

Session 1: Setting the Scene

The CJ provided the following context for the discussion:

In early 2008, the Attorney-General decided to “abolish” the FMC and create lower levels in the Family Court and Federal Court. Following the High Court’s ruling in *Lane & Morrison*, the Government determined that it would retain the FMC to undertake lower level military work and general federal law work. Federal magistrates would be offered Commissions in a lower division of the Family Court. Family law would be exercisable by the FMC only on transfer from the Family Court if insufficient Federal Magistrates accepted Commissions in a lower division of the Family Court. This changed the landscape and left a structural functioning FMC.

The Government introduced legislation in the above terms on the last sitting day before Parliament was prorogued. The Bill subsequently lapsed.

The CJ had a two meetings with the AG to discuss the proposal and in the last meeting the Attorney expressed his resolve to introduce the legislation in the new Parliament. The CJ has the impression that the Bill is unlikely to be introduced until the Senate changes in July 2011. However, uncertainty still attends the proposal as the Bill needs to pass the House and the Senate.

The CJ restated the Court’s position that policy is a matter for Government and the Court should not publically express a view unless invited by the Government to do so.