fine staff and you should be proud. The police force, particularly, is another branch of the public service that has been prostituted by corrupt political processes. I am up here and I do not need the help of anybody. I am on very good terms with my four children. They have turned me into a grandfather. I have two beautiful young ones.

I have a magnificent mother in a nursing home here in Adelaide. I have to come over and spoil her and take her out all day long and I am very good at that. She goes in the wheelchair it is good to walk alongside her. She goes everywhere. If she is a good girl, she goes on the Indian Pacific for a couple of weeks over to Sydney to meet everybody. She has grandchildren and great-grandchildren there. I happen to be here in Adelaide, even though for most of my adult life I have lived in New South Wales. I have commitments here.

I am a designated carer for a six-foot-one schizophrenic. It became necessary for a policeman mate and myself to rescue him from a bad situation, through no fault of his own. He was given free cigarettes. Everyone in maximum security—and we got him out of there pretty quick—was given free cigarettes, so they were turning the non-smokers into smokers overnight. It was a form of control. I knew the Minister for Health and so on and did not have any problems in that regard.

All I can do is wish the committee well. As far as I can see, you will be in a position to only tinker with things. You have some dreadful people in some of these political organisations who have a big say in the preselection of people in parliament. Those people who expect the white knight, as a lawyer, to fix things up for you, forget it. There are 700 outstanding cases against the police department in New South Wales. I do not know what the significant percentage is to award people large sums of money because they have suffered—and we are talking about families—at the hands of corrupt police. I will wind up on that note. I wish you well. You are only going to tinker with the system. The more self-sufficient you are in life generally about everything the better off you are going to be.

CHAIR—Thank you very much.

Dennis—Thank you very much for putting up with me.

David—Whereas many of the people who have contributed today are speaking about situations of abuse and separation and so on, my personal situation is that I have been happily married for 38 years. You might wonder why on earth I would turn up today. I have seen friends, relatives and neighbours—as most of us have—who have gone through divorce. I have seem some of the impacts on the children personally. I have seen a couple of boys commit suicide. I have seen kids who were doing well at school suddenly failing or dropping out or getting into situations that they never would have got into before. I see the children, as a product of divorce, suffering before my eyes and I am deeply moved by that.

My personal observations are supported by research. I have done a lot of reading in this area. There is overwhelming evidence that children are best off with their biological parents who are married to each other and bringing them up in a stable relationship. If the committee's responsibility is to put the best interests of the child as the paramount consideration, that ought to mean the committee considers seriously that the preservation of marriage is the thing that will serve the best interests of the child in general. The committee ought to be looking at changes to the system which will discourage unnecessary divorce and encourage the continuation of stable marriages.

A lot has been said about abusive situations, domestic violence and so on. One of the panel members asked the question, 'What percentage of marriages end in that circumstance?' The

research I have read says that 70 per cent—it is US research, Mr Quick, but Australians are very similar to Americans—come from a situation where there is no violence, no abuse and just the husband and wife deciding that they want to go in different directions. Many people—my relatives, friends, neighbours and so on—are like that; there is no major catastrophe.

In my experience, it is usually one person unilaterally deciding, for some reason or other, that they are getting out. It may be the man, it may be the woman. The problem with the present situation is that very often the Family Court and the family law is structured in such a way that it benefits the person who wants out and the person who wants to hold the marriage together, in many cases, is the partner left behind, who will go to counselling and do anything to try and keep the marriage together for the sake of the kids. All the odds are stacked against the person who wants to preserve the marriage.

I suggest that the committee looks at those factors which will work to make it difficult for a person who wants to end a marriage and get it all on their terms. It seems to me that the shared parenting proposal, from all the evidence in the United States—which is available, because it is state law and you have multiple jurisdictions and you can do comparisons—but you cannot do that, Mr Quick, in Australia as we only have one jurisdiction. The only way you can get evidence is from places with multiple jurisdictions. All the evidence is that in shared parenting regimes in the US divorce rates are lower and they are decreasing faster. If that means that sole parenting is contributing to more marriages staying together, that must be in the best interests of the child.

CHAIR—Thank you, David.

Peter 1—I would like to put my opinion forward on the importance of bringing in this rebuttable presumption of joint custody. My wife left me and took my two young children away quite abruptly. When I came home there was a note to say they had been taken away. I had organised to take my son to the park the following day. She played hide and seek with the children for several weeks, denying me contact. I sought legal advice. Her lawyer never got back to us, prevaricated and it was only in the week before it finally got to court for an interim hearing that I was granted two hours access to my children.

I say to the committee that the experience of having one's children taken and kept away from you and being legally unable to do anything about it is extremely distressing. I would not wish that upon anyone and I can understand why there is a high suicide rate in these situations.

When it finally got to court the system seemed to rely a lot on affidavits. It appears to me that one can write anything they like in an affidavit, sign their name to it and it is considered to be fact. The judge or magistrate, who had supposedly read these lengthy documents, did not even know the basic details of the children's names and ages. He struggled to do some very basic calculations determining my capacity to pay child support and spousal maintenance. His opening statement to my solicitor when he was responding to my wife's offer of one night per week was, 'Well, that's a pretty reasonable offer, isn't it?' The burden was then on us to try and prove it, which we failed to do.

Being the working parent, the assumption by the system was that I should continue in my role, leave my wife to look after the children and have only limited contact with them. This attitude, I would suggest, is prevalent throughout the system. I am a loving and dedicated father who wants

fair and just access to my children and for them to have fair and just access to me. Everyone on both sides of the family felt that, except my wife. As a result of her intransigence I can only see my son one night per week. As for grandparents, I have a lot of sympathy for them having contact with children, but my son sees more of my wife's father than he does of me. When I see him he frequently calls me 'grandpa' by mistake.

I will make just a few points to finish off on the issue of payment, which I support because this is an area which needs reform. First, there is no reduction in child support payment, even if the father has the children for two nights per week. A father could have the child for 104 nights per year and not have any reduction in their payments. I gather this was something that was suggested but blocked by the Democrats in parliament. Second, the child support payment is the same for two children under five as it is for two teenage children. This does not make sense and should be modified in some way.

Third, further to what the previous gentleman was saying, on the basis of gross fringe benefits, I end up now having to pay $554 per week in child support plus $60 spousal maintenance and get to keep about 20c in every dollar that I earn after tax and payments. This is a very powerful disincentive for anyone to work. My lawyer's advice to me: 'Live like a monk.' I was successful in my work. I have now lost most of my possessions. I am back home, living with my family like a monk. My experience of the system has left me quite appalled by how it operates and I would urge you very strongly to do something to give fathers a fair go.

CHAIR—Thank you, Peter.

Peter 2—My subject is my belief that the child support system, in a nutshell, is a very adversarial system—a fighting system. My lovely daughter behind me has a good mum and until recently she was in her custody. She is now nearly nine. When she was four her mum took her to Port Augusta and only recently returned back to Adelaide. To get her back, the Family Court lawyers advised me, 'You just can't get it. You have to find something wrong with her mum; for example, violence, alcohol, et cetera.' There is really nothing wrong with her mum. It was just that our relationship broke down.

I desperately wanted shared custody but my lawyer said it was a waste of time. I went into the Family Court and saw counsellors. I sat in the hallways. It is a waste of time. I am in business. If someone said to me, 'Are you going to go into a business venture where they win 95 per cent of the time,' I would not want to try.

Since her mum has been ill, my daughter has come back to me and she goes to her mum on weekends. It is the most wonderful experience for both my daughter and myself. She is experiencing a father. I am tougher on discipline; I do not let her do things that her mum does. She is learning different things. She is learning about her brother. Her brother lives with us. She is learning about men. We are different; we are a different breed.

In conclusion, the courts had no right to take my daughter away from me, or me away from her. She needs both her mum's and her dad's influence on a regular basis. We are now in the process of arranging privately joint custody where my daughter will live with me 50 per cent of the time and with her mum 50 per cent of the time. When my daughter left, all I thought of was

despair. I thought of suicide. I thought of revenge. The court officer recommended I go and steal my child back before anything was awarded.

I thought of ownership of children then. Now, after the heat has gone out of it, I realise we do not own our children; they own us. It is important for this committee to understand—and this is my punchline, I suppose—that if I knew that it was only a temporary situation and that it would only be a matter of time, maybe a week or so and if there was a law saying that within two weeks it would have to be resolved so that I would have access and equal custody of my child, I would not have gone into a hole leading to all the above feelings. I am sure that leads to a lot of men and women killing their kids.

For the child's sake, what I am asking you people and the Family Court is to bring in a mandatory fifty-fifty custody rule. Thank you.

CHAIR—Thank you, Peter.

Roy—Do not be fooled by the accent, I am Australian. Honourable committee, invited guests and fellow victims of the Family Court and CSA, I learned about this meeting purely by luck through a newspaper article last Saturday that said '$5 fathers'. It was highlighting the negative issues of non-custodial parents. You will never see 'Non-custodial father goes bankrupt' or 'Non-custodial father suicides because he can't see his child'. I am not going to make this a gender issue, so I do apologise if it is tainted that way. I am just going by my own experiences.

It is basically an accepted but unacceptable culture because of the old phrase, 'This is the way we've always done it.' I am a RAAF officer. I fly aeroplanes. I do not drink, smoke or do drugs. I am in a stable relationship and have been in the same job for 16 years, same place for six; three more to come because I have just been posted back. I have a lovely four-year-old daughter. She now lives in Canada because of the Family Court.

I have been in the system for four years. There are a lot of familiar faces here. It is a tragic venue to make acquaintances. You asked a gentleman earlier about the debts he has incurred. I have paid $80,000 over this divorce and subsequent custody issues. It is not just about the legal fees; there is so much more involved there. I pay $900 a month for my daughter, who I never get to see because the court has allowed her to go to Canada on orders that they cannot enforce. If I go to Canada my ex-wife disappears. It has cost me $5,000 to make the trip and I have no guarantee of a chance to see her.

I fought to keep my daughter in Australia so that we could see each other because it is beneficial for her and both parents. The judge basically said, 'You're wasting my time. You'll lose. She goes to Canada. I'm loading you with $5,000 for the court costs because you're wasting my time,' and he would not allow me to see my daughter who was leaving the following week. I have to stress the fact that I have never ever contravened an order. I just cannot do it.

I then asked to have the $5,000 bill reversed as a result of current debts and costs to travel to Canada since I have lost. I even had a financial statement from a state financial counsellor. The judge looked at me and said, 'Get a loan.' I am $80,000 in debt. I am on a good wicket in the Air Force but I am not getting a loan with that kind of debt, paying child support. I was basically laughed out of the banks and damaged my credit. I pointed out the fact that damaged credit

means I lose the security clearance and I lose my job. He stressed, 'Get a loan,' and that is where we stand.

I attempted to go back to court in February to say, 'Look, I need a payment schedule laid out for this because I can't just fork over $5,000.' The judge, a woman this time, basically said, 'Look, you're wasting my time.' The February hearing I could not attend. I sent letters to the court and the judge saying, 'I'm unavailable for court in February.' Without notifying me they had the case anyway. They billed me another $1,000 for not being there. I want to point out—because this pisses me off—that I was in the Gulf War when they held this trial and they billed me $1,000. My country sent me away to do my job, which I absolutely love—and behind my back they bill me. 'Another $1,000—let's take it up to $81,000.' If it had not been for my attendance at the Gulf War I would be bankrupt right now.

As a result of the punishments and the expected $5,000 travel costs I am not going to see my daughter for another year. That will be over two years in total. I returned to the court saying, 'I want some changes made to these court orders.' They said, 'We can't enforce the court orders. They are your orders.' They say, 'We can't do anything about it.' I am now out on the street and I have been threatened with court costs if I continue with the contravention orders. I have pulled them all because I have no leg to stand on and I know that I have been intimidated out of the court system.

The courts have developed a culture that undermines the importance of the non-custodial parent. It is good enough to give the other party stacks of money but do not ask about your kids because you have no rights. There needs to be a change of culture; not just a change of issue but a whole culture. If the changes are going to happen you have to admit the fact that the system does not work. I see individual merits. There will be cases in which a parent may not be suitable. That has to be assessed because I guarantee, if you make decisions for your children, it is a life sentence. It is not something that it is going to happen for one month or two; it is for life.

The court system rewards the best storyteller regardless of truth or lies, as we have heard here today. I reiterate that. By lying in the court the custodial parent ensures that they are going to get financial benefits in most cases and definitely access to the child more than the non-custodial—

CHAIR—Roy, could you make the points that you could not make in your submission and I need you to finish up.

Roy—Sure. My recommendation is that shared custody is the norm. Obviously that has been stated today. Perjury is a crime and that has been stated today. Get rid of the lawyers. Every time that I would make ground with my ex-wife her lawyer would say, 'That's going to hurt you in court,' and we would be two steps back.

I will wrap it up now. Mr Quick—and I am not picking on you, sir—United States children, black children, white children, Chinese children, all love their parents. If there is a system in the States that says, 'We can make this work,' have a look at it, please. Clearly I have to say divorce is not a crime. There is no way in hell I should have been treated like a criminal. The punishment obviously is the loss of my daughter. Nothing I say here today is going to get my daughter back into the country, so I have no obligation to be here. I am doing this because I do not want to see anybody else suffer. Thank you for your time.

Martin—Three minutes just are not enough for this! I will give you a brief rundown. I took the kids and left my wife because she was acting like a single woman; she was never coming home. She got the kids back, changed the locks in the house and started leaving them alone—ages five and 10—until 4 a.m. in the morning, just like she did to me. FAYS did not care. I was ordered to pay $1,400 per month on a wage based two years prior. I took her to court with a $5,000 loan, whilst paying $1,400 child support and nowhere to live.

I requested shared care and got it—Wednesday to Sunday and Thursday to Sunday. I did not want to take them from their mother, as this would be continuing a cycle she had gone through with her parents. I complained to the state ombudsman about FAYS' inaction. The verbal reply from FAYS was, 'You've solved the problem by taking care of the children on the nights she goes out drinking.' So now legislation is penalising me for doing the right thing. I have not had a weekend off in six years; my ex-wife benefits from my overtime, annual leave and sickies, so I feel trapped. My basic right to achieve and better myself for the kids' sake and mine has been taken away.

This is an issue for the human rights commission. I know men are killing themselves daily. If women were doing it, there would have been an inquiry six years ago. I have been told it is a mental issue, not an issue with the Child Support Agency, but this agency does drive you nuts. I pay 80 per cent gross income, I pay for their sports, full doctors and medication, full rent, rego and movies, but nothing is taken into account by the CSA. All the while my ex-wife is sitting home, having a beer, watching Foxtel with her pension card with all discounted, subsidised fees. She is even allowed to leave the kids in after-school care without having a job.

Shared care should be just that—not share the kids and 'I will have nearly half your wage, too.' We all know lawyers are making money, lots of it, through the 'he said', 'she said', allegations. Lying is accepted in the Family Court for monetary gain, with horrific legal costs. How does this benefit the kids? A panel or board of representatives costing $5,000 max, or something without lawyers but with all family members and friends present: $5 dads do not help, but it is so easy to do.

Bring on legislation change. We do not want people hiding behind a business, not paying child support. How can they do that? We need a fair child support system to be based on the minimum wage, not gross income. If we let our kids see mums and dads lying because of legislation and family courts and getting away with it, won't that encourage them to believe that lying will benefit them in the future? We are only creating a generation of sociopaths where their lying ensures a means to an end. At the end of this I will say that my lad can see that I am doing the right thing and his mother is lying and he asks: why don't I lie? Thank you.

Greg—I am the coordinator and social worker at the Men's Information and Support Centre in Adelaide. I have come to this hearing today to listen and also to support those men and women here because, in the Men's Information and Support Centre, we support all people in our society, especially children as No. 1. I do counselling there as well and, as a social worker, I see many different men from different fields. Many of these men are victims of domestic violence. Violence is not a gender thing; it is to do with being a person. Some of the stories I hear are horrific.

Fathers nurture and have active involvement in their children's lives. When that is taken away, both from the child and from the father, it is horrific for both parties. In counselling, if a father is going through the Family Court, I say to him to try and work it out outside. He is not going to win anyway, because as you have heard today, the traditional idea of a male is that you go out to work and the female is at home. This is what permeates through the Family Court system, although it is changing slightly, but it will take maybe another 50 years. It is up to us men to make the change in society for the children's sake.

It is really important to understand that today in our society there is more equality for women. We would like to see more equality for men. I could talk a lot about what men tell me in counselling, but I do not have the time. I agree with what has been said today by a lot of the organisations. It is important to understand that the National Association of Single Mothers and the men's groups are saying similar things. We want what is best for the children and that both mothers and fathers are involved. What I am trying to do as the coordinator of the Men's Information and Support Centre is get us together and work for the betterment of our society. Part of that is, if you separate through divorce or separation in a de facto relationship you will find that both mother and father are working together. When men come to the centre they are very angry so I get them to focus on the children and try to work with the other. I run an anger management course and, through that, quite often I get men talking to their ex-wives or partners again.

I would say that for the children's sake in our society, we must have men involved in their lives. You have the opportunity to make that change. I think what you are doing is very important. Thank you.

Allan—I am another one who only found out at the weekend that this inquiry was being held, so what I have to say will probably be a bit fragmented. I was married for 16½ years. My wife was unhappy for the last few years so we decided to split up. In the time we were married, I was a shift worker and, on average, three days a week on my days off I had been looking after the kids: taking them to kindy and school; getting them ready for school and suchlike; cooking the tea. I was a very actively involved father. When my wife and I decided to separate, to me it was a sensible and logical thing to have fifty-fifty shared care.

We were both agreeable to it and it worked well for about five months. We were very flexible in letting the kids go backwards and forwards between houses on each other's weeks—fitting around the kids. After five months, I received a phone call saying, 'Allan, you've lost your family. I'm going to win and I'm going to get even.' To this day—and this is 14 months later—she is still very bitter about the history of our relationship and the fact that we are separated.

As far as the kids go, they have expressed to both of us that this shared care arrangement is what they want and they are happy. After that five months, it went into the courts and I defended my shared care situation. Part of the process was that we had a family assessment done. There were allegations of me being an abusive husband and an abusive father. That family assessment was done by psychologists approved by the court. The outcome of that—although there was no evidence at all of any abuse, whether as a partner or as a father—was that the shared care situation remained. The only problem from my point of view was that there be a further review in six months.

To me, clearly it had been established that the situation was working well, reports from the school indicated that the kids were successful in school and the situation was working very amicably up until at some point in time she had a change of heart. As I say, this is pretty fragmented. There are a couple of issues that I feel I need to try and get across. The current family law system is too adversarial. From my point of view, when people separate, they need to be able to move on and get on with their own lives—each of them. I would like to see mandatory participation in mediation and people demonstrate that they are trying to do the right thing. If that system breaks down, only then should they be able to take it to the Family Court. It is too easy to drag it into the courts.

Personally, I feel I am stuck in the legal system. I have two choices: keep on throwing money into what appears to be a black hole or just walk away—walk away from my kids. I will lose my kids and the kids will lose their father. As previous people have said, perjury appears to be acceptable in the Family Courts and that really needs to be addressed. I can only speculate as to why my ex-wife changed her mind after five months but I think it is pretty clear that the system provides incentives for parents to fight for the full custody of the kids. In doing so, they get a far better property settlement. That seems to be the only logical reason.

I do have issues with child support. Fortunately I earn a pretty good income. The shared care arrangement I have is for one full week at a time I have the kids. The handover is done at school. We do not swap any clothes. I provide everything for my kids in my house. I still have to provide the infrastructure for four kids. Even though they are not there every second week, I still have to provide that stuff. My budget at the moment, looking at my living expenses and my child support obligations, is that I am just under $9,000 in the red. I am in a situation where I cannot sustain this for any length of time. The direction that I am heading in at the moment is bankruptcy and I cannot do anything about it. I am paying $12,000 a year in child support and I have four kids 50 per cent of the time.

There are a few points I would like to make on child support. Child support should be directly related to the cost of the children. There have been many authoritative studies done on that. Child support should be capped with each party allowed to go out and work hard if they want to work hard, or sit on their bum if they want to; at least you have an incentive to earn income. At the present time there is no incentive for my wife to work and there is no incentive for me to continue to work. That is pretty much all I have to say, I think.

Tony—We emigrated out here as a family in 1994 and, from everything I have heard today, I cannot see that you are going to be able to go back with any other recommendation than that there should be equality for children in family break-up situations, so that there is some form of equality of shared custody for children after this. I cannot see any other alternative. Everybody I have heard has said that.

It is four years since my wife decided to leave. She took the children and gave them no option. My case is very mild. I have heard some horrendous things and my heart goes out to people here who have gone through the worst situations. I can well understand why there are a lot of people, parents, who are treated by this unfair and biased system and have committed suicide. I sympathise greatly. You are in a position where you can take back these opinions and feelings and modify this law so you can stop a lot of people dying in the future. You can give children equal access to both parents, because they deserve that.

When my partner left, she went to Relationships SA and we wanted to mediate the situation so that we could come to some reasonable solution for the children. She was given the advice, 'Go to the Family Court and apply for a court order,' and I believe she was basically told, 'You will get primary custody.' She had chosen not to work. The reason she left me was apparently because I was working too hard and not spending enough time with her. To this day, she has chosen not to work. The system basically ensures that she does not have to. I pay child support. I am a lecturer at TAFE. There is no reason or incentive for her to work whatsoever.

While she maintains the fact that she does not work in the original part with the court, she was a primary caregiver and, for that, I was then judged to have the minimum contact with the children. It took me two years and $42,000—and I am very fortunate that I was able to work to earn that, although I did still have to take out a loan—and two family psychologist reports, both of which showed that the children would be better off having equal access to both parents, the court system supported her and her assumption, with three other people having a different opinion. Through all the mediation processes, the fact that she did not agree with it meant that I still had to carry on fighting for some fairness and equality for our children.

I want to make a couple of points about the legal system. It is adversarial and that is totally wrong in these situations. Things should be done by agreement. The system, as it stands at the moment, is obviously favouring a person who does not want to agree and who has been given power by the judicial system and the government, regardless of the interests of the other people involved—in my case, two young children and one other parent. That freedom has been totally removed from them. As I say, you are in a position to take this feedback and change the system for lots of other parents in the future.

My solicitor has now increased her fee to $220 per hour, which is slightly above the recommended rate of the judicial system. It is very hard to get an appointment with her. She is working extremely hard. She has lots of cases. She is on my side. She said to me, 'Tony, you are too nice. There is no point going through all these mediation meetings and counselling, because the person who shouts the loudest will win.' She said to me, 'You have to think of things that she's doing wrong as a parent so you can use those in affidavits and in the court.' My reply to that is, 'But that just exacerbates any conflict and I am not going to make up things about a partner who I judge to be a reasonable parent.' The children deserve both the parents.

The system at the moment supports one parent being able to make very unfair allegations. I am sure there are lots of parents who have taken that advice from lawyers, used it as weapon and exaggerated things. I am very much in favour of what you are doing. You have this power now to change an unfair system and you must use that, because every person in this room who has a grievance is relying on you to make a change.

Gordon—My son is like Tony; too fair. My wife and I are the grandparents of a 10-year-old boy and a nine-year-old girl. We had 5½ years of intense relationship with them due to illness within the family. Subsequently, my son's marriage failed. He left the children with the mother in the marital home. At a point in time, the mother abused my son and his daughter. Subsequently, the mother disappeared with the children. The court ordered alternate weekend contact, which was subsequently stopped by the mother and, upon application to the court to have something done about that, on his 40th birthday our son was issued with a sexual abuse order. He was subsequently cleared of that, after an extensive investigation. However, the mother

got residence of the children in spite of enormous lies in affidavits; lies against my wife and myself, which we can prove are lies.

We do not know where they are. We have not seen them for over two years and my son has not seen them for over two years. The house has been sold and there has been a settlement. On 19 February this year an order was made that the mother was to supply certain information to our son, including an address. She is currently in contempt of court in respect of that. My son spent about $30,000 defending himself in court, which I borrowed and provided to him. We have no address, no school reports, no school photographs. We have much to offer our grandchildren, who we spent an inordinate amount of time with. Their father does too. He desperately loves them and is desperate to see them. In our opinion, parents should bear the upbringing of all children. Thank you.

Grant—As you see, I have my son with me. I am one of the good luck stories, as I have 50 per cent shared care. Most of that was driven by my son, who was about six years old at the time. He was the one who spoke up and said that he wanted shared parenting. It took a lot of battling through the court to get there, but it was worth it in the end. We have an arrangement that is seven days about, which is what was ordered by the court. It has come to a stage where the mother and I can now talk to each other. We actually get on very well. It is almost a friendship now. We have altered the access arrangements. We do what we feel suits Lachlan at the time. If he wants to go to his grandparents' place, he spends an extra day with his mother. When he wants to see his paternal grandfather, he spends an extra day with me.

He has shown a remarkable resilience to having shared parenting. It is probably not a resilience. I think it is a happiness. He has times when he is a little bit disillusioned or disorientated, but he knows that any other option for him is going to be worse. If you want to speak to us at the end of this outside of the committee, because I know you cannot ask us questions—and he is a minor—we will be outside kicking a flat football. You are most welcome to come and have a chat to him. He will freely tell you how he feels, because that is the relationship he has with both his father and his mother. That might give you some insight into some of the things that we can do to help other families rebuild their lives and give their children future directions that are going to make them worthwhile citizens within our society. That should be our main objective, but at the moment there are too many barriers.

I have shared parenting now, but if I earn more than Lachlan's mother does, then I pay 12 per cent child support. I do not know how anybody can justify that. Why should one person be supporting the other? We have court orders which say that we are to bear our own costs and that we each pay for Lachlan's school fees. Everything is straight down the middle, yet we have the Child Support Agency now interfering in our lives. I have recently been required to resign from my job. You can call that what you like. I have had to go to Centrelink and apply for Newstart, because I cannot get parenting allowance.

Previously, I was wanting some assistance with my rent. For the 12 years that my wife and I were together, we never paid rent. We had our property outright, or something similar to that, so I had no rental history. I had to pay $190 week when I relocated close to Lachlan's school to facilitate the shared parenting. They required that I go and apply for child support. In circumstances where I had 50 per cent shared parenting, I had to apply for child support just to get some rent assistance.

These are barriers that are put in place. There are enough barriers in place for people who have intact families and it is difficult enough for them to hold it together as it is. Nobody is saying that anybody should stay in a relationship where there is violence or where anybody is at risk, but we need to help keep families together. Not only do we have to keep families together where there is a mother, a father and a child, but we also need to keep families together that are dysfunctional, by parents being able to communicate and to do the best thing by the children. We need to be able to facilitate it so that there is no conflict. There is going to be some conflict, but reduce the conflict that is brought about by bureaucratic issues.

I also had a problem in that the Child Support Agency deemed that I had to pay a substantial amount of extra child support while all the negotiations were going on, and I had the usual two nights every fortnight. What happened was they went to a year prior to the dissolution of the relationship and took my taxable income. That is fine—it can be readjusted—but then the tax commissioner decided that, for some reason, I was a tax avoider, because of these mass marketed schemes. I do not know whether you know about them. You have probably heard a bit.

They readjusted my tax by over $70,000 in two years. I have been paying child support on that and I cannot challenge the Child Support Agency in relation to it, because the tax commissioner deemed that I was a tax cheat. The tax commissioner has lost every single case he has challenged on these mass marketed schemes. He is now appealing the very last one, which is very critical to the one that I invested in, because I thought it was a great project for society, the environment and the long-term welfare of my family. Yet I am still paying child support on something that did not relate to a period of dissolution of our marriage. He has no legal grounds for making his rulings. The courts have ruled against him, yet I am still paying a child support debt on something that the tax commissioner has been ruled against in the courts.

I have one last thing. The government already decide what it costs to raise a child. They probably have quite a few different formulas. One they use is for the children of defence personnel who have been killed in action or because of their job. The government pay the widow an allowance for what it costs to raise those children. The amount they get paid is abhorrent. Why can we not have one law right across society to say what the value of children is?

CHAIR—Thank you, Grant. There are no further community statements. I thank all of those who have appeared before the hearing today as individual witnesses, organisations and people with community statements. It is great particularly to have the community statements because it gives us an opportunity to hear from more people than we might normally hear from during the hearing process.

I congratulate each and every one of you. It is a difficult task that this committee has undertaken. It is made so much easier by the excellent behaviour of the audience, with such emotional issues. It is very easy to express our emotions and to allow them to get out of hand. However, you—as an audience—have been absolutely incredible. We thank you for that because it does make our role so much easier in getting to the bottom of the issues, if we are able to clearly listen to the succinct process of the hearing of witnesses and the community statements.

Thank you on behalf of the committee. You have been absolutely wonderful and you have given us today a great insight into a whole host of areas. We certainly appreciate that and we hope that ultimately this committee can bring about some acceptable changes for you.

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

That, pursuant to the power conferred by section 2(2) of the Parliamentary Papers Act 1908, this committee authorises publication of the evidence given before it, and submissions presented to it, at public hearing this day.

Committee adjourned at 4.58 p.m.