The Secretary.,
Standing Committee on Family and Community Affairs
Child Custody arrangements Inquiry.

Summary.

The Family Court of Australia has lost the respect and the confidence of the Australian people.

The role of 'father' has come to be regarded as unnecessary by a great number of the female population, many of whom are using children as a means of accessing Social Security. Fathers are prevented from giving their children the protection they need and to which they are entitled. Fathers are parentally disenfranchised by the present operation of Family law and this is unconstitutional.

Gross system abuse has become the norm among the legal profession and a great number of female litigants.

The present system of Family Law elicits decisions that can be readily seen to constitute child abuse from the Bench.

Children growing up without a constant father in their lives are badly affected in terms of role model, interpersonal relationships especially with the other sex.

Children who become accustomed to seeing their mother with a variety of partners in their lives accept this as normal behaviour and tend to develop attitudes of promiscuity.

Attitudes towards the work ethic suffer as children see their father 'give up' because they have been financially gutted by an unfair system. This must have a severe long-term effect on the national economy.

People who have experienced the Family Court have a definite dislike and distrust of the legal profession. The perception of the profession being that they have access to a bottomless pit of money and no genuine interest in reducing the time involved in settling matters.

The legal profession is in genuine need to be strongly investigated in relation to matters of ethics and unprofessional conduct.

Legal aid is given to one side (usually the mother) while other side is driven to the point of bankruptcy.

Submission

Given and accepted that the best interests of the child/children are paramount, this discussion has to begin from the premise of a normal household. In this situation, the contact that a child has with either parent is restricted by normal obligations such as work commitments, school obligations, sporting engagements of either or both parents and of the children. Both parents contribute to children at various times and in a variety of ways. The attitudes expressed by Ms. Pru Goward (Daily Telegraph 25/July 2003) are unrealistic and discriminatory.

It is then fair to say that the contact of parents and children is a 50/50 basis between either parent and after separation, this should be the basis for determining matters of custody and contact.

It is also fair to say that there exists in our community a strong perception that the present rebuttal system is based on 100% to 0 in favour of the mother. It is unnatural, unfair, portrays the child as a 'possession' and is not in the childs best interests. This perception is shared by fathers who are presently given token, minimal contact with their children and with the mothers who engage in extreme measures to deny their children contact with their dads. I will give examples of this unsavory activity later.

An initial example is a denial of contact on the basis of a claim that the child is ill but the child is seen going to the movies with the boyfriend of the mother a short time later. Fallacious claims of illness are commonplace and requests or requirements for production of a medical certificate fall on deaf ears.

Examples given will demonstrate that fathers can presently give evidence accepted by the Court of a mother's extreme bad example to the children and receive perhaps 20% of time with the children. if he is very, very fortunate.

Examples given are drawn from my experience but they are not restricted to me. Extensive discussions with other fathers disclose frequent similar experiences. The experience I have had in the Family Court flies in the face of the reports of Court appointed experts under Section 30a and the Courts own Counselor that indicated that I was a vastly better parent.

The present concept of giving the father each second weekend of contact to help overcome the bad influence of the mother has to cease, it is an idea with no basis in logic and is simply a matter of convenience. It is a case of removing the good apple from the barrel two days from fourteen in the fantasy that this will protect it from decay.

The Inquiry needs to sit in on Family court hearings even if done in a covert manner to hear the number of times the Judiciary preface their orders with the statement, "*The best interests of the child will be better served by .....*" and then deliver orders that are clearly not in the childs best interests and in fact favour the mother and/or are the easiest option for the Court.

The Inquiry needs to bear in mind that without strong measures being taken to enforce Court Orders, there is at present an attitude extant in the feminist movement that contact with dad can be denied at will with no repercussions.
I refer the Inquiry to the Judgment and Orders of Justice Mullane of the Family Court of Australia (Newcastle) dated 20th May 1996. The Hearing took place on 29 – 31 August 1995, judgment delivered eight months and twenty days later. His Honour, by this delay, ensured that status quo provisions prevailed and justice was done a severe disservice. Delays in handing down judgements and/or producing written copies are commonplace.

It will be seen that the mother made false and unsubstantiated allegations of child abuse by the father. It will also be seen that Justice Mullane described the mother in the most unsavory terms and yet left the child with the mother. The allegations of child abuse were found to be false by this hearing and at a later hearing before Justice Purdy. The mother later stated to the father that she knew the allegations were untrue and made solely because her solicitor Ms. Lyn. McLardy of Wood Roberts Solicitors had advised her to make them, saying that the father would simply go away.

This same solicitor unilaterally changed the location of change – over of the child from point 'a' to point 'b' taking it upon herself to over-rule the Orders of the Family Court. She then strongly criticized the father for not being at point 'a'. The writer is of the opinion that the Legal Services Commission is of no practical use, nor is the Law Society.

The Inquiry needs to examine the role of the legal profession in Family Law in relation to matters of ethics and unprofessional conduct. The perception here being that Family Law matters are exacerbated by the lawyers to the detriment of all concerned, most of all, the children. Unethical and/or unprofessional conduct should be a criminal offence punishable in law.

This 'mother' consistently and repeatedly denied the father contact in contravention of the Orders. She has stated that her solicitor advised her 'not to worry as the court would do nothing'. A copy of the chronology is attached.

Justice Nicholson has publicly stated that a 50/50 arrangement will not work 'because one parent may be in Melbourne and one in Darwin'. This is errant nonsense because the separation does not begin that way, the extra distance comes later when a parent, usually the custodial mother decides to make contact more difficult for the access parent and moves a great distance away.

This matter needs to be addressed as a matter of urgency and treated as a contempt of court. Parent relocation should be restricted to no more than one hours travel, any longer is exhausting for the child and certainly not in the child's best interests.

Considering that up to four men every day commit suicide and that these men are in the age group most likely to be involved in a Family Law dispute then this question desperately needs close examination.

In the Canberra Times of Saturday 31st August 2002, the Chief Justice, Alistair Nicholson denied any bias existed in the Family Court. He said, *"Indeed, there is, I*

think, a quite wrong apprehension of some kind of bias against men involved in the Family Court. That's just not the case. What we have to do is make difficult and tough decisions often over residence and contact."
I agree totally with his third sentence, they do have to make decisions over just these matters, this sentence, in fact, has no bearing on the rest of his statement. The problem is that so often, they get it so horribly wrong. As to the first part of his statement, is that the end of the argument? Should we simply accept the words of the pontiff of the Family Court of Australia as being infallible?

To determine the reality of the matter we need to examine evidence to the contrary and weigh one against the other, and, in doing so, we must give due regard to Section 121 of the act which virtually 'gags' anyone from presenting a case to the community. This is, of course, a very convenient tool for any person or organization running a hidden agenda but, interestingly, it seems the Australian Federal Police are not authorized to enforce Section 121 and, they do not know who is authorized saying that it must be a private prosecution.

We also need to accept 'as read' that almost every man that has experienced the rack of the Family Court has a tale of injustice to tell. There is simply too much to be explained by the comment of the Chief Justice as a 'bunch of disgruntled dads'.

The two principles in the concept of natural justice are,
(a), That all people are entitled to give their side of the story, this is the Hearing Rule., and
(b), That all people are entitled to have a dispute settled by a fair and impartial Judge. This is the rule against bias.

Fathers are invariably advised by their legal counsel to leave the children with the mother because she will win any residency application anyway. this helps to establish the status quo provisions that the court is always unwilling to disturb.

In August of 1995, Justice Mullane of the Family Court examined a matter of Custody (now residence) and delivered his Judgment in May of 1996. In his judgment, he described the mother in most unsavory terms, he said, "*She is a dishonest person.*" He found that she had acted to alienate the child from the father and was a bad influence on the child. She fitted what is today called the 'Malicious Mother Syndrome'. The delay between Hearing and Decision of over eight months and twenty days ensured that status quo prevailed.

His Honor found that the father's contact with the child was '*indispensable to her*'. and it helped to '*offset the bad influence of the mother*'. In spite of this, the mother retained custody and the father got contact of basically, alternate weekends.
The contact included parts of the school holidays and was described as being quite generous and in keeping with the 'indispensable' nature of the father's influence with the child. Discussing it later with other dads, it seems the contact regime was little different to that given to dads whose ex - partners were not described by the Court in this way.

The mother relentlessly opposed contact and breached contact orders repeatedly, (Copy of chronology attached) for financial reasons, the father began representing

himself and was told by solicitors and barristers that his affidavits were of excellent quality and one actually stated, "*You would win the case hands down, if the playing field was not tilted against you.*"
In an effort to deny contact, the mother covertly moved house from Toronto (near Newcastle) to Punchbowl in Sydney. When the father found his daughter and continued to visit her, the mother then moved to Lithgow, in the blue mountains. Contact could then only happen with around three hours travel each way. This father has maintained contact and requests to the Family Court for the mother to contribute to travel have fallen largely on deaf ears.

The father brought a complaint before Judicial Registrar Loughnan relating to a breach of contact orders and the J.R. asked him, "*What do you expect from the Court?*" The father answered, "*I don't know what the options are.*"

The Judicial Registrar said, "*I could jail her, I could fine her, I could give her community service or put her on a bond, most probably, I will do nothing.*" This statement was quite clear. The solicitor acting for the mother commented it on. Two friends of the father sitting in the Courtroom heard it. The Judicial Registrar had apparently already decided the matter and the rule against bias must be considered breached. Not surprisingly, the father decided he was wasting his time and entered into a consent agreement, thereby saving the Judicial Registrar the angst of having to make a decision and, unwittingly adding to the Court's fantasy of the 94% of successful cases.

Some time after, he had occasion to write to the Registry Manager and referred to this matter in the letter. The reply from the Registry Manager stated that he had listened to the tapes of the proceedings and *"no such statement was ever made"*. This makes the recording methods of the court very suspect.

On another matter of a breach of contact, the father, myself, placed an affidavit before Judicial Registrar Halligan who stated, "*I do not have time to read that, you will pick out those paragraphs that prove your case*".

I am not legally trained, I had provided an affidavit describing events in chronological order and had annexures where required. The J. R. refused to read the affidavit and it took less than two minutes to 'Summarily Dismiss" the matter without the J. R. reading anything. He, in fact, took more time refusing to read the material than would have been utilised had he actually read it. Obviously, the Judicial Registrar breached the Hearing Rule. It was his job to read the material presented.

The solicitor acting for the mother, Ms. Lyn McLardy of Wood Roberts, Mayfield N. S. W. Frequently would step to her feet while the father was addressing the court and interject with the statement, "*Judicial Registrar*, (or Your Honour, as case may be*) perhaps I should say.....*" The solicitor was at no time told to sit down, shut up or to cease interjecting. The interjection was ignored and allowed and, in fact, on one occasion when the father tried to continue speaking was told by the chair to cease interjecting. An appalling example of justice simply failing and showing favor to a member of the legal fraternity. It is no surprise that many self-represented dads find the whole experience totally frustrating and obviously biased.

In the year 2000, in a residency matter before Justice Purdy of the Family Court of Australia, His Honour gave his judgment promptly on the third day after two days of hearing.

In delivering his judgment he spoke of the child's mother and her then husband and said, "*The relationship between Mr. and Mrs. XXXX has been characterized by frequent separations indeed, they are separated at this time. Never-the-less, I hold that relationship to be stable*". When his judgment was published, this part was re-worded, 'edited', I believe they call it. Obviously, His Honour had to delete the intimation that the only thing stable in their relationship was the instability.

He also said, "*For all the suffering this child has endured, I hold the mother entirely responsible. In all ways the Court can consider, the father is the better parent*". Then, with his hand held to his forehead, he also said, "*Oh, I just can't take a child from the mother.*" This, of course, made his personal bias extremely obvious.

In the published copy, this was also re-worded. The orders that His Honour gave were to dismiss everything and simply endorse the existing orders and to leave things as they were, which was why we were in Court. The father's attitude now can be summed up by saying, "For all the suffering this child has endured, I hold the mother responsible up to the point of the Hearing in 2000, after which, the Judge must be held responsible, because he recognized the problem and didn't have the guts to do something about it." This "editing" is common practice in the Family Court.

That same Judge also said during the hearing that the father had only himself to blame because he was simply the wrong man to have married this woman. Could it be said she was the wrong woman to have married him? Could the same thing be said about every person that appears before the Family Court of Australia? Did His Honour make this statement based in logic? Did he make it based on points of law? No, neither, he made it based on personal bias.

As the father, I seriously considered an appeal. This has to lodged within twenty eight days of the decision. I repeatedly asked for a copy of the judgement so I could reference the points of the appeal but the published copy was not made available by the judges associate for some months and it was re-worded to delete those points in question.

While the Chief Justice strongly denies any suggestion of bias in the Family Court, at the 4th National Family Law Conference in Canberra on 24 - 25 August 2002, the party line was held by Jennifer Cook of the Family Court of Australia and I refer to her address to conference which she began by making mention of the 94.3% who resolve their matter at some time during proceedings, and she claimed this statistic as indicative of the success of the Family Court. This point echo's the Chief Justice in the press release of 12 July 2002, in 'The Age' where he waxes lyrical about the Court's success rate of 94%.

Neither of them pay any attention to the fact that people find the delays of around two years far too onerous to bear and enter into an agreement simply to end the matter, unwittingly leaving many things unresolved which, in many cases simply exacerbates the problems. Her address pays scant attention to those fathers who see the suffering

their children are enduring and simply 'step back' from it all in an attempt to bring some relief to their childen. It completely ignores the times when it becomes so painfully obvious the Court is unwilling or incapable of doing something about it, people unwillingly enter into consent orders in an attempt to achieve what the Court cannot. That 94% who resolve their own issues can in no way be claimed by the Court as indicative of success, it is in fact, a glaring example of the Courts inherent failure.

She recognizes the difficulties faced by separating parents and the traumas experienced by the entire family but she fails to recognize the stress and additional trauma created by the Courts delay in getting to a hearing. She ignores the fact that the court will order a Section 30A report, frequently at great cost to the non-residential parent, usually the father, and on receiving the report, will ignore the recommendations.

I now refer to the letter from Deborah Turner, Principal legal Officer of the Attorney Generals Department reprinted in the Lone Fathers Association newsletter 'NOOS' of June - July 2002. She states, the act applies to men and women equally and involves a balancing process. If that were true, then the results would not be that women get custody (Residence) in over 80% of cases. See the report from the address by Justice Kirby in 'The Canberra Times' on 28 October 2002; some one has their finger on the scales.

Ms Turner also makes mention that *the appropriate way to challenge that decision is through the normal appeal procedures...* This totally ignores the substantial cost factor involved and that the procedure must be carried out usually by the non - resident parent, usually the father, who has already been financially gutted by a system of law that has left him legally disenfranchised.

If the 'Act' is genuinely designed to deal with men and women equally, while the results show such a gross bias against men, then this bias must occur in administering the 'Act' in the Family Court of Australia. This makes it obvious that the 'Act' needs amendment to prevent such bias, to the point of introducing mandatory sentencing.

The results that we today experience are frequently accompanied by the much abused statement, '*The best interests of the child will be better served by...*' that is constantly utilized by the Court to usher in orders that favour the mother, or suit the convenience of the Court and are usually based on the status quo provisions.

Recently, in a matter before Federal Magistrate Donald, the writer was seeking residency because my child, over twelve years of age, had told me she did not want to return to the mother and made substantial disclosures regarding her mother's standard of care. I did the right thing and made the necessary application to the court. I obtained a date for a hearing and served the documents on my ex - wife. I asked the Court for an appointment with the Counseling Section. There were no counselors available. I retained the child in my care as allowed under Section 112 AC (3).

I took the child to a Psychologist privately and in that interview, my daughter made further disclosures about the mother in addition to what she had already made to me. These disclosures included involving the child in acts of shoplifting, making the child take money from a man's trousers and car while mum had him in another room giving

him 'a massage' and of acts of violence. These disclosures were subsequently found mentioned in the mothers Police record.

The complaint made by the father was one of severe child abuse by the mother. The proper course of action by the mother should have been to lodge a cross application with the Federal Magistrates Court but, instead, she used a solicitor, Mr. John Ward of Katoomba to obtain a recovery order from a local court, giving the father 48 hours to return the child.

The mother's material included orders from a local court issued by a Chamber Magistrate of the Lithgow Local Court, a Mr. Brian Tulloch. This same Chamber Magistrate had also witnessed her affidavits and had been a regular visitor to her house. Surely this constituted a conflict of interests. This was the subject of a complaint to the N. S. W. Attorney Generals Department, which was a total waste of time.

The Department advised the father that any complaint would be referred to the Court concerned. That Court would appoint a person to investigate the matter and to recommend appropriate action. The final reply having all the earmarks of having been written by the Chamber Magistrate himself. The reply totally ignored his involvement and was couched in terms of a job recommendation/character reference. One wonders how far up the legal tree these corrupt practices go.

The solicitors ethics must be considered highly suspect, a clear case of totally unacceptable unprofessional conduct. The recovery order was later found by the Family Court to have been obtained by deception. She and her solicitor had attempted to use the lowest court in the land in an attempt to subvert the legal process in the highest court in the land. It is highly strange that the Family Court, on making the finding of 'obtained by deception', either would not or could not, immediately refer the matter to the Legal Services Commission to have the solicitor dealt with. That sort of thing is left to the father to do privately.

On receiving the recovery order, the father went immediately to the Family Court and lodged an application for a 'Stay' of the local court orders and an appeal against them. The 'Stay' being simply an injunction to prevent them going into effect until the appeal is heard and advise from counsel indicates it could have been heard by a judge 'in chambers' and ex-parte and done in five minutes.

The Family Court, in its doubtful wisdom, scheduled both matters to be heard on the same day, two weeks hence, thus allowing the recovery orders to go into effect. The father raised this point with the clerk who spoke to the Registrar and returned saying, "*The Registrar says that's OK, that is how it's done.*" Unfortunately, that is apparently how it's done in the Family Court and the knowledge and competency of the registrar must be called into question.

The following night, the order went into effect and I was left with three choices

(1), to return the child for more abuse.,
(2), hand the child over to the Police to be returned for more of the same., or
(3), become difficult to find.

Having no orders restricting my movements, I became difficult to find. For two weeks, both myself and my daughter were subjected to incredible stress, basically we were 'on the run', this as a result of the appalling ineptitude of the Family Court.

When the recovery order was ultimately 'stayed' and the deception finding made, the court did nothing more. The act of deception was designed to deceive the Court, no one else. The offence was committed against the Court, no one else. If the Court does not have the legislative tools within the act and rules, then the politicians and the Chief Justice should do something about that, certainly, the Family Law Act as in force at 29th May 1998 does not prevent such a referral by the Family Court. Perhaps that sits with the inability or unwillingness of the Court to enforce its own orders.

The Federal Magistrate issued interim orders returning the child to the mother on the basis that the child's '*best interests would be better served*' because she would be attending school with a child she already knew from primary school, his rationale being that '*the child is no worse off*'. Apparently, he felt the child had not yet been abused sufficiently. This order of course, 'set the stage' for final orders favouring the mother through the status quo provisions. It also gave the mother the opportunity to induce the child to change her story.

Apparently, the opportunity of attending school with a child already known to her outweighed all the violence, the acts of dishonesty and the abuse, again, some one has their finger on the scales.

This father was allowed time to explain to the child what the Court had done and after very gently telling my little girl about the orders, she stared at me and said, "*You mean I have to go back?*"

I said, "*Yes, darling, I'm afraid so.*"

She ran to the toilet and vomited. She had finally found the courage to face up to an undesirable situation and it was thrown back in her face. I had been parentally disenfranchised by the Bench. My daughters cry for help was ignored by Federal Magistrate Donald, he had succeeded in convincing another small child that dad could not help her and amounts to another act of child abuse by the judiciary. Next time she needs help; will she go to her father?

The judiciary is backed up by millions of dollars worth of experts including those in human behavior. They have to know what the results of their orders will be. It is reasonable to assume that these results are deliberate and calculated, untoward as they may be.

In a subsequent interview with the Court Counselor, it was no surprise that the child began to alter her story although the weight of evidence supported her disclosures to her father and the psychologist, after all, she had been subjected to and witnessed acts of violence by her mother. Once more the best interests of the child were not held as paramount.

The mother made unsubstantiated allegations of child sexual abuse of her daughter against her ex- husband. The Court reaction was immediate; the father lost his contact pending a hearing. It eventually got to a hearing where he was given supervised contact once a week pending another hearing. Investigations revealed that the child had been coached by the mother to say things designed to support the false allegations. During this period, the child developed a pronounced stammer, undoubtedly, a severe stress reaction.

She would begin to speak, the stammer would kick in and she would break into tears of frustration. Dad would cuddle her, give her a kiss on the cheek and sing little songs to her and the stammer would fade away. She eventually lost it completely.

On one occasion, she came to her dad and put her arms around his neck and kissed him on the cheek saying, "it's OK, mum can't see me now."

Eventually, over twelve months later, the matter was heard, supervision was removed and contact restored, interestingly, there was no further evidence available at that time than was available at the initial hearing where dad was given supervised contact. The delay simply gave the mother a greater opportunity to subject the child to more intimidation and psychological abuse. The mother had lied to the Court.

I raised the question of perjury and was informed that perjury doesn't exist in Family Law. The psychological abuse of the child by the mother was totally and completely ignored by the Family Court. I was informed by counsel *'not to worry too much, allegations of child sexual abuse are commonplace in these disputes and are made as a matter of course.'* Apparently, the fact that these false allegations are a form of child abuse in their own right is ignored by the Courts and certainly, they are not subjected to the principles of perjury or contempt of court. This must constitute a failure of duty of care by the Family Court.

In the case of the allegations against the father, the Court was correct in taking immediate action to protect the interests of the child however, the machinery should be in place to deal with the matter immediately so that the suffering of the child and the father is minimized and contact restored as a matter of priority. After that initial immediate step, the court went into hibernation, the interests of the child were forgotten. With the millions of dollars the court uses and the resources available to it, it is reprehensible that the matter dragged on for over a year before the Court made a determination.

The false allegations of the mother should be dealt with as the child abuse that it is and a penalty applied equal to the penalty that would have been applied to the father should the allegations be found proven. It should be recognized as the act of perjury that it is. The schizoid attitude of the Court in dealing with the two cases mentioned above demonstrates a definite and undeniable bias, the court gives the mother every opportunity to fabricate evidence to crucify the father and the 'child's best interests' fall by the wayside.

Our society depends on justice being done and being seen to be done and in both respects, the Family Court of Australia has failed dismally. The Court, in fact, condones and encourages this offensive behaviour by its lack of action. The party line

concept seems to run through the Court, the Government and its departments. The facinorous nonsense they continually put to us is an insult to the intelligence of Australian citizens.

The errant denial by the Chief Justice of the Family Court's dysfunction has further contributed to the Court's failures and to the suffering of thousands of Australian men, women and children. .

A media release from the Joint Parenting Association in South Australia of 8 July 2002, (reprinted in Lone Fathers Assn. newsletter NOOS Aug. - Nov. 2002 page 23) makes it very clear that the Family Court has contributed to the incidence of child abuse in Australia and the Chief Justice should hang his head in shame.

Many fathers have witnessed their children's personalities change from happy kids, enjoying their childhood, to become something resembling paranoia. Effectively, the child's personality dies, many dads have witnessed this death of their child's personality due solely to the unwillingness of the Court to deal with intransigent mothers. This is child psychological abuse of the worst kind. .

Fathers must cope with a severe grieving process every time they return a child to this unsavory environment and it stands as testimony to the Aussie bloke's tolerance that violence against women is as low as it is. Collecting a child for contact is a shockingly traumatic experience when the mother is set on making things difficult. Mum's hand on the child's shoulder, her thumb grinding into the child while she say's, *"Tell him you don't want to go, tell him!"* The child's face white with pain and tears in her eyes and dad knows there is absolutely nothing he can do about it.

It is not before time that the Chief Justice has resigned and it is a pity that Judges have unlimited tenure of office. They should be appointed for a limited term and re-appointed on performance-based criteria. Their term in office should be subjected to a continuing system of review, the number of times their decisions are the subject of appeal, for example. A lawyer should not be appointed as a Judge unless they have many years experience as Senior Counsel. A solicitor should never be appointed to the bench.

There is an urgent need for a Commission of Inquiry to examine the operation of Family Law and how other laws, including State law, impact on this operation. It should conduct its sessions in open meeting and take submissions from the public and have the power to order studies and research to be undertaken and take evidence in verbal form. It should also be empowered to critically examine the role of solicitors and barristers involved in Family Law. It should examine the detrimental effect that past decisions have had on families with a view to giving adequate compensation to the victims. The Commissioners should include ordinary Australians and should not have as members those retired from the judiciary.

Australians were killed in Vietnam, Australians die on the roads in increasing numbers each year. In Australia, each year, more people suicide because of the Family Court than Vietnam or the road toll. It is unknown how many road deaths can be attributed to the stress caused by the Family Court.

I now refer to the publication by Pascal Press, Excel HSC Legal Studies, which states dealing with family Law in the paragraph under Adjudicators or judges, '*At first judges did not wear wigs and gowns.....this lack of formality helped lead to bombings and bomb threats directed towards judges, their families and courts. People did not see the courts as having the full authority of the law.*' Are we expected to believe that wigs and gowns are so important to the Australian psyche? It is far more likely that people will judge the judges on their performance rather than the way they dress. But this nonsense is in a textbook.

The Family Court of Australia does not enjoy the respect of the people. It is regarded by those that have been through it as an atrocity. In addition to the divorcing couples that have this terrible experience, there are the children involved, their grandfathers, grandmothers and other relatives. None of them feel the Court was fair and unbiased. there must be in excess of five million people disaffected by the Family Court of Australia. It has lost the respect and the confidence of the Australian people.

This father was in Parramatta Family Court recently and consented to allow his daughter to accompany her mother to Brazil 'for a holiday'. I said, "I know the reality is that she may not return but I've given up. I was told by a Court Officer that if I oppose the application they will allow her to go provided she lodges a deposit of cash with the Court supposedly to give me the money to bring my daughter back. The U.K. couldn't get Ronald Biggs out of Brazil with the crown jewels behind them, what hope would I have? Why can't they just say no? "

Throughout this whole affair, the mother received legal aid and I, as the father, had to pay or be self - represented. The mother received Legal Aid in spite of having business interests to the extent that Toyota finance saw fit to lend her twenty – six thousand dollars to buy a new car.

Recommendations.

1. Support 50/50 Rebuttal as a basis for determining custody and contact, bearing in mind that the contact parent already must provide the child with his/her own bed in own room so the change in the system makes no difference in relation to provision of facilities for the children. Grounds for rebuttal should be;
    i) Child Abuse, either sexual, physical or psychological
    ii) False and malicious allegations made in relation to the other parent recognized as the psychological child abuse that it is.
    iii) Substance abuse, whether alcohol or drugs is a bad example to the child and can lead to a further generation of substance abuse.
    iv) Malicious denial of contact
    v) Relocation of custodial parent to more than one hours travel.
    vi) Serious consideration should be given to changing the system to allow for children under seven years of age to remain with mother. Children over seven to remain with the father. Contact unrestricted between all parties and any malicious denial of contact punishable by a custodial sentence. In this way, all parties, especially the children, know exactly where they stand.

2. Family Court to have authority to enforce its own orders and to prosecute where necessary.

3. Family Court be authorized to act to prevent system abuse and to follow up any acts of system abuse. e.g.; report same to relevant authorities, Legal Services Commission, Law Society etc.

4. Acts of perjury be recognized by the Family Court and acted upon.

5. Child abuse in all forms be a reason for losing custody/ contact with a child, whether it be physical, sexual, or psychological and be dealt with as a criminal offence.

6. False allegations of child abuse be recognized as the child abuse and perjury that it is and be treated accordingly.
7. False Domestic/apprehended Violence Orders presented to the Family Court be regarded as perjury.

8. Cease the practice of appointing less than Senior Counsel to the judiciary.

9. All judgments be delivered within ten working days from the end of the Hearing.

10. Published copy to be produced within twenty-one working days of the judgment being handed down.

11. A copy of the judgment to be furnished to the parties within seven working days of publication.

12. Appeal to be made within twenty-eight days of receiving the printed copy of judgment.

13. The practice of 'editing' and rewording of judgments by the judiciary to cease and made punishable.

14. Investigate possible laws to prevent State laws and courts being used to subvert the legal process in the Federal Courts.

15. Recommend to the Parliament of Australia that a full Commission of Inquiry be appointed to properly investigate the operation of Family Law.

I am happy to attend any hearing or meeting. I can provide copies of judgments, affidavits and orders as well as some transcripts of hearings.

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