COMMONWEALTH OF AUSTRALIA

Official Committee Hansard

HOUSE OF REPRESENTATIVES

STANDING COMMITTEE ON FAMILY AND COMMUNITY AFFAIRS

Reference: Child custody inquiry

MONDAY, 27 OCTOBER 2003

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HOUSE OF REPRESENTATIVES

STANDING COMMITTEE ON FAMILY AND COMMUNITY AFFAIRS

Monday, 27 October 2003

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

Members in attendance: Mr Cadman, Mrs Hull and Mrs Irwin

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 8.29 a.m.

CHAIR—Good morning, ladies and gentlemen. Thank you for your attendance this morning at this public hearing. I declare open the 19th 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 1,600 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 want to stress that the committee has not had any preconceived views on the outcome of the inquiry and it takes all evidence with a view to ensuring fairness and equity.

Accordingly, throughout the inquiry we have sought, and will continue to seek, to hear a wide range of views on the terms of reference. While at any one public hearing we hear more from one set of views than from another—for example, more from men than from women—by the end of the inquiry we will have heard from a diverse group and thus received a balance over the range of views. The public hearings the committee is undertaking are focused on regional locations rather than capital cities. At these hearings the focus will be on individuals and locally based organisations. Today we will hear from six witnesses: three individuals and three 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 the committee in a private capacity at a public hearing—that is, they are 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 onto the committee's web site. Rather, in that transcript the individual witness appearing in a private capacity will be referred to as a numbered witness. This is being done so that the committee can maximise the availability of public information whilst still protecting individuals and third parties. I particularly ask any media present not to report the names of individual witnesses who appear publicly at this hearing. There have been about three hours set aside for the public hearing; this will be followed by about an hour for community statements, each of about three minutes duration. There may be local media coverage, including radio stations, here today. If you are uncomfortable with this, would you please advise our secretariat. Before I call witnesses to the public hearing, could I acknowledge Mr Luke Hartsuyker, the member for Cowper. He has to leave for another meeting, but he has played a vitally important role in ensuring that today's hearing took place.

[8.32 a.m.]

WITNESS 1, (Private capacity)

CHAIR—I welcome the first witness to today's public hearing. The evidence you give at this public hearing is considered to be part of the proceedings of parliament. I therefore remind you that any attempt to mislead the committee is a very serious matter and could amount to 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. You are appearing before the committee today in a private capacity. In order to ensure that your privacy and that of third parties is protected, we will prefer to you by name during the hearing; however, in the transcript record which goes onto the committee's web site we will refer to your evidence as being from a numbered witness. You will know your evidence but you will not be publicly identifiable to others. Would you like to make a short opening statement, and I will then invite members to proceed with their questions?

Witness 1—I have been in clinical practice for 20 years. In that time I have seen a lot of people going in and out of the family law system as part of my everyday practice. One thing is for sure: the current system is not working. There is a lot of pain and suffering that surrounds any form of involvement in the current family law system. In fact, some of the suffering is horrendous. Children are being told they cannot ever see their father again in some cases, and men are being accused of the most horrendous crimes against their own children, purely as a part of the Family Court system. Lawyers are using these techniques to win cases. There is often a callous disregard for the welfare of the families involved, in an effort to win a case in the Family Court.

I think a much better system would involve an administrative type of control of the whole Family Law Act. That would involve a structure which, in a way, would be very similar to that of the Child Support Agency, where people can make an application for whatever they need—residence or whatever. It could be very firmly set out in specific terms, just as the Child Support Agency runs its system. This would take away the need for lawyers and barristers et cetera. Currently, people are unhappy with the Child Support Agency, but that is mainly because the formula is so abysmally wrong. If that could be corrected, it would be a perfect structure to run any sort of social control of marriage, divorce, custody and property settlements, because there are very strict parameters and they are unarguable once they are laid down, so people know where they stand. Currently there is too much that is unknown in the family law system, and it is causing absolute chaos. I think very few people who have gone through the system are happy with it.

Mrs IRWIN—Thank you for your submission. Is it correct that you are a separated father with three children?

Witness 1—Yes.

Mrs IRWIN—Your submission states:

An ideology persists at the highest levels to protect the emancipation of women above the interests of children.

What did you mean by that?

Witness 1—I meant that there is bias against men.

Mrs IRWIN—In what respect?

Witness 1—In the Family Court, for instance, women are just about always given the benefit of the doubt when there is any sort of variation in the facts given in evidence. If you look at the overall distribution of custody cases that are won—I think it is 80-20—you will see that women generally win custody cases. There is no reason why men should be losing out like that. That is bias.

Mrs IRWIN—I also want to go to page 4 of your submission, where you talk about the Child Support Agency. You state:

Some fathers pay as little as five dollars a week and some pay as much as six hundred a week ...

I think you have also stated that $600 is what you are paying per week.

Witness 1—I would rather not talk too much about my own specific situation.

Mrs IRWIN—Fair enough; I am just going from your submission. You have suggested:

Maximum payments should be 100 dollars a child per week and minimum should be thirty dollars a week per child.

Do you think that is fair for the children? The reason I ask this is that in some cases when mum and dad are together their children might go to a private school because their income allows that, they might have ballet lessons, tennis lessons, squash or elocution lessons, and once mum and dad separate a lot of those things are lost.

Witness 1—Did you read the beginning of my submission, where I state quite clearly that there is nothing stopping a father paying for private schooling? You assume that the father is not going to want to pay anything for his own child. In what you are saying, you assume that the father does not care about his children. The father cares just as much as the mother; in fact, more. In many cases, this money is not used on the children. The higher payments these fathers are making do not necessarily go to the children. You are making an assumption that the money is going to the children. It is not.

Mrs IRWIN—That is the point I am trying to get at. On page 4 of your submission you state that 'the child support money goes to the custodial parent not the children'. A number of men's groups, and even some women's groups, have suggested to us that something could be shown to the non-custodial parent that shows where the money is actually going. If you knew where your money was going per week or per fortnight, how would you feel about that?

Witness 1—It would need to be shown to the Child Support Agency. They are in control.

Mrs IRWIN—A lot of people have suggested that mum and dad could sit down for the sake of the children and work on a parenting plan regarding, say, education, religion and even some type of support before they get to that other step of addressing where the children are going to live. What are your feelings on a parenting plan?

Witness 1—Basically, the less complexity the better. If we are going to have plans, as I said before, the Child Support Agency structure would be an ideal structure. Within that, you can add variations of religion and schooling. You can put it in in much the same way as it is currently being used for child support. You can make a formula; you can make any sort of point.

Mrs IRWIN—You stated in your submission that you feel there are a lot of AVOs out there where a father—and, in some cases, a mother—has been charged with child abuse or even sexual abuse. You say that the time process can be very long. It can be nine or 12 months before that reaches the court. You also stated that you feel that, where the AVO has not been proved, some sort of penalty should be made against the person who has made those allegations. What sorts of penalties would you like to see?

Witness 1—Lawyers should be struck off. I think I said that.

Mrs IRWIN—Anything else? You are talking about lawyers. What about the person making the AVO?

Witness 1—I am not a judge or a lawyer, but they need to be penalised. There was a time when you could not make a false accusation and get away with it. These are deliberate, malicious accusations. I do believe the legal system has charges and penalties for these things. It must be treated as a legal case; it must not be separated from the rest of the law. These are deliberate, false allegations that are being made all the time; they are being used. There are laws against that already in place.

Mr CADMAN—Thank you for your thoughtful submission. You raise a number of issues that are of interest to the committee. You suggest that the parenting payments, or benefits, for looking after children should be unlinked from the time spent with either parent. Is it your idea that there should be a primary carer for young children in particular, or should both parents have equal responsibility for caring for the children? I am talking about physical care, rather than parental decisions on schooling, religion and those sorts of things.

Witness 1—There seem to be different parts to that question. Could you repeat the first part of the question?

Mr CADMAN—You are unlinking payments—

Witness 1—That is correct. That part I will be answer. Children must not be used as hostages.

Mr CADMAN—But that assumes there is a primary carer.

Witness 1—That assumes the current system is being held. Currently we have a system where one parent is paying the other. Currently we have a system where, if you have this amount of time, you get a bit of a deduction—and there has been talk about that. I think it should be fixed.

There should be a fixed payment amount. The second part of your question is whether both parents should care. They should. Then you might come to the point that maybe no payments should be made.

Mr CADMAN—No payments by the government or no payments by the man?

Witness 1—No payments by the parents. Payments by the government for people who need welfare still need to be paid. I do not believe this has been mentioned, but there is a thrust behind the child support payments, which is to reduce welfare.

Mr CADMAN—There is a family tax benefit which goes to the person who has the primary care. There are parts A and B, depending on the circumstances of the family. That goes to the parents of all children.

Witness 1—Yes, but there is also the situation where, if a person getting a single parent's pension gets a payment from the non-custodial parent in the form of child support, that will reduce the welfare payment to that person.

Mr CADMAN—But then you raise the point that too many blokes put themselves out of work.

Witness 1—Yes, exactly. That is why it is not working. I believe they are trying to use the men's payments—I am using men for the sake of argument—to the wives on single pensions to cut down the cost of the pensions.

Mr CADMAN—That is the idea, yes.

Witness 1—It does not work, because those same men then give up work. They say, 'Why bother?' Then they go on the pension too. It is not working; it is not reducing pension payments.

Mr CADMAN—What is your solution?

Witness 1—The solution is to say that the pension is there for the person. If someone is on a single parent's pension, they are on a single parent's pension, regardless of what the father has to pay or not pay. It must not be used as a means of reducing the pension.

Mr CADMAN—So they get that pension whether or not—

Witness 1—If they are a single mother living on their own with a child they are entitled to a pension, and they must get that pension.

Mr CADMAN—So you are saying that they will not get any maintenance benefits?

Witness 1—No, that would be a separate situation. The maintenance you would resort to could be calculated, whether or not it was a $50 a week fixed payment.

Mr CADMAN—Would that be counted as income then for the payee? Would you count that as income for them or not?

Witness 1—You see, at one point we say that the child support money is for children and now we are saying it is income for the mother. It is not income; they must get their pension and any payment they get should be for the children.

Mr CADMAN—Notionally, it is very clear. I do not know whether it is quite as easy to do as that, but you are being helpful. You seem to be in favour of shared decision making about the children and shared residency for the children. Is that right?

Witness 1—That is correct. Sometimes the Family Court takes away responsibility as part of their judgment. They will give the mother custody of the child and give the father weekend access and then they will say, 'All responsibility goes to the mother.' It is very wrong to do that. All responsibility is always going to be shared between both parents. Education must always be decided by both parents. Especially in a situation where a father is paying large sums of maintenance, he should be able to direct the educational status of his children. In many cases it is not allowed—the court order specifically states that responsibility goes to the mother. That is wrong. There should be equal responsibility, and it should be even more so when a father only sees a children on the weekends and is paying large sums of money.

Mr CADMAN—On the statements you made earlier to Ms Irwin relating to false claims, we have heard many people say that there does not seem to be any role for perjury or false statements in the Family Court.

Witness 1—It is because of that that there is perjury and there are false statements. People get away with it.

Mr CADMAN—What is the penalty, though? Do you put mums in jail? What do you do?

Witness 1—You strike lawyers off the register for a start. That would be a big help, because then no lawyer would allow his client to make a false claim.

Mr CADMAN—So you go for the lawyers; you do not go for—

Witness 1—Yes, you go for the lawyers; they are the ones reaping the benefits of the Family Court system. They must control their clients.

Mr CADMAN—So your idea is to get the lawyers out of this family dispute and then, if there are lawyers in there and they promote false statements or present false statements, whether they know them to be false or not—they ought to find out if they are false before they present them—then the lawyers should be penalised. Is that your idea?

Witness 1—Absolutely.

Mr CADMAN—That is a very interesting approach. We have covered the $5 a week and we have covered the work force. In your thinking you seem to have adopted a concept that there is a cost of rising a child—$30 for low-income earners and $100 for high-income earners per week per child to raise them. Is that what you think?

Witness 1—It is part of the cost. I do not think a child support payment must cover the whole cost. Both parents have to pay for the raising of a child, and so child support is one contribution to the cost of raising a child.

Mr CADMAN—But the way the concept works now is that the mum is putting in the time and the fellow is putting in the money.

Witness 1—But that is the wrong concept; that is what I am saying. They both need to put in time and money. It is a very outmoded concept that the father is in the background forking out the money while the mother is spending the time. Mothers want careers; you hear that time and time again. Mothers are entitled to have careers; it is beneficial to a mother to be able to work and let the children be with the father. It has got to be equal; we are living in equal times.

Mr CADMAN—That would mean there would be minimum payments. How would you work the payment out? Would you have the higher income earner contributing something to the lower income earner if there was equal time shared?

Witness 1—You could do something like that. You really need to hire actuaries to work this out fairly, but a simpler system is better. The current system is so complex and so unfair with this formula. You really need to have a tiered system of, say, three fixed payments—that's it—and as the men earn more they do not have to pay more. It is totally demoralising for a man. It is a type of tax. It should not be that; it should be a fixed payment. It should be a reasonable payment for baseline living, not for a luxury lifestyle. Fathers can then add money. Any father who cares about his child will buy them a piano, a guitar or whatever they need.

Mr CADMAN—Based on your and your patients' experiences, to what extent do you think AVOs are made on the basis of false statements?

Witness 1—I cannot give a number, but when it does happen it is horrendous. Here would be a father who loves his child, used to love his wife, has never done a thing wrong in his life, who is suddenly landed with some legal criminal accusation. It is appalling.

Mr CADMAN—In your experience, do biological fathers and mothers seldom abuse their children?

Witness 1—Correct. The biggest risk to any child is the boyfriend of the mother, not the biological father ever. That is totally ignored.

Mr CADMAN—The statistics that have come to us demonstrate that that, in fact, is true. But the words 'assault' and 'violence' are thrown around and, by implication, tend to draw in the biological parents.

Witness 1—All these violence organisations and so on are drumming it up; they have hijacked the family law system. Parents generally love their children; parents generally are good. You have got to get all these organisations away from them. That is criminal law—put it aside and leave it for the criminals. The family law is for everybody now. Parents love their children. They do not abuse their own children. It would be very rare.

Mr CADMAN—And, if there is any case of abuse, that should be put into criminal law?

Witness 1—It is criminal; it has got nothing to do with family law.

Mr CADMAN—I notice you have made some comments about evidence we received last week about young children in families described not as 'dysfunctional' but as a similar word feeling disorientated and how that was created by the prospect of their living arrangements being variable between mother and father. In evidence given to us it was said that this would be psychologically damaging for young children. Do you dispute that?

Witness 1—I will summarise it properly for you. They have done studies where they have taken two groups of families: those with parental conflict and those without parental conflict. They have looked at all sorts of different living arrangements with those two groups—short visits, long visits, fathers having the children the majority of the time, equal custody, whatever it may be—and they have shown that the only factor which determines future psychological damage is the degree of parental conflict, not where the children have been living. It matters not if the child spends equal time with both parents. What matters is if the parents have conflict between them.

Mr CADMAN—You make the point that children are damaged just as much if there is conflict between the parents when they are living together.

Witness 1—Correct. Whether the parents remain together in a home and there is parental conflict, whether the parents are separated and the child sees his father on the weekend or whether the parents have equal custody, if there is parental conflict those children will be damaged, no matter what.

Mr CADMAN—Thank you. That is very good evidence.

CHAIR—The committee have been grappling with the possibility of whether or not a tribunal process could be set up to deal with the issues of families and residence, to generally have contact with all members of families, without the adversarial system. There would be no adversarial system in it at all. You would go through a process of mediation, conciliation and arbitration, if need be, without any legal or adversarial influence. Do you think that would be a place to start with respect to a family relationship after it has broken down?

Witness 1—That would be a halfway house. As I have already said, the ideal is not a tribunal but an administration. A tribunal still implies too much leeway; a tribunal still brings on conflict; a tribunal still brings on accusations. You need an administrative system where you say, 'This is this and that is that.' For instance, if a father lives within 50 kilometres of where the child is living he can automatically get equal custody. You do not need to have a tribunal and you do not need to mediate; it is there.

CHAIR—I understand your concerns about the indiscriminate use of AVOs and the allegations of abuse and violence if they are not founded, but there cannot be any dispute that there are women, men and children who live in domestically violent situations that require a position of mediation and facilitation. I am not saying that this is a gender issue, because we have had as many men as women before us who have been the victims of domestic violence.

People think it does not happen; it certainly does. But there needs to be some process that assists families in understanding their problems and in determining what an outcome should be on issues of visitation and residence.

Witness 1—Let me make this clear: those sorts of problems arise in a married family as well. Domestic violence does not occur only in a broken up family. You might have a tribunal for domestic violence. You could turn the Family Court into a domestic violence court for married and divorced couples. It has got the metal detecting system outside. That would be a perfect set-up for a domestic violence court. Domestic violence must not be linked directly to family break-up.

CHAIR—Domestic violence at times is linked directly to family break-up. It is not something that happens in every case—I understand that, and this committee understands that—but the fact is that it does happen. You cannot describe it as existing only in an intact relationship.

Witness 1—I am saying that it can exist in any situation. If a man or a woman attacks someone, you need to call the police—and treat it as that. It is not something where everyone goes before a tribunal or the Family Court. It is not a family bound issue. Crime is everywhere. It is a crime. But once you start linking it to a family situation, that is when false accusations arise.

CHAIR—But how do you not link it? If you are going to have a presumption—as you have indicated in your submission—that children will spend equal time with both parents, how do you separate the two things? How do you separate the presumption of equal time without recognising that a father or a mother has a history of domestic violence toward a child? How do you separate them? You are saying that it is a matter for the criminal court, that it involves criminal law. But if you are determining a presumption of residency—

Witness 1—That is a good point. I think one of the submissions mentioned that issue. If someone has a proven criminal record, that is pretty obvious. What about DOCS at the moment? In a normal family or an unseparated family, they can remove a child from that violence et cetera. That can be worked on and enhanced.

CHAIR—That needs a structure. You are not talking about any structure.

Witness 1—It does. They are all structures.

CHAIR—You are not advocating a structure to deal with family breakdowns, other than the presumption of equal time. Any criminal matter, any violence matter or any matter at all outside of that presumption just goes off to a criminal court, but that is not black and white in a relationship with a family.

Witness 1—That is not the structure I am referring to. I mentioned an administrative structure similar to the CSA, which would involve very detailed criteria, very strict parameters. If there is a history of violence then part of those parameters can be that such and such is taken away. You can put that in. If you read the Child Support Agency protocol, you will see that it is very detailed as to what you can do and when.

CHAIR—I have read it.

Witness 1—Of course you have, and therefore you know that you can put whatever you want in it. You can say that if there has been a charge of this or a fear of that, you can go to the tribunal. Most people are normal, most people do not get caught up in all this messy business, most people do not involve themselves in it and therefore you do not put everyone through a tribunal. You do not put tribunals and domestic violence way up there. They are on the side; they are in the minority. You can put that into an administrative structure and state quite clearly that, if this is the case, it must go through them. Sure, you can have a tribunal, but that would not be the focus. The focus would be an administrative structure for use by the general public. We cannot model our laws for everybody on just the few dangerous ones.

CHAIR—I agree totally. You cannot make a rule for five per cent of Australia that impacts on 95 per cent of Australians. I understand that, and I agree. Generally, what you are saying has some merit but, as in every relationship, there are difficulties. In your submission you say:

As a compromise all children over seven should have immediate presumed equal time with both parents regardless of pre existing court orders

I think you are talking about existing orders for children. You would like to see them overridden so that they could just be presumed. But there are obviously some significant factors that need to be taken into consideration. I wonder whether an administrative process, where somebody is employed just to administer paperwork, is the correct process, because you are all on a very emotional level. Everyone in this situation is emotional.

Witness 1—You say you have read the Child Support Agency administration protocol. I think, because people are emotional, that is all the more reason to have fixed criteria and not open slather. Having read the Child Support Agency stuff, you can see that it is a very intricate in detail and can be made even more so.

CHAIR—Yes, it is.

Witness 1—You can put anything in it. It can cover every avenue. In fact, it is watertight. That is why everyone is so up in arms about it. They do not leave you alone. Have you ever tried ringing the Child Support Agency and arguing with someone on the phone? It is impossible, because everything is covered; it is watertight. If only the formula were correct, it would be the most brilliant system.

CHAIR—That is the problem; it does have a little problem in it. The formula does seem to have some problems. As with any administrative system, you are always going to get a problem. Somebody is going to be unhappy and they are going to be asking us to do what they are asking now: to change it. No matter what you put in place, there is always going to be a problem. You see the Child Support Agency's administrative guideline process as being very good, but the formula as wrong. But that is the main part of the whole thing. The formula is the thing that impacts most, yet it is the wrong thing.

Witness 1—Which is why it is such a failure and a waste of a brilliant system.

CHAIR—Exactly. With an administrative system like the Child Support Agency's—which has a major flaw in it at the moment—you would be looking at establishing another major flawed system.

Witness 1—No, you are looking at doing it without the flaw, and it would be nice if you could get the Child Support Agency's system correct. It would not take too much to correct that formula, but no-one has bothered to do so.

CHAIR—We are trying; we are looking at it.

Witness 1—You need to do more than just try; you need to do it.

CHAIR—Thank you.

[9.04 a.m.]

WITNESS 2, (Private capacity)

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 parliament. I remind you that the comments you make are on the public record. You should be cautious in what you say, to ensure that you do not identify individuals and that you do not refer to cases before the courts. You are appearing before the committee today in a private capacity. In order to ensure that your privacy and that of third parties is protected, we will refer to you by name in the hearing, however, in the transcript which goes onto the committee's web site, we will refer to your evidence as being from a numbered witness. You will know your evidence but you will not be publicly identifiable to others. If you would like to make a short opening statement, I will then invite members to proceed with their questions.

Witness 2—Thank you for this privilege today. I hope that by forming this inquiry things will change and you will be able to determine what is necessary by hearing the needs of the community in general. I am a single mother with three beautiful boys aged nine, 11 and 13. My ex left me nearly 10 years ago when we had a three-year-old, an 18-month-old and I was six months pregnant. He left me for another woman. They have since married and have two children. I was devastated when he left, but I was in denial for about 12 months. Finally, I relocated to be closer to family when our baby was 17 months old. In the space of 10 years he has seen them for a total of about 50 hours. Life has been hard; however, in one respect, it has been a lot easier than for some single mothers.

At the time of our divorce no mediation was done, and that is one thing that might have changed his attitude towards contact with his boys. He had no role model. Ten years ago it was abnormal for a child to live in a single-parent household. Now it seems it is starting to be viewed as the norm. Over the years I have laughed, I have cried and I have certainly grown a lot. I have bought and sold real estate, I have been self-employed, I have been a landlord, I have been a tenant and I have moved interstate. I have been mum and dad. My ex does not want to have contact with his boys, for whatever reason. He knows that all doors are open in regard to this matter. He hangs up on us on the phone. I have not received his phone numbers from him.

My ex worked privately as well as being self-employed. His wages have been garnisheed since November 1994. However, in November 2000 my maintenance was reduced to $21.67 per month. I knew about his business and his private work so I appealed. The appeal process involves the other party being notified and any supporting documentation being sent to the other party. The reason for the decrease was his taxable income. For the financial year his gross income was $930,000. He managed to write all the income down to $18,900. Subsequently my maintenance was reduced to the minimum of $21.67. He fought against this and felt he was justified in paying only $20 per month due to his taxable income.

As part of the appeal process, I realised I needed to justify why you need the money. Two of my boys were going to private speech therapy, which was reason 2 in my appeal. All three were

going to the local Catholic school, which was reason 3, and I felt that he could afford to pay more than $20 a month, which was reason 8. His response was that 'speech therapy is offered through the public health system and is free'—the waiting list was 18 months—'public schooling is free', 'it was not my intention to send them to a private school', and, 'I have a wife, two children, a mortgage and a lifestyle to uphold.' The CSA organised a phone conference. The result was that my maintenance was increased according to a default income of $57,000, made up of $51,000 that he earned in his private job and $6,000 profit from his business—not the true percentage of the total amount we are talking about.

The two submissions I made are in regard, firstly, to reason 3 of the appeal process and, secondly, to the fact that the CSA will not touch anything in joint names. I wish to start with my first submission. 'It was not my intention,' was his response, to my surprise. The current legislation says that the costs of maintaining the children are significantly affected because it costs extra to care for, educate or train in the ways that the parents intended. Our intention was to bring the boys up in a caring, loving environment—one that allowed a parent home before and after school, one that taught them respect for others as well as themselves—and an education that reinforced these values.

I feel that I have implemented all these intentions to the best of my ability, considering the circumstances. This response from my ex is purely financial. He is lying on a legal note. However, because my ex left prior to my children reaching school age, I do not have any enrolment forms signed by him for primary school. He has not been interested in any aspect of my children's lives. My two eldest boys were attending a Christian preschool whilst we were together. Still that was not enough evidence. The intentions of both parents were established by their children attending a Christian preschool, I thought. The CSA will not allow anything to do with my reason 3, which related to schooling—for instance, school supplies and uniforms. A recent example is that my eldest son has an opportunity to go to the Northern Territory in the July school holidays next year as a part of a school excursion at a cost of $890 but, because it is school related, the CSA has disallowed this expense. My son's friends are all going—a trip of a lifetime and something you do not want to deny your children. Schooling is a vital part of growing up. We wanted the best for our kids.

His response is purely financial and, as I have found out, people do lie on formal documents. They need to be severely penalised. This part of the legislation is unfair. He can turn around when it suits him and say something so ludicrous as this. My boys were in a Christian preschool prior to him leaving and an enrolment form signed by my ex was produced, which was still not enough evidence. I have just had my second appeal and the same reason came up. I said to them, 'What other documents can I submit to improve my case?' Their response was, 'You can't. The enrolment form is the only document we will accept.'

The reason behind putting pen to paper was not financial. Indirectly my ex is paying for school fees. I have needed to make all decisions for my boys: if they sleep over, if they can have this or that, what sport they can play, any medical decisions et cetera. The most important decision—that of education—is not up to me. When it suits my ex for financial gain he would say anything. This legislation is unfair and needs to be changed. CSA staff have all agreed that the intent prior to school age is hard for a parent to prove. I can understand if he took an active role in the boys' lives that the decision would need to be a joint one. It was to start with. However, this is not the case.

My second submission is that of joint bank accounts. In May of this year, my ex took a redundancy package—no more garnisheeing. I was in the boat of many other mothers that have self-employed exes. He has not paid from that date and CSA will not touch anything in joint names. This is discrimination. All of my bank accounts are in my name and the CSA would not hesitate to take from them if need be. Because my ex has no accounts in his name I do not get maintenance. If financial institutions are owed money they will take from whomever to get it. What makes them different from women who are owed money? Nothing. The only difference is that they have the power. We do not.

The current legislation with regard to this matter needs to be changed. I do not deny my ex and his partner their income. In the appeal in September of this year the CSA said that I would not get any maintenance because they do not touch anything in joint names. He did attach a Centrelink employment separation certificate, which gives me reason to believe he is on a welfare payment of some description. In the appeal process in September 2003, he misled the CSA about his assets and his percentage of the business he owns. A lot of the assets are either private or in his company's name. He did not submit his financials this appeal. CSA saw through this and referred to the Lee survey to determine maintenance. They have increased maintenance yet again; however, due to the details talked about before I have not received anything since he took his redundancy package. It does seem unfair that if you work privately it goes on gross income and if you are self-employed it goes on net. This, I feel, should be reversed. It is a well-known fact that if you want to dodge maintenance you either become unemployed, self-employed or work for cash.

There are a lot of dads screaming out for help out there. In my case I have my children 24/7. They are getting older now and have worked things out. Hopefully one day their father will want to know his boys. I have set up my support system. It is my family and my friends, and the school is a vital part of this network. Everything filters off this—teachers and principals. Families of my boys' mates are so loving and caring that they have become a part of my support network.

To summarise, the legislation stating reason 3 in the appeal process is outdated and needs to be amended to allow for parents who separate prior to school age. The education system does start at preschool. It goes on to primary, high school and possibly university. After 10 years of ignoring his boys, he can say something like, 'It was not my intention.' What about my intention and my children's intentions? The current legislation that will not allow joint bank accounts to be garnisheed needs to be changed. If money is owed to the CSA they should be able to go into any bank account with the paying parent's name on it and get it, just like the financial institutions. Thank you.

CHAIR—Thank you very much.

Mr CADMAN—It has been very hard for you.

Witness 2—Yes, in some respects, but not as hard as some.

Mr CADMAN—There is one bit I did not understand—that is, your ex-husband has a say in the boys' education.

Witness 2—Yes.

Mr CADMAN—I do not understand. Does he just refuse to pay for it?

Witness 2—He has to pay X amount of maintenance and then if they go to a private school he has to pay X amount again for the school fees et cetera—the school supplies, the excursions and so forth. He is saying that it was not his intention, so it costs me $2,500 to send them to the local Catholic schools as well as school supplies. Instead of paying X amount of money, he has to pay X amount of money minus the $2,500.

Mr CADMAN—I must say, I really find it hard to understand his attitude with three sons—of not wanting to know them. I have three sons and I think they are terrific. What did you mean when you said that he is paying indirectly? I did not understand.

Witness 2—Before he took his redundancy payment, his wages were garnisheed. A lot of the time it is not how much you get; it is what you do with it. Indirectly he is still paying for the fees through the maintenance that I received. I am not getting any maintenance now but, before, I was using his maintenance to pay for the school fees. So indirectly he was paying for them.

Mr CADMAN—What do you think would have happened if he had been required as part of the settlement to involve himself in decisions about all of the boys' lives?

Witness 2—That is what I said about mediation—no mediation was done when we divorced.

Mr CADMAN—Do you think that would have forced him to pay attention to the needs of the kids?

Witness 2—He had no role model. He was in a boys home growing up, so I think he would understand the needs and the wants of a child—three active boys, one of whom has just joined the Army cadets. My ex-husband was in the army when we married. He is well aware of this, though, but he still does not have anything to do with it. I would say that his wife probably has a lot to do with it. Because he earns so much money—he is quite a high-profile business person—to introduce three boys into his life all of a sudden would raise some questions.

Mr CADMAN—But if right from the beginning he had been forced?

Witness 2—Personally I think things would have changed, but it is hard to say.

Mr CADMAN—You think it may have helped?

Witness 2—Mediation, yes, certainly.

Mr CADMAN—I guess the things you say about his reluctance to pay and reluctance to have contact with the children is an aspect of his character that might be difficult for any law or anybody to change. You can just hope that he might one day take an interest in them.

Witness 2—Yes. But, like the CSA have said to me, because he wrote off all of the $930,000 that he earned—CSA have documentation of that and I have got documentation of that—to $18,900, he has done it all legally. He has not broken the law. They have told me that.

Mr CADMAN—I do not know how we can fix that, but it is something that we ought to have a very serious look at.

Witness 2—Regarding the Centrelink employment separation certificates, Centrelink will not give me any information in regard to my ex, but they have told me that, if you have nothing to do with Centrelink, you do not need to notify them of any aspect of your life, let alone leaving your job and taking a redundancy payment. So I feel maybe they might be on a low-income family allowance, which is totally wrong.

Mr CADMAN—Do you think they might be collecting it two ways?

CHAIR—She does not know that.

Witness 2—He is taking it from welfare payments in one hand and he used to be giving it to me in another, but he is not even doing that now, because CSA will not touch anything in joint names. They could have half a million dollars sitting in a bank account, but if the new wife's name is on it, they will not touch it.

Mr CADMAN—The problem for us is that, in slightly different circumstances, if he did not have a great deal of money and was required to maintain a second family as well, that puts a great strain on people.

Witness 2—I understand that.

Mr CADMAN—Getting to the core of it and making people meet their responsibilities is really hard.

Witness 2—I was actually talking to CSA on Friday. Their whole attitude has changed now that they know I am going up against the appeal. I said that I thought children were all supposed to be treated equally. They said, 'Yes, they are.' I said, 'Well, how come his children get to go to Disneyland every second year?' They shut up then; they did not say anything.

Mr CADMAN—Thank you.

Mrs IRWIN—You were just saying that you were going up against the appeal. Who is paying for that? Is it through the Child Support Agency?

Witness 2—I suppose it is, yes. It is just paperwork really. It is not a tribunal process or anything. It is just filling out the appeal and sending it and then he sends all of his documentation. In November of 2000 he sent his accountant's report saying, 'My taxable income is $18,900; you should only get $20 a month.' He sent his accountant's report and that was the gross amount.

Mrs IRWIN—That happened in November 2000.

Witness 2—That lasted for 18 months, and I have just had my second appeal in September. He attached no financials, and they referred to the Lee survey.

Mrs IRWIN—So you are not getting any child support at this stage?

Witness 2—No.

Mrs IRWIN—Because of the joint accounts?

Witness 2—Yes, because he took his redundancy payment, they cannot get any money out of him.

Mrs IRWIN—That is something that we have definitely got to have a look at. I am very interested in the question Mr Cadman asked you about you having no mediation.

Witness 2—Yes.

Mrs IRWIN—It is entirely up to you if you want to state exactly what happened once you and your partner separated, but it might help this inquiry see what other mechanisms we can put in place. A lot of people have said to us that if there were compulsory mediation, they might not have gone that one step higher to the family court. Could you just quickly tell us your story and what changes you would like to see.

Witness 2—I would definitely like to see mediation. I do not know if we would have reconciled, but it might have opened up contact with the boys. My ex had no role model—he grew up in a boys home in Katoomba—so he did not understand. He had no contact with his father. He said to me, 'I grew up okay.' I think mediation is a good thing. In the divorce papers my ex turned around and said that he sees the boys on a regular basis and that he spends money on them on the weekends that he sees them. I turned around to my solicitor and said, 'You know that's a lie.' He said, 'I know it's a lie, but if you contest that they will ask for counselling and mediation. You'll have to take time off work. He'll have to take time off work.' We were living down in the Southern Highlands at the time. He said, 'You'd have to go to Canberra to do all the mediation things. That is a two-hour drive. Do you really want to do that?' I said, 'Well, not if you don't think it's worth it'. I had just had my third child.

Mr CADMAN—I know how hard that would have been.

Witness 2—My third child was six weeks old so I did not really want to deal with it.

Mrs IRWIN—So you would support compulsory mediation?

Witness 2—Definitely.

Mrs IRWIN—Let us talk about parenting agreements. It has been suggested by number of individuals and organisations that, at the initial stage of separation, both parties should sit down with a mediator and then decide on the children's schooling, religion and so forth. Would you agree with that? Would that have worked in your case?

Witness 2—It is really hard to say. He did not even see our child until he was two weeks old. He went away on the weekend I was giving birth to my baby. So he just does not want anything to do with us. So I can really comment on my case, but in other cases I think it would be a good thing. There really does not seem to be any guidelines. My gynaecologist rang him up and said, 'Get back to me,' and he said, 'Oh, yeah,' and hung up on him. So there was no enforcement. He could do whatever he wanted, and I had to sit back and take it.

Mrs IRWIN—You said that you relocated to be close to family. Was that just after the birth of your third child?

Witness 2—He was 17 months old. My ex was not seeing my children down there. An incident happened. I was looking for his car because I was desperately in love with him still. I had three little ones with me and I nearly got hit by a car. I thought, 'I've got to get out of here,' so I decided to move up here. But nothing has changed. I sent him an SMS six months ago about my son joining the army cadets. I thought I might be able to initiate contact that way—because my son was asking about his father's army life. He was asking, 'What did dad do? Why did dad do this?' I thought, 'Well, I don't know.' So I sent him an SMS—because he has hung up on me twice—but there has still been no contact. So nothing has changed since these appeals. I find it ludicrous that after all this time he can turn around for financial reasons and say, 'It was not my intention,' when I know it was. They were going to a Christian preschool. That is still not enough for the CSA.

Mrs IRWIN—And that was something that he agreed to, you stated earlier.

Witness 2—Yes. But because he does not want to pay for the school fees, the excursions and the school supplies he is just saying, 'No, it wasn't my intention.' What about my intentions?

Mrs IRWIN—Your submission is absolutely excellent and I think your three beautiful boys should be very proud of you. I think the most important thing is in terms of the Child Support Agency.

Witness 2—I have never ever said no to my ex-husband taking the children. He came up in 1999 for a night. He flew in at 5 o'clock or something and flew out at 10 o'clock. He did not even want to have them for the night. He just cannot take them enough, and he does not take them enough. That was the last contact I had with him.

Mrs IRWIN—I think we definitely have to look at some changes there.

CHAIR—Did you go to the Family Court?

Witness 2—Yes. I bought my husband out of the house that we had in the Southern Highlands.

CHAIR—When did you go through the family law court?

Witness 2—It was in 1994, just after the birth of my third child.

CHAIR—What process was initiated with respect to looking at the rights of your children at that time? I am talking about parenting rights, not residency—parenting responsibilities in relation to education, religion and so on.

Witness 2—There was none.

CHAIR—Did anybody emphasise any of those issues?

Witness 2—No.

CHAIR—With your residency orders or contact orders—

Witness 2—I bought my husband out of the house. I got custody of my children, the car, the contents and the house—that was it. Any access that he wanted, he could have.

CHAIR—But he did not apply for any residency or any contact?

Witness 2—No. No contact—nothing.

CHAIR—He applied for no contact at all?

Witness 2—No, nothing.

CHAIR—So it was an open-ended thing that he could have contact when he wanted it?

Witness 2—Yes. The solicitor said that usually after a period of time and both parties have got used to the situation, the other parent gets in contact and wants to resume contact with his children. So I just took it at that. I had just had my third child.

CHAIR—Did he attend the hearings?

Witness 2—Yes.

CHAIR—I am wondering about this issue of the specific emphasis placed upon parenting. As I said, I am not talking about residency; I am talking about parenting responsibilities. You are a parent, you are both parents of three children. In future, they will need education, nurturing, religion, sport and medical issues. If you had had some counselling together at that time—

Witness 2—He was never forced to go.

CHAIR—And in the family law court process your responsibilities as parents were not debated or discussed with you both?

Witness 2—No, not in the family law court. I went to private counselling after he left. After I went three or four times, the counsellor wanted to see my ex, and I said, 'I don't think he'll come.' She said, 'Well, try,' and he said no.

CHAIR—So if the emphasis had not been placed on your property settlement, buying out the house and doing all of those things—

Witness 2—If it was part of the custody, the house and counselling and mediation—

CHAIR—If the only thing that you initially talked about before any other process was put in place was your parenting responsibilities—not where the child was going to live, the house sale, the property, who owns this lounge and who owns that car—and if that had been given credibility during your family law court experience, do you think there may have been some different understanding of what parenting is all about?

Witness 2—Definitely. I do not really know about Family Court matters at the moment, but back then there was nothing in place. They did not say, 'You have to go to A before we can do B.' It was, 'You can go straight to B.' So definitely.

CHAIR—Thank you very much. It is good to hear different aspects of the issue of parental separation and the way in which children are treated. It is not always the case that the resident parent denies contact or close association with the other parent of the child, whether that is the mother or the father. So it was very good to hear your evidence and we appreciate your submission. It takes a lot of courage to come before a committee in a public sense, and we thank you for doing that.

[9.29 a.m.]

WITNESS 3, (Private capacity)

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 this committee is a very serious matter and could amount to contempt of parliament. I remind you that the comments you make are on the public record. You should be cautious in what you say to ensure that you do not identify individuals and that you do not refer to cases before the courts. You are appearing before the committee today in a private capacity. In order to ensure that your privacy and that of third parties is protected, we will refer to you by name in the hearing. However, in the transcript, which will go onto the committee's web site, we will refer to your evidence as being from a numbered witness. You will know your evidence but you will not be publicly identifiable by others. I invite you to make a five-minute opening statement before I invite members to proceed with their questions.

Witness 3—I should state at the outset my beliefs about how the system could and should change. I believe that, where there has been shared parenting prior to separation, there should be a presumption of shared residence after separation where this is the preference of both parties and where there is no evidence or claim that the children would be at risk in such an arrangement. That is a position I have reached after initially making my written submission to the inquiry and having thought about it further. Since the inquiry was announced, the coverage I have seen has been divided into mothers'/women's perspectives versus fathers'/men's perspectives, and I have been very worried that non-stereotypical individuals or families might not be heard—for example, women in my circumstances.

I want to briefly tell you about my circumstances. I left a violent and abusive relationship in August 2002. I had been married for 17 years. I did not take my children with me. I believe my children are at risk while they remain living with their father. I have applied to the Family Court for an order that the children live with me and have contact with their father. This matter is still before the court. I am led to believe it is likely to be mid-2004 before this matter is heard. In the meantime, I am allowed to have my children stay with me every second weekend and for half of the school holidays. I live very near my children. Prior to the separation, I was the primary carer and I worked full time. My husband did not work.

Given my circumstances, the issues for me include getting the inquiry to understand that some women do leave without their children. There seems to be an assumption that, when there is violence in the family, either the husband will be forced out of the home or the woman will take her children with her. That is not always the case. The second issue is the rights that are vested in the parent who stays. The third issue is the presumption that the person who stays is the primary carer. There is also a presumption that somebody who works full time is not the primary carer. I have done the calculations and added up the hours. Over the last two years or so, if you count the hours—if you can be so crude as to count hours as the quantity of care—67 per cent of the care was provided by me, even though I was working full time and he was not.

The fourth issue is the lack of authority of the court counsellor. We have had mediation and counselling on three occasions. They have made recommendations and these have not been acted upon. The fifth issue is the present priorities of the Family Court. In my experience, property comes before the children. My experience so far is that the children have not even been raised as an issue; it has been property first. The next issue is the reluctance or difficulty in notifying the Family Court of children being at risk. The final issue is whether shared parenting can work when parents are in conflict. I believe it can.

I have a number of recommendations. Firstly, as I said at the outset, there should be a presumption of shared residence from the date of separation in circumstances where there was shared parenting prior to the separation, it is the preference of both parties and there is no claim that the children would be at risk in such an arrangement. The second recommendation is that, where one party claims the children may be at risk in such an arrangement, an investigation of that claim must immediately be made without an opportunity for delaying tactics, and immediate action must be taken to protect the children's interests.

The third recommendation is that counselling on mediation must be a mandatory and immediate first step. When one party wishes to dispute that proposal for shared residences arrangements, delaying tactics cannot be permitted. My fourth recommendation is that where a court mediator or counsellor recommends, for example, a family report or further professional assessment, that recommendation must be acted on. My fifth recommendation is that pre-trial Family Court events should examine the aspects in dispute that concern the children first, not property matters. My final recommendation is that some people may need training in order to develop the skills necessary to constructively use mediation and counselling processes and to negotiate shared parenting arrangements. In some cases, it may be necessary for such training to be mandatory.

I also have some issues around child support. They are minor issues, but for me the two issues are related. It is not about the formula because I believe that, whatever formula you have, you are still going to have things that fall outside that or are exceptional circumstances. The first issue for me is the influence of the paying parent over the spending choices that the resident parent may make and the other issue is around the capacity of the paying parent to pay and allowing them some discretion to make financial sacrifices to trade-off for buying things for the children. That is my statement.

CHAIR—Thank you very much—well done.

Mrs IRWIN—Thank you for your submission; it is greatly appreciated. You stated that you left the relationship in August 2002 and you still do not have a date for the family law court. Is that correct?

Witness 3—That is correct. We have had two appearances before a deputy registrar and I understand I have a date in November to determine if the matter is continuing and for issue of a trial notice. I am told it will probably be mid next year before we get before the court.

Mrs IRWIN—I gather that you are going for custody of the children.

Witness 3—Yes, that is what is in the orders I have sought. I had raised that if an assessment of my children's circumstances found that there was no risk to the children residing with their family, I would be happy with equal residency. The interesting thing is that I am told that the judge or the registrar could not make that decision. If I continue to seek orders for residency and he continues to seek orders for residency, the judge would be unlikely to decide fifty-fifty residency in this case and that one of us would actually have to change the orders that we seek. I am prepared to do that if I have the evidence that the children are not at risk by that arrangement.

Mrs IRWIN—You have noted that attempts at mediation have been laughably unsuccessful. Can you run through the mediation for the committee and tell us what happened. You would have been there with your ex-partner and a mediator. Did you discuss the arrangements for the children?

Witness 3—I had left and he always said that if I left he would make sure that I never got the children, so I knew his position at the outset. I asked for the mediation—I am not sure whether it would have been imposed if I had not asked for it. The purpose of my asking for the mediation was to have an increased amount of contact with the children because he was only allowing me to have every second weekend and half the school holidays. That was the purpose of the mediation and that did not result in any change in the position. Although the mediator was quite skilled, I believe, there was no imperative for my ex-partner to shift his position at all.

Mrs IRWIN—You also mentioned the Child Support Agency. I gather you are paying child support. Were you the main wage-earner within the family?

Witness 3—Yes.

Mrs IRWIN—Did your ex-partner stay home with the children?

Witness 3—Yes.

Mrs IRWIN—Are there any changes that you would like to see to the Child Support Agency?

Witness 3—In terms of the administration of the agency, the individuals that I have dealt with have been very competent, knowledgeable and professional. The issue seems to be around the legislation and the acts that they are administering. The main issue for me goes to those provisions concerning somebody who does not have the capacity to pay the assessed amount. In my case, I left the relationship with all our debts in joint names and some in my name. He did not work, so he was never able to get credit. I was left with the liability for paying those, so I asked for the amount of child support that I was paying to be reduced because of those liabilities. They did reduce it, but I believe they did not reduce it enough, because they did not recognise the family debt. My parents had lent me a good sum of money. I wanted to start repaying that because they needed that to be repaid. My sister also lent me some money but, because her circumstances had changed, she really needed that repaid. However, the Child Support Agency would not accept those as necessary expenses because there was not any legal liability to repay those family debts.

Mrs IRWIN—You would have had to have started from the beginning, really—beds, linen, cooking utensils and so on.

Witness 3—Yes, that is right—I walked out with nothing.

Mrs IRWIN—I know it is early days as yet for you because you separated in August 2002 and you have that court proceeding hanging over your head. Regarding joint custody—for instance, where you would have the children for 50 per cent of the time and your ex-partner would have them for the other 50 per cent—I know it is hard to comment at the moment, but do you think it would work in your situation if that were the decision by the court?

Witness 3—I have no doubt that that would work, with some parameters. Firstly, of course I want the assurance that my children are not at risk with him, and that is the area that is still in doubt.

Mrs IRWIN—The most important thing.

Witness 3—If I had that evidence that they were not at risk, I believe that, yes, an equal residence arrangement could work. Certainly my children believe it would work. They see their friends living in shared arrangements and moving between houses, and they do not see any reason why it would not work for us. I have in fact not ruled out the idea that the children could stay in the one house and that I could have a year in that house and then move out and he could have a year there. It sounds quite extreme but I think that is even possible.

Mrs IRWIN—What you just said is interesting: the children have said that they think it would work out. Sometimes the courts do not hear the voices of the children. How old are your children?

Witness 3—Two are 16, and I have an 11- and a 10-year-old.

Mrs IRWIN—Will they be appearing or making statements?

Witness 3—No. I discussed with my 16-year-old daughter whether she would like to appear. She thought about it—we talked quite extensively about it—and she felt I should not hear what she had to say because I might not like what she had to say, so she would have wanted to appear in camera. Then she felt it would be too emotional and too difficult.

CHAIR—Fair enough.

Witness 3—She says there are two sides—and that is her point: there is no right and wrong in this; she sees there being two sides.

Mrs IRWIN—That's correct, because a lot of people are also saying—similarly to what you have just stated—that it would be very hard for the children if there were a private session just between the judge or whoever is going to make the decision and the children. A lot of people are stating that the voices of the kids are not being heard. Even at the young age of seven or eight a lot of them know whom they really want to be with. They want the love of both parents, but it should be their choice.

Witness 3—It is an interesting comment. When I left it was explained to the children that I wanted them to live with me and their father wanted them to live with him and that we did not

seem to be able to agree and that the judge would make a decision. That is over a year ago now and they have been waiting to be asked their opinion. They say, 'You said the judge would decide and that we would be asked.' And they are still waiting.

CHAIR—Thank you. Mr Cadman has some questions.

Mr CADMAN—You are not in any other relationship, are you?

Witness 3—No.

Mr CADMAN—You do not give the impression that you are.

Witness 3—No. There is no room in my life for anything else on top of work and children.

Mr CADMAN—You make a very compelling case for becoming unemployed and living on benefits, don't you?

Witness 3—Yes, I have done the sums: if I left my job, declared myself bankrupt, got rid of those joint debts and got income support, yes, the sums are that I would be quite a lot further ahead. Of course, it is not an option because my kids would then do without.

Mr CADMAN—It is quite compelling, and you have given the dollars and cents that prove that you would be financially better off and probably in a less stressful situation in your life. You make a claim which I find to be an interesting one and one not made before: you say that as part of your non-discretionary expenditure, superannuation should be included.

Witness 3—Yes.

Mr CADMAN—I think it is very interesting that nobody has ever raised that before, because that is preparing for your retirement, yet that is part of the gross earnings that are counted when assessing the amount of support given to the children.

Witness 3—Yes. The superannuation guarantee amount is counted as a necessary expense.

Mr CADMAN—But any extra is not?

Witness 3—That is right. The particularly difficult issue for me was that when I was with my husband I had been paying superannuation. I changed jobs shortly before I separated—I was a Commonwealth government employee and you contribute as part of the scheme—and I had wanted to keep contributing at the same level when I shifted to the state public service. So all I wanted to do was maintain the same level of superannuation contributions that I had had at the time I was married and living with my children. That is what I had calculated I would need to survive a little way down the track. But that was deemed not to be necessary.

Mr CADMAN—You said you had counselling—

Witness 3—Yes.

Mr CADMAN—and a number of recommendations were made and they were not capable of being enforced. Would you mind telling us what some of the recommendations from that counselling session were?

Witness 3—The specific recommendation was that a family report be done, and that recommendation has not been acted on.

Mr CADMAN—What does that mean? I am sorry; I do not understand what a family report is.

Witness 3—It is an assessment done by a psychologist, I think it is, or by somebody with training in assessing the needs of the children and assisting the family. I am waiting for the family report to assess the needs of the children and their father's capacity for them to be safe with him. But that recommendation was made back in November, I think it was, and because he does not want to have the family report done he can oppose and delay that.

Mr CADMAN—What you mean? Who made the decision?

Witness 3—The Family Court mediator, or counsellor, made the recommendation that there be a family report conducted.

Mr CADMAN—You are saying it cannot be enforced?

Witness 3—I understand that once we appear before a judge, and perhaps at this pre-trial hearing, it may be ordered that a family report be done. Until an order is made he can oppose having it done voluntarily.

Mr CADMAN—Okay. You keep arguing that things ought to be done promptly and that there is too much delay in the process. You have said that two or three times.

Witness 3—Absolutely, yes.

Mr CADMAN—Counselling was one example?

Witness 3—The counselling was actually very prompt. We had counselling two or three days after I had filed the papers. I asked for counselling; I initiated it and he agreed on some occasions and not on others. The counselling has been prompt and regularly available. It has not had any teeth to it, in terms of what the Family Court counsellor has recommended, and I am still going through the process, obviously. The other thing that astounds me is that, on the two occasions I have appeared before the deputy registrar, the children have not been mentioned. The first time I was absolutely astounded. I thought that finally somebody will ask whether my children are safe and well. All they said was, 'You'd better get a valuation of property. You'd better get a valuation on that. What's this amount here? Better go and look at that.' I was just dumbfounded. I wrote a letter of complaint.

Mr CADMAN—Good.

Witness 3—The person who handled it did not look at me. They had their head down. I was in there waiting for my children's names to be mentioned and the person I was appearing before did not even make eye contact with me or with my husband. The second time—I do not know the names but, again, it was before a deputy registrar—again the children were only mentioned in the context of, 'Oh well, whoever gets the children will get the house, then,' and then, 'We'd better get another valuation on the house,' and so on. It was resolving all around property first and the kids were not getting a mention. So that is twice I have been before a deputy registrar and the children have not even been an issue, even though there has been a recommendation on the file there for a family report and that recommendation was on the file at the time I first appeared before the deputy registrar. There are also notifications of children at risk and things, but still it was only property focused.

Mr CADMAN—So what was the order? Was it that whoever gets the house gets the children, or the other way around?

Witness 3—That was the offhand comment: 'Oh well, the children will need the house to live in because they are all still at school and we had better get another valuation on the house.' Then the rest of the conversation was around items of money and property that were in dispute. The only reference to the children was that they were living in the house—something along the lines, 'Oh well, whoever gets the children will get the house.' It was one of those conversations where you are sitting around the table, all heads are down and there is mumbling.

CHAIR—This is the 19th hearing of this inquiry—1,600 submissions later, and more. This problem always inflames my intestines because the Family Court process has continually indicated that all areas are always looked at for and on behalf of the children and that you go through all these processes first in looking at the parenting responsibility. Even yesterday we had a submission—it was quite clearly a public submission—about how every principle of family law takes into consideration all the aspects that the committee is looking at that and there is no area that advantages either parent in family law proceedings. It did say that the Family Law Act sets out clear principles about the parenting of children—namely, children having a right to know and be cared for by their parents regardless of whether their parents are married, separated or have never married and children having the right of regular contact. The Family Court must cover the express wishes of children et cetera. All the significant welfare and developmental issues of the children—all of the children's rights—are supposedly covered.

As I have said, this is the 19th hearing and I have not come across an actual situation—it is fine that it is in print—where parental responsibilities and parental care, aside from residence, were the primary focus. Then we talked about residence and, later on, property et cetera. It seems to be continual. I have not come across any area that demonstrates that the Family Law Act works as it is written at this point in time.

Witness 3—I have been assuming that once we get before a judge that is when the act will come into play and the children's interests, needs and everything will be heard. The difficulty is that I am still a long way from it and are their needs and interests are not being picked up anywhere.

CHAIR—I am probably becoming sceptical, but do not hold your breath! This morning we have a situation that highlights and typifies that there is no same scenario in every family. It is of

significant difficulty to determine. Bearing in mind that you have concerns about the welfare of your children under their current residency arrangement, as a nonresidential parent if you were able to have more responsibility, more involvement, more influence and more discussion about your children's day-to-day lives, wellbeing, what sport they play, who their friends are, what school they go to, what church—if they go to church, do not go to church, should go to church or whatever—medical issues and whether they need injections for high school, would that take some of the angst out of your current position?

Witness 3—I do a lot of those things but by subterfuge at present. The children go behind their father's back. Their sneak down and they call me when he does not know. I have a pattern. I go there every day. I am allowed to sit outside the house and spend time with the children. They sneak away to see me. I take my children to doctors and dentists but, again, by subterfuge. If I ask permission, it is denied. So I am doing everything that I can to be actively involved and to influence choices. It is difficult at the moment.

I will give you an example. I wanted my two younger children to have an assessment done at school. I talked to the counsellor about it and he agreed it would be really good, given their particular circumstances. But I needed their father's permission because he is the residential parent. The school would not allow it to go ahead with just my authority, and he refused. I was going through the process of having to seek specific orders to have the school ordered to conduct the assessment. We got around that by the counsellor ringing him and persuading him that it would be good for the children. You work by subterfuge and in whatever ways you can to have an influence on your kid's lives, but there are some areas where I simply cannot have a say. I can stretch my money as far as I can to pay for things for the children that he will not pay for. My family stretch their money as far as they can to pay for things that I cannot pay for. There are some areas where he just will not budge and I do not have any authority or influence. He holds all the cards.

CHAIR—In your opening statement, you indicated that you could have shared residency even if there was not a good relationship between parents. Most people who have come before us who have shared residency have not had a good relationship with one another, but the shared parenting works. However, there is a very strong push—from organisations and even perhaps within the family law system—that says you require a good personal relationship and an open and communicative relationship for shared parenting and shared residency to work. I am interested that you said that you think it can work. You have been in a domestic violence situation, and you still believe that shared residency could work, even though you have come out of a situation that has been domestically violent. I find that very interesting. Do you think you could be exposed to further violence?

Witness 3—I really do believe that it can work. I suppose that if people had ideal relationships they would probably still be married. People who have separated have had lots of conflict, the children have been living in conflictive homes, and the parenting often has been shared. The reason I think it can work is that most people are law abiding. An AVO worked for my husband. He stopped and he will not breach that AVO. He will abide by the law; he will abide by what he is directed to do by the Family Court. If he were directed to enter into certain shared parenting arrangements, and if there were penalties if he did not, he would abide by that. I think that many people tend to be law abiding when it is very clear and directed. I do think there

would need to be very clear ground rules, prompt avenues for intervention if those ground rules were broken, and mediated negotiation to work out the details of shared residence arrangements.

CHAIR—You speak of penalties. What would you see as a penalty if somebody breaches contact—even outside of shared residency? Currently we have a mess of a situation whereby some people deliberately withhold contact from the non-residential parent. They want to see their children, they come to pick them up, but mum or dad—whoever is the resident parent—takes them off and then indicates that mum or dad did not come and pick them up. What sort of penalty would you see as being appropriate? I am not asking for rocket science here; but, as a gut feeling, what penalty do you think could be imposed for those people who deny contact?

Witness 3—I do not know; but I do know that with the AVO the penalty of a criminal record was the motivator. There was no way that this person would do anything that might leave him with a criminal record. I guess that is difficult when you are talking about family law, and if it is a breach of a contact order, it is obviously not a criminal offence.

CHAIR—Thank you very much. It takes a lot of courage to come before a public hearing. I do not think people understand just how much courage it takes. We certainly appreciate your coming before us this morning to give us your perspective. I think it is a very balanced perspective.

[9.58 a.m.]

REASON, Ms Maria Aleida, Coordinator, Kempsey Women's Domestic Violence Court Assistance Scheme

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 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. I invite you to make a five-minute opening statement and then I will invite members to proceed with their questions.

Ms Reason—The service provided by our scheme and other court assistance schemes across the state is to provide support and information for women going through the court process when apprehended domestic violence orders are an issue. These are for women who are in domestic violence situations, and many of them have children. In this context, we often see women who are in dangerous and vulnerable situations. The aims of the service are to provide a safe environment to assist women through the local court process, to provide information to enable them to make decisions which best suit their situations, and to support them by going into court with them and making appropriate referrals to other services in the community. These include the local women's refuge, the family support service, Many Rivers Violence Prevention Unit, the sexual assault service and community health, for example. I would like to add that we do not provide legal advice but information on the legal process and how to access legal advice.

The majority of women we are in contact with are represented by the police prosecutor. This is because a conservative estimate shows that 60 per cent of police work involves domestic violence. If they make a private application for an AVO, women will often represent themselves in court. Each year our service has 300 to 500 contacts with women in domestic violence. This exposes us to hearing women's experiences of violence against themselves and their children. Sometimes AVOs are applied for after separation due to ongoing violence and harassment, and children are involved. Sometimes clients are attempting to address family law matters. At times family law orders conflict with the AVOs, particularly concerning access and contact with children.

Research shows that women can experience increased levels of violence in the first 18 months after separation, and changeover times with parents can be another opportunity to further intimidate and abuse women. Women who have been our clients have stated this has been their experience and it is not uncommon. It has been said to me also that the emotional and psychological abuse can be worse and more long term than physical abuse.

Women have spoken about their children expressing their fear about not wanting to go on contact visits due to past experiences, and it makes children witness further conflict between their parents. Being exposed to domestic violence has been proven to have a number of negative effects on a child's wellbeing. The impact of domestic violence on children can lead to withdrawal, impaired learning, developmental delays, bed wetting and aggression to name a few.

One woman said her children had asked her to leave their father due to the violence. A presumption of fifty-fifty in these situations cannot be in the best interests of the child.

Our service is mainly concerned with the safety factor for women and children. Recent reports in the media have proved how fatal domestic violence can be. A presumption of fifty-fifty residency with the onus on a woman to prove why this should not happen presents another obstacle to overcome when attempting to flee domestic violence. These women frequently find themselves in situations of economic hardship and would have to find money to pay for legal assistance. Legal Aid is already overburdened with cases as it is, let alone adding women who would need to prove why their partner should not have joint residency.

Finally, the dynamics of domestic violence mean that it is often hidden. Women experience fear but also shame, humiliation and social criticism for their situation. Between 10 and 30 per cent of women experience domestic violence in relationships; it is 23 per cent according to the 1996 research by the ABS. It is acknowledged that men can and do experience domestic violence at the hands of their partners, but statistics show that 95 per cent of the time the person instigating the violence is male. This is why it is an issue which needs to be carefully looked at by the inquiry.

In instances where families separate, if parents are cooperative and communicate freely with an equal ability to state their feelings and their opinions, fifty-fifty residency should be able to be agreed to if this is what is seen to be the best for the family involved with the family law provisions as is. But for our clients, where there are high levels of conflict and hostility, the fifty-fifty residency presumption appears to be fraught with difficulties and danger.

CHAIR—Thank you very much. I will move to Mr Cadman.

Mr CADMAN—You have put your finger on some hard issues that we are struggling with. The belief in the community is that AVOs are really important to protect people when there is violence going on. They are essential, but we have had evidence that they are also used as part of the psychological warfare in trying to gain residency of the children. In your experience, is there a way of testing the bona fides of AVOs or claims of violence? So much of it can be hinted at and done in private. There can be threats rather than actual violence itself—so fear is engendered—and I can understand that. It is very unclear how we can implement a satisfactory process that really deals with violence or threats of violence and prevents abuse of that system.

Ms Reason—If I understand your question—and this is my interpretation of it—for most of our clients who come to court, their AVOs are initiated by the police.

Mr CADMAN—Okay.

Ms Reason—The women who have to seek private applications must go to the chamber magistrate first and prove that they have reasonable fears for their safety. However, when the matter appears before the magistrate they must satisfy him or her that they have reasonable grounds to fear for their safety. The magistrate will only grant an AVO on these grounds. So women who go to apply for private AVOs do not always get them. They have to prove that they need them. Does that answer your question?

Mr CADMAN—But my understanding is that no proof is actually required; it is on the word of the applicant only. Is that right?

Ms Reason—Yes. They can provide things like medical evidence, photographs of injuries, medical history or evidence from witnesses.

Mr CADMAN—But that is not a requirement, as I understand it. So there is a dilemma there. I do not know if there is a solution, frankly.

Ms Reason—Again, I would reiterate that most of our clients have their AVOs initiated by the police. So it is taken out of their hands and is proof that they need their AVOs.

Mr CADMAN—I do not think any proof is required by the police either. You see it from one side. It is a very difficult community issue to work out. You give two examples in your submission, and I thank you for that. Why do you assume that violence would be automatically allowed in a fifty-fifty joint custody solution or joint residency solution? Why do you automatically assume violence would be permitted in that environment?

Ms Reason—Are you referring to anything in particular?

Mr CADMAN—You appear to be objecting to the presumption of fifty-fifty shared residency on the basis of violence. Why would that be any more likely to be evident than it is with an 80-20 rule or any other rule that works or does not work?

Ms Reason—As I said in my presentation, my point is that fifty-fifty would work if there were equal ability to present your opinions and feelings in a relationship where they would work it out anyway, but in a situation where there is violence and hostility fifty-fifty presents more difficulties.

Mr CADMAN—I think everybody accepts that violence must be one of the factors taken into account. Violence between parents is one thing, but violence towards children would automatically exclude access, I would have thought.

Mrs IRWIN—Tell us a little bit about the Kempsey Women's Domestic Violence Court Assistance Scheme. You have stated that you see about 300 to 500 people a year. You are not a refuge, is that correct?

Ms Reason—No, we are not a refuge. We are specifically there to attend court and assist women go through the court process.

Mrs IRWIN—You are there to give them moral support?

Ms Reason—Moral support and legal information. We provide a safe room where they can go and sit, so they are not exposed to seeing the defendant when they come to court.

Mrs IRWIN—I think you stated that virtually 60 per cent of police work deals with domestic violence. I think the cases that you see would have the evidence there.

Ms Reason—Yes.

Mrs IRWIN—You also stated that fifty-fifty would work when both parties sat down and agreed to that, but you do not agree with fifty-fifty in the cases of sexual abuse or domestic violence?

Ms Reason—No. A presumption of fifty-fifty would not be a suitable arrangement because of the dynamics of domestic violence.

Mrs IRWIN—You talked in your submission—I am not going to read it out—about two children who had witnessed their mother being assaulted by their father many times. The decision was that the father would have contact with his children. One of the children—the eldest child—would hide on the floor of the car and refuse to get out to go and spend time with his father, but it was a court decision and the children virtually had to go and spend that time with him. What sort of counselling was on offer for that particular case that you have cited in your submission?

Ms Reason—Are you talking about counselling through the Family Court or counselling for the mother or counselling for the children?

Mrs IRWIN—Counselling for the children.

Ms Reason—Since they lived with their mother, I guess it would be up to her discretion to access counselling through school or the community health centre, or she could be attending the family support service and they would counsel and assist the family.

Mrs IRWIN—You virtually stated earlier that it is mainly court assistance that you give to women—moral support, safe haven. You would have sat through a lot of court hearings in your time. Do you feel that sometimes the children are not heard—that the court system is hearing mum's side or dad's side but sometimes it is not hearing the voices of the children?

Ms Reason—The only time the children get heard is if the mother really needs to apply for an AVO on behalf of the children when she is concerned for their safety. It is only when an AVO goes to hearing. There is not really a voice for children, no.

Mrs IRWIN—Are you funded by the federal government or the state government or is it private funding?

Ms Reason—We are funded by Legal Aid.

CHAIR—You said in your submission:

As it stands, there is no principle of family law that advantages either parent in family law proceedings.

Because you offer court assistance, can I talk to you briefly about interim orders and when a person is provided with interim orders? When you get to judgment day, so to speak, do you see that those interim orders are generally kept as they were or is there any change to the interim orders? Say you have an interim order, and you have a domestic violence incident—which is

perhaps what you deal with most of the time, or all of the time—and you have, say, the fundamental 80-20 rule for interim orders for contact with children. Maybe 80 is with the mum—

Ms Reason—Are you talking about interim orders from the Family Court rather than interim AVO orders?

CHAIR—Yes. I am talking about interim orders from the Family Court. You have talked about the Family Court. I prefaced this by saying that you say there is no principle of family law that advantages either parent in family law proceedings, so I am talking purely family law. So you have got an interim order of 80-20—80 for the mum and 20 for the dad—and then we go to the family law court process. Do you see those interim orders as being left as they were as interim orders, or do you see very often an overturning of those interim orders and, say, a dad getting 40 per cent of the time with the children and a mother 60 per cent of the time?

Ms Reason—For our clients, I do not usually follow through to that point. What happens to them at the family law court after a period of time does not really come into my field of work. They come to court for the day and we assist them through the process. If they have family law orders in place or interim orders in place then those apply to the AVOs they are seeking, but there is no real follow-up from our service to see what happens after a year or however long it takes for them to get their final orders. I do not get that feedback, so I cannot give you that information.

CHAIR—That is ironic, because, as I said, in your own submission you say:

> ... no principle of family law that advantages either parent in family law proceedings.

That was part of your submission, so I assumed that you were sort of dealing in family law. Otherwise, why would you involve yourself? Where I am coming from is that I think there are areas in family law that do advantage one partner over another. Personally, I believe the interim order starts to advantage, because it just seems that you get an interim order and then there is such a long time between appearances at the family law court. As the previous witness has just indicated, it is such a long and lengthy process. All of a sudden, the interim order is in place for one or two years, and then basically we do not go outside the interim order because it seems to be in place and working; it is not looked at as a balanced judgment on the day because the interim order has been in place. The reason why I ask you these questions is that you have commented on no area of advantage in family law. I understand you just deal in domestic violence, with respect to representing court assistance, but you are the person who raised family law issues. The issue that I wanted to find out about is whether you see interim orders that are changed very regularly.

Ms Reason—No, with our clients we do not usually follow their family law matters through to that point and that closely. We are usually there for the critical point when they are seeking their AVO. I guess I raised the principle of family law because of the issue of domestic violence in relationships and the dynamics of domestic violence. When it goes to Family Court, sometimes those proceedings might be affected by how that woman is responding or feeling or dealing with domestic violence. It is a difficult place for two people who are trying to arrange

parenting or trying to solve or deal with their issues to get a fair outcome for the woman, because of the dynamics of the domestic violence, if that makes sense.

CHAIR—Most of my questions were about the first paragraph in your submission, which talks about the Family Law Act providing that each parent has parental responsibility for their child and that this is not affected by parental separation. Again, I question that act and the enforcement of that part of the Family Law Act. I was looking at your submission and you seemed to be submitting that the Family Law Act does not need to be changed, that the family law court process already provides the safeguards and the safety nets, and why would we be presuming that there is equal residency for children who are not in conflict situations? I guess you have clarified that you are not really into the Family Law Act itself and the way in which it works.

Ms Reason—As I said in my opening statement, I am not a legal expert—I do not give legal advice—but I need to have some understanding of the Family Law Act because it is involved when women come to court and it affects their AVOs. From what I understand, the Family Law Act, as it is, allows for parents who are able to resolve issues or reach agreement to have fifty-fifty if they want to—if they have the ability to communicate effectively enough that they can arrange that for themselves—but when the matter of fifty-fifty comes to court and there is violence involved then the presumption of fifty-fifty puts mostly the women in a very difficult situation.

CHAIR—I asked a question of the former witness about that issue because obviously she came out of a domestic violence situation. She still believes that she could have shared residency and that it could work, even though she has come out of that. I am only asking this so that I can get an understanding. There is no excuse for violence in any relationship: it could be a woman being violent toward a man—because there are certainly a lot of men out there who have come before this committee and who were being abused silently in their homes—and there are certainly women who have domestic violence. There is no excuse—I make that point up-front. But if there were a particular position between two people, where the two adults have a violent sort of nature between one another, but the child is not involved in that—either partner who is the perpetrator of the violence has never directed violence toward the child—should the child still not be given that contact and residency with the parent or the partner who has been the perpetrator of violence, even though that partner has never looked at directing violence to that child?

Ms Reason—There would be a view that a child witnessing violence between two adults and the perpetrator exposing that child to domestic violence is violence on the child anyway. That is psychological and mental violence.

CHAIR—That is when they are living together.

Ms Reason—Yes.

CHAIR—When they are living together it is, I agree with you. There must be nothing more horrifying for a child than to see people in some sort of abusive situation. But then they are separated, so the violence is at this end of the room and that end of the room. They are separated and they cannot reach one another. If there has been no violence that has ever been directed

towards the child by either of those people, and because they are separated they are not going to be witnessing the violence—for example, one parent drops off the child at school and then the other parents picks them up after school, so they are not coming into contact—do you think that a child could have a shared residency or a shared involvement and relationship with the abusive partner that is not being abusive to the child? Do you think that is possible?

Ms Reason—I think that is possible. Experience or anecdotal evidence from women shows that children are used as pawns to further influence or intimidate. Parents use the children against each other. If that issue was not involved and both people were able to—

CHAIR—Not speak with one another; not even talk with one another or communicate with one another.

Ms Reason—As long as they did not use the children to do that to each other then it would be possible, I guess.

CHAIR—I have to ask that question because it is raised time and time again. We look at the statistics that everyone raises on domestic violence. Yesterday the statistics were that one in four women are exposed to domestic violence and one in five children witness domestic violence. I think they were the stats. But I tend to look at whether your glass is half full or half empty. Three out of four women do not experience domestic violence and four out of five children do not witness it. Do you know what I mean? I am trying to look at it from the perspective that those people who do have domestic violence in their lives are not the greater percentage, and I think that is recognised. I am not taking away from the fact that it does happen, but they are not the greater percentage. But in the areas of domestic violence where it does take place—if a child is not the victim of violence themselves but a witness—once that witness has been removed and once the parents have separated and they no longer have contact, should a child be able to see the partner that has perpetrated domestic violence on the parent or the mother or the father of that child?

Ms Reason—I find that a really difficult question.

CHAIR—It is a difficult question, isn't it? If you have a thought about it and you want to contribute to it, it is a question that we have to answer.

Ms Reason—In an ideal situation it is possible it could work, but I would not be hopeful that it is something that would work in reality.

CHAIR—We are interested in the interests of the children. Everyone comes before us with the interests of the children but, time and again, they talk about their own interests or the issues surrounding themselves. If a child loves a parent who has never been violent towards them and has never shown any signs of that, but certainly has been violent towards the other parent, I am wondering whether, in the interests of the children, this committee should look at that when it makes some recommendations. It is a thought process that we have to undertake in the interests of the children: do we keep a child away from a parent who has never shown a sign of violence towards that child?

Ms Reason—Again, I guess you would want to listen to the voices of the children when they express that they want to be with their parent.

CHAIR—That is a very good response. Thank you very much. I do appreciate your coming in this morning. I understand that it is difficult. You are speaking not on behalf of yourself but on behalf of everybody else, which makes it very difficult. We do not mean to be interrogative or to create difficulties for you, but there are questions that we need to answer at some stage through this inquiry.

[10.26 a.m.]

BRODBECK, Miss Wendy, Coordinator, Coffs Harbour Women's Domestic Violence Court Support Service

YOUNG, Mrs Charlotte Mary, Coordinator, Warrina Women and Children's Refuge

CHAIR—Welcome. I advise you that the evidence you give at this public hearing is considered to be part of the proceedings of the parliament. Therefore, I 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 or refer to cases before the courts. Would you like to make a short opening statement? I will then invite committee members to proceed with their questions.

Mrs Young—The Warrina Women and Children's Refuge thank the committee for the opportunity to speak to our submission and put forward a rebuttable presumption in cases of domestic violence. The Warrina Women and Children's Refuge is a non-profit community based organisation providing supported accommodation, advocacy referral and specialist child support to women and children who have experienced family or domestic violence. We also auspice the Women's Domestic Violence Court Assistance service, and we are in partnership with Burnside Family Support Service and Health via PENOC and together we provide specialised group work to children who have experienced domestic violence.

On behalf of the women and children who contact us and utilise our service, we ask the committee to consider the reality of a presumption that says that children will spend equal time with each parent within the context of domestic violence. The Warrina Women and Children's Refuge in the past 12 months has supported 183 women and 374 children. The Women's Domestic Violence Court Assistance service had contact with 427 women in the same period.

In our area we do not have access to a permanent family law court. The family law court sits three times per year, with any urgent and/or interim decisions relating to family law or contact being heard in the local court by the presiding magistrate. We do not have access to face-to-face mediation or counselling. That no longer exists in Coffs Harbour through the family law court. On a state level we rate fourth statistically per capita for applications for apprehended domestic violence orders. Coffs Harbour has a supervised contact centre, with users for all of these services coming from a geographical area that extends 90 kilometres north to Grafton, 50 kilometres west to Dorrigo, and some 50 kilometres south to Macksville and Bowraville.

The Warrina Women and Children's Refuge is concerned in regard to the changes being considered in the Family Law Act. Current provisions of the Family Law Act already include mechanisms for shared parenting as the child's right and where it is in the best interests of the child. A one-size-fits-all approach will take away the child's right to be considered individually and does not allow for the children we work with who have experienced or witnessed domestic violence. The executive summary of the Family Law Act states:

... the Family Court rarely made joint custody orders in contested proceedings ... such orders were not appropriate unless the parties' approaches to parenting were compatible, and there was a relationship of 'mutual trust, co-operation and good communications' between the parents, factors that are generally absent in litigated matters.

The qualities described here are not evident in abusive relationships. Our service asks you to maintain a child focus throughout these proceedings. Safety should be paramount for children regardless of the wishes of the parents. The dynamics of family violence are such that agreements reached by parents may not, in fact, preserve the child's safety. The changes being considered to the Family Law Act will place women and children who are victims of violence at increased risk. The presumption will force some children to live with violent fathers and will force mothers to have to regularly negotiate with and be in the presence of violent ex-partners. It provides a dangerous tool in the hands of abusive men who wish to control their partners after separation.

In terms of a rebuttable presumption, we urge the committee to consider the directions taken in New Zealand in regard to family law. In 1994 Sir Ronald Davidson recommended that, in cases where it has been established that one party has used violence, consent orders should not be accepted by the court until it is satisfied that such consent is freely and willingly given. In 1995 New Zealand changed the approach taken by the family courts in relation to children involved in domestic violence cases. Section 16D of the act spells out the ascension elements of the new act. This section provides that when a person has been shown to have used abuse in domestic violence situations that person is not to have custody of or unsupervised access to the children until the court can be satisfied that the children will be safe with them. The change in legislation accompanied the emerging findings from local and overseas research that witnessing family violence is detrimental to children.

Services for the supervision of child access have developed throughout the Western world in recent years. The demand for supervised access has in large part been a response to the emerging understanding that living with and witnessing family or domestic violence has long-term negative impacts on children. What also drove the change in New Zealand was a story we have all heard before—father kills children then himself. What was different about this case was that the father had in fact been awarded custody of his children. On an access visit his ex-wife had with the children, he assaulted her. For the first time, there were witnesses: one of the children's friends was in the home and that child supported the mother's story. In this case there was a protection order in place—the equivalent to an apprehended domestic violence order in Australia—protecting the mother against her ex-husband's abusive behaviour. When the judge awarded custody to the father, he was aware of the protection order but stated, 'He may be violent towards their mother but he is still a good father.' That is little compensation for his three dead children.

The Family Law Act is deficient as it now stands within Australia; currently it does not protect children. These further considerations of fifty-fifty parenting do nothing to protect or act in the best interests of children living with domestic violence. In conclusion, we acknowledge we are speaking for the minority of separated families. However, where parents are able to negotiate in the best interests of their children, current research reflects that only a small percent do. As a starting point for the rebuttable presumption, we believe the New Zealand legislation has a lot of merit.

Mrs IRWIN—A number of questions I was going to ask you you actually answered in your opening submission. I want to talk about making contact work, if that is at all possible. What would you suggest needs to be done to address problems around contract arrangements that break down?

Mrs Young—The difficulty in Coffs Harbour is that we do not have a family law court that people can access whenever they need to or are required to. Decisions relating to contact breaking down are heard by a local magistrate. Typically he will set aside the contact order if things can be verified as to why it has broken down, but he can only do that for a short time. So we have little recourse here unless parents are able to travel to a family law court in Lismore or Newcastle.

Mrs IRWIN—Which is a big expense. You talked in your opening statement about mediation. Did you say that there is no mediation up here?

Mrs Young—We used to have face-to-face mediation when the family law court was open regularly; now for that to occur counsellors have to be booked and it can take from a month to up to six weeks for them to come from Newcastle or Lismore.

Mrs IRWIN—It should really be there when you need it.

Mrs Young—Absolutely.

Mrs IRWIN—Sometimes you can lose people through the system after a four-month wait. What strategies are needed to assist parents who are in an ongoing conflict manage shared parenting or equal time? If the parents are in conflict but there is a decision to have shared parenting, how do you think they can make those vital decisions?

Mrs Young—We could probably better fund the access centre. They have great difficulty in meeting the demand that they currently have. The women we know who have approached the access centre to provide supervised contact or changeover had about a six-week turnaround before they were contacted or called for an interview. So I imagine that we would need to have increased funding for the supervised contact and access centre.

Mrs IRWIN—You are a women's refuge.

Mrs Young—Yes.

Mrs IRWIN—You are stating that you have between 300 and 500 contacts per year. Is that on the rise for Coffs Harbour?

Mrs Young—It has probably remained the same, give or take 50.

Mrs IRWIN—How do these women usually find you? Is it through the police?

Mrs Young—It is through police and self-referral. Our brochures are displayed quite openly in many community based organisations.

Mrs IRWIN—Do you assist with legal aid or do you just steer the women in the right direction?

Mrs Young—We refer them to legal aid and we have a roster of solicitors through the court assistance service who are available to our clients. Some of our clients do not fit the legal aid criteria because they might have property, and that puts them in an incredibly difficult situation.

Mrs IRWIN—What happens in those cases?

Mrs Young—They try to negotiate on their own or they will engage a solicitor who might be prepared to wait for a property settlement before they are paid.

Mrs IRWIN—I might come back to one or two questions later.

Mr CADMAN—If you were to move away from Family Court mediators, what sort of person would be best to get a result for both sides of these conflicts of interest? Would it be hard to find appropriate people?

Mrs Young—It would be very difficult.

Mr CADMAN—They would need some sort of legal backing behind them to be able to enforce the decisions, wouldn't they?

Mrs Young—I think so. I also think that, to be able to give clear information to both parties, they would have to have some kind of legal background as well as counselling skills.

Mr CADMAN—Do you think solicitors or barristers would be the right sorts of people or would they be inclined to push a solution towards a court rather than solving it themselves?

Mrs Young—Having done the dispute and mediation counselling unit through Lismore, I do not necessarily believe that they would have to come totally from a legal background. I think that there are some good courses that provide sound building blocks for negotiation.

Mr CADMAN—So the people skills are the most important thing, not the legal knowledge, but both are important?

Mrs Young—Both are important. I do not think you would necessarily have to be a solicitor or lawyer to be able to engage clients in mediation.

Mr CADMAN—In your opinion, and you have solicitors you refer to, is there a presumption—an unofficial presumption, I grant you—of the 80-20 rule?

Mrs Young—Absolutely. Many of our clients are advised that that is what the court will order, regardless of what you say. You have already heard how protracted the family law court experience can be. For some women it is easier to settle in the first instance than go through that process and continually be put in the situation of having to be in the same room negotiating, even with solicitors present, with their ex-partner. So, many of our clients would accept the 80-20 in the first instance.

Mr CADMAN—When they may feel they could be entitled, on a fair hearing, to 90-10 or something? Is that what you are implying?

Mrs Young—I think most women are advised by their solicitors that that is what they will be told to comply with in the court, so they accept it.

Mr CADMAN—If it were to become a practice that the starting point on parenting decisions—not access or residency—would be made equally unless there was a good reason why it should not be, how do you think that consultation on schooling, health and those sorts of things, even if done through a third party, not through the kids, would work out?

Mrs Young—I think it would be incredibly difficult, and I think it would be incredibly expensive for both parties to establish individual homes where children found—

Mr CADMAN—I am not talking about residency. Leave any thought of residency and that sort of thing to one side for the moment.

Mrs Young—Would you repeat the question then please?

Mr CADMAN—It is about parenting decisions on such things as education, health, church and friends—the normal parenting decisions. Do you think there would be a problem if there were a presumption of a fifty-fifty contribution to those decisions?

Mrs Young—I think there would be difficulties. I think that some of our clients do aim for fifty-fifty because their heart is with their children. A child needs to have a mum and a dad involved in their lives, so some of our parents do aim for a fifty-fifty parental responsibility. They do it through grandparents and friends and extended family. Some people actually continue to do it through their solicitors. They share information through their legal representatives.

Mr CADMAN—Say that could be opened up to a little more reliable and open situation where it was less informal but would bind them but would not be a court process. Do you think that would have some advantage?

Mrs Young—I think it would have some advantage as long as we could guarantee that within that context the children were safe and it was their wishes that were being heard and acted on.

Mr CADMAN—One of the comments we are hearing is about assault and violence within families. Is it your experience that biological parents seldom harm their own children?

Mrs Young—No. Overall in normal families that of course is the case. With the clients that we deal with that is not the case. Many women are not even aware of the impacts of domestic violence on their children until they actually come to the refuge or come to services that draw attention to the fact that we know what we are witnessing. When a child is not even present in a room that does have an effect on the child.

Mr CADMAN—No, I am talking about biological parents actually assaulting their own children. I am not talking about them assaulting their partners.

Mrs Young—I am not sure.

Mr CADMAN—I am thinking about your comments about mediation and the 80-20 rule. I might come back to those. I really appreciate what you have said.

CHAIR—I wish to follow up Mr Cadman's thoughts on mediation. Would you think that people who have successfully resolved their own marital break-up and family separation matters would be suitable as out-of-court/ non-court mediators? I mean people who have actually been there and done that and resolved it and have been able to ultimately end up with a successful kind of mediated solution. Do you think they would be suitable as non-court mediators?

Mrs Young—Yes, I do.

CHAIR—So that is because they have been there and done that and they know the pitfalls and the trials. That is interesting because we would probably then have a hell of a lot of mediators. If there were ever a shortage of them out there, things might be a little bit easier. In your submission, you talk about the presumption that joint residency will ensure that children raised with domestic violence and abuse will have little or no ability to break the cycle of domestic violence. You would know that we are looking at a presumption here. It is assumed that we are looking at a presumption of forced residency. I get a bit frustrated with this point so I need to clarify this. I am starting to think commonsense is non-existent in the world anymore, that we do not ever think about commonsense; instead we look at everything in the legal sense. Commonsense tells us that no members of our committee want to see any child or any person in a violent situation. That is just commonsense, so nobody is going to be making any decisions that force children to go into a violent scenario.

We are not just talking about Family Law Court matters. All the legal professions tell us, the Family Court tells us, all of the advocates tell us and all the organisations tell us that 95 per cent of the people out there do it properly—they separate amicably and sort out their issues amicably. But I question that 95 per cent are doing it amicably. I think what happens is that they may not go to the Family Court or they may have been there, exhausted their $200,000, gone broke, lost their house and lost everything and then they sit down and resolve something because they have to. It may not be exactly amicable; it may be because of the 80-20 rule—this unwritten 80-20 rule that says, 'That's what you're going to get, so you might as well accept that now'—but they are not exactly happy.

What we are investigating and trying to determine is not just a rule for Family Court litigants—not just a rule for the five per cent of the Australian public or families who go to a Family Court; we are looking at a rule for everybody. How can we best provide a child with the opportunity to get the love, attention and responsibility of both their parents—all things being equal? Basically, in your determination—and I understand where you are coming from—you are dealing with the small percentage of the community, as does the Family Court and Chief Justice Nicholson. So it is probably hard to recognise that there is another percentage out there who could and should be able to try to resolve their issues with a better outcome with respect to having a bigger percentage of time with their children but who are in fact impacted upon by the overshadowing of this unwritten 80-20 rule in the Family Court scenario and who are advised by their solicitors, their advisers and, at times, their mediators, 'That's what you're going to get, so just accept it'—and we have all these unhappy people.

The reason that I have put all that preamble in right from the beginning is to say that I understand why you would be anti a presumption in the scenarios that you deal with, but there is a whole world of people out there who are aside from these people you are dealing with. We are dealing with them as well. Should we have a written rule for five per cent of the population that impacts really badly on 95 per cent of the population?

Mrs Young—Not at all. In my opening today, I actually raised the rebuttable presumption. I see the benefits and merits of children having parents together, even though they may not live in the same home—that at one level they are always going to be parents to those children. I am not sure about the mechanisms that we can put in place to support families to maintain that family role. Families do not all live under the one roof any more, and children do need to have a sense of family—mother and father.

CHAIR—That is what this committee is trying to come to terms with. There are also issues associated with people of non-English backgrounds who have cultural differences and Indigenous communities with different ways in which their children are raised—which leads me to grandparents. In the scenarios that you see coming before you, how do you see grandparents' lives being affected by parental separation with respect to contact and relationships with their children? Do you see the role of grandparents as being integral and important in a child's life?

Mrs Young—I absolutely do. In the area in which we live, we are a very fragmented community and a lot of the children we work with do not have immediate access to their grandparents—they probably live 100 kilometres away or they reside in Sydney. I think that grandparents and extended family outside of the Indigenous community—where they do have more contact because they live in smaller communities—is absolutely important and vital. It is once again that notion of family: children have a right to a family, be it an extended family or their immediate family.

CHAIR—You have not gone into the child support formula and I understand that, but it is a part of this inquiry and surely it has to come up in the dealings that you have with your clients. There is a perception that child support exacerbates the problem of bringing families together, that it actually separates families because it becomes an issue of monetary value placed on a child's head. It could be an issue of a mum accepting that if she gets this child support then she is probably financially better off—this is perception—and able to have a better lifestyle or it could be, on the other hand, that you have got a male who might do everything he can to avoid paying child support. However, they are the minority. The majority of mums probably will not see child support as being just an income and the majority of dads will want to pay and be responsible for their children—but they want to see them, though. Do you see child support as being a factor in keeping families separated? I am not talking about them being physically separated; I am talking about them being emotionally separated.

Mrs Young—I can at one level but at another level, as a parent myself, I wonder what fathers or non-resident parents think about how they provide for their children when they live together in a family. The cost of that, in terms of what they might be paying in child support, is minuscule. In terms of living in an intact family, we all know the costs of children. I see that for the person who must be paying child support they have divorced themselves from the reality of living in an intact family. When they consider that they know, surely, that the costs of children

are expensive. I am not sure how you bring the child support factor into this mix. I struggle with it.

CHAIR—As we all do. There is also a need to recognise that the normal person paying child support—I am not talking about the person who we heard about this morning who will try all avenues to prevent paying for their children; the general rule of thumb is that most guys want to pay for their children—also needs to be able to live. I guess they forget about how much it costs because they are too worried about how they are going to find their next dollar to help themselves survive. They seem to be paying everyone else's costs as well as their own. It is easy to understand why there is a sense of loss there as well. Do you have a men's refuge in this area?

Mrs Young—We no longer have a men's refuge. We used to have one up to about seven or eight years ago, which was run by St Vincent de Paul. It was closed down because it was not utilised enough.

CHAIR—That primarily might have been for people with a substance abuse problem or a mental health problem.

Mrs Young—It was not specific; there were a very broad range of men from different backgrounds.

CHAIR—We have women's refuges, and so we should. However, it is nearly always the men who are asked to leave the family home when a relationship breaks down. If the police are called, they generally remove the gentleman and it is sorted out later. There does not seem to be a place they can go to once the family relationship has broken down. They tend to have to restart and resettle—as does a female who leaves home because of domestic violence. Do you know what I mean?

Mrs Young—I do, but I also realise that the supportive assistance accommodation program, through which we are funded, actually puts more dollars into men's services than it does into women's. So while we do not have it available to us in Coffs Harbour, in other parts of the state the funding reflects that there are accommodation services available to men and that supersedes what is available across the state to women.

CHAIR—I have asked that question nearly every day and I have not yet come across anyone who has had anywhere for a man to go.

Mr CADMAN—There is Matthew Talbot.

CHAIR—But basically they are not for separated families. I understand you support accommodation services programs. I have one in Wagga Wagga, but it is for major substance abusers, mental health patients and homeless men. People are generally from a whole host of areas other than marital breakdown.

Mrs Young—I am not sure if Kempsey has one. Perhaps you should find out.

CHAIR—I will find that out.

Mr CADMAN—I wonder if you could provide some background to this comment in your submission:

What we do know from research is that children generally align themselves with the perpetrator and abuser.

I am not aware of that research. Could you provide it for us, please?

Mrs Young—It is called the manipulative model. Since we put it in our submission we have done extensive research, and there is now a model that refutes that research and says the child would align themselves with the empathic parent. But what we see at the refuge is children aligning themselves with their father in the first instance, when they come to the refuge, and I think that it is out of sheer wanting the mother and father to stay together. When I work with those children after they have been out of domestic violence—say, four or five months later—they are quite clearly aligned with the mother.

Mr CADMAN—So we should—

Mrs Young—I am not saying it to refute that research, but I have done further research.

Mr CADMAN—We should ignore that part of your submission?

Mrs Young—I am not saying you should ignore it, but you must have heard throughout your inquiry about research that counters other research.

CHAIR—Absolutely. Every single day.

Mrs Young—That is all I am saying, that I have done more research since. I can provide you with the stuff that backs that up—

Mr CADMAN—You are more honest than most, let me say.

Mrs Young—but I have also found research that says a child will align with the empathic parent, not the manipulative parent.

Mr CADMAN—Thanks for saying that. That is good.

CHAIR—You are right; there is so much research out there that it seems like a merry-go-round. We do appreciate you coming in this morning. It is something that the committee must take into consideration. We just need to be cautious that we are not completely influenced by a percentage of the population that might not reflect the entire population, but we also have to be very cognisant that we need to take those concerns into consideration, because they do exist. We do appreciate you coming in and being so honest this morning. Thank you very much.

Mrs Young—Thank you.

[10.57 a.m.]

LENTON, Mr Raymond John, Sydney Metropolitan Coordinator, Dads in Distress Inc.

MILLER, Mr Tony, Founder and National Coordinator, Dads in Distress Inc.

CHAIR—I welcome this morning the representatives of Dads in Distress, Mr Miller and Mr Lenton. Thank you for appearing before the committee. 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. If you would like to make an opening statement, please do so, and then we will proceed to questions.

Mr Lenton—Thank you for the opportunity to appear before this committee today and thank you for your interest in these issues. I have had broad experience within this field that includes working as a facilitator in the Parramatta Dads in Distress group; as a coordinator within the Sydney metropolitan area for our activities there; and as a coordinator with the Lone Parent Support Network, a court support program for self-represented litigants in the Parramatta, Sydney and Newcastle family courts in New South Wales and in some central New South Wales local and regional courts. I work as a McKenzie friend, assisting self-represented litigants in family law proceedings, and I have done some work as a coordinator with the Joint Parenting Association, which also put in a submission to this inquiry. Those positions are volunteer positions. I also work in a paid capacity in the men and family relationships field as a group facilitator. However, most importantly, I am a dad in distress—indeed, that is what brings me to this field.

The groups that I have mentioned have become loosely affiliated and are working together, along with others, primarily for parents. However, they are also working for change. We are working together to achieve justice for children and families; for people, men and women, who are parents working to retain a significant place in the lives of their children. We have become a network across the country and a lifeline to many. We meet in person, on the telephone, via email, in groups and one on one. We bring to this process our collective knowledge of the current circumstances of family law in practice—a very grassroots, case study approach. Both Tony and I have a unique experience from the coalface.

I would like to take this opportunity to say that it is our belief that there has been a significant shift in community attitudes to parenting. Parents today have a very different experience with their children and, as a result, have a changed expectation at separation. We believe that there are many very good people and very good processes that exist within the family law system today, and we believe that the current system can work. Indeed, I have seen it do so many times. However, often it does not work, sometimes so much so that it becomes unworkable.

We believe that there is a need to be careful that we do not throw the baby out along with the bathwater. There are many good things within the process in the current system, and those

processes will be enhanced by the presumption of an equal capacity to care for children. There have been some significant reforms in the system since 1996, and it is a much better system today than it was then. However, a lot of those reforms have not reached regional Australia.

Separating parents need an appropriate entry point to the system. Currently, that is most often a solicitor. Some solicitors provide quality advice; many do not. It has been my experience that those who do have a background in the human services or in behavioural science. That background should be the mandatory standard to work in family law processes. For many, and especially for those in rural and regional areas as well as those in metropolitan areas, the entry point is the local court system, a local court system that is not up to the task, and the information—or misinformation—provided by those systems is destructive. That situation in metropolitan areas is unacceptable; regionally, it is beyond a disgrace.

Alongside any reform process we need a resourcing mechanism for separating parents. It is our belief that most parents can achieve cooperative parenting relationships. However, they need a framework that supports and assists them. They need time to come to an understanding of their changed roles beyond separation. They need time to process and accept the reality of those changed relationships. They need a place to do it in, and they need people to do it with. Dads in Distress Inc. is working to meet that need.

Mr CADMAN—I thought you were some wild radical group.

Mr Lenton—We are not.

Mr CADMAN—What do you mean when you say that the reforms made in 1996 have not reached regional Australia? Could you explain that a little more?

Mr Lenton—The entry point for most people in regional communities is the local court system. There has been significant reform in case track management within the Family Court systems, but as we heard earlier we do not have a Family Court here in Coffs Harbour; we have a circuit court that comes every now and then. Most often we go into the Local Court. Those reforms do not exist in the Local Court, because it is not a Family Court. There have been some significant reforms in relation to counselling and mediation at the commencement of proceedings, but only if they are commenced in the Family Court. That does not happen in the Local Court system. More often than not around here, in regional areas, proceedings are commenced in the Local Court. and there is no mandatory requirement for mediation. There is a mandatory requirement for a conciliation conference in the Family Court. At your first appearance in the court you will go to a conciliation conference, but that does not happen in the Local Court.

Mr CADMAN—So in the Local Court it is head-to-head first up?

Mr Lenton—Pretty much, yes. If it is contested, it cannot be heard in the Local Court, because the Local Court does not have jurisdiction. It will be transferred to the Family Court in Coffs Harbour, or to Newcastle, and you might wait three months for that to happen. When you get to the Family Court, even if you are seeking interim orders on your initiating application, you still might not be referred a duty registrar that day, because they do not know whether the interim orders were made in the Local Court or not. So you are on a very first mention. At Newcastle, at

the moment, you might wait five or six months before you get an interim hearing. You may have filed an application at the Local Court in Coffs Harbour, and you may wait four or five weeks to get a hearing before a magistrate. Once it is established that the matter is going to be contested, you might wait another three months for it to get into the Newcastle Local Court and then you may have to wait another three months for interim proceedings. That is nine or 10 months, and that is just atrocious. It is an atrocious process. That does not happen in the city, because most often when you walk into the Local Court system, even though some of the information there is still poor, you will be advised that it can only be heard there by consent, and generally you will be directed to the Family Court. That is a much better entry process.

Mr CADMAN—I do not know whether this is practicable for regional Australia, but one of the things we are looking at is whether or not it is possible to establish, let us call it, a CSA-type agency—but let us not confuse that with some of the worst aspects of the Child Support Agency—to look at family relationships, where mediation takes place, rather than getting into legal representation and a court based system. How do you feel about that being the first contact?

Mr Lenton—I personally support the idea of mandatory separation counselling and mediation. I like your idea somewhat but it carries with it a lot of difficulties in practicality.

Mr CADMAN—What are they?

Mr Lenton—Getting people there in a good frame of mind. If two people come to the table, you want them to be prepared to talk. What if one party comes unprepared and the other comes prepared? You can order people to go to counselling.

Mr CADMAN—What if you remove the option of going to the Family Court at the end of the day. What if you say they have to stay there and mediate, otherwise the guy that is mediating will arbitrate and make a decision and only in exceptional circumstances will it go to the Family Court?

Mr Lenton—Those types of models have been around for a long time. I would have thought we were in a difficult position, constitutionally, to put that sort of process in place. In Family Court proceedings, in my work as a McKenzie friend, I have seen many decisions made by judges, and I like that process. I would like to see mediation that is transparent to a trial judge. I would like to see a process whereby, when mediation stalls and parties go head-to-head and they need some clarity on a particular issue, they have the ability to go somewhere and get a mini-decision, because that often unlocks the rest of the things that need to be decided upon. Perhaps we could impose a tribunal process that sits alongside a mediatory process and allows parties to move back and forth to make some of those decisions. I think that would work incredibly well.

Mr CADMAN—Our problem with that is that the person with the deepest pocket will always head for court and pay very expensive legal representation. We want to remove that if we can.

Mr Lenton—I agree that that is a problem. We have talked a lot today about solicitors; I have said something about solicitors. I meet a lot of them. The good solicitors that want to see an outcome in family law proceedings, that want to see it come out of the courts, are solicitors that have either human services or behavioural sciences backgrounds. Solicitors have to have two

degrees. Why do we have solicitors practising in this area of family law, which is such a crucial area of human behaviour and so dynamic and difficult to deal with, whose first degree is not in behavioural sciences? Why do we let those people in? Why isn't it the standard that your first degree is in either human services or behavioural sciences before you can practise in family law? I think that would go a long way to resolving some of your issues. You asked some questions of the previous people about the types of people that can get involved in mediation and these processes. I think that particular matter alone would help to resolve some of those issues, where you have lawyers who would actually want to step out of the system and say, 'No, don't go there,' but who would give good information and protect their clients as well. That is possible. I see that happen a lot, but it only happens with those solicitors that have that human services background.

Mr CADMAN—Separating is expensive and there is not as much money—the same amount of money—to establish what amounts to two households. In your submission you say that men do not often have the facilities to be able to provide short-term residency for their children. Even if it was a fifty-fifty shared decision, it is difficult for men to put that together. That is a generality, I know. We have heard from women, including one today, who have got exactly the same problem of putting together enough resources to have the children stay with them. Could you give us some examples of that? I do not think you are suggesting that the taxpayer should pick up the bill, but are there solutions to this?

Mr Lenton—I think there are, yes. The taxpayer needs to pick up some of the bill, I think—it is an issue of poverty. I had a fellow on the phone a couple of weeks ago who told me that he had a rope hanging off the ceiling. He was on $36,000 a year and was paying $81 a week in child support and he could not live, because he had a second family. I wonder if that was an issue of child support and separated living or whether it was just a general issue of the cycle of poverty in this country.

Mr CADMAN—That is a great point, yes. That is a very complex area and one that is very hard to make decisions in.

Mr Lenton—It is very easy for us in our subjective situation, in our subjective experience, to project out and say, 'I'm not poor because I live at the bottom end of the class structure in Australia; I'm poor because the Child Support Agency wants to persecute me.' It is a very difficult area. In terms of service delivery for us, as individuals on the phone dealing with these people, it is very hard to make that point and to bring them along—to move them through that process and get them to come to a clearer understanding.

But to come back to your question, I think there are things that we can do collectively and have to do as a society in order to protect our children. I was the victim of a domestic violence relationship. I stood between my mother and father and stopped him from hitting her. I survived it. The reason that the research is all over the place is because that is the reality: some of us survive differently to others. I found a way; I was lucky. In the early days, had my parents separated, I would have had nothing to do with my father. They could not separate because it was pre 1975 and my mother was locked in.

I do not know that that would have been a good decision for me, though. I got to know who my father was. I made my decisions about my father as an adult man, based on my experience

with him—and they became, for me, very good decisions and I had an accurate view of him. There was no support around for him either. We have done that for women—we have provided refuges for women—and it has not sent the country broke. We have done a good job in some places and we have done a not so good job in others. But generally we have provided, I think, a quality stage for women who are genuine victims of domestic violence to step out of relationships. I do not see why we cannot broaden that.

Mr CADMAN—I know in mining towns there are men's quarters and provision for single men—unattached men. Do you think that it is part of a man's character to want to live in those circumstances?

Mr Lenton—No—absolutely not; certainly not.

Mr CADMAN—So you are not surprised that the men's refuge or men's centre here has closed down?

Mr Lenton—Not at all. It was a refuge along the lines of Matthew Talbot at Parramatta for people at the very, very low end of the system—people with serious abuse issues and serious addictions.

Mr Miller—And there was a financial aspect to that particular one closing down here.

Mr Lenton—How could you take children there? How could you take children to Matthew Talbot? You just could not do it. It is an atrocious place.

Mr CADMAN—So inappropriate accommodation rather than a shortage of accommodation is one of the real problems?

Mr Lenton—Short-term stopgap stuff just to give us time to get started. We can pick up and we can get on; we just need a stage to kick off again—time. It is locked in with a presumption as well, because if I am not careful when I leave I create the status quo.

Mr CADMAN—Say that again.

Mr Lenton—If I am not careful when I leave I create the status quo. If I cannot provide a facility for my children at separation so that they can come with me and stay overnight—

Mr CADMAN—So the interim becomes the permanent?

Mr Lenton—Almost, yes. If I do not initiate overnight contact almost immediately, I put it at risk. If I have one night instead of two, I put the second night at risk. That is the advice we get from everybody. If I go and see a solicitor, he is going to say to me, 'What do you want at the end? Then we'll have a look at what we need to get in the interim and what you need to do now to establish your credentials so that you can move on later at the final proceedings.' That early position at separation is very difficult.

Mr CADMAN—So that is why you are strongly in favour of the fifty-fifty presumption as a starting point?

Mr Lenton—Yes, that is one of the reasons.

Mrs IRWIN—Thank you very much for that, Ray. A number of women's refuges have come before the inquiry, as you would be aware, but there have also been some men's groups. You have stated today that there is no facility in place for men. Why I say this is that there was a particular person that came before our inquiry—I forget in which state it was—that left the family home. His parents were deceased, his brothers and sisters lived interstate and he was virtually sleeping on the streets. He thought that if there was a refuge in place that he could go to to seek assistance that would have helped him in his healing. Would you agree that there should be men's refuges?

Mr Miller—It is part of our objective, and has been for four years.

Mr Lenton—Absolutely, and along similar models to the way we now provide those refuges for women that are family friendly—places where we can take children. The model is in place. It may cost us a little more as a community, but it may lead us somewhere where there may be further savings later on. I think the savings are there to be had—5.5 men a week commit suicide. If we forget about those guys that commit suicide for a moment and look at the total factor, for every 10 attempted suicides, one dies, nine survive and six of them enter the hospital system. How much is that costing us? There are these broad peripheral costs all the way around that we can make savings on if we invest in that initial time. It is a desperate need for men.

Mrs IRWIN—It is also a desperate need for men in Western Sydney, as you would be aware, Ray.

Mr Lenton—Absolutely.

Mrs IRWIN—You have stated in your submission that over the last 12 months you have seen over 2,000 separated or divorced fathers—is that nationally?

Mr Miller—We are only in three states at this stage.

Mrs IRWIN—You receive about 500 inquiries per week. What is a typical call like to Dads in Distress?

Mr Miller—Of the calls we receive, 98 per cent are about access: 'I just want to see my kids.' Honestly, that would be 98 per cent of the calls we get.

Mrs IRWIN—Seeking advice for where to turn?

Mr Miller—Yes: 'Where do I go? How do I go about it? She won't give me the kids. What do I do? I want legal advice.' One of the big things we get is guys asking for some legal advice specific to the family law court, and we cannot give it to them. We cannot pass them on anywhere. There is nowhere to go.

Mrs IRWIN—They are not entitled to legal aid because of their income.

Mr Miller—That is right, and they cannot get the right advice.

Mr Lenton—They can get some legal advice over the phone from legal aid, but they are going to be told that there is a 80-20 presumption. That further deepens the lack of hope, and it hurts them. Then they ring us and say, 'What am I going to do now? I'm in this 80-20 scenario. I'm about to lose my house. I'm about to lose my farm. Where do I go now?' There are no support mechanisms that are friendly enough for men to enter. The whole welfare structure has been set up around attracting women, and rightly so. But historically, since the end of the war, we have been putting it in place for a long time, and the welfare sector does not know how to attract men appropriately to get them talking. We need to have another look at how we get men in. Men and women interact with welfare agencies very differently.

Mrs IRWIN—I know you have put in lengthy submissions from Dads in Distress. What do you see as the fifty-fifty?

Mr Lenton—It is a starting place. At the moment, we feel like we have to crawl in—whether it is to mediation, solicitors' offices or court rooms—on our knees, cap in hand, begging for a minute with our children. We want a rightful place. For me, it is about affecting the mind-set that we have to prove ourselves. I can get a good outcome in the Family Court. I can go in there and spend either my time and effort or $100,000 and put my credentials as a father on the table, and I can get a good outcome. But why should I have to do that? She does not have to put her credentials on the table. I think, as a society, we expect that people have a capacity to care for children. We do not put anything around couples when they go home from hospital with their first children. They are provided with some health care services and some visits here and there. We expect that they will go home and care for their children, then all of a sudden they separate and it all falls to mum. I was a good dad. I was not the best husband in the world. I certainly was not the best father in the world; I was not the worst either. But I certainly had a capacity to continue to care for my children. I had a shared care arrangement, which was overturned to a sole custody arrangement prior to 1996. Six relocations later, I am down to about one weekend a month. That has been hurtful to me—I will be honest with you. It has been tragic, but it has been more tragic for my children, who are now somewhat grown-up.

Mrs IRWIN—Do you think the children should have had their voices heard?

Mr Lenton—They did.

Mrs IRWIN—What ages are your children?

Mr Lenton—They are aged from six to 12. Personally, I think we place too much emphasis on what children think of this. We cannot work out the dynamics of separated families and what is going on. We now give children solicitors—separate representatives—and in a sense we abrogate our responsibilities and we leave it to them. I think we have to be very careful how we go about ascertaining children's views because they are impressionable. As well, I think that we have to take account of the fact that we have taken away the parents' authority. We need some authority to be effective parents; we cannot do it without authority. I think that, for our juveniles especially, all parental authority has been washed away, particularly in separated families.

Mrs IRWIN—Do you think that fatherhood is valued by our community?

Mr Lenton—No, I do not.

CHAIR—We are trying to be fair and unbiased. We have no preconceived views, and I can fairly much guarantee that that has been the case to date with this committee. We understand the issues that confront and surround those women and men involved with domestic violence and those women and men who are non-residential parents. We look at the 80-20. We look at the Family Law Court. We look at all these areas and we have been hearing about them all. If you read the *Hansard*, we have had some pretty robust discussions about people's perceptions of what should and should not happen.

I hear what you say—yes—but I also would like to confront you with the fact that there are some dads out there who will go to considerable lengths to avoid their responsibilities. Most dads will want to pay; most dads will want to look after and care for their children. But there are some dads out there who do not want to do any of that. There are some mums out there who do not want to do any of that, so I am not saying it is only the dads, but because you are a dad the question is directed to you. We heard this morning of a situation where a mum has three children and desperately wants her ex-husband to have some input in their lives but he does not want any part of their lives whatsoever. How do we get those dads who do not want to be accountable in their children's lives to be accountable? This is something that the committee has to look at and respond to. How do we get those dads who take every avenue they can to stop or avoid paying support for their children? We need a system of penalties, but what penalty should apply to those cases? I would ask and have asked the same question of mothers as well.

Mr Lenton—I respect that position and I agree with it: there are many mums and dads out there who are deadbeat mums and dads—there is no doubt about it. How do we force contact parents to have their contact? The capacity exists within the current act to breach a contact parent for not turning up. Nobody uses that capacity. Perhaps a part of the enforcement process that we need to look at is that we do not enforce Family Court orders at the moment. There is currently a provision under the act to fine a parent up to $6,000 for a breach. I just think that is ridiculous. I sit in courtrooms day after day and hear judges say: 'How can I possibly impose a fine of $6,000? It's going to hurt the children.' And he is right. If I get booked for speeding and I say to the police officer on the side of the road, 'I've got children at home and I'm a sole dad and I can't afford to pay this fine,' he is not going to tell me to get back in the car and 'sorry'.

Mrs IRWIN—Good point.

Mr Lenton—He is not going to do it. I understand why judges will not make orders for $6,000 fines. We have a 'three strikes and you're out' system at the moment. I think we need something simpler, like perhaps an on-the-spot $120 fine for the first strike, $240 for the second and $500 for the third. We need something that is simpler. Six thousand dollars is just over the top. We need something that works; something that bites people. Fines work in other areas of the community, but this needs to be realistic. A $6,000 fine is unrealistic. Perhaps at the end it could be used. It should exist and perhaps we need an education campaign to let sole mothers know that if the fathers do not turn up they can be breached.

CHAIR—We hear all about dads who are denied contact with their children—

Mr Lenton—Absolutely.

CHAIR—but there are those children out there waiting for dad to come, and dad does not come. That is a major issue.

Mr Lenton—It is as serious an issue as not providing contact to a father who wants to have contact. It is a matter of responsibilities.

Mr Miller—Part of the work that we do in our group is encouraging these men to get back with their kids. That is what Dads is about: giving dad back to your kids. That is what we do.

Mr Lenton—It may be that at the start men will say, 'There's no point. This is so hopeless I'm just going to walk away.' I hear that a lot. I have felt that. I have nearly done it because sometimes you look at the conflict and you think, 'What am I doing to my children? Is there anything I can do about this effect on them? No. Then why am I there?'

CHAIR—Yes, I understand that but—

Mr Lenton—So perhaps it is part of the whole picture, but we are not going to get a system that makes everybody perfect.

CHAIR—No, we cannot.

Mr Lenton—So it is a matter of promoting the facts. As I say, the current provisions of the Family Law Act allow resident mothers to pursue contact fathers for not turning up—and they do not pursue them. They should be encouraged to do so.

CHAIR—Maybe we need to give some sincere consideration to that because, again, we certainly are very cognisant and aware of those dads seeking contact, but we are also very cognisant and aware of the fact that there are dads who do not want contact and will go to any lengths to avoid contact.

Mr Lenton—Absolutely. In terms of child support issues, I would support the earlier submission that joint incomes can be got at. If dad is going to hide his income and withdraw from his children in that way then he should be pursued.

CHAIR—So joint bank accounts should not be exempt from being investigated?

Mr Lenton—Absolutely.

CHAIR—Thank you for coming today. Thank you, Tony, for your involvement as well. Thank you for you submission. This issue is vitally important, and we do appreciate the time you have taken to appraise the committee of the issues associated with Dads in Distress.

[11.31 a.m.]

CHAIR—We now move to community statements. I would ask that you keep your statements very short and to the point. If you would like to give us a name, give us your first name only, and not your surname. I would also ask you not to identify your children's names or your ex-partner's name and not to identify any cases that might be currently before the court.

David—I am a separated father. My children were taken from me the day my ex-wife left our marriage. Since that day, nearly three years ago, I have been fighting her and the whole system for regular contact with my children. This is a system that has armed my ex-wife with money and the children, who she uses against me as weapons and human shields. This is a system that makes my children cry in anguish because they cannot see me. It makes me cry in anguish because I cannot see them.

This is a form of child abuse, I think, and a form of domestic violence and I think it should be seen as that. This is a system that depletes so much of my salary in child support that I literally struggle to survive. I walk around with painful teeth, I avoid medical treatment, I have to sleep in cars at times, I drive unsafe vehicles and I shop at St Vincent de Paul. There is no light at the end of this tunnel. I will be 52 years old when I finish paying child support and before I can start saving again.

This is a system that pretends that Family Court consent orders are working. They should be called blackmail consent orders or 'sign here or I'll take you to court' orders. I signed on the dotted line knowing that it was not in the best interests of my children. I had no choice, because I had no money. This is a system that pretends there is justice in the so-called Family Court. My experience so far is that this is not a Family Court. It should be renamed 'men's and children's discrimination court'. I feel that I am teetering on the edge at times. I struggle to keep fighting. I struggle both physically and mentally to survive at times. I struggle not to opt out and become a so-called deadbeat dad.

Please do not be misled by the fear campaign that men are a risk to children. I am here to tell you that I have been beaten numerous times by an angry woman. My child alleges that he has been physically and emotionally abused by a woman. My understanding and experience is that children are at just as much risk from their mothers as their fathers. But we never hear this. There are already numerous services protecting children at risk out there—I have used them. As a health care worker I am mandated to screen women for domestic violence but not men. No-one is counting these abused men.

The notion of shared parenting is a farce. Such parenting orders in my agreement mean nothing. They do not work. They are simply lip-service. I am permitted to parent my children only when I am with them. Any outcome from this inquiry that is less than shared custody will change nothing in my case.

CHAIR—David, we are happy to take your written submission, if you would like.

Michael—I am from Wagga Wagga, which is Kay's home town. It is a long drive.

CHAIR—You have come along way, Michael.

Michael—I really concur with what David said there. I have been through the same experience. I have been blackmailed into signing agreements that were allegedly civilised agreements from the Family Court. On completion of those agreements I had to let my son go, though he disagreed with the separation. I had to return him to his mother to be with the other siblings. On his return, his behaviour became erratic and his mother could not control him. The Family Court was not interested in that. I took him back and settled him down.

When my wife remarried, the new husband was also separated and coping with financial strain, as David mentioned, so four children were placed back in my care and one was left in her care. I welcome the time with my children, as anyone would. My wife said, 'I'll send money when I can.' I said: 'It's fine. I'll cover it where I can.' A letter I received from the Child Support Agency asked me to pay my wife to support the one child that she had, while I had four in my care. I could not believe it. My wife was very quick to get onto it and use it as a source of income. It was absolutely amazing. I stand here before you, having driven the distance that you may have flown, thinking that it may make a difference, as most of these other people have.

I would say that, to start the field level, we should understand that the child is brought into this world in a partnership which is 50 per cent woman, 50 per cent man. That partnership endures past the separation. To see it as a 50 per cent partnership is the correct way. To see it as one partner having to battle to get the field level before they can have a normal arrangement with their children is wrong. It is commonsense, just as voting should be available to everybody or the ability to own a block of land should be available to everybody in this nation. To be able to have normal access to your child is a human right that is not available to most, unfortunately, after a family breakdown.

CHAIR—Michael, feel free to come to my office.

Matthew—I was in a 24-year relationship. I was deemed by society to be a good husband and father for 15 years—my oldest child is 15. On separation, I became deemed otherwise. I was driven from my home by my mother-in-law, and my children were turned against me. Now I have to reassure my children that they are to bear no guilt over what has happened, because they have worked out the lies and deceptions. A man with whom my wife had been having an affair with has moved into my home. The children have seen him naked. I complained to my wife. He has belted my children. I have complained to DOCS, but I may as well talk to anyone but them. These are the things that you have to deal with. You feel useless, guilty, hopeless and helpless. I have been suicidal.

I am in charge of 13 employees. I run a business. I am more fortunate than a lot of people here are, but I am still left with a swag and a bag full of woes. At times I feel reluctant to stick up for my rights, because of the retribution dealt out to the children. My wife is away at the moment. She told me on Thursday that the children will be with my mother-in-law and I am not to have them. I have had the children at weekends. The older children told my wife that they wanted to live with me. That was just mayhem. I had to send my children home. She threatened me with the police. Even though there was nothing she could do, for the sake of my children I had to send them home. I have had to rely on the court system—which I am not into, or anything else, yet—

but I have no faith in that, because we are living under an outdated system that is very biased, in my opinion. I have seen other chaps go through it and just be demoralised.

My wife also tells the older children that they can spend as much time with me as they want after settlement. So what is this about? Power and money. They are used against the male. I call them the lollies—they get dished out when you are a good boy. From the time the children told her that they wanted to live with me, I went back twice a fortnight—one weekend a fortnight. Through mediation, it is up to four times a fortnight. But I went and claimed some of my photographs that I had been asking for for over 12 months, so I know there is going to be retribution.

My wife has also put the children in the position of being subjected to a stranger. One daughter realises the deception involved. She had met this bloke. She had been given a muffin and told to play on the computer while her mother locked herself in the office with him for over an hour. These are the things my children have got to deal with. I am a SNAG. I have come through this era, like many others, and we are more sensitive, and it hurts.

Tony—I am the area manager of Interrelate in Coffs Harbour. Interrelate is the only family relationship funded service on the mid-north and far north coast. Previously I was the coordinator of a relationship help service called the Information Referral and Support Service for Separated Families, which was funded by the PDR partnerships program. There were some things I wanted to talk about but will not get a chance to, because I want just to make a few comments about mediation. Besides formerly being a solicitor and a teacher, I am now practising as a mediator as well for Interrelate, and there are a couple of points I want to make. They are the following: mediation is fast, cheap and effective, compared to litigation, and yet we see that it is still not being used sufficiently in the community. In fact in Coffs Harbour, Interrelate can barely meet the target numbers set for us by the Department of Family and Community Services.

Some of the reasons for this were touched on. One reason is that mediation is voluntary. Personally I would prefer to see primary dispute resolution processes, including mediation, made mandatory. Also mediation through most family relationship services is not free. There is a small charge, but even that can be a disincentive. It is a pity that the funding taken out of mediation and counselling in the Family Court was not put into community based mediation to the same extent. I have to say that we are mediation providers under the Family Law Act. We are not just any old people who call themselves mediators. To respond to a gentleman who spoke earlier, mediators do have to have a degree in social science or law.

I would also like to say that mediation is not arbitration and it is not conciliation; it is slightly different to that, as you would probably be aware. A mediator does not make recommendations. With regard to the voice of children in Family Court proceedings, we have looked at this as well, and we have tried to involve children as much as we can in mediations. We call them ‘child in focus’ mediations. But it is incredibly difficult to get all the parties involved—not just mum and dad but the grandparents and the children. It is expensive as well, because you have got all the parties involved, and there is no mandatory provision. That is probably the major part of what I would say, in that it is so easy for the parties to back out at any stage.

Finally, we were talking about public funding; for example, how do we get public funding of men’s and children’s shelters? As the committee would be aware, there are massive amounts of

money spent on the family law judiciary and quasi-judiciary roles. In the long term, I would like to see that redistributed to mandatory type PDR services, perhaps in the manner that one of the committee members—I cannot remember who it was—mentioned.

Individual A—I thank you for the opportunity to be here today. We have heard many viewpoints on the situation regarding child custody, but I would like to speak on behalf of a group that probably has not been mentioned enough today; and that is the vast majority of children who want to spend time with both parents. At the moment, they are denied that. I speak specifically about my children. I am desperate to have time with my children, and I know that my children love me and want time with me as well. I know that they will benefit from having me in their lives. I think it is ridiculous that I have not seen my children since January. If I am lucky, I will see them again next January.

My ex-wife, when we separated, moved my children to Melbourne. Up until recently, in order to see my children, the total financial obligation has been on me to get them up from Melbourne. I then have to pay child support when they are with me. I have made sacrifices to be able to do that. I have cashed in my superannuation, I have sold furniture, I have a 12-year-old car, I rarely drink, and I do not smoke, do drugs or gamble. I have recently had to have my phone disconnected in order to save money. I can make a meal out of two bits of toast, if that is necessary, to adjust and to make sacrifices to see my children. But, please, I do not think the right thing is being done by my children. I can make sacrifices; please do not let them have to sacrifice any further.

I recognise that I have to make a contribution to my children, and I am perfectly willing to do that. I am prepared to do that and I currently do that. However, the financial obligations that I have to meet keep me away from my children. If I may, I will read one sentence from a piece of correspondence from CSA that probably sums up the situation that a lot of fathers find themselves in. It reads: 'Whilst it is important for children to have contact with their father, this contact should not come at the expense of a reasonable level in the pecking order of child support.' That, unfortunately, puts me somewhere behind my wallet in the pecking order; and that is very unfair to my children. I would rather open my heart to my children and give them what is in my heart than just give them what is in my wallet. I know that my children are suffering now, and that is grossly unfair on them.

I would love to have my children with me 24 hours a day, but that would not be fair on my children, because I know that they need their mother. It would also not be fair on their mother, because I would not want her to go through what I currently go through. I would not want to inflict that upon her. Please let me have 50 per cent of the time with my children. I am currently in a wonderful relationship with a wonderful woman who has two children and has an arrangement with her ex-husband whereby they share the children. They work this out together. For almost five years it has worked wonderfully well. The children are terrific. They are the same age as my two darling children, who are 11 and eight. The four children, when they do get time together, play together very well. I would love to have the opportunity to have my children in my life 50 per cent of the time. Please let me be a father to my children.

Craig—Fortunately, I have a very good relationship with my ex-wife. We have good communication and it is very open. But it has not always been the case. Just listening to the previous gentleman brought back a few memories. The first thing is that joint custody is a

necessity. It is a right of every father, every mother and, more importantly, the children. Unfortunately, as we heard earlier, children tend to be used as pawns. I heard a very good analogy, which was similar to the experience of the gentleman before me, about dads being used as walking wallets. Fortunately for me, that is not the case anymore, and it is a great thing.

I think the presumption that when a marriage splits up the mother will take primary care of the children leads to a lot of frustration and a lot of anger, and that is where organisations like Dads in Distress have a great role to play. I have spoken to them on previous occasions. Also, to a certain extent, it seems that fathers are seen as second-class parents when it comes to separation. I think the majority of dads want to play a role in their kids' lives. Unfortunately, when things do not go one party's way—and I am not saying this just about females; males can do the same—the threat of less contact is often used, which is basically you will not see the children this weekend. The issue of contact also has a significant impact on grandparents. My arrangement with my wife was for five nights a fortnight, which is pretty good, and she had them for nine. In practicality, she has nearly 50 per cent more time with the children. We have now come to a better agreement, which is just a fantastic thing—and I did not have to go to court.

I think the two things of presumption of shared care and the Child Support Agency work very much hand in hand. The reason that a lot of these guys do not have access to their kids is that it costs money to the ex-partner. Similarly, some men who have the children will not let their ex-partner see their children more, because it will cost them money. Unfortunately, when assets are split and emotions are high, money is a very powerful motive for using children as pawns or shields. So I think shared care is to be applauded. It is the right of every father, mother and child.

The Child Support Agency opens up a whole different can of worms. I do not think it works fairly. I am fortunate in that I have got a fairly good job and a fairly good income, although at times I have struggled financially as well. I think the problem here is that the system is too easily manipulated by either party. Unfortunately, human nature means that at times we do manipulate things. I have done it. I know my ex-wife has done it. For example, my having the children five nights a fortnight and for half the school holidays added up to 142 nights a year. I had no idea of what going out of my family home would mean. I went to a solicitor who said: 'That's a pretty good deal. Take it.' When I went to the Child Support Agency I found that I was three nights a year short from sub-major care to shared care. I asked myself the question: was that deliberate? My answer was yes. We have now solved that problem because we have come to an arrangement. But for a lot of these gentlemen, and a lot of the ladies too, the system is used to gain as much money as possible.

Unfortunately, whoever controls the children holds the whip hand in terms of the Child Support Agency—and it does all add up to money. The paying parent does have more control over where the money is spent—that is an issue for some people—and there is no accountability whatsoever as to where that money is spent. The only other thing that I can suggest to the Child Support Agency is that the gap between sub-major care and shared care, which is 110 to 146 nights a year, is too large. Incomes come into play here, too. Why can't we step it? If I have the kids 144 nights, do you make it 18.1 per cent, right through down to 22 per cent? I know four per cent to some people does not sound like a lot of money, but it is a hell of a lot of money depending on what your income is; it is all relative to your income. The two are linked very closely. The Child Support Agency needs to be looked at very carefully.

Kirsten—Just before I start, I would like to make the comment that I have five friends who are all single mothers who would have loved to attend this hearing, but because they have small children at home they have not been able to come. So you might find that there is an underrepresentation of single mothers here but that would be the reason. I come from a broken family. I am 40 years old. My parents broke up when I was five. I know that I am speaking from the point of view of a girl, and that a boy in that situation would have a very different attitude. But for all the men here, I want to tell them that I just wanted to be with mum. There was the option to be with my father, and that option was always there and I know my mum would have supported that, but as a young child that was really where I wanted to be. It was not that I did not love my father. I did. I cannot believe how nervous I am! I am sorry.

I loved him very much. My sister and I used to spend our Christmas holidays with him and also two weeks of the other holidays of the year that we had in those times. That was enough for me; it really was. I loved him but that was enough. Probably as an older teenager I would have spent a lot more time with him. Unfortunately he died of cancer when I was 15. Even though he died it does not change my feelings that I had as a young child that I just wanted to be with my mum. I loved to go and see him. I loved getting letters from him. I did not always reply; I regret that. Probably for every 10 letters he sent me I sent one back. I regret that. But it does not mean that I did not care for him or that he was not my father. I loved him, but if I had been forced to spend 50 per cent of the time with him I would not have wanted it. I would have been under duress to do it.

To speak about something from a single mother's point of view, a couple of my friends have partners who are drug addicts. One is a drug addict and one is an alcoholic and those are the reasons their relationships broke up. They have both said to me that if this 50 per cent thing came in that both those partners, who spend no time with their children otherwise, would grab the opportunity to get a part-pension and take the children. That would probably be a lot of the reason that they would do it because up to now they have spent very little time with their children. They have been much more preoccupied with their addictions.

I had other things to say but I have forgotten them. It is basically that. I just wanted to say that I loved my father—I really did—but I did not want to spend 50 per cent of my time with him. He was a great man and I am really sad that he is gone. Especially as an older teenager I probably would have spent 50 per cent of the time with him, but as a young kid I needed my mum. I really did. I know it is probably different for a boy. I am speaking from a girl's point of view.

CHAIR—Thank you, Kirsten.

Claire—I am reading this on behalf of my son as he is unable to attend the child custody inquiry due to his work commitments. I will read it out:

Joint, equal child custody would be of great assistance in my desire to have a more meaningful relationship with my two children and for there to be interaction with grandparents and extended family. After a court settlement of $40,000, my car and a weekly sum arranged by child support, my former partner of four years uses her sole custody rights as a form of emotional blackmail, asking me to buy the children's clothing and saying, "They need a computer, new shoes et cetera or you will not see the children." What truly upsets me is her persistent verbal abuse in front of the children and in public view and hearing.

I am at times a four- or five-hour drive from their home because of my work and cannot be sure of seeing them if she is displeased. An arrangement that would allow me to have a reduced maintenance payment when I have them for long visits—for example, Christmas and school holidays—would be most helpful.

From my point of view as the grandmother, I am down here in a house in Coffs Harbour. I have a little motel up in Manilla. My son's wages when he was down here were not enough as he was paying the support to his children and also she was making demands on all the things that she wanted so that my son could see the children. He is now working at the motel. I am giving him a higher wage. When he comes down for a break to see his children he goes into my house down here—rent free, power free and sometimes with food from the motel—to help him to have time with his children. She has threatened us.

I have my mother, Lola, here. She loves her grandchildren and I love them too. Only yesterday I went to pick them up to take them to the Big Banana. I told their mother roughly what time I would be bringing them back. When I got there and took them up she was not there. We knocked on the door; my daughter was with me as well. It is just criminal the way that as she has sole custody she has got so much power over the children. I think it is unfair. I am shaking, I am sorry.

I will tell you honestly. I have got quite a few gentlemen who come and stay at the motel because they have got orders that they can see their children and the mother has the sole custody of the children. One man spent a week in the motel unit at his expense to see his children, who he is allowed to see. She was never there and he did not see his children. I have seen a lot of men at the motel. One man came to the motel and he wanted to commit suicide. I brought him into the kitchen and he said, 'Claire, what's the point?' Gosh, I cannot stop shaking, sorry. He sat in the kitchen with me. His wife, in the law court, got the house and the children. He said to me, 'Claire, I'm paying maintenance and for her. She's got the boyfriend in my house that I've worked for all my life, and I can't see the children. I can't even afford a date with another girl and make another life for myself.'

I even had my own son saying to me, 'Mum, I can't afford solicitors to fight for my children.' So I came down and gave him money for the solicitor to try to keep his children and see his children. At one time he said, 'Mum, I'd be best to just go and kill myself 'cause what sort of life is there for me?' As the mother of my child, I said 'No, son, we'll work through this and battle this through.' So what I am saying to you is there are a lot of cases here that are all different—I have heard them—but we are saying that joint custody of the children is very important so that the other person has not got the power to manipulate the children. That is all I have to say. Thank you very much for hearing me.

CHAIR—Thank you.

Philip—First of all, I would like to say that you will have to have the wisdom of Solomon to work this one out. My notes are a bit disjointed because I made them as we have gone along, so there is no constructed order. Parenting payments: I was contacted by the parenting payment association to say that I was now paying a certain amount of money. I went to Centrelink and asked them how they came to this position. They told me that I had been there and signed a statutory declaration to say that I would agree to these terms. According to my bank statements, I was 500 kilometres away on the day that I signed that statement. When I asked Centrelink what

they intended to do about it, they said, 'If we prosecuted everybody who made a false statement, we'd always be in court.' As to laws, you cannot legislate for ethics and morals. How can you force a person to act correctly?

Mediation: the Family Court has scheduled seven mediation sessions with my partner, none of which she has turned up to. Step-parents: what do we do in a situation where a mother takes in three children and the new boyfriend has one, who is a preferred child? Family reports: I heard a lady talking about the family report. That situation is now used by smart lawyers to use up legal aid. It costs $3,000 for a family report. The role of the grandparents: we have a situation where grandparents have a loving relationship with their grandchild. There is a family problem and those children are removed from the grandparents. They are not even brought into the question. Domestic violence: we saw enough of that. Regarding fifty-fifty, the very reason we are having this meeting is to get a consensus. How do you get that with one parent? How? I would suggest that we take all single issues with a grain of salt. That is about all I have got to say.

Bev—I am co-founder of a group called Grandparents in Distress at Grafton. Our group commenced in September 2002 after we realised that we were not alone in our anguish over our grandchildren being separated from us and from one of their parents, usually the father—our sons. We felt we were powerless to make changes unless we formed a group. We came to work with Dads in Distress when we realised that we had similar problems that had existed for over 25 years, despite the attempts of many to bring them to the attention of the public.

We found that we were just part of a system where members of a family had lost their rights and that lawyers, psychologists and the court had taken over the role, causing suffering, hardship, dismay and suicide. We found that mothers now had all the rights and fathers had none until such time as the court decided otherwise, that in most cases the fathers had been pushed aside as being irrelevant and unworthy of fathering their children and that it could cost thousands of dollars to prove their worthiness to be included in the child's life.

The child support system was enough to cause the non-custodial parent to sometimes live in desperate poverty. We found that the word 'violence' had been twisted to mean even an angry word. After much anguish and research, we found that we were fighting a powerful and secret government authority that had been instigated in the days of the federal Labor government and had not been changed in the days of the coalition.

There are many grandparents who will not speak out because they are afraid of causing further problems. I would probably not have come forward if my son had lived in my town and had the same surname as me, for obvious reasons—because you only create more problems. It is our belief that a presumption of shared or joint parenting should be the accepted right of all parents—this would also give access to other family members—and that efficient laws should be available where there is a danger to either parent or child, with penalties for false or misleading accusations, under normal criminal law.

As you will have gathered by now, this is a worldwide problem in Western societies and so it is no use trying to correct the problem unless we know how it started, who the actual enemy is and why it continues to this day. Unless we realise that it is part of social engineering, based on the socialist-communist manifesto to destroy the family unit and religion, we are wasting our time and will bring even further anguish and sorrow upon our society.

For, if it is the plan to destroy the family unit, then it is also the plan to take the authority away from both parents and give it to the state. I would therefore ask that you be very careful indeed, in your genuine efforts to correct the errors of the past 30 years, to give back the rights to both parents and not unintentionally set in motion a set of laws that will take all power away from both parents and give it to the state child under the guise of the United Nations Convention on the Rights of the Child, for this is the greatest deception of all. I thank you for your efforts and pray that you have the courage to make a stand for the family unit, which is the backbone of a proper and righteous nation. Thank you.

Brian—I am here today representing a group of concerned parents from Grafton. My speech is prepared fairly formally. I hope that you realise that it comes from my heart as well.

CHAIR—We could take it as evidence, so if I interrupt you after your three minutes it is because we will be able to take your speech and continue to look at it at a later time.

Brian—It is not the length; it is the formality that I am referring to.

CHAIR—That is fine.

Brian—I appreciate what these other gentlemen and ladies have said from their hearts. I thank the committee for this opportunity to address this important inquiry. We would like the committee to reflect on all of our submissions which are before you under the name of the Grafton Concerned Parents Group. They all focus on the issues of domestic violence and conflict. When comparing the community's response to domestic violence with the epidemiological evidence, a clear bias emerges—in the services and sympathies—towards women. As an example, we have attached a flyer which appeared as a full page in the Clarence Valley TV guide, and which only supports women victims of domestic violence.

This has a detrimental effect in that the Family Court then often leaves children at risk in the hands of abusive mothers. There have been several cases where this action has led to the death of the children. One occurred last year when two children died after the Family Court counsellor approved them being given to a delusional woman. More recently, an 11-year-old girl was murdered by her mother. Just last week, a woman was sentenced for killing her four children over a 10-year period.

Unfortunately, we seem to have little consideration for the best interests of the children in these cases, and many women are diagnosed either before or after the event with mental problems based on former abuse so as to receive lighter sentences. Fathers, however, receive sentences of 20-plus years, despite being victims of long-term abuse. Only one mother that we know of has ever received more than 10 years.

Society makes excuses. If we really want to protect our children, the best model is shared parenting, except where there is clear psychiatric or medical evidence. Just because the current law allows shared parenting to occur does not mean it is used, even when it is in the best interests of the children. This is because: (a) fathers are not informed of or are discouraged from this option, (b) fathers find both administrative and legal opposition to this option, (c) under the current system exercising this option places children at risk because one way to get the court to refuse it is for a parent to create conflict.

CHAIR—Brian, have you only got a bit more to say?

Brian—Yes. We have received a letter from a concerned father which emphasises that the current system continues conflict, as changed circumstances have returned him to the adversarial court system. He would like to submit his letter to supplement his previous submission, which is No. 385. Shared parenting, shared physical parenting, through mediation will reduce violence and conflict, as no-one stands to gain by creating it.

CHAIR—Thank you, Brian.

Phil—I know everybody's situation is different. I was a single parent from 1975 to 1990, for 15 years. Now I am a shared parent; we share our little boy. The main point to come out of this meeting today came from one of our earlier speakers, Raymond Lenton, who mentioned the word 'mind-set'. I think what is in our minds and what is in the other parent's mind has a lot to do with the issue, and parents could be helped a lot with the pamphlets that family law brings out dealing with the simple concept of how to be good parents. A lot of the residential parents who seem to think they have a patent on their children show their ignorance by not getting into those simple pamphlets that are brought out by family law.

I think there should be a similar system to when you get a driver's licence and you have to pass a test. You could do this through one of our departments—for example, DOCS. You would have to show a good knowledge of the simple family law concepts towards our children—for example, being happy, being with both parents, sharing our lives together. I do not know exactly what sort of an idea you could come up with, but we need something like that. It is basically a simple solution to a very complex, difficult problem.

CHAIR—Thank you, Phil.

Kevin—I have not seen my kids since 1994. I told John Howard in 1998 to stick the kids up his—because of the Family Law Court. I have gone through seven politicians, 11 lawyers, the Attorney-General's office, the Governor-General's office, the Chief Justice of the Family Law Court and the Queensland police, who told me to commit suicide. I ended up losing an $83,000 job over it. I have been through Bob Carr's office. I have been through the courthouse down here. The court counsellor in Brisbane, when I kept telling him that I caught my ex picking my son off the ground by his neck, just kept telling me to shut my mouth because I was a liar—'You're going for the custody of your kids and my report will never be in your favour.'

When I told our court counsellor down here, a little red-haired piece called Linda or Lin, about him, she just laughed. She said, 'When he's tired of being abused by his mother, he'll just run away.' I wrote a letter to John Howard and complained about it. All he did was send the police around and I got caught for possession and cultivation. I have had a $300-a-day drug problem because I have seen my kid completely off the ground by the neck, to get him to obey his mother. Under the family law court I have been told by parasite lawyers that they do not recognise that as child abuse. I have seen him held by the hair, getting his head bashed in, to get him to obey his mother. That happened at least five or six times a day and it would go on for a fortnight. That was until I made the decision to go to his mother's place for the three weeks or two weeks or two days holiday he had and she would put pressure on me: 'You've got to get rid of my husband.' When I had to go to court for possession and cultivation, the solicitor said to the

judge, 'My client has something to say.' I got as far as 11 lawyers and all the judge said—and he broke the law—was: 'That's what I care about.' In 1999 I sent the letter to John Howard in which I said: 'It's finished. I don't want nothing more to do with him. He's 21 now.'

In early 1999 I tried to commit suicide. I forgot to put a pipe in the car, went out on the road and I got pulled up by a young police officer on a motorbike and I told him what happened. He allowed me to drive my car home although it was unregistered and uninsured. I had told the courthouse in a statement that I caught my ex picking my son off the ground by the neck at least four or five times—and still nothing was ever done about it. I wrote to *A Current Affair* to see if they could investigate it. I have got the letters here. My mother is 10 miles away and she has never been allowed to see the kids, because all they had to do was obey their mother or I would never see those kids again.

In 1995, when I had the two kids for the holidays, my son was sitting there—we were at Cape Hillsborough near Mackay—and there was my daughter sitting in front of me when he said, 'Dad, can I ask a question?' I said, 'Yes, mate, go ahead.' He said, 'Mum said you tried to kill us when we were living with you.' At the time I answered I remembered how the court counsellor in Brisbane carried on: 'Shut your mouth! You're a liar! You're going for the custody of your kids.' I had a second sense. I came back and said to my son, 'I never tried to kill you and your mother.' He said a second sentence: 'Dad, I don't want to come near you anymore. Mum says the schoolteacher's dad and we're not to see you anymore.' That was the last time I saw him.

If she ever makes prostitutes out of them, I tell you that lawyers and politicians will get their snouts out of the—trough; I mean it. If she ever allows that bloke to abuse them, it will be on for young and old. The last time I saw the kids he made a comment that he wanted another $10,000 out of me, but the $360 a week child support I was paying had nothing to do with him. I just said, 'I'll treat you like a paedophile, and I mean it.' He just laughed. He said, 'I spent 25 years in the Army so I know how to protect myself.' I just said, 'I've got mates who've got mates who'd rather shoot a cop than get a head job from a woman, mate. So I'll just treat you like a paedophile.' He just laughed. That is the last time I saw the kids.

CHAIR—Thank you, Kevin.

Kevin—I mean it. She was abusing my son to get me to obey her mother. When I say to these people here that that kid was off the ground by the neck at least five or six times, I am not lying—and I have been told by the lawyers, judges and politicians of this country that it is not child abuse.

CHAIR—Thank you very much, Kevin.

Harriet—Thanks for providing me with the opportunity to speak at this inquiry about such an important issue. It has actually been troubling me for some time. I feel it is important that women have their say in this debate. I have always been encouraged to be proud of being a woman, though lately I have been ashamed of the behaviour of some women in Australia who are causing much unnecessary grief. I, like most of my friends and family, have been oblivious to the unhappiness that is going on right in our own communities. Since I have become the partner of a divorced man with children, I have seen and felt his pain and his children's pain when the children are kept away from their father. I have seen and heard of the manipulation of

many children which stops them spending precious time with their fathers, whom they love dearly. I have heard many stories highlighting the same patterns of behaviour, and all I can think of is: why on earth is this happening? What can make a woman stop the children whom she loves from spending a reasonable amount of time with the other parent? Once a fortnight, if it happens, is not enough time to continue a close relationship with a child.

People in jail have more time with their families than my partner does with his daughters. Wouldn't you also think that, at the very least, the custodial parent might treasure some time for their work or their own pursuits while knowing that their children are safe with their father, rather than putting them in a day care centre with strangers? There is something much stronger driving this behaviour. At the moment it is critical that the government urgently stops encouraging and supporting parents to separate and use their children as a means to ensure their own financial security. Is it the government's family benefits and the child support formula that are encouraging custodial parents to behave in this way? I strongly believe children and non-custodial parents are the victims of these laws. You have probably all heard about children in refugee detention centres, yet there is more detention of children in thousands of Australian homes condoned by the Family Court. Shared custody is essential to avoid any further hardship and heartache to fathers and children in Australia.

Fathers are capable carers—I have seen it with my own eyes—and they want to be part of the day-to-day lives of their children. If anyone bothers to listen to children, they want their fathers to be there for them. Some children even dare to wish to live full time with their father and it sometimes requires action from the Department of Family and Community Services before anything like that can happen. This notion is seen by the Family Court as a dramatic deviation from what the court perceives as normal. This inquiry has the capacity to help the next generation of children in separated families, and it is not too late to help the current cohort of children who are suffering. I have a question for the inquiry: why aren't there any stories of men detaining their children in such a manner and why aren't there many single mothers, new partners or single women complaining about their hardships at the inquiry?

Feminism has produced many positive changes in our society, and I am benefiting from some of them. It is now expected that men perform household duties and primary carer duties. Yet when separation occurs, all the outdated cliches about men's role as the main breadwinner are resurrected to justify women being able to take away everything from the marriage, including the house and the children. No wonder men in this situation have absolutely nothing to live for. Men need representation and their rights recovered. Currently, separated men have a very poor standard of living. This inquiry has the capacity to help Australian men have a fair go. I hope that these men and their children will see positive changes in their lives soon.

Troy—We are here today and we are all saying the same thing: the system does not work. We are talking about money and the right for children to be able to see their parents. I am a Christian and I believe that mums and dads are equal parties in relationships. Neither can fill each other's roles, so it is vital that they each have 50 per cent of the time in order to fulfil their roles. I am happily married with four beautiful girls, but my brother is not and he has two little boys. My family and I have taken the long haul through this whole system. The boys' mother has broken over 50 court orders. The courts are a total waste of time. The judge can hand down a ruling and the solicitor can say, 'If she does it one more time, that's it. She is gone.' It is a joke. It never

works. She continues to play games, and who suffers? The kids and the other party who are totally ripped off.

Here is the deal. This is what needs to happen. If you want to separate, okay—fifty-fifty. There are no options. That is what happens. The money and the house—all the things that other people have spoken about—go into a fund for the kids. She does not get to draw from it; he does not get to draw from it. The young lady here said she cannot afford to send her boys away. That is pathetic. That money should come from the kids' fund. Can she get to draw on it to go on a holiday? No, she cannot. It is for the kids. That is where the dollars need to go. If the money goes into a fund, there are no arguments. There is no leeway. There would be no point to kids being pulled to and fro, because there would be a level playing field and everything would be equal. There is no hierarchy when it comes to grandparents and other people being involved with the kids.

As the system stands now—and I am speaking on behalf of thousands of families—my brother, my mum and my dad and I have done absolutely nothing but yet are denied any access at all to see our children, nieces and nephews or grandchildren. I cannot believe that the politicians of today get more upset over a tree being cut down out there in the yard and that people will whinge and whine that the tree should not have been cut down, yet people cannot have the basic right to see their kids and to have input into their lives. That is the heartbeat of the fathers here today, and the mothers. They just want to be able to input into their children's lives what they have been designed to do. But they cannot, because the system is not working.

Thank you for taking the time to listen to people's hearts today and realising that the politicians of today need to be more concerned with the children of the future than about the tree out there about to be cut down. The kids from broken homes must be looked after. Why is the husband the way he is? He is the way he is because he did not have any role models. We cannot have the role models of our society being taken away. We need them there, and they need to be strongly supported in what they are doing. Thanks heaps; we look forward to good feedback and responses, not a committee that goes away and dies and is never heard from. We really look forward to hearing great results and to things being majorly changed in the system as it is today. Thank you.

CHAIR—Ladies and gentleman, I thank you for your attendance this morning. I thank all those witnesses who appeared before us as individuals this morning; that took courage. I thank those witnesses who came before us representing organisations from around the region and all of those people who made community statements in order that the committee could hear what you have to say on this major issue for the Australian people. It is a very difficult and emotional task for this committee. It has been an amazing journey for us. I hope you understand that the committee is absolutely sincere in trying to come to some resolution. Some of the questions that we ask are in order to tease out some of the issues. It all seems black and white, but, as you will have noticed today, for every position there is a counterposition. We want to make sure that people have the right to parent and children have the right to be with their parents.

I thank the audience for the way in which it has conducted itself today. This is a very emotional debate and at times it can be heated. We appreciate the time that you have taken to sit, to listen and to be absolutely courteous to those who have spoken today. You may not agree with

them, but you have shown them courtesy in the way in which you have presented yourselves today. We appreciate that. I now call this hearing to a close.

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

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

Committee adjourned at 12.28 p.m.