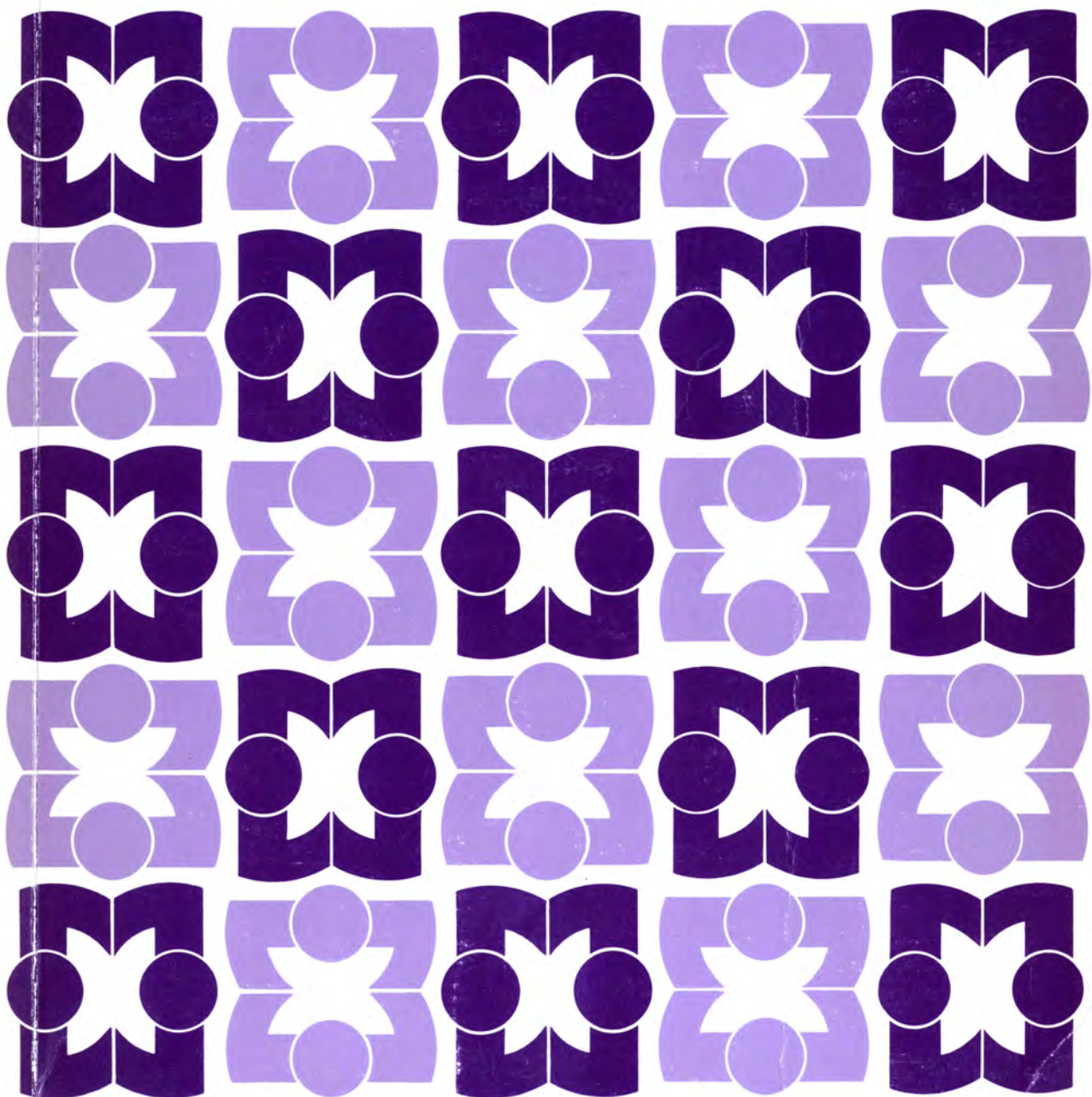


ROYAL COMMISSION ON HUMAN RELATIONSHIPS

Final Report Volume 4





**ROYAL COMMISSION
ON HUMAN RELATIONSHIPS**

**Final Report
Volume 4**



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ROYAL COMMISSION ON HUMAN RELATIONSHIPS

Final Report Volume 4

Part V The family

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**ROYAL COMMISSION
ON HUMAN RELATIONSHIPS**

100 William Street
Sydney
21 November 1977

Your Excellency,

In accordance with Letters Patent, dated 21 August 1974, we have the honour to present to you the Final Report of the Royal Commission on Human Relationships, prepared as at April 1977.

Elizabeth Evatt
Felix Arnott
Anne Deveson

His Excellency
The Right Honourable Sir John Kerr
A.K., G.C.M.G., G.C.V.O., K.St.J., Q.C.
Governor-General of Australia
Government House
Yarralumla
Canberra, ACT 2600

Commissioners

Justice Elizabeth Evatt (Chairman)

Dr Felix Arnott

Anne Deveson

Secretary

Robert Hyslop

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1. Introduction

1. Of all our institutions, the family is the most influential in terms of human relationships. It is universal, being found in both sophisticated and primitive societies as far back as our knowledge takes us. Though it has had and will have many different forms, it is unlikely that it will ever disappear, nor would we wish it to do so.

2. All children need adults to nurture them, to give them love and security, stimulation and the chance to grow. Within the family, a child learns about himself and the world outside. He learns what it means to be a boy or girl, what it is to love and be loved, what it is to feel anger, what it is to be a part of mankind. As Margaret Mead, the eminent anthropologist, says:

We have never discovered any other way to produce responsible human beings except through the family.¹

3. Yet the family, which can give a child so much, can also bring it harm. Within family life can lie ignorance, neglect, violence and despair. And just as the child is vulnerable to the family, so are families vulnerable to the society of which they are a part. Malnutrition, poor housing, unemployment and discrimination are only a few of the pressures which can affect family life and well-being. Therefore, although families carry responsibility for providing the day-to-day care and protection of children, society equally carries a responsibility to see that families can undertake this most important of human tasks in a manner that allows for individual freedom, yet at the same time provides security and love.

4. Family relationships are specifically referred to in our terms of reference, in that we were directed to inquire into and report upon 'the family aspects of male and female relationships'. Furthermore, nearly all the issues we have investigated impinge upon family life.

5. From our evidence it is clear that the family is the focus of much public debate. On the one hand, there are those who staunchly defend it as the cornerstone of society and see its existence threatened. On the other hand, there are those who call for its abolition because they feel in its present form it destroys individuals. Anxieties have arisen because the family, like so many of our other institutions, is in the process of change. As we will show, the Australian family today is different from what it was only a quarter of a century ago.

6. Some of our submissions quoted from the United Nations Covenant on Civil and Political Rights: 'The family is the natural and fundamental group unit of society and is entitled to protection by society and the state' (Article 23.1).² The family, according to this view, provides the ideal situation for individuals to mature; for the socialisation of children into their adult roles; for learning to love through experience of being loved; as a refuge from an impersonal, competitive outside world:

Within the family, because it is a source of love, courage and comfort for its members, the young are nurtured, the sick are cared for and the aged are supported . . . Within the family interpersonal relationships are developed and brought to maturity.³

1. *American families: trends and pressures, 1973*. Hearings before the Subcommittee on Children and Youth of the Committee on Labour and Public Welfare, US Senate, 92nd Congress, first session (US Govt Pub. Office, Washington, DC), p. 124.

2. Submissions 139, Family Foundation (SA) Inc.; 178, Catholic Archdiocese of Canberra–Goulburn.

3. Submission 139, Family Foundation (SA) Inc.

7. The Christian Medical Fellowship of Australia stressed the Christian attitude to marriage:

This requires of both men and women the same standard of morality and responsibility to each other and bases the care of the children on the family—the basic unit of society: father, mother, child.⁴

8. Many submissions spoke about the family being ‘under threat’ and on ‘the verge of destruction’. For instance:

... in today’s permissive society, there does seem to be a breakdown of family life.⁵

There is, I believe, a volume of statistical evidence to show increasing rates of broken homes, de facto relationships and divorce over the past 15 years with all their attendant problems.⁶

9. The Festival of Light spoke of Australia being shifted from its traditional values. They said that ideologically inspired groups were successfully pushing their anti-Christian views on the vast majority of Australians:

Their activities are causing a serious breakdown in human relationships in our Australian society.⁷

10. On the other hand, critics of the current status of the family saw its values concerned more with private status than public good. They also saw it as isolated and vulnerable, financially precarious and fraught with emotional stress. Some women have argued that the family is a patriarchal institution which restricts women’s freedom by placing their primary role in the home, while the status and power in society at large remain under male control.⁸

11. Dean Ian George, of Brisbane, was concerned with the narrowing of the family unit in Australia:

We seem to be getting to a stage where the family unit in Australia is basically two parents and two children. We put them in a house; it seems to be a matter of great importance to Australian families to own their own house if possible, and perhaps that is laudable—I am not that sure it is all that desirable. We put them on a ¼-acre block and fence them off from their neighbours and expect it all to go well from that point on.

It seems to me from my experience that this is frequently not the case, not only because parents in many cases are really incapable of assessing the strains that occur within home relationships . . . but also because frequently these family units have a tendency to turn in upon themselves. The family unit is incapable of handling crisis situations; the vortex of pressure builds up within this small nuclear unit and frequently this causes an explosion, and the parents are stunned and completely lacking in understanding when their children leave home or are constantly out of the house because they cannot bear the pressure of the nuclear unit.⁹

12. Though we can identify two types of argument about the family—one that considers its virtues and one that considers its failings—we should note that many submissions contained aspects of both arguments without any inconsistency. For instance, the Catholic Archdiocese of Canberra and Goulburn emphasised that ‘the realisation of each person’s potential for personal development and happiness . . . is founded ultimately upon the stability and integrity of the family life’, but that many of the conditions for this stability and integrity were lacking:

4. Submission 176, Dr Jean Benjamin, Christian Medical Fellowship of Australia (NSW branch).

5. Submission 490, Mr F. Frieberg.

6. Submission 386, Mr Richard See.

7. Submission 1147, Australian Festival of Light (NSW branch).

8. Exhibit 41.

9. Evidence, p. 1688, Dean Ian George.

The constant struggle of many married couples, especially young people in the early years of marriage, to cope with these burdens often produces physical illness and considerable mental and psychological disturbances in them . . . Such an atmosphere of strain can warp the children's emotional development, and the family becomes for them an environment from which to escape at the earliest opportunity.¹⁰

13. We mention these different points of view to show that both defenders and critics of family life identify certain truths about family relations. We must conclude that the family has many virtues but, at present, is afflicted by many weaknesses.

14. One reason why discussion about family life is so controversial is that 'the family' means different things to different people. The majority probably still see it in terms of the so-called nuclear family, predicated on the institution of marriage: father, mother, child. Others take in parents and siblings or wider kin groups based on blood or marriage. Yet others do not see marriage or blood ties as necessarily significant but base their definition of 'family' on people living together under the same roof, in a relationship that is both caring and sharing. Their definition of the family would include people living in communes or in homosexual relationships.

15. Some of our submissions spoke of the need to view the family in terms of its relationships rather than in textbook definitions based on rigidly defined family roles. The Reverend E. H. Arblaster, of the Bible Reading Fellowship, wrote:

In a pluralist society I believe we should no longer talk or act as if the traditional pattern, as practised in recent years in the so-called Christian west, is the norm or only permissible form of family relationship.

The extended family system of traditional Hindu society continued by many Christian Indian families seems to have much to commend it.¹¹

16. The Commission has chosen to use the term 'family' very broadly to cover not only the conventional nuclear family grouping of mother, father and children but also one-parent families, families where there is no legal marriage, extended families and communes. Our main focus is on what we see as the principal purpose of the family—to provide for the care and upbringing of children; we are, however, aware that there are other supporting relationships parallel to the family which share some of its attributes. We believe that to talk about the family is to refer to a varying set of relationships.

17. We appreciate that many people who talk about attacks on the family do feel threatened. In this regard, the Brotherhood of St Laurence wrote:

Small groups of people have begun to experiment in different ways of living. The idea that it might be possible to evolve alternative life styles is usually dismissed in a rather patronising way, perhaps because these alternatives threaten our present conventions and are also economically threatening to a society largely dependent on profit from the production and the increasing consumption of goods and services.¹²

Our view is that we need to accommodate to many different life styles and to learn from them. We further believe that, although people may appear to live very differently, they share many common desires: for love and companionship, for food, shelter and good health. We believe that, provided such commonality is recognised, there is no need to feel threatened. The question is not whether the family will survive, for that is like asking whether men and women will survive. The question is how best

10. Submission 178, Catholic Archdiocese of Canberra–Goulburn.

11. Submission 317, Bible Reading Fellowship.

12. Submission 802, Brotherhood of St Laurence.

to help each other live in love and security and in a manner that allows each one of us to grow. The answers lie not only in the actions of individuals, but in society itself, in our values and the extent to which we are prepared to accommodate to change.

18. Many of these changes have profoundly affected family life. The advent of comparatively safe contraception has given women greater control over their own fertility and they spend less time in childbearing and child rearing than did previous generations. The number of women, especially married women, who are entering the workforce is altering family life. Children are staying at school longer, and the educational gap between young people and their parents is widening. A world that is linked by the mass media extends people's horizons and raises expectations. Technological developments have altered many people's lives but they have brought uncertainty and anxiety as well as benefits.

19. Australia's immigration program has changed the cultural composition of our country. Some people, particularly the young, are bewildered by conflicting values and caught between different ways of life.

20. Another form of migration has been the numbers of people moving from rural to urban areas, and from city to city and within cities. Families have become isolated from their traditional kinfolk supports. This and changing work patterns mean that governments and the community are having to provide alternative family assistance in many different ways, ranging from child care to social security benefits.

21. In this part of our report we look first at the statistical picture of marriage and family life and then at the human picture, based on the evidence we received. We examine the major pressures on family life today and discuss the impact of these on family relationships.

22. Many of our submissions drew attention to the accelerating rate of married women entering the workforce. Some saw this as beneficial to society. Others were concerned that the welfare of children was being jeopardised as a result. The role and function of child care was often presented as a related issue—who should provide it, how it affects the very young child, how its absence affects family life.

23. We discuss a range of viewpoints on the impact of Australia's new Family Law Act on family relationships.

24. The evidence we received on family violence prompted us to commission a study of women at one of Sydney's refuge centres¹³, and we invited people to telephone our office over a 2-day period about violence in family life. We discuss marital violence and child abuse, how they can be alleviated and prevented.

25. The fundamental question we must ask ourselves is whether the family in Australia today is receiving the support it needs to fulfil its primary role, that of caring for and nurturing its young.

13. C. Gibbeson, Domestic violence, Commission research report, no. 11, 1977.

2. Changing patterns of family life

Marriage

1. Many believe the rising divorce rate in Australia shows that more marriages are breaking up than ever before, and that the future of marriage is threatened.
2. It is not possible to make any really long-term comparisons of marriage rates to determine how they have changed over significant historical periods. There are no statistics by which we could compare 19th century marriage rates with those of the 20th century, or even the period before the 1939–45 war with the post-war period. There are divorce figures, but these are poor indicators of marital breakdown.
3. Marriage breakdown is common when major changes occur in society. Warfare, rapid industrialisation and economic depression are the main factors involved. In the last 30 years, Australia has been sheltered from the effects of war, severe economic breakdown, high labour mobility and anything else that might seriously affect family relationships. The result has been that more Australians are marrying now than ever before and more are having children.¹ Fifty years ago, only half the people over 15 were married. The proportion is now two-thirds.² Taking both men and women, more than nine out of ten Australians are married by the age of 30.³ Only about one out of twenty Australian women does not marry sometime during her lifetime and only about one out of thirteen men.⁴ Although the marriage rate has not changed for men, it has increased significantly for women. Before the 1939–45 war, about one out of seven women failed to marry.⁵ Immigrants to Australia since 1945 have adopted almost identical patterns to those locally born.⁶
4. This trend to almost universal marriage in Australia is described by the Borrie report as 'the marriage revolution'. There are similar trends in almost all western developed countries. Four out of five marriages in Australia are first marriages, and this proportion has shown a slight tendency to increase. These figures are in contrast to the United States where one in four marriages is celebrated between persons previously married.⁷

Age on marriage

5. Australians, in common with people in many other western industrialised countries, have been marrying younger.
6. Before 1939 the median age⁸ of the man and woman at their first marriage was 27 years and 24 years respectively. By 1973 the median ages were 23 and 21. During the

1. *Population and Australia: a demographic analysis and projection*, first report of the National Population Inquiry, vol. 1 (AGPS, Canberra, 1975), pp. 58–92, referred to as the Borrie report.

2. Evidence, p. 821, J. Krupinski.

3. *Population and Australia*, p. 9.

4. Ladislav T. Ruzicka and Lincoln H. Day, 'Australian patterns of family formation', *Search* 5, 7 (1974), p. 300.

5. *Population and Australia*, p. 59.

6. *ibid.*, pp. 61–2.

7. Jerzy Krupinski and Alan Stoller (eds), *The family in Australia, social demographic and psychological aspects* (Pergamon Press, Sydney, 1974), p. 9.

8. Median age is that value (age) which divides the relevant population into two equal parts, one half of the cases falling below this value and one half exceeding it (ABS definition).

same period the proportion of minors (under 21) in the total number of married persons increased from a little over 4 per cent to 16 per cent for males and from 20 per cent to over 43 per cent for females.⁹

7. By 1973 it seemed as if the position had stabilised. Interesting changes appear to be occurring however. Investigations in 1975 and 1976 revealed a rapid swing in attitudes against early marriage.¹⁰ Group interviews in Canberra, Sydney and Melbourne, involving some 200 men and women, showed that many people placed a strong emphasis on the need for maturity and for a period of 'freedom' before marriage. It was said repeatedly that women who marry too young are never able to establish their equality with men. This showed a marked change between the kind of attitudes expressed in a major survey in Melbourne in 1971 when women were far less concerned about having a period of self-discovery before marriage.¹¹ Furthermore, in 1971, economic factors, such as saving for a house, featured significantly as a reason for deferring marriage. In 1975-76, economic factors appeared far less important.

Intercultural marriage

8. One of the most significant changes that have occurred in Australia since 1945 has been the impact of immigration. Immigrants have come from a wide range of countries, but mostly from the United Kingdom and Europe. At the 1971 census, 2.6 million people or 20 per cent of the population were recorded as overseas born. In addition, about 1.2 million persons had at least one overseas-born parent who had arrived since 1945. In other words, almost one in three persons in Australia in 1971 was associated with post-war immigration.¹²

9. Eleven per cent of the population were born in countries other than English speaking, compared with 4 per cent in 1901 and 2 per cent in 1947.¹³

10. Dr Charles Price, of the ANU Department of Demography, said in evidence that the broad picture shows a considerable amount of intermarriage between the Australian-born population and migrants from north-western Europe, particularly the United Kingdom. Nearly 80 per cent of English immigrants marry native Australians. Of eastern Europeans, about one-third marry within their own group, about one-third marry Australians, and about one-third marry other Europeans.¹⁴

11. The Catholic Family Welfare Bureau in Adelaide observed that many couples do not appreciate the effect a different background may have on an intercultural marriage. An eastern or southern European male, born in Australia and apparently Australian in outlook, will still learn his expectations of a wife more from his home and parents than from elsewhere.¹⁵

Views about marriage

12. The views which we received about marriage were many and varied. Some spoke about social pressures influencing people to get married. Dr Jerzy Krupinski, director of research at the Mental Health Authority, Victoria, said:

9. Krupinski and Stoller, p. 9.

10. J.C. Caldwell (ed.), *Towards an understanding of contemporary demographic change*, Australian Family Formation Project, Monograph no. 4 (ANU Press, 1976).

11. *ibid.*

12. *Population and Australia*, p. 14.

13. Australian Population and Immigration Council, *A decade of migrant settlement: report on the 1973 immigration survey* (AGPS, Canberra, 1976), p. 84.

14. Evidence, p. 1069, Dr Charles Price; see also Exhibit 60.

15. Submission 482, Catholic Family Welfare Bureau.

. . . women are still saying that they are getting married just for the sake of being married and to get out of a home. Marriage is seen by many young girls as an escape from home or as something which should happen because it is nice to be married.

To a large extent this situation has been brought about by the pressure which is being exerted by society by means of the press which shows photographs of brides in beautiful bridal gowns. Many young girls find this exciting and—I suppose partly as a result of that—a girl marries the first person who proposes to her.¹⁶

13. Lyn Richards, in her research study on having families, observed that few of the men and women in the sixty couples who were interviewed had even considered the possibility of remaining single. Marriage was seen as a social inevitability.

I had never envisioned myself as being an old maid or being single, I had always thought of myself in the future as being married.¹⁷

14. The desire to be married appeared more important than the desire to marry one particular person:

I thought she'd be a good wife, she seemed a fairly sensible sort of girl and . . . you know, reasonably educated, reasonably intelligent, had good manners.

Well, I knew that he'd had pretty good training, a diploma, so I figured that we wouldn't really have much in the way of financial difficulties.¹⁸

15. Both Richard's study and a study of women at Elsie Womens Refuge showed there had been little thought before marriage about the realities of life ahead:

It's basically a sort of one-off occasion and one tends not to think a lot about it, except that it's all beaut and starry and what have you.¹⁹

I don't know what I expected, just to get married and live happily ever after without all the things that really happen.²⁰

16. Dr Krupinski said that, in today's society, expectations of marriage are greater:

Fifty years ago, marriages were rather stereotyped and the happy marriage was one in which the husband could come home drunk during one week, but he was getting his way; but today that is unsatisfactory. Today people are complaining about circumstances and problems which years ago would have been unnoticed, but which are not satisfactory today.²¹

17. Changed expectations of marriage were seen by the Catholic Family Welfare Bureau in Adelaide as presenting the need for a wiser choice of partner. At the beginning of the century, marriage in Australia was considered more important than the people in it. Now the situation has reversed.²²

18. Many submissions spoke about the desirability of a Christian view of marriage:

It requires of Christians that marriage should be an exclusive, long-term relationship giving companionship, friendship and mutual respect and support, as well as meeting the sexual needs of the husband and wife.²³

16. Evidence, p. 824, Dr J. Krupinski.

17. Lyn Richards, Having families, Commission research report, no. 14, 1976.

18. *ibid.*

19. *ibid.*

20. Christina Gibbeson, Domestic violence, Commission research report, no. 11, 1977.

21. Evidence, p. 824, Dr J. Krupinski.

22. Submission 482, Catholic Family Welfare Bureau, Adelaide.

23. Submission 176, Dr Jean Benjamin, Christian Medical Fellowship of Australia, NSW branch.

19. Marriage was seen by the Knights of the Southern Cross as a monogamous relationship, lasting for life, and as an ideal that is preferred by an overwhelming majority of people in western society.²⁴ Some submissions were opposed to marriage.²⁵

20. Interviews conducted in 1975–76 by the Department of Demography at the Australian National University showed that young Australians may be moving towards a more cautious attitude to marriage. Although most thought they would eventually marry, and that marriage was the only suitable arrangement for bringing up children, nevertheless there was uncertainty about the permanence of marriage. This was related to awareness of the rising divorce rate, fears of male dominance in a marriage partnership and about differing rates and directions of maturity. Apprehension about the instability of marriage appears to be making some men and women marry later and with more circumspection.²⁶

Family formation

21. The pattern of childbearing has changed in Australia in post-war years. The late 1940s and 1950s were periods of relative stability; 1947 was a ‘baby boom’ year with twenty-four births per 1000 population.²⁷ By 1961 the birth rate was twenty-three per 1000 population²⁸, thereafter it declined steadily and in 1975 had reached its lowest since 1938 with seventeen births for each 1000 head of population.²⁹

22. The fact that people were marrying younger and that more women were marrying contributed significantly to the ‘baby boom’ years.

23. The year 1961 was a turning point in Australia’s birth rate. Marriage trends have not changed significantly since then, so we must look elsewhere for reasons, such as the increased availability of effective contraception and abortion, the growing number of women entering the workforce and changing social values.

24. Completed family size has declined. Before 1914 average family size was about twice what it became after 1945.³⁰

25. Families with two or three children have become the most common group; there is a sharp decrease in the number of families with six or more children, and there are also fewer childless families and one-child families.³¹

26. The 1971 Melbourne survey of 2652 once-married women living with their husbands found that 94 per cent of women believed that families should have two, three or four children; 35 per cent chose three, 31 per cent chose two and 28 per cent chose four. Less than half of 1 per cent thought a no-child family was desirable, 3 per cent thought that a one-child family was desirable. The average ideal family size was 2.94.³²

24. Submission 211, Knights of the Southern Cross.

25. e.g. Submissions C4, confidential; 377, Dr J. Woolnough; 1063, name withheld; 1142, name withheld; C1107, confidential.

26. *Towards an understanding of contemporary demographic change*.

27. *Population and Australia*, p. 64.

28. *ibid.*, p. 64.

29. ABS, *Summary of vital and population statistics*, 4.11; ABS, *Demography 1971*, 4.9.

30. *Population and Australia*, p. 85.

31. *ibid.*, pp. 83–9.

32. Helen Ware, ‘The limits of acceptable family size: evidence from Melbourne, Australia’, *Journal of Bio-social Science* 5 (1973), pp. 309–28.

27. Women appeared to have very strong feelings about one-child families.

It is almost the strongest influence that runs through all groups, irrespective of nativity, relation or birth place. It is a belief that an only child is a bad thing.³³

28. The findings of the Melbourne survey were similar, in part, to another survey of 8992 married women in NSW metropolitan and country areas in 1971-73. Here, too, 95 per cent thought that the ideal size for an average Australian family was two, three or four children. Younger women chose smaller families, as did working women. Roman Catholics chose larger families. There was a close association between the ideal and actual experience; 34 per cent had exactly the number of children they considered ideal; 46 per cent had less at the time; 20 per cent had more.³⁴

29. As with the age of first marriage, however, the picture may be changing. The 1975-76 interviews conducted by the Department of Demography at the Australian National University found that most people wanted two children without qualification:

They frequently said it was the right number in terms of the world's situation, in terms of the number one could rear and educate properly, in terms of not making the wife a domestic vegetable, and in terms of allowing both members of the couple rich, full lives with both earning incomes most of the time, living in an adequate house, holidaying and travelling.³⁵

30. Although average family size has decreased, the number of adults who become parents has increased. Only about one-tenth of women now bear no children, compared with one-quarter in the 1930s.³⁶ Less than 1 per cent of women in Australia do not have any children, by choice.³⁷

31. More children are being born to younger mothers. Between 1920 and 1970, the birth rate in the 15 to 19 age group almost doubled. At the same time, the proportion of children born to mothers over the age of 35 has steadily declined.³⁸ Five-sixths of all Australian babies are both conceived and born in wedlock.³⁹

Pre-marital pregnancies and ex-nuptial births

32. At all ages, pre-marital pregnancy appears to have become less of a reason to marry, as table V.1 shows.

33. Since 1970 the number of ex-nuptial births in Australia has remained relatively stable; so has the percentage of ex-nuptial births to all live births.⁴⁰ The 1975 figures were 23 705 ex-nuptial births which represented 10.17 per cent of all live births.⁴¹

34. Although about 40 per cent of first births are both conceived and born out of wedlock⁴², when it comes to total births, some five-sixths are conceived and born in wedlock.⁴³

33. Evidence, p. 1060, Helen Ware.

34. A. H. Pollard, Farhat Yusuf, G. N. Pollard, Survey of family formation in Australia-2: the ideal family formation, Working paper no. 14 (Macquarie University, School of Economic and Financial Studies, 1974).

35. *Towards an understanding of contemporary demographic change*.

36. *Population and Australia*, p. 9.

37. Evidence, p. 1059, Helen Ware.

38. Krupinski & Stoller, p. 14.

39. *Population and Australia*, p. 75.

40. ABS, *Births* (1974), 4.4.

41. Figures from ABS, not yet published.

42. *Population and Australia*, p. 10.

43. *ibid.*, p. 75.

Table V.1 Proportion per cent of non-marital pregnancies resulting in nuptial confinements, 1947 and 1971

| Year | Age of non-married women ^(a) | | | | | | | | | | | | |
|------|---|----|----|----|----|----|----|----|----|-------|-------|-------|-------|
| | 16 | 17 | 18 | 19 | 20 | 21 | 22 | 23 | 24 | 25-29 | 30-34 | 35-39 | 40-44 |
| 1947 | 45 | 51 | 50 | 49 | 47 | 43 | 38 | 32 | 30 | 24 | 16 | 12 | 11 |
| 1971 | 34 | 38 | 38 | 37 | 32 | 28 | 24 | 20 | 17 | 12 | 9 | 6 | 5 |

Based on probabilities relating ex-nuptial and first nuptial confinements pre-maritally conceived to non-married population at census.

(a) Single + divorced + widowed.

Source: *Population and Australia: a demographic analysis and projection*, first report of the National Population Inquiry, vol. I (AGPS, Canberra, 1975), p. 78.

35. From the 1950s until 1971 there was a steady increase in the total number of births, and since 1971 it has declined. Nuptial births have declined faster than ex-nuptial births as is shown in table V.2.

Table V.2 Changes in nuptial and ex-nuptial births, 1969-74

| | 1969 | 1970 | 1971 | 1972 | 1973 | 1974 |
|-----------------------------|---------|---------|---------|---------|---------|---------|
| Nuptial births | 230 591 | 236 149 | 250 733 | 239 310 | 223 472 | 221 769 |
| % change from previous year | + 3.9 | + 2.4 | + 6.2 | - 4.5 | - 6.6 | - 0.7 |
| Ex-nuptial births | 19 585 | 21 367 | 25 629 | 25 659 | 24 198 | 23 408 |
| % change from previous year | + 2.1 | + 9.0 | + 19.9 | + 0.1 | - 5.6 | - 3.2 |

Source: Australian Bureau of Statistics.

Family spacing

36. The period of married life devoted to childbearing is now shorter. At a conservative estimate, the average woman now has about 35 years of active adult life when she does not have children depending upon her.

37. In the early 1920s, almost all wives marrying before 21 years old, if not pre-maritally pregnant, conceived and delivered their first babies within the first 2 years of marriage. During the economic depression and the war of 1939-45 many couples postponed the birth of their first child. With the end of the war in 1945, however, the pattern returned almost to the pre-war situation until the 1960s. Since then more young couples have postponed the birth of their first child. For the marriages of 1970, the incidence of marital conceptions delivered within the first 2 years of marriage reached the lowest levels ever recorded in Australia.⁴⁴

38. The period of married life devoted to childbearing is also shorter as there are fewer children born closer together.⁴⁵

Children leaving home

39. The Melbourne Family Formation study revealed that children are tending to leave home earlier, but for education or work rather than to marry.⁴⁶ Those leaving for

44. *ibid.*, pp. 77-8.

45. *ibid.*, p. 78.

46. Evidence, p. 916, Dr Christabel Young, ANU, Department of Demography.

marriage leave later than the others, as do those of southern European descent. Children whose mothers work while they are in secondary school tend to leave home earlier, and the higher the education of the parents, the more likely the children are to depart for reasons other than marriage. Daughters with a southern European background tend to leave school and then stay at home (without working) until their marriage.

40. The father's level of income has a stronger effect on when a daughter starts work than when a son starts work, suggesting that a daughter is more likely to be encouraged in her education if there are no financial pressures on the family.⁴⁷

Views on family formation

41. Dr Herbert Rattner had strong views on ideal family size; he deplored:

... talk of limiting two children to each woman or to each couple as if a woman comes off an assembly line and they are all of the same make-up; as if some women have not got a feeling or desire for motherhood and other women are more oriented towards working for society and having careers.⁴⁸

42. Professor J. Leeton, Associate Professor of Obstetrics and Gynaecology at Monash University, said that the ideal family size is that size which is desired by the wife.⁴⁹

43. The social impact of various stages in a family's life cycle were discussed by Dr Krupinski, based on his experiences with the Victorian Marriage Guidance Council. As he saw it, the arrival of the first child is the most demanding period of the marriage. Up till then usually both parents have been working; their income then suddenly drops. There are problems with the child. The nuclear family does not allow for the kind of assistance previously given by grandmothers and aunts. When the children are in the pre-school age, the suburban middle class woman has to contend with another set of problems. She is left behind by her husband and is bored. The family with school-age children is often the family where the husband (having established himself financially) starts seeking extra-marital relationships. The last problem is the post-parental age, the emptiness stage where both people are left by themselves and with their problems.

Usually the problem is when the husband retires. It creates new problems when he is at home all day because the wife has married him for better or for worse but not for lunch.⁵⁰

Marital breakdown

44. The rate of divorce is increasing. In the first half of this century the probability of divorce in Australia increased by some 160 per cent, and then in the next 17 years went up an additional 40 per cent, a total increase of some 200 per cent in 70 years.⁵¹ While some 10–11 per cent of Australian marriages would end in divorce, if 1954 divorce rates were to continue, this proportion would be over 15 per cent under 1971 rates, and still higher under more recent rates.⁵²

45. As noted earlier, many people believe that these divorce figures prove that the marriage breakdown rate is increasing rapidly.

47. C. Young, 'A note on demographic influence on the economic contribution of wives and children during the family life cycle', *Economic Record* 51 (1975), pp. 84–92.

48. Evidence, p. 568, Dr Herbert Rattner.

49. Evidence, pp. 796–7, Prof. J. Leeton.

50. Evidence, p. 829, Dr J. Krupinski.

51. Lincoln H. Day, 'Divorce in Australia: another look', *Australian Quarterly*, June 1976, p. 62.

52. Information supplied by Dr Lincoln Day, Dept of Demography, ANU.

46. A corollary view is that easier divorce laws cause more marriage breakdowns. In countries where divorce is made easier, this argument goes, the institution of marriage is regarded less seriously and people are tempted to discard their family responsibilities more readily than they would otherwise have done.

47. What this line of thought fails to recognise is that the family breakdown occurs long before the divorce court proceedings. The divorce gives recognition and legal status to an already accomplished fact. Once divorced, a person is free to form a legally sanctioned union with someone else.

48. High rates of marital breakdown may be followed by high divorce rates, where the law provides no-fault grounds. But the divorce law is not the cause of the breakdown.

49. Demographer Dr Lincoln Day has written:

It is commonly assumed that these [divorce rates] are measures of marital disharmony, or that they are at the very least indicators of such conditions. Yet they most certainly are not the first, and they need not necessarily be even the second. Obviously, where divorce is, there, also, is marital disharmony. But beyond this we cannot go. We cannot say that an absence of divorce indicates an absence of marital discord, or that there will necessarily be twice as much marital discord among a people whose divorce rate is double that of another. If there are ways of measuring marital discord, comparing divorce rates is not one of them. Marital discord is probably ubiquitous, but whether marital discord ends in divorce will be determined, first, by the availability of divorce and, second, by the availability of alternative 'remedies'.⁵³

50. Furthermore the rising divorce rate does not necessarily indicate an increase in marital breakdown because, as the divorce rate has risen, the separation rate in comparison has declined. More marriages that have broken up are now ending in divorce than in separation.

51. Figure V.1 is a comparison of people who were divorced with those who were married but permanently separated at the censuses from 1947 to 1971. Over this period the gap between the two rates did close—from 2.4 times as many separated as divorced in 1947 to a ratio of 1.7 in 1966, to 1.4 in 1971.

52. Some of the increase is accounted for by the desire of more people from broken marriages to marry someone else. It is estimated that about 75 per cent of divorcees remarry.⁵⁴

Divorce and children

53. Divorce in Australia is more likely than not to involve children. In 1975, 68 per cent of the divorces granted involved one or more children under 21 years at the time of the petition.⁵⁵ Couples whose marriages end in divorce have, however, smaller families and a consistently higher incidence of childlessness than has the married population generally. Because the longer the marriage lasts the more likely it is to involve children, any provision for making divorce more readily available, such as the Family Law Act, may well have as one of its consequences a reduction in the extent to which children become directly involved in the dissolution of marriage.⁵⁶

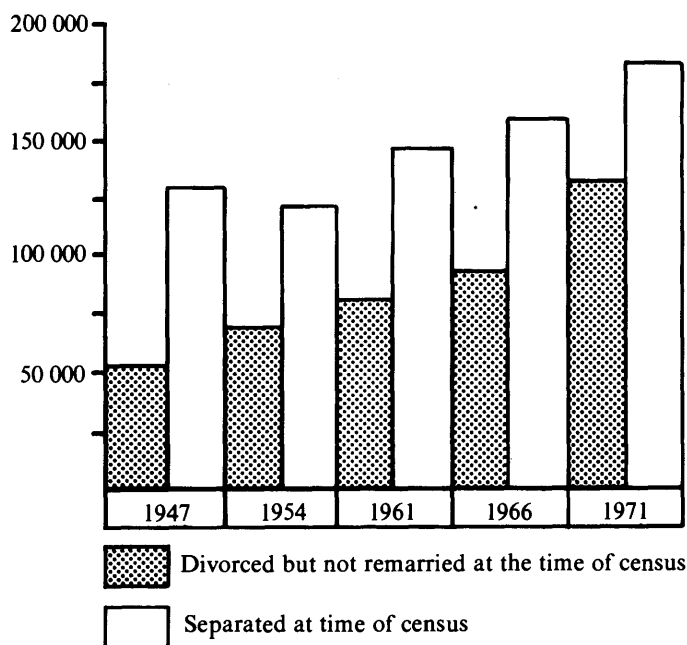
53. Day, *Australian Quarterly*, June 1976, p. 65; see also his evidence, p. 982.

54. One Australian estimate is that 95 per cent of divorced people remarry: S. Sarantakos, 'Anatomy of divorce', *Australian Journal of Social Issues* 10, 3 (1975); however, the UK and USA figure is 75 per cent and this is the rate that Australian commentators most readily accept: see Ailsa Burns, 'Marriage breakdown and divorce', *Search* 5, 7 (1974).

55. ABS, *Divorce* (1975), 13.1

56. Day, *Australian Quarterly*, June 1976, p. 65.

Figure V.1 Persons (a) divorced and (b) married but permanently separated at various censuses



Source: Ailsa Burns, 'Marital breakdown and divorce', *Search* 5, 7 (1974).

Views of divorce and marital breakdown

54. Views were divided on the issue of divorce and the effects of divorce or marriage breakdown. According to the Festival of Light, we have entered the era of 'instant divorce, disposable families'.⁵⁷ The Anglican Diocese of Sydney observed that the existence of any divorce law might lead some couples to contemplate divorce as a solution to marital difficulties who would otherwise have to find other solutions—including the possibility of surmounting those difficulties.⁵⁸

55. Patrice Cook, director of the Community Services Training College, Perth, said that people did not want their marriages to break down and that the nuclear family was not becoming obsolete. In some marriages maybe there was never a marriage in the true sense because the people were not capable of promising to love each other.

... they had not the capacity to love each other. You are not promising to walk from here to Fremantle with your legs cut off ... I do not then believe that it is a matter of dissolving a marriage. I do not think there could ever have been one whatever the appearances were.⁵⁹

56. Dr Margaret Mead, in the ABC television program 'Monday conference', said that the growing tendency for people to have more than one marriage was because of longevity:

It always was the norm for people who lived a long time ... most men who lived to be 80 had several wives, and most women who lived to be 80 had several husbands, so they buried them serially. Now, instead of burying them serially they divorce them serially ...

57. Submission 1147, Festival of Light.

58. Submission 611, Anglican Diocese of Sydney.

59. Evidence, p. 1992, Patrice Cook.

For instance, suppose you've had two children, and you've brought them up and everything and you now sit down and you've got 35 more years to sit across the table from him or her. You might think it over, because this was a common enterprise and you enjoyed bringing up the children, but you've never thought about anything else; you suddenly discover you've nothing left to say. Now, if you had nothing to say and you were going to die in a year, you could bear it, but 35 years is a long time.⁶⁰

57. Dr Day felt that changes in attitudes to women and changes in the way women perceive their lives were having an influence on marriage breakdown:

I think that if you enable women to support themselves, give them the opportunity to get fairly decent housing arrangements, you are certainly, I should imagine, going to have fewer women remaining with husbands they do not want to stay with, simply because they do not have any alternative. This idea that every house has to be a single family detached house, that everyone has to live the way a husband and wife and two children would live, I should think, would tend to lower the divorce rate, because it narrows the range of alternatives available to people, husbands and wives . . . I think that one could argue that a higher divorce rate is perhaps necessary in Australia for the human good.⁶¹

58. The Department for Community Welfare in Western Australia wrote that family policy should recognise the inevitability of breakdown in some families.

The atypical family should not be at a disadvantage. The motherless family, equally with the fatherless family, should receive support services.⁶²

Conclusions

59. We have outlined only some of the changes in patterns of family life in Australia today. One of the most significant changes, namely the increase of married women in the workforce, will be discussed in a later chapter.

60. Marriage and the family have become more popular than ever before. In western countries since 1945, more people have become married, more have had children, and more have stayed married for longer periods than at any time in history. In spite of social pressure upon the individual to marry, there are, nevertheless, some signs that couples are beginning to question the wisdom of early marriage. It could well be that future generations will take more care in choosing a marriage partner and will not rush into marriage.

61. Couples are also delaying the advent of their first child. This is partly due to more efficient contraception, but could also be due to the same kind of growing maturity which is questioning marriage age. The overall trend in childbearing has become one of universality and conformity. More people are having children and their family size is becoming more like everybody else's. Family size has decreased.

62. The rate of ex-nuptial births should not give rise to any belief that marriage and the family are disintegrating institutions. Some five-sixths of all Australian babies are both conceived and born in wedlock.

63. Despite the increase in divorce this is not a precise indicator of the rate or of the causes of marriage breakdown, still less of the declining esteem in which the institution is held. There are other indicators which show that marriage has become more popular in the post-war world.

60. M. Mead, 'Monday conference', ABC transcript, 4 June 1973.

61. Evidence, p. 988, Dr Lincoln H. Day.

62. Submission 1056, Dept for Community Welfare, WA.

64. At the same time, the very nature of marital breakdown implies changes in people's lives, restructuring of families, and often difficult adjustments for both the children and adults concerned. It is something we should make provision for both in law and social services.

65. In conclusion we quote from evidence presented to us in Canberra by Professor John Caldwell, of the Australian National University, when he spoke about some of the findings of the Melbourne Family Formation Project:

. . . we found the condition of the Australian family somewhat better than we had feared it was. We found, for instance, in Melbourne that two-thirds of our respondents were perfectly content to stay living in the same place and, indeed, in the same house, and another one-sixth was perfectly content to remain living in Melbourne, so three-quarters of them were happy at being where they were.

We found that 88 per cent of them had been reared by both biological parents until they left home. We found that only 10 per cent of the respondents regarded their own parents' marriage as really being unhappy. We discovered that the middle classes are always somewhat surprised that everyone does not live the same mobile life that they do.

We found that 40 per cent of our respondents saw their parents at least once a week and over half saw them at least once a month. We found, to our utter astonishment, that only 7 per cent described themselves as very dissatisfied about the family financial situation and only a quarter as being even somewhat dissatisfied . . . It is not a terribly dissatisfied society.⁶³

63. Evidence, p. 945, Prof. J. C. Caldwell.

3. Family pressures and family policies

Introduction

1. Many of our submissions were concerned with the pressures which affect family life, although individual perceptions of pressures varied. For example, some people thought that lack of child care contributed to family breakdown; others thought that child care itself was harmful to children and to family unity. Some viewed the greater participation of women in all spheres of life as leading to healthier family relationships; others saw it as a threat to family well-being.

2. For our part, we acknowledge that Australia is fortunate to embrace many cultures and viewpoints, and we believe that these differences should be respected.

3. It is true that just as there are families in deep distress there are also families which function very well. An area for useful research might well be to examine those successful families across a wide spectrum of backgrounds to find out why they are coping, rather than concentrating on why families fail.

4. There are, however, many symptoms in our society of sickness and disarray. For example, we profess to care for children yet child abuse is a sign that something is seriously wrong. In 1973 many thousands of children were in the care, protection or control of welfare departments.¹ Teenage alcohol abuse is a growing problem.² Road accidents are the leading cause of death for young people between the ages of 15 and 24³ and suicide is the third highest cause of death for this same age group.⁴

5. All this has occurred despite an increase in the amount we spend on health and social services. Between 1968–69 and 1974–75 total expenditure (both government and private) on health increased by 147 per cent or, as a proportion of the gross domestic product, by 20 per cent.⁵ Social security expenditure as a percentage of the gross domestic product almost doubled.⁶

6. The irony of such figures is exemplified in a statement by Sydney paediatrician, Dr Clair Isbister:

We can offer children better physical health, longer life, more material comforts, more leisure, a higher standard of and a more widely available education, greater appreciation of the arts and more individual freedom, but, in spite of our knowledge of psychology and human needs, society also offers them more mental illness and greater social maladjustments. Why cannot we offer them secure families, better parents and better human relationships that would mean a better quality of family life for all?⁷

1. ACOSS, *Family welfare*, an occasional paper prepared for the Social Welfare Commission (AGPS, Canberra, 1974), p. 36: 'there are approximately 20 000 children in Australia cared for in institutions where the buildings and type of staff care are such that they are quite contrary to Australian modes of living'.

2. G. Egger, R. Parker & C. Trebileo, *Report to the Child Health Committee of the NSW Health Education Advisory Council on Adolescents and Alcohol in NSW* (NSW Govt Printer, 1976); T. J. Turner & L. McLure, *Alcohol and drug use by Queensland school children: 1 Drugs and alcohol* (Dept of Education, Queensland, 1975).

3. ABS, *Social indicators* 1 (1976), p. 14.

4. *ibid.*, p. 14.

5. *ibid.*, p. 29.

6. *ibid.*, p. 74.

7. Clair Isbister, 'Family liberation', *Medical Journal of Australia* 1 (1975), p. 6; Exhibit 182.

7. It is naive to expect that we shall ever have a society where families and people are free from problems. Each phase in our development brings its own set of ills, and if we are now suffering from more 'diseases of civilisation' as they have been called, it is equally true that there are fewer people living in abject poverty, fewer women dying in childbirth, fewer death-causing diseases and, overall, our standard of living in material terms has increased immensely. But whether families are subjected to greater or fewer pressures than they were in the past seems to us of less importance than trying to identify some of those pressures.

Commission evidence

8. Many of our submissions felt that, before we could come to grips with ways of alleviating family breakdown, it would be necessary to question some of the underlying values on which our society is predicated. The Brotherhood of St Laurence wrote that the terms of reference of numerous government commissions of inquiry, and the kinds of programs that are proposed, all seem to accept that there is very little need to change existing values and structures or that change is not practicable.

The underlying premise of many proposals is the need to fit people's needs into systems rather than to change or modify systems. It is understandable that an Australian government has to work within the narrow limits imposed by existing economic and social constraints and their view of what is acceptable to the community, but there is no reason why the government and a body such as the Royal Commission on Human Relationships should not be at least encouraging studies and considering the options that are available to society in the future. In a country rich in material resources and technical skills, we should not accept the future as being predetermined. A wide range of choices as to future societies is available to Australians.⁸

9. The Department for Community Welfare in Western Australia wrote:

Worth is measured in terms of wealth. The least productive are undervalued and hard work is recognised only if it brings commensurate financial rewards. The poor are seen and see themselves as having less value. Poverty is perceived as shameful. The old, the helpless, the handicapped are seen as of little value; witness the lack of facilities for these categories in most States.⁹

10. The Director of the Division of Maternal and Child Health in the Queensland Health Department stated:

Today the orientation of the community is not on personal relationships, rather it is on material possessions. This has happened gradually over a period of time and people no longer believe that they should be concerned about another's feelings . . . rather they believe that they should be concerned with owning a home, owning a motor car and a speedboat and having money to travel.¹⁰

11. Concern was expressed over emphasis on continued economic growth and the disregard of growth in human relationships.¹¹ It was said that there was a link between the social conditions created by economic growth and mental or physical illness, and that, beyond a certain point, the social cost of extra production outweighs its benefits.¹²

8. Submission 802, Brotherhood of St Laurence.

9. Submission 1056, Dept for Community Welfare, WA.

10. Submission 440, Dr J. McFarlane.

11. Evidence, pp. 2455-6, Dr Garry Egger.

12. Exhibit 190.

12. Professor Dexter Dunphy, of the University of New South Wales, spoke about people becoming more affluent and better educated, without corresponding changes in the structure and management of industrial organisations.

. . . we are getting an increasing gap between the psychological needs of the workforce and the way that work is organised and companies are managed, and it is that gap which I believe leads to large-scale withdrawal and drug taking and so on.¹³

13. A submission from the Family Life Movement of Australia identified some of the social changes which induce stress. These include confusion caused by changes in the roles of men and women, parents uncertain about the kind of behaviour to expect from their children, as values alter, and women entering the workforce in growing numbers without corresponding changes in the organisation of work:

The heavy burden which is placed on the wife or mother who must still maintain an efficient, loving household is often outrageous . . . The effect on the children needs no elaboration. Such is the case where the mother is working from economic necessity.

The woman who works because she is loath to relinquish a satisfying career is also subject to stress and must reach a satisfactory compromise between home and job responsibilities . . . Society needs the special skills women possess without it involving above average constitutional powers.¹⁴

14. The Anglican Diocese of Sydney also referred to changes in women's roles:

The change in the way many women understand themselves and their role is a cause of tension and pressure in many families today. The rising self-consciousness among women is reflected in their efforts to grow mentally, socially and emotionally. Many men, bound by the job and business, do not have similar opportunities for development, and experience threat, self-doubt, lack of understanding and resentment at change. This underlines the need for ongoing adult education to be available.¹⁵

15. Other changes identified as causing strain were greater family mobility, high rise accommodation, long distance commuting, isolation of families from their traditional supports, greater cultural diversity, a questioning of the institution of marriage and the growing influence of the media.¹⁶

Poverty

16. While we were receiving evidence, the Commission of Inquiry into Poverty chaired by Professor R. F. Henderson published its first main report.¹⁷ This showed that nearly 800 000 Australians, including 250 000 children, were very poor in terms of the poverty line drawn up by that Inquiry. Of a total of 3 916 000 income units in Australia, 10.2 per cent (or 399 432 income units) were very poor.

17. The families most likely to be in poverty were fatherless families (i.e. families headed by a lone mother) and large families. A family with a very low income suffers the obvious disadvantage of being able to purchase fewer material goods and services than other families. What is not so obvious, however, is the impact that poverty has on the quality of family relationships. This impact was put to us during our Melbourne hearings by a woman from the Brotherhood of St Laurence's Family Centre which provides money and social supports to poor families:

13. Evidence, p. 3016, Prof. D. Dunphy.

14. Submission 610, Family Life Movement of Australia.

15. Submission 611, Anglican Diocese of Sydney.

16. Submissions 470, MGC of WA; 611, Anglican Diocese of Sydney; 591, ACOSS; Evidence, p. 3047, Dr C. Isbister.

17. Commission of Inquiry into Poverty, first main report, *Poverty in Australia* (AGPS, Canberra, 1975).

. . . having no money or very little can, in fact, destroy family life . . . It is not that we have no interest in one another. I think it is because you are so heavily burdened with the stress and strain of having nothing to feed your family on that you cannot think of anything else but that . . . You cannot relate with one another because of that pressure . . . I think it destroys the relationship between parents and children too because of the same worry . . . Children cannot form a relationship with the schools because you are always on the move.¹⁸

18. The Department for Community Welfare in WA wrote:

Australia is one of the richest countries in the world. We can afford to ensure that no one is forced to live in poverty. Yet . . . many Australians are living in dire poverty. Many Aboriginal people, for example, still live in conditions which are equally as bad as the poverty situations in the third world countries . . .

Where most people are poor, shabby clothing and poor housing is not so psychologically damaging; when most people's standards are far above the poor, these people may suffer crippling experience of inferiority and deprivation. And even more is this so for people who are racially different as well as poor.

Family breakdown is more prevalent among poor people. Research evidence leads to the conclusion that poverty is a leading cause of family instability.¹⁹

19. Policies and programs for alleviating poverty are discussed in detail in the reports of the Poverty Commission. Their findings about poverty appear to be substantially true. We note that the recommendations on family income have not been implemented.

Housing

20. Many people were concerned about the alienating effect that new housing areas have on family life. We were told that within such communities there are expressed and unexpressed feelings that 'we are the outcasts of society; no one in government or anyone else for that matter really cares about us; we have no power, no voice, no authority'.²⁰

21. Low income families are generally catered for by Housing Commission authorities. They have little choice about where they will live and in what type of residence. New estates are usually a long distance from the nearest commercial and business centres, necessitating protracted journeys to work and leaving mothers and children isolated at home. Social ties with relatives and friends living in other areas are weakened because of distance. Expensive and inadequate public transport adds to the isolation of the poor. There is no community focal point; recreational and other facilities are poorly developed, and often it is not long before disillusionment and hopelessness set in.

22. A graphic account of the way many such families live was given to us at our Sydney hearings by the Reverend J. Livingstone:

In the parish in which I work, we have families where the children are under 2 years of age and they are put to bed without nappies . . . We have parents who have no idea of normal hygiene and normal ways of preparation of meals . . . The problem is that in early stages of the relationship the children fit in very well . . . but as they grow older they see that the parents do not provide the things they look for and long for and thus the relationship breaks down.²¹

18. Evidence, p. 2952, Pauline Windler.

19. Submission 1056, Dept for Community Welfare, WA.

20. Submission 611, Anglican Diocese of Sydney.

21. Evidence, p. 2512, Rev. John Livingstone.

23. With families such as we have described, obviously money alone is not the answer. On a long-term basis we have to look at the relevance of our education system to such children, their need for 'life classes' including parenthood and basic survival skills. On an immediate basis we have also to look to the family support services that are available, from child care to domiciliary help. Even in sheer economic terms, it may well cost less to appoint someone from the local community to work with small numbers of families on a full-time basis rather than to deal with the situation at or past the crisis point. The effectiveness of family services also depends on involving families at the planning stage and thereafter. Families can often be encouraged to use counselling services by offering them tangible assistance as well. For example, a Christian committee in Perth operates a food co-operative in a poor area which has become a community meeting place for friendship, counselling, parent education programs and visits by the infant welfare nurse. Weekend and evening programs are run so that fathers can also be involved.²²

24. A successful program for helping people trapped in a cycle of problems is conducted by the Brotherhood of St Laurence in Melbourne.

The Brotherhood's Family Centre is a 3-year experiment in testing the hypothesis that with a guaranteed minimum income, improved access to health, welfare, educational, recreational and retraining opportunities as well as a major role in decision making, financially poor and socially disadvantaged families can stabilise their situation and improve their social relationships.²³

25. Another successful program is Western Australia's Homemaker Service, operated by the Department for Community Welfare. Members of the community are employed in an educational capacity to work part time with three or four families. The work has tended towards Aboriginal families and Aboriginal homemakers are employed. Homemakers are selected not on the basis of formal qualifications but rather because of their own experience of bringing up a family and an identification with the local community. Homemakers show families ways of coping with society's demands. They help develop skills such as budgeting, home management and child care. They form neighbourhood groups to break the isolation of women with young families and to put people in touch with others of similar experience. A large part of the effectiveness of homemakers is that families do not see them as 'the welfare', but rather as neighbours and friends.²⁴

The aged

26. About one in every ten Australians is of pensionable age.²⁵ The frequent segregation of these people from the rest of society is often harmful to family life. Our evidence suggests that, with many families restricted to father, mother and children, the aged are becoming more isolated. Increasing the rate of the old age pension does not remove the loneliness of old people isolated from their children and grandchildren.

27. Many people stressed the need to recognise that the aged are no different from other people; that they show as wide a span of characteristics as any other age group and should not be stereotyped.²⁶ Programs for the aged should enable them to lead normal lives as far as possible and should be incorporated within broad programs providing housing, social and health services for the whole community.

22. Evidence, pp. 1986-2000, Patrice Cook.

23. Submission 802, Brotherhood of St Laurence.

24. Evidence, pp. 2081-93, Gerry Bodeker.

25. ABS.

26. Interview report, NSW, 233.

28. The aged should have a range of accommodation to choose from. A report from the Social Welfare Commission indicated that, as at 30 June 1975, some 17 000 aged and invalid pensioners had been waiting, in some cases up to 4 years, for low rental accommodation.²⁷ Government expenditure should be more directed into community and domiciliary care than into nursing homes. Concentrating the aged together creates an imbalance of age groups in some suburbs which may lead to problems in family and social relationships, as well as straining local welfare services.²⁸

29. Families need relief from caring for old people who now live longer than they used to. The Council on the Ageing has evidence of some people who have not been out at night for 30 years because they are looking after an elderly person.²⁹ Holiday beds are needed as well as hostels for those not able to care for themselves, but who are neither ill enough for hospital nor eligible for retirement villages. Such hostels should provide meals and a supportive environment, but still allow people to retain responsibility and independence.³⁰

30. The Council on the Ageing feels it is important to keep old people in familiar surroundings rather than send them to retirement villages, long distances from where they used to live. People are usually not so much attached to their homes as to their environment.³¹ They need a broad range of home services—such as gardening, painting and household repairs in addition to nursing. Citizens centres should provide these services or act as referral points.³²

It is pathetic to see an old man who was looking after his wife and did not realise there was a district nurse who could come in and bathe her.³³

31. A conference of elderly people held in the Sydney suburb of Mosman revealed that, surprisingly, their problems were minor rather than major, for example shopping, home maintenance and housework. Minimum services would help keep these people in their own homes. Mrs A. Fink, from the Council on the Ageing, said:

We have so downgraded housekeeping, housemaking, homemaking, any phrase you call it, that it is extremely difficult to get people who will be prepared to do housework in an old person's home . . .

Meals on wheels services in this State now have a long waiting list and it is due to the fact that there are fewer volunteers. You have got to try and get a new breed of volunteer going out. People are quite ashamed to take on housework, they would rather work in a factory than cleaning up someone else's home.³⁴

32. Few people plan wisely or early enough for retirement. Most have too few interests outside their work. Trade unions need to take greater interest in education for retirement. Many retired people would welcome part-time community jobs, and local councils could keep registers of available part-time jobs, such as baby and invalid sitting, gardening, pet feeding and caretaking. There is evidence that the increasing numbers of women who are entering the workforce in their 40s, after their children have left school, are tending to lose touch with old friends and interests and are particularly vulnerable when they reach retiring age.³⁵ By segregating the aged,

27. *Care of the aged*, a report to the Aust. Govt by the Social Welfare Commission (August 1975).

28. Submissions 173, Catholic Womens League; 986, Mr I. Wearing; 150, Mrs Jean Noble.

29. Evidence, p. 2581, Averil Fink.

30. Submission 1114, Mrs M. Preston; Evidence, p. 2055, Lawrie Staton.

31. Evidence, p. 2571, Averil Fink.

32. Evidence, p. 2056, Lawrie Staton.

33. Evidence, pp. 2579–80, Averil Fink.

34. *ibid.*, p. 2583.

35. *ibid.*, p. 2573.

we deprive ourselves of their knowledge and experience and we deny ourselves contact with the full span of human life. Children need to be made safe by the protection of many more people than just their parents, and they benefit from friendships with old people. As Margaret Mead put it, 'somebody to take them fishing and somebody to show them the stars'.³⁶

33. In many ways our attitudes to the aged are similar to other members of our society such as women who stay at home and handicapped people. Because so many of our values are predicated upon a person's worth in economic terms, we tend to denigrate and reject all those who are not economically productive. We project a stereotype of dependency upon them, which in turn becomes self-fulfilling. Yet often our attitudes to the aged are not based upon reality or experience, but upon this very process of stereotyping and conditioning.

34. At a Melbourne conference on older women, social worker Mrs D. Mills stated:

Most of the so-called problems of old age are the result of deliberate, sometimes ritualised actions on the part of society, and not an inevitable product of the ageing process itself. The aged have been given an inferior status and they have become inferior in reality . . .

We have condemned them to dependency when one of the most powerful values influencing the conduct of the aged is a desire to be independent.³⁷

We believe that, until our society faces this underlying issue of the way old people are regarded, and therefore treated, all programs for the aged will continue to be little better than ad hoc arrangements which will never be sufficient because they will merely feed an existing social situation, rather than change it. Special clubs for the aged, and institutions for the aged, arise because old people have no place in the ordinary social life.

Single people

35. In this section we are mainly concerned with those people in our society who have never married or had children. Their needs are seen in the context of discussion about family life because, like old people, they too do not fit into the conventional pattern of mother, father and children and they face rejection. Some single people carry a burden of family responsibility in caring for parents or other relatives. This family responsibility is often overlooked in social planning.

36. It was suggested that:

. . . sex education programs should not present sexual fulfilment in marriage as the only goal of sexual and emotional development . . .

Counselling facilities should be available, similar to pre-marital counselling, to help people adjust to single living, and to help them improve their social skills so as to attain more fulfilling human relationships.³⁸

Social and town planners should:

. . . give special consideration to the social needs of single adults. In particular, local communities should be encouraged and assisted in providing activities for single people.³⁹

Provision of common facilities and meeting places would encourage greater opportunity for people to establish relationships inside and outside the family structure.⁴⁰

36. M. Mead, 'Monday conference', ABC transcript, 4 June 1973.

37. D. Mills, Social aspects (paper given at IWY seminar on 'Older women in the community', organised by Aust. Council on the Ageing, Melbourne University, 1975), p. 24.

38. Submission 986, Christian Citizenship Ministry, Methodist National Memorial Church, Canberra.

39. *ibid.*

40. Submission 154, Miss Ann Siddall.

Commonwealth hostels should expand their operations to provide medium cost accommodation for single people in situations that encourage social interaction and prevent social isolation.⁴¹

37. We do not suggest that all single people are unhappy or, indeed, that all single people are forced into this role; some follow it by choice, eg. priests and members of religious orders. As marriage becomes increasingly popular, however, it may well be that single people feel even more intensely that they are somehow failures for not conforming to the norm.

38. Human relationships programs in schools should cover single people and their place in society. Our evidence has suggested that young people, particularly girls, rush into marriage because of social pressures and to escape the stigma of being single.⁴² We need to teach that marriage is not the only state to which men and women should aspire.

Families living in remote and rural communities

39. Despite the benefit that country people have, in terms of freedom from urban pressures, our evidence made it clear that many such families have problems which are aggravated or created by isolation.

40. A woman who was working in a remote timber-milling community in the south-west of Australia talked about the lives of the families she lived amongst. She said of the women:

They feel very much alone and frequently they don't feel strong enough as a person to organise and to speak officially about this. They have very little voice. They feel good about baking cakes for a cause but they don't feel strong enough—they can't even identify their complaint of isolation. They just have this knowing that they can't express very well . . .

I think that the lack and depth of horizons is a very scary thing for the men as well as for the women. If you speak to the men about their dreams, they can be very verbal. If you speak to them about the reality, they are very sad.⁴³

41. Mrs N. Manning, of the Marriage Guidance Council in Bunbury, talked about some of the relationship problems affecting country people.

. . . there is a vast difference between the marriage of a couple living on a farm all day and a couple in the city where the husband goes out and works . . . Where a husband leaves home, say, at 8 o'clock in the morning or before that and doesn't return until 6 o'clock at night, it is a very different marriage to a couple living on a farm who are thrown together almost 24 hours a day. If there are problems, they will be much more prominent.⁴⁴

42. Some problems are specific to remote mining communities. General practitioners in some of the mining communities in the Pilbara have commented on the large number of women consulting with neurotic and psychosomatic illnesses, whereas there was a relatively low rate of similar neurotic and psychosomatic illness in men.⁴⁵

41. Submission 986, Christian Citizenship Ministry, Canberra.

42. Submissions 991, Commission on Status of Women, NSW State Council, Australian Council of Churches; 611, Anglican Diocese of Sydney.

43. Evidence, pp. 1866–7, Mrs X (name withheld).

44. Evidence, p. 1861, Mrs N. Manning.

45. P. W. Burvill, 'Mental health in Australian mining towns', *Australian and New Zealand Journal of Psychiatry* 9 (1975), pp. 77–83.

43. A good perspective of these problems was given by the Department for Community Welfare, Western Australia.

The problems of women are particularly acute . . . [the wife] has lost contact with her friends and feels lonely. Often there is no suitable employment available to her and, in many cases, no one to take care of the children if she does work. There is usually a very limited choice of goods available to her in the shops; for the wife who has poor budgeting and catering skills, shopping is a very real problem.

. . . Our field officers find that the husband is often unaware of the frustration faced daily by his wife . . .

Even within 'unskilled' categories a social status is attributed to a particular job and this gives rise to intense competition and petty jealousies . . . Like his wife, the husband experiences adverse climatic conditions . . . however, his ability to 'carry on' is flattering to his sense of masculinity. Likewise there is a sense of adventure in being in a remote area. Many isolated communities are 'a man's world'.

In remote communities, local resources are limited or non-existent; a minor matter of arranging temporary care for the child of a hospitalised mother can mean the child has to be placed in another locality, thus creating a traumatic experience for mother and child; a matrimonial tiff can result in the wife's movement back to the city leaving the husband in a 'single man' category so that he has to give up his married quarters. There are usually no relatives available to help out.

Problems arise because of . . . lack . . . of information. Many . . . have poor verbal facility and are ill at ease in the presence of a professional person. For example officers have reported that some women have failed to go on with birth control plans because of their reluctance to discuss this matter with local medical personnel. Gossip is a very strong element in small communities; questions of confidentiality arise . . .

Other matters which contribute to family stress are the necessity for teenage children to leave home for the purpose of higher education or employment, the cost of travel for medical treatment, depression or other psychiatric disorders, promiscuity on the part of teenage girls or wives associated with a disproportionate number of single or unattached men on the local scene, and bawdy or violent behaviour at local entertainment centres or single mens quarters.

Some of our officers would like to see regular visits by teams of multidisciplinary specialists . . . A team might include medical specialists, educationists, a clinical psychologist, a social worker, a lawyer and other skilled practitioners who can advise on such matters as diet, budgeting and the availability of employment and resources . . .

Children in small communities who lack social and intellectual stimulation also may attend the worst equipped schools. An upgrading of many such schools is necessary. Social service payments . . . should be adjusted to cater for higher living costs in remote areas . . .

Families living in isolated communities are subject to a considerable degree of stress, and investigations into human relationships in Australia would not be complete without giving the phenomenon of isolation very special attention.⁴⁶

44. We are concerned about the impact of distance and isolation on family lives. We believe that greater effort should be made to provide visiting welfare services to such areas, along the lines suggested by the Department for Community Welfare. We would also like to see more assistance given to voluntary organisations in rural and isolated areas, particularly as these are often the only form of community support. Volunteers should be trained in various counselling fields. Transport and accommodation subsidies should be made available on a means test basis to members of families who have to visit cities for health and welfare services.

46. Submission 1056, Dept for Community Welfare, WA.

Family policies

45. Needs of families can only be met in the context of their social environment, and this requires long-term and broad-range planning. Yet Australia has always lacked a unified family policy. The reasons for this are partly historical and partly inherent in certain underlying values in our society.

46. From the early days of the Australian settlement, the development of family services was slow and patchy and left largely to private agencies. Those families who were helped were usually the most severely disadvantaged. Little work was done of a preventive kind. Services tended to be heavily institutionalised. Indeed, despite today's knowledge that this kind of living is inimical to human development, we are still building such institutions, particularly for children and the aged.

47. This emphasis upon individual problems, often of a crisis nature, has hindered the development of a coherent family policy. An occasional paper prepared for the Social Welfare Commission in 1974 by the Australian Council of Social Service raises other reasons for our failure to have a family policy.

Perhaps this area of policy concern reflects a more generic refusal to look at the possibilities and potential of planning in our society. Planning appears to have been confused with control, with erosion of individual and group liberties.⁴⁷

48. Yet, while some aspects of life are under the control of the individual, others are beyond individual control. In one form or another, government policies and programs (or the lack of them) daily bear upon the lives of almost every family in Australia. There are few families who are not beneficiaries or clients of government programs.

49. Lack of coherence in government policies and the effect this has on individual and family well-being has been a matter of concern for many previous government inquiries. For example, the Royal Commission on Australian Government Administration observed that there is a staggering multiplicity of separate programs.

Many of these programs overlap in their content and clientele, and frequently their relationship, individually and collectively, to the objective of overall individual or family welfare has not, in Australia, been the subject of systematic study.⁴⁸

50. Responsibility for the planning and management of these programs is widely dispersed. The Commission of Inquiry into Poverty, in its first main report, observed that community services in any particular State are provided direct to the public by no less than seven Commonwealth government departments, twelve State government departments, local governments, and a whole range of non-government organisations and voluntary groups.⁴⁹ Within the various levels of government, responsibility is frequently shared between departments, commissions and other agencies.⁵⁰ This kind of complexity tends to duplication and competition for staff and resources; it is practically impossible to know what services are available and how to apply. The Social Welfare Commission pointed out that 'The position of the individual or family in real need can be made tragic in this confusion'.⁵¹

47. *Family welfare*, p. 8.

48. *Royal Commission on Australian Government Administration report* (AGPS, Canberra, 1976), p. 325, para. 10.3.3.

49. *Poverty in Australia*, p. 94.

50. *RCAGA report*, p. 326, para. 10.3.4.

51. Social Welfare Commission, Submission to the Senate Committee on Constitutional Affairs, May 1975.

51. Lack of any clear family policy also leads to inconsistencies between the various government departments. We received evidence on this from Marie Coleman, then Chairman of the Social Welfare Commission and now Director, Office of Child Care:

I think this comes from the fact that different departments have different pieces of legislation which they are responsible for administering, so one is hard pressed to find a universally acceptable definition of 'family' between the various agencies of the Australian government. The Attorney-General's Department's interest is in people who have had a legal relationship, a married couple who may care for children. They have no interest in respect of children of a non-legitimated union, for example. The Department of Social Security has a different set of definitions of what constitutes a family because they are administering Acts which provide benefits for different categories of people. Some of them may have dependent children, some may be living in relationships, but they do not have the same kind of circumscription of definition of the family as the Department of the Attorney-General.⁵²

52. Some examples of inconsistencies in government policies and programs which were given to us include:

- (a) the fact that there are two distinct categories (i.e. widows pension and supporting mothers benefit) for women and children in identical situations of need;
- (b) the fact that fathers who are given custody of their children under the Family Law Act are not entitled to a supporting fathers benefit from the Department of Social Security whereas mothers are.

Marie Coleman commented:

It would seem to me, with the limited experience I have had, that one should not assume that because Bills are all drafted by the same department they are necessarily all done on the basis of consistent advice.⁵³

53. Examples of government policies which were seen as counter-productive to family life were given in an article by Dr Clair Isbister, called 'Family liberation':

Governments determine how taxpayers' money is to be spent to benefit the community. Is it encouraging family life to take widows' childrens allowance from them when they marry again, or to give the unmarried mother cash handouts so long as she does not marry the father of the child, or to reduce the pension of two age pensioners if they marry? If saving for old age is actively discouraged by taxation, and refusal to work is rewarded and women are not allowed tax deductions for household help and child care, but are urged to rejoin the workforce, is it surprising that some think that only a fool marries and a bigger fool works?⁵⁴

54. In Brisbane, we heard evidence from Kevin Cairns, MP, who said he believed that both democratic and socialist countries in Europe gave more attention to the problems of families and their children than is given in Australia.

In fact it is quite clear that in Europe it is the Communist countries, the Eastern European countries, that are making the most radical policies in relation to assistance to women who have the care of children, and they realise that to care for a mother with a child, whether working or in a family, emphasises the major amounts given within the family, as essential to their calculations as to the economic development of their own country.⁵⁵

52. Evidence, p. 924, Marie Coleman.

53. *ibid.*, p. 928.

54. Exhibit 182.

55. Evidence, p. 1712, K. Cairns.

What kind of policy?

55. The report of the Royal Commission on Australian Government Administration traces some of the history of various government attempts to rationalise health and welfare services in this country. During the term of its inquiry, the Commission set up a task force to report on an appropriate structure for the administration of the government's responsibilities in health and welfare. Subsequently another task force was established to inquire further into the same field. However, this still begs the question of the need for a coherent family policy.

56. We agree with the statement of the Australian Council of Social Service that the aim of a family policy should be the equitable distribution of services and resources to allow all families to achieve common social goals. These were summarised as adequate income, housing, education, health, recreation and legal protection.⁵⁶

57. One viewpoint on family policy was put to us in Canberra by Marie Coleman:

In trying to think over a government policy in respect of families, one must do it in a broad framework of understanding the kinds of changes in society which are occurring, and there is no doubt that the tremendous pace of technological change and the pace of economic change produces quite different kinds of network systems for the individual and families than those that may have prevailed 50 or 100 years ago.

The growth of large economic institutions may well mean that the old systems of support and family influence systems are no longer relevant. People may be expected to be highly mobile in order to earn their incomes and they may have to have some support from different kinds of social network systems simulated to give them a kind of economic and psychological support which they require.⁵⁷

58. A coherent view clearly needs to be developed on family responsibility and dependency between husband and wife. This requires a value position to be taken as to the degree of interdependence and dependence governments are prepared to support or encourage. The Family Law Act is framed on the basis that each party to a marriage has the same obligations, in principle, though the actual division of responsibility may differ between husband and wife and from marriage to marriage. The Act thus allows the parties' contributions and obligations to be assessed in the light of their particular marriage. Most social security provisions are based upon the principle that the husband is the breadwinner and the wife the dependent; they take little account of deviations from this pattern. The results sometimes appear unfair and even absurd. If account cannot be taken of special circumstances it would be preferable to frame all rules on the basis of equal rights and equal obligations.

59. Again, policy value judgments are often exercised in relation to poverty which, in turn, affects family life. The Rev. Peter Hollingworth, of the Brotherhood of St Laurence, described this as a process called 'blaming the victim':

... the view is, in an affluent society like Australia, that if you are poor there is a reason and the reason has something to do with not only the fact you have not enough money, but you have not enough money because you did not try hard enough and you did not work. And so the whole question of poverty gets thrown into the work ethic and the debate about that. In effect what happens is that a fairly widely held community attitude, if you like a value judgment, very soon becomes caught up in the policy process. Before very long that policy becomes interacting in some way and consequently the society through the instrument of government deals with people who are, in effect, the victims, the failures. The ones who have not been able to participate and succeed in the system with its formulative values.

56. *Family welfare*, p. 17.

57. Evidence, p. 927, Marie Coleman.

... the end result is that we have two different sets of treatment, one for those who help themselves and one for those who appear not to be able to help themselves, and usually this is a process of discrimination which tends to mean the poor become second-class citizens. The image is projected, if the cap fits you wear it, so the whole process of the lowering of their whole self-esteem becomes apparent, and the cycle is complete.⁵⁸

60. Our view is that, in the long run, policies which err on the side of generosity may cost less than those which run the risk of excluding people in real need, with all the concomitant cost of human suffering and possible welfare expenses resulting from family breakdown. We believe it is essential that family policies should take note of changing social attitudes. There should be an opportunity for people to comment on policies before they are put into practice.

61. Much of our evidence indicated that, in human terms, there is something very much amiss with our social policies and programs. There needs to be a major overhaul of present methods of assessing needs and of delivering services. In Australia, social development has been seen as subservient to continued economic growth. The Australian report to the International Conference on Social Welfare stated:

It is considered that economic development in this country has been characterised by a relative heedlessness to the misfortunes of those 'left behind' in the name of progress. Consequently, the victims of such progress are still often seen as failures and drop-outs and a necessarily unfortunate part of the cost of economic development.⁵⁹

62. The Commission on the Status of Women, NSW State Council of the Australian Council of Churches, pointed out in its submission that:

... we live in a society which often seeks to legislate relationships, where a materialistic concept of existence prevails, where people feel removed from decision-making processes which affect their lives ... Institutions are oppressive—persons in our society tend to be manipulated, over-managed and over-controlled ... far from being a community which permits life and growth and the freedom to be creative, the institutions which govern our relationships with each other are non-permissive.⁶⁰

63. The Tasmanian Marriage Guidance Council put forward the view that the rate of marriage breakdown could be reduced by a reversal of priorities from the economy at the top to a 'concern with living a fulfilled, open, honest, socially interrelated life'.⁶¹

64. Dr Garry Egger gave evidence on his view that there is a conflict between a growth economy and human welfare. Up to a certain point, a growth economy assists welfare by providing a stable economic basis for the fulfilment of basic needs. Beyond a certain point, however, the drive for extra productivity, for affluence and material status results in the kind of striving which is inimical to mental health.⁶²

65. Debate about the lack of any coherent family policy has also taken place in the United States. A US Senate hearing which examined the influence that governmental policies have on American families drew the following comment from Dr Edward Zigler, of Yale University:

The construction of a family social policy at the national level would have three facets. First, it would involve identifying what major problems interfere with sound family functioning and determining what solutions to these problems are available, assessing the cost

58. Evidence, pp. 2934–5, Rev. Peter Hollingworth.

59. ACOSS, *The making of social policy* (Aust. report, XVI International Conference on Social Welfare, The Hague, 1972).

60. Submission 991, Commission on Status of Women, NSW State Council, Australian Council of Churches.

61. Submission 533, MGC, Tasmania.

62. Evidence, pp. 2453–60, Garry Egger.

effectiveness of the various solutions that are suggested, and assigning priorities to the specific policies to be implemented. Secondly, a family policy would entail the continuous analyses of the impact of other governmental policies for their effect on family life, so that any cost benefit analysis of these policies would include in its equations the factor of whether the policy in question helps or hurts American families. Finally, a national family policy would make use of the regulating, taxation, research and moral powers of the federal government in order to persuade other institutions to adopt policies conducive to healthy family life.⁶³

66. At these same hearings, anthropologist Margaret Mead expanded on the concept of a family impact statement, scrutinising every kind of legislation, every kind of program for what it will mean to the well-being of the family.

We can ask, is there anything about this proposal that will force young people to marry too early or prevent them from marrying at all, that will hinder their finding a home in which to raise their children, that will help or hinder each young man who wants to learn to do some kind of work, that will penalise or help a working woman left with the care of her children, that will help or hinder early diagnosis of handicap, that will provide or reduce the possibility for every child's adequate nutrition, that will create, or destroy, communities within which such families can be given support and help, that will mean better schools, more diversified schools, or schools which force all children into the same mould? We can start now to develop a national policy on the family which will be far better than anything we as a nation have ever done—knowing that as the family goes, so goes the nation.⁶⁴

67. We believe that any approach to formulating a family policy should embrace the following action:

- (1) Determine the scope of social policy. As well as policies covering the maintenance of standards of living in relation to income, housing, education, employment and health, there should be planning in the area of recreation, leisure activities and continuing personal development. Social welfare planning should provide basic services—such as pensions—and ameliorative services.
- (2) Allow for the effect of demographic changes and trends when determining social policies. For example, the flow of migration, changes in the ratio of mothers in the workforce, population growth rates and so on all need to be taken into account.
- (3) Expand community participation in decision making at policy levels.
- (4) Take a national inventory of social planning skills and resources; plan to make up any shortfall.
- (5) Improve the collection of social data. Growing social awareness and involvement has increased the demand for access to this kind of information. This implies the need for co-ordinated comprehensive research.
- (6) Co-ordinate social policies at the planning level, and encourage and recompense organisations in the public and private sectors to devise co-operative methods of working to the policies. Encourage a constant search for solutions to social problems.

Family services

68. Ideally, family services should span a range of needs including community education programs, supportive services and therapeutic services. In December 1974, a Family Services Committee was established by the government, composed of

63. *American families: trends and pressures*, 1973, p. 86.

64. *ibid.*, pp. 132–3.

representatives from Federal and State governments and voluntary organisations. This Committee will be reporting to the Minister for Social Security and will undoubtedly be looking at family services in the kind of depth we were unable to achieve. Our evidence, however, leads us to make the following observations.

Prevention

69. Unfortunately, the bulk of services in Australia are still designed to enter at the point when a family is at breaking point, or when neglect of children has resulted in court action which all too clearly indicates the presence of a 'problem'. It is paradoxical that we continue to exert most of our energies towards coping with family breakdown, rather than preventing it from happening in the first place. There are many reasons for this. Partly it is due to the fact that preventive services are not as visible and therefore not as politically desirable as other kinds of services (for example large residential institutions, in which there has already been a heavy capital investment, tend to receive continuing support). Preventive services are also difficult to evaluate. There is a tendency to feel that those who cannot cope are somehow solely responsible for their predicament and are not deserving of help until a crisis precipitates intervention.

70. The economic cost of dealing with problems after they occur was revealed by a Tasmanian study of sixteen families with multiple problems.⁶⁵ Over a period of 15 years, the direct charge to the state in terms of the cost of crime, social welfare and mental health services was 1½ million dollars, while the indirect costs probably added another 1¼ million dollars. Two to 3 per cent of the families in Hobart were taking 60 per cent to 80 per cent of the social services. If resources could have been concentrated on providing continued support to those families the costs would probably have been much lower.

71. In recent years there has been a recognition that more preventive services are required, but priorities still need questioning. For example, government child abuse services tend to concentrate on dealing with cases after the child has been harmed, while self-help and prevention groups struggle to find funds. Programs of parent education, which are preventive in nature, are constantly short of money and resources. We heard of voluntary organisations such as the Service to Youth Council in South Australia which had to close part of its programs due to lack of money. Another South Australian program, Centre of Personal Encounter (COPE, an educational arm of the Marriage Guidance Council of Australia), gave us the following evidence:

The part I find very alarming . . . is that in the past COPE has offered a consultant service to professional people—schools, agencies, the nursing profession etc. This is an area that has been cut back quite drastically. One of the reasons is that we simply now have to put our energy into existing—which is quite unfortunate . . .

We are not doing any work in the country and that is absolutely staggering . . . Country people are not being updated with the latest information and skills to communicate . . .

Neither are the professionals in the country being helped in this way . . . We used to run courses in these areas and we simply don't any more.⁶⁶

72. Lack of preventive services particularly affects the well-being of children. The protection of children should be a high priority and requires an expansion of existing services.

65. Exhibit 154.

66. Evidence, pp. 1309–10A, Mr Robert Freak.

73. Some suburbs have established family crisis centres, assisted by government funding. These services are necessary but we would prefer to see them established as part of family centres, without the emphasis on 'crisis' but still maintaining a 24-hour crisis telephone service. We believe that the 'crisis' label inhibits many families from seeking help, or else tends to make them wait until the crisis has occurred, rather than seek earlier assistance and perhaps forestall a crisis. Family centres should provide information about all available family services and family benefits; they should provide crisis counselling, and should act as a focal point for the community.

74. Establishing such centres would require the co-operation of Commonwealth, State and municipal governments and voluntary services. Existing community buildings such as community health centres, citizens advice bureaux and town halls could be used to house the family centres. It is essential that they be staffed by local people, reflect local needs and be well publicised.

75. We would like to see pilot schemes established and evaluated in different parts of Australia.

Community participation

76. The provision of family services does not ensure that they will be used. Potential customers must be brought in at the planning stage. We were impressed by the Australian Assistance Plan which enabled local voluntary groups to provide help where it was most needed, without large expenditure and bureaucratic overheads. We hope that the State governments will continue with the AAP. In the provision of services, it is fundamental that local solutions should be initiated rather than centrally planned solutions imposed.

77. Voluntary organisations and lay groups are able to provide services of a kind governments cannot supply. In the first place, local groups are closest to immediate community needs and can often identify and deal with emerging problems long before government bodies. A good example of this is the womens refuge centres, where womens groups identified a problem, set up refuges and later succeeded in getting government funding. Another example is the work of the Wayside Chapel's crisis centre, Kings Cross, Sydney, which each week uses the services of up to 100 volunteers. The director of the Wayside Chapel, Bill Crews, said:

. . . things are changing all the time. We try to remain as flexible as possible to deal with the problems people are facing now and push the other institutions to handle problems they were originally set up to cope with. If there are not those there, we try and fill the gaps with organisations we set up ourselves, like one for women frightened they are reaching the point of abusing their kids; another is for women abusing analgesics. We have set up a special custody and access section . . . We have assisted in the formation of a lone fathers association, plus we have been doing some work with young people in Mount Druitt.⁶⁷

78. Lay workers are often less threatening to people who are fearful of government officials, and therefore reluctant to seek help. A woman who was abusing her child explained her reluctance to talk to a hospital social worker and her relief when he put her in touch with a community organisation instead:

He was very good and kind, but I was afraid of him because he was in a hospital and sort of very close to the government, you know.⁶⁸

67. Evidence, pp. 3053-4, W. Crews.

68. Interview report, NSW, 280.

79. In Hobart Professor I. C. Lewis, Professor of Child Health, discussed the value of non-professional workers in helping families at risk.

I think the kind of person we want to develop to do a lot of this work is someone of whom we need a lot more . . . that is, someone between the professional and the grass roots level of the community. Someone who is not so highly trained, and has the confidence at the grass roots level. Sometimes the professionals educate themselves out of the community. They are seen as 'holier than thou' and some of the professionals become isolated. They may be a little bit superior in their approach. But I think when we have problems to tackle we look to training more professionals. Maybe we need a new type of person, someone between the professional and the grass roots level.⁶⁹

80. Some State government departments have developed imaginative programs using the services of lay workers. The South Australian Department for Community Welfare has trained a team of part-time paid community aides, people of all ages and from all walks of life who assist the department in a wide range of services from transport duties to visiting sick, lonely and needy families, and 'adopting' children for family outings or tutoring.

Homemaker services

81. We had evidence about the need for more home help services to assist a broad range of people.

82. The Australian Council of Social Service undertook a study of homemaker services in Australia in 1973, following serious concern at the heavy emphasis in government and voluntary agency policy on institutional care for the aged. The survey showed that the numbers of homemakers per head of population on an Australian average was in the region of 14.5 per 100 000 population, in comparison with a UK figure of 68.5 per 100 000.⁷⁰ A UK study recommended a threefold increase in services by 1980. Australia, with similar needs, is therefore far behind the UK in its provision of such services. The criteria still tend to be health based, and thus exclude many families whose needs are social. For example, Harold Fallon, of the Lone Fathers Association of Australia, said:

At the present moment I have four fathers in Brisbane who are screaming for help. They cannot employ a housekeeper; they are unable to get baby-sitters, as baby-sitters come and go. They are having all sorts of problems. They have been alone for a very long time. One man at present is about to put four children in an institution because he cannot cope any longer. There is nothing available for him in the way of assistance.⁷¹

Use of services

83. Whether a family service is used by those who need it depends on a number of factors:

- (a) people knowing about the service and understanding how to use it;
- (b) their ability to reach it;
- (c) the kind of reception they receive;
- (d) whether the service gives effective help.

84. The first main report of the Poverty Inquiry describes the distribution and delivery of family welfare services. Our evidence indicated that often people are unaware of help that is available, that services are poorly publicised, that they are frequently

69. Evidence, p. 2296, Prof. I. C. Lewis.

70. *Homemaker and home help services in Australia* (ACOSS, Sydney, 1974).

71. Evidence, pp. 1825-7, Mr H. Fallon.

inaccessible and that they tend to be concentrated in middle class areas. Country people are disadvantaged geographically. Migrant and Aboriginal groups suffer because services are usually not sensitive to their needs—such services should employ migrant and Aboriginal staff. Information about family services should be available in the main ethnic languages.

85. Poor people can be made to feel inferior by a lack of sensitivity and understanding on the part of those who are there to help. Government information and publicity about family services should constantly acknowledge that the services are available to the community as of right; they should be regarded as services for everyone so that no stigma is attached.

Conclusions

86. The government should initiate a national family policy. We are concerned that, without such a policy, departmental goals and services will continue to conflict and overlap in a manner that can lead to hardship and confusion. We recognise the problems in evolving such a policy and in determining underlying values. Public debate is essential as well as sensitivity to changing social needs and continual review.

87. We would like to see the concept of a family impact statement introduced as a means of highlighting human needs. In planning and providing services, governments should encourage user participation.

88. Greater effort should be directed towards increasing preventive services and programs. We would like to see family centres established and evaluated.

89. Governments should co-operate to increase the provision and distribution of family support services. Home help and homemaker services should be increased and should be available to anyone in need. Specialised services for particular groups of people (e.g. the aged) should be integrated within normal family services.

90. Government departments should ensure that social welfare policies and family services are better known. Information brochures should be written in all the main ethnic languages and widely distributed.

91. Government departments responsible for family services should recruit more lay workers. Voluntary and community organisations should be adequately funded so that the time they spend on fund raising does not diminish the help they give to families in need.

92. Community centres should be established immediately people move into new housing areas.

93. Travel and accommodation subsidies should be available to poor families living in remote areas to assist in such expenses as visits to health and welfare services in the cities. The government should move to bring family support services to people living in country towns and in remote areas. Marriage and family counselling services should be funded to send counsellors to country areas and to train people living in country towns.

94. Our evidence makes it clear that human beings need to be better recognised as Australia's richest resource. Economic growth is counter-productive if it is at the expense of human well-being. Everyone will suffer if the needs of people are neglected and families do not have the kind of environment in which children can grow in security and love.

4. Child care

Introduction

1. The basis of our view on child care is that it is the right of children to be loved and cared for according to their individual needs. Children's needs are complex and it is unwise to seek rules for children at large.
2. Child care, in its broadest sense, includes all forms of care, but here we are considering those services which substitute for the parents of the young child up to school age. We are also concerned with the needs of older children after school hours and during holidays or times of emergency.
3. Throughout this chapter when we use the term 'working women' we are referring to women in the paid workforce. We recognise that women in the home work, and that women in the workforce are housewives.

Issues

4. Child care is often the subject of disagreement. There are those who believe that to separate the young child from its mother causes harm or 'maternal deprivation'.¹ Sometimes they favour the concept of a mother's wage so that mothers of young children can stay at home. There is often a belief that all mothers should look after their children at home, at least until they reach school age. The phrase 'a mother's duty' occurred in several of our submissions. Further arguments against increasing child care services included a fear that this would encourage more mothers to go to work, and concern about public cost.
5. Arguments in favour of child care mainly revolved around a belief that caring for children should be a community concern, and that in present society it is asking too much of parents to expect them to carry this responsibility alone. The harmful effects to both children and parents in having inadequate child care were frequently mentioned. Other arguments canvassed the benefits to children from having child care outside the home, the rights and needs of women to choose whether to work or not and the desirability of providing alternative environments to those in which many Australian children are raised. For example, a Sydney schoolteacher said:

... when people say that women should be paid to stay at home and look after their children ... they always assume they will have a nice middle class bungalow with fenced open space. There is plenty of evidence to show that some women with young children live in quite appalling housing situations in high rise flats with no open space, with no fenced space, some in small flats where they have to keep the children quiet because of the neighbours, if indeed there are neighbours.²
6. Whatever people's views, however, they shared a common concern, namely the welfare of the child. This is the obvious focal point of any discussion about child care; the problem is always one of determining what is best for each individual child.
7. Anthropological studies show that in virtually all societies care of the young child is rarely the sole responsibility of its parents. The ways in which the responsibility is shared vary from culture to culture. In discussing child care it is therefore essential to understand the social changes which have occurred in post-war years, altering both family life and its environment, and in turn affecting child care needs.

1. Evidence, p. 1271, Dr H. G. Edhouse.

2. Evidence, p. 435, J. Malcolm.

8. Our cities are more hostile to children than ever before. Increasing job mobility means that many people live long distances from relatives and close friends. People dependent on cars and telephones for social contact are often strangers to their neighbours. The home is increasingly isolated from the community. Families are sometimes subjected to life in high rise flats or outer suburban perimeters which lack neighbourhood services and which do not provide a good environment for bringing up young children.

9. The structure of the family is changing. Families are smaller. There are fewer uncles and aunts to take an interest in young children, and these same uncles and aunts are more likely to have children themselves at the same age cycle, so they are not in a position to offer much assistance. Grandmothers are more likely to be working, having completed their families early in life, and they, too, are therefore less free to help.

10. Children are spaced closer together, so that people grow up with little experience of young children, whereas larger families provided an apprenticeship for parenthood. Suburban development is such that often there is no generational mix; families are all at the same stage of life cycle. Taken altogether this means that many people who become parents are unaware of normal childhood development, and are in very real need of community support.

11. A further measurable change in family life is the increasing number of women in the workforce. Some women with children need to work, full time or part time, to supplement the family income. Some women want to work. Some women have little choice. Higher education for women, marriage at a younger age, smaller families and a narrowing of the reproductive years have all contributed to an expansion of married women entering the workforce.

12. In 1974, 42 per cent of all women were employed, compared with 26 per cent in 1954. The increase in the number of married women working is even greater. In 1974, 40 per cent of all married women were in the workforce. Twenty years before, in 1954, only 13 per cent of married women were at work.³ In the peak childbearing years of 25–34, 43 per cent of married women were working in 1974, compared with 26 per cent 10 years earlier.⁴

13. All of this has obvious implications for child care needs. For example, in Australia in May 1973, a total of 528 600 women in the workforce were responsible for children aged up to 11 years, and 9700 men in the workforce were solely responsible for children in the same age group.⁵

14. In 1973, half (50 per cent) of the mothers of school-age children and one-quarter (27 per cent) of the mothers of pre-school children were working. A quarter (23 per cent) of the female workforce had a child younger than 3 years, and one-quarter (28 per cent) of children under 6 were the responsibility of a working parent. This made a total of some 365 000 children.⁶

15. Some people expressed the view that women should not have children if they are not willing to care for them. But this attitude penalises low income families; those with financial resources have money for nurses, housekeepers and private kindergartens. It must also be stressed that, in many cases, the absence of adequate child

3. 1954 figures from ABS, 1954 census; 1974 figures from ABS, *The labour force* (November 1974).

4. Australian Government Social Welfare Commission, *Project care: children, parents, community* (AGPS, Canberra, 1974), p. 18.

5. ABS, *Survey on child care* (May 1973).

6. *ibid.*

care either keeps the parent at home full time, often in conditions of economic privation, or creates an additional stress factor on the family because of the need to make unsatisfactory child care arrangements. Lack of child care services perpetuates inequality and hardship.

16. The first years of life are now recognised as vital in establishing a basis for physical, emotional and intellectual well-being. Children need nurture at home but they also need social contact outside the home. Young children are not best served, even in ideal circumstances, by a total dependence on the mother, particularly if the father's work precludes him spending much time with the child.

17. Some suggested that the government should pay mothers a wage or allowance so they would be able to stay at home to care for their children. However, there are practical difficulties in defining an allowance for full-time mothers at home, and economic obstacles to making such an allowance available to all. The Department of Social Security investigated the proposal to pay a mothers allowance in 1973. It estimated that to give \$20 a week to women with one or more children under 16 would cost \$1220 million a year, which was almost half the total cost of all social security and welfare in Australia for 1973. If the allowance were restricted to women with children under 6, the cost would still have been \$660 million.⁷ Furthermore, research shows that, for most working mothers to stay at home, the allowance would have to come close to the wage (after expenses) that they were receiving in the workforce, as their earnings were essential to their families' needs.⁸

18. The mere presence of a mother does not necessarily ensure good mothering. Not all women make good mothers; some women are good mothers to one child and not to another. Some women (and some men) are less able to cope with young children than others. Some women want to work, whatever the reasons, and are less likely to be good mothers if they feel constrained and unhappy at home. Not all families can provide good home environments.

19. In any case the fact remains that large numbers of married women with young children are in the workforce. This is a social reality; to ignore it is to ignore the interests and well-being of thousands of young children.

20. A number of women who do not go out to work pressed their need for child care; indeed there was some resentment:

. . . the government spends so much on child care facilities for working mothers (whether they need to work or not!) and nothing to help those who wish to stay at home and be full-time mothers.⁹

21. It is clear to us that there are in Australia hundreds of thousands of women who, whether they work or not, have not rejected their children and their mother role, but who feel they need help in meeting their responsibilities for children under school age. In our present society the family has been isolated to such an extent, we believe it is essential that the community should share in the nurture of young children by offering child care services.

7. John Mahoney and John Barnaby, 'Mothers allowance', *Social Security Quarterly*, Winter 1973, pp. 61-4.

8. Jan Harper and Dianne Worrell, Young mothers and the workforce, Commission research report, no. 12, 1976, p. 246; Ailsa Burns, Working mothers and their children, Electrical Trades Union study (Macquarie University, Sydney, 1974).

9. Submission 940, Mrs J. Sheridan.

22. We believe that child care services should be available for all parents to supplement and complement the care they can provide for their own children. These services should not be seen as a welfare service, nor as a crisis service, but as a right, to serve the needs of the child and parents, just as education is available to the school-age child.

23. We agree with the observations made by Future Lobby, a group concerned with child care and child development, that programs offering substitute care for the young child need continual evaluation.¹⁰ The answer obviously does not lie in large impersonal child care institutions, but in offering a range of child care services, small in size and locally based. In the words of Dr Margaret Mead:

I think a small baby, a child under 2 or 3, needs one person who always knew what it said yesterday.¹¹

Present level of service

24. The Social Welfare Commission reported in 1974 that, in Australia, use of day care places depends on parents' ability to pay; that fees varied according to locality and quality of service, though fee and quality were not necessarily linked. In turn, geography, State government policy, fund-raising ability of parents and successful recruitment of qualified staff influenced the level of fees in pre-schools. Groups least able to raise funds and recruit high level staff attracted least financial assistance.¹²

25. There were one and a half million children aged 0-5 years in Australia as at June 1975.¹³ The Minister for Social Security stated that, at September 1976, there were 7000 places in non-profit full day care centres assisted by government.¹⁴ We understand that, by June 1977, 20 000 full day places are likely to be subsidised. In 1969, approximately one child out of every six in a day care centre was subsidised; in 1973 approximately one out of every nine was subsidised; in 1974 approximately one out of every five, and by 1977 the figure will be one out of every three.

26. By 1978 half the children in Australia will have access to pre-school services in the one and a half years prior to school entry.

27. Increases in government-subsidised child care services of all kinds reflect a national child care policy dating from the *Child Care Act* 1972, which provided assistance for centres catering for children of working parents, and especially for children in need.

Child care services

28. As more mothers have entered the workforce, the community has come to recognise that a whole range of child care services is required, ideally to suit individual needs and family circumstances. The community has responded to this requirement in a variety of ways.

29. State governments provide some pre-school education and support for infant welfare centres. The Commonwealth government provides child endowment, maternity allowances and support for pre-schools and other child care services. Voluntary organisations, with or without government subsidy, have provided limited pre-school education and child care services, but these have been severely limited through lack

10. Evidence, p. 2437, Dr Joanne Cornwall, Future Lobby.

11. Dr Margaret Mead, 'Monday conference', ABC transcript, 4 June 1975.

12. *Project care: children, parents, community*.

13. ABS, Population estimates for 1975.

14. Australia, Senate *Hansard*, 6 December 1976 (Question 140).

of financial assistance and other resources. There are some privately run kindergartens and child minding centres. The need to make informal provision outside the family has led to widespread child minding by relatives, neighbours and others. Parents have taken the initiative in establishing play groups and baby minding co-operatives. Many services are inadequately financed, badly located and in short supply. In some areas there are none.

Types of services

Day care centres

30. Registered centres are of two main types—long day care centres and sessional pre-schools. Hours of operation vary, but usually run from 7.30 or 9 a.m. to 4.30 or 6 p.m. Sessional care is commonly from 9 a.m. to 3 p.m., giving sessions for two separate groups. Out of around 900 registered centres in New South Wales in 1975, only about 180 offered long day care.

31. Most of the long day care centres are privately owned and therefore not eligible for any subsidy. Only about forty in NSW are community based, and receive Commonwealth and State subsidies. Costs of providing these services are high, and unsubsidised fees range from \$30 to \$45 per child per week. The community centres usually offer places only to children from families with problems, such as low income and lone parent families. The fees are means tested, ranging from \$7 to \$35 per week. A two-parent family would have to pay at least \$30 per week. The hours of operation are inflexible, and do not suit shift workers or those parents who have to leave home at 6 a.m. Most of the centres provide places for children aged only 3 and 4. Some will take a few 2-year-olds, and a very small number have provision for babies below 2 years (about six in the Sydney metropolitan area). Women looking for care for younger children can rarely find a centre.

Family day care

32. This is a child care service in which people use their own homes to mind a small number of children during the day. The children are thus looked after in a family setting and home environment. This type of informal home-based care is one of the most commonly used ways of providing child care in our community. Family day care programs need to consider how the children being looked after in this way can take part in other programs such as pre-school or play groups, or share a toy library or equipment pool.

Pre-school kindergartens

33. Pre-school kindergartens provide development and education programs for young children, and usually operate during school hours and school terms. Children usually attend these centres in the year or two before beginning school, for between three and five half-day sessions a week.

Play groups

34. These are regular informal meetings of parents and their pre-school children once or twice a week, for a few hours at a time. The children have opportunities to learn and play together and create and acquire new skills, and mothers have a chance to exchange experiences and ideas, and observe children at play. There is no set program in a play group, although meetings are sometimes held under the guidance of a leader or an occasional visiting adviser. Play groups cater for children from birth to school entry age, and groups meet in private homes or local halls.

35. Mary Lane, chairman of Future Lobby, told us:

Play groups at the moment literally have to beg, borrow or thief facilities. Certainly every facility in most communities is being used—churches, schools, community halls, anywhere that play groups can go. I think an important innovation that the parents have come up with is a great idea and this is backyard play groups. We will never run out of that sort of space.¹⁵

Care outside school hours

36. Many parents of school-age children leave for work before school begins and return after it has finished; the children's needs are often overlooked. What care is available is mainly run by voluntary organisations; a few receive Commonwealth government subsidy. Many centres are on school premises, sometimes under the direct control of the school, sometimes of a separate body. These centres usually offer activities from 3–3.30 p.m. to 5–6 p.m. either free or for a small fee.

37. A few holiday care programs exist and some are subsidised. Again there are not enough of the services.

Private minding

38. Private minding is for most women (especially migrants) the only possible source of child care. It has certain advantages:

Private minders are easily found in most inner city areas. They advertise in local papers or by word of mouth. Private minding is often cheaper than commercial centres, but . . . a woman may take ten children on her own at . . . \$15 to \$20 per week per child. Often the numbers are high because desperate parents will plead with a known minder to take just one more. Children can be, and are, dropped at private minders from 5 a.m. onwards, which is necessary for women whose employment is in factories with a 7 a.m. start or earlier . . .

The poor standard of much of the minding is a source of constant anxiety for those using this form of child care . . .

The private minder without adequate back-up services cannot guarantee continuous service. The minder's sickness, their children's sickness, family crises or just temperament can often lead to a breakdown in service. One possibility now being explored is the combination of private minding/family day care with sessional pre-schools. This type of service . . . would need to be subsidised to make it feasible for low income earners.¹⁶

Work-based care

39. Centres associated with work have not developed to any extent in Australia, although a few hospitals, universities and factories have provided child care in recent years. The main issues associated with work-based care include: whether it is better for a child to be cared for near his home or near his mother's place of employment when this might involve travelling long distances in peak hour traffic; whether or not the mother is encouraged to visit her child during the day; whether or not the child is likely to suffer from changes in care if there is change of employment; and whether or not the major emphasis in such centres is on the needs of the employer or the needs of the children.¹⁷

40. A study of migrant women working in Melbourne industry showed that nearly three in every four mothers surveyed said they would use child care services if provided at work.

15. Evidence, pp. 2444–5, Mary Lane.

16. Eva Cox and Jeannie Martin, Stress amongst migrant women, Commission research report, no. 13, 1976.

17. *Services for children: Australian government help* (Childrens Commission, June 1975).

I would like child care facilities at work because I could see my child during the day.¹⁸

The survey confirmed that the further a mother lived from the workplace the more likely she was to favour this kind of child care.

41. In 1973-74 the Victorian Chamber of Manufacturers surveyed nearly 950 manufacturing establishments employing over 11 500 working mothers.¹⁹ The study was said to be representative of Victorian industry and, to a lesser extent, of Australian industry. Although two out of every three of the working mothers had at some time or other discussed their child care problems with their supervisors, there was no indication that supervisors had the experience or the qualifications to assist them. Nor were they aided by the fact that factories generally had few if any facilities for child care or that most employers did not welcome the presence of children in the workplace.

42. Out of 680 responses, over one-half of the women (56 per cent) preferred that child minding centres be established near their homes; while only 31 per cent preferred that the centres be established near work. Thirteen per cent wanted to see child minding centres set up on the factory premises.

43. Only two in every 100 factories had any experience in child care, and only one in every 100 was currently involved. Most employers felt that community child care centres should be located out of and away from factory areas, near the parents' homes. The survey also made it clear that employers did not want to pay for child care centres. In order of preference, the majority of companies in the survey wanted to see community child care centres financed:

- (a) wholly by the government; or
- (b) 50:50 by parents and government; or
- (c) one-third each: government, parents and employers.

44. The Womens Trade Union Commission undertook child care as its major project for 1977. The Commission plans to involve unions and industry in providing low cost, quality child care. They have a grant of \$24 000 to employ a co-ordinator.

45. WTUCs first project will be to administer the child care centre on the Eden Park Industrial Estate at North Ryde, Sydney. The centre will cater for forty children between the ages of 2 years and 5 years from 7.30 a.m. to 5.30 p.m. each day. The estate has factories, warehouses and office space, as well as a cafeteria, recreation facilities and the child care centre. The centre will be leased to the WTUC at a nominal charge of \$10 per week. Children's parents who leave employment on the estate will not be obliged to remove their child from the centre.

Shortfall

46. Our evidence indicated that, in Australia today, there is undoubtedly a serious shortage of child care services of all kinds, both for two-income and lone parent families as well as for families where the mother chooses to stay at home. Services have increased, but many children still have no access to pre-school and day care centres. The Australian Catholic Social Welfare Commission wrote:

Greater flexibility of business organisations towards working times, day care centres for young children and the provision of after-school activities could help the relationships

18. Centre for Urban Research and Action, *'But I wouldn't want my wife to work here . . .', a study of migrant women in Melbourne industry* (IWY, Melbourne, 1976), p. 2.

19. Vic. Chamber of Manufacturers, *Factors influencing the employment of mothers of dependent young children* (Melbourne, 1974).

within the family . . . The so-called latchkey children are part of a growing social problem that requires urgent attention. Holiday programs are hardly adequate anywhere. The long summer school vacation leaves too many children to their own devices. This can be a problem when the mother is always at home and becomes more difficult when both parents are absent for long periods.²⁰

47. The Country Womens Association of New South Wales observed that adequate housing, child minding centres, and pre-school centres are the answer to the 'friction' and 'breaking up of family life' produced after 'a mentally exhausting day' when both parents work.²¹

48. Two members of the St Joan's Alliance said in Brisbane that child care should be provided by community centres, part time for mothers who remain at home and full-time for those who go out to work. They suggested integrating these centres with pre-school and kindergarten and also using them for adult education.²²

49. The Mothers Union, from the Diocese of Brisbane, wrote:

There is a need for occasional child care centres which the mother can avail herself of, to leave children, for her to have a little time to herself.

Women in the workforce need adequate child care. Factories and work areas should be assisted to provide it. After-school care is also needed.²³

50. The NSW Federation of Infants Schools Clubs wrote:

Mothers from low income families should have the same freedom as more affluent mothers to choose whether to stay at home and care for their young children or to seek employment. Should the mother seek to return to the workforce, the emotional stability and the relationship between parent and child should not suffer unduly because of relating factors.²⁴

51. A Darwin public servant proposed that:

All office space rented by the government should entail the provision of child care centres for children of working mothers working close by, so that they may have ready access to their children at any time of the day. The centre should be staffed adequately and contain accommodation for children who are 'off colour' but not really sick. The centre could also serve as a rendezvous point for mothers with schoolchildren.²⁵

52. A Victorian man wrote that child minding centres must be the concern of the government, and that parents should be encouraged to create communal child care arrangements and increase social relations.

As there are at least 365 000 children throughout Australia under the age of 6 who have working parents, the Australian government must give the parents the choice now in the national interests of the future generation.²⁶

53. Shortage of services for the pre-school child means that the majority have to be minded by private child minders. In 1973 only one in ten of the pre-school children who were the responsibility of a working parent were in some kind of formal care.

20. Submission 992, Australian Catholic Social Welfare Commission.

21. Submission 407, Country Womens Association of NSW.

22. Evidence, p. 1566, P. Crowley, A. McInnes.

23. Submission 728, Diocese of Brisbane, Mothers Union.

24. Submission 634, NSW Federation of Infants Schools Clubs.

25. Submission 1027, Mr Len Muller.

26. Submission C4, confidential.

The rest were being privately minded.²⁷ Although the situation has improved since then, and although some private child minders provide excellent care, the shortfall still gives cause for concern.

54. A report by the Social Welfare Commission in 1974 made the following comments regarding the private child minder:

In Australia the child in the care of the private child minder is exposed to greater vagaries than in virtually any form of care other than parental care itself . . . the regulating authority generally has little involvement in what is actually happening to the child during the day.²⁸

55. A submission from Ararat in Victoria spoke of the need for child care services in small townships and rural areas, relatively remote from major centres of population. The needs are identical to those experienced in city areas but they are compounded by such other difficulties as the isolation of people living on farms several kilometres from a major town; lack of communication facilities; absence of trained or professional people from rural areas; inferior transport services; and the disparity between the operative hours of the crèche and the working hours of the rural community.²⁹

56. Distribution of services is uneven. For example, in a Sydney area rated by the Social Welfare Commission on a 5-point scale as one of greatest need, there was one child care centre for every 743 children. Area 5 (the 'best') had one centre per 265 children.

57. A number of organisations and individuals discussed the issue of child care in relation to the working mother; most felt that society should provide services for the competent care of children during working hours.³⁰

58. The Working Womens Centre, Melbourne, wrote:

Working parents need a child care service which meets their child's developmental, intellectual and social needs, which is readily accessible, and where they can leave their kids for the required time, in the knowledge that they are happy and well cared for.³¹

A male public servant wrote, from Darwin:

At present, working mothers are forced to go through all sorts of difficulties every morning before they can be sure their children are safe for the day so that they can concentrate on their work. At times working mothers have to stay away from work for several days while their children are sick. Even the mildest illness in the child may necessitate the mother staying with him full time, as no other method of caring for him exists.³²

59. One of our research studies looked at child care and women choosing whether or not to go out to work.³³ The study surveyed 195 Melbourne women with children under 12 years, living in two-parent households. Ninety-eight of the women were housewives and ninety-seven went out to work; they were divided into three groups: tertiary trained, white collar and blue collar. Of those not in employment at the time

27. ABS, *Survey on child care* (May 1973).

28. *Project care: children, parents, community*, p. 47.

29. Submission 270, Mrs P. G. Barlow.

30. Submissions 346, Home Economics Assoc. of NSW; 1062, Australian Council of State School Organisations; 582, Rhonda Farquhar; 642, Society of Friends, Hobart; Evidence, pp. 1582-3, R. Innes.

31. Submission 43, Working Womens Centre, Melbourne.

32. Submission 1027, Len Muller.

33. Harper and Worrell, Commission research report, no. 12.

of the interview, 50 per cent had worked at some time since having children, and over half of the women had re-entered the workforce for the first time with a baby under 1 year old.

60. The report observes that child care is seen by most people as of prime concern when mothers of young children go out to work, because society has so stringently accepted the idea that mothers rather than fathers are responsible for children (see Annex V.A). The only cases where child care is not a concern is when the mother's working hours correspond with her children's hours at school (if she has only school children); when her hours do not coincide with those of her husband; or when there are older children or other adults in the house who can take responsibility. Many women adjust their work lives to make these situations a possibility—the mother who took a part-time job, with less responsibility than she would like; the woman who took a factory job at night, rather than follow a career in her own field; or the social worker who did teacher training specifically so that she could have school hours, despite the fact that she enjoys the work much less. These women have solved the child care problem by avoiding it.

61. Half the women felt that being a mother affected their work life, but 82 per cent of tertiary-trained women experienced this sort of pressure, compared with only 28 per cent of blue collar wives. The effects were diverse and included limiting job conditions, such as job hours and locations, changing careers, limiting ambition and distraction of home responsibility influencing performance at work.

62. Only 20 per cent of working mothers of pre-school children used child minding centres of any kind. The low usage of centres appeared to be due primarily to their unavailability and to a desire to avoid paying for child care. Only 25 per cent of non-tertiary women and 50 per cent of tertiary paid for child care.

63. After-school care, where required, was most often provided by an unpaid friend or relative. School holidays were difficult and brought a variety of arrangements ranging from paid baby-sitters to holiday camps. Working mothers were generally satisfied with the child care they used; half believed their children positively benefited from it. Half of the women at home (75 per cent for tertiary) would have problems finding suitable care for pre-schoolers if they decided to take a job. This seemed to be related more to the high standards they demanded of a mother substitute than to the fact of child care availability.

64. Tables V.3, V.4 and V.5 show the various kinds of arrangements made by working mothers who took part in the Harper and Worrell survey.

65. Other studies further reveal that shortage of out-of-school care for children aged 6 to 11 presents a problem. In May 1973, some 44 000 people responsible for children in this age group had made no formal arrangements for their children's after-school care, and some 28 000 had made no school holiday arrangements.³⁴ Most relied on family, relatives or friends.

66. A Sydney survey to assess the child care needs of women members of the Electrical Trades Union found that, of 755 women, 42 per cent reported that their school-age children looked after themselves either before or after school. These arrangements were regarded as quite unsatisfactory. One Turkish father replied on his wife's behalf:

No one looks after the children, they go to school without having breakfast. My wife goes to work at 6 a.m. We do not know how to overcome this problem.

34. *Project care: children, parents, community*, p. 124.

Mothers also reported that their husbands changed to night shift work so their children could be cared for during the day. Three hundred and seventy-seven of the school-age children looked after themselves in the holidays.³⁵

67. These figures point up the fact that the mother of the school-age child is faced with child care problems should she wish to go to work. Unless she can get a job with school hours and holidays she faces two different kinds of child care problems: after (and maybe before) school and school holidays. In addition there is the question of what to do when the children are sick. This means she really has three substantially different kinds of child care to organise.

68. There is a need to extend out-of-school services, to provide programs both before and after school hours and during the school holidays. Services are also required to meet the needs of mothers whose children are sick. This could be by way of visiting parent aides, or by social security provision for parents in such circumstances, so they can stay at home.

Table V.3 Pre-school child care of working mothers, by sample

| | Tertiary trained | White collar | Blue collar | Total No. | % |
|--|---------------------|-----------------|----------------|--------------|----------------------|
| Self (home or work) | 2 | 1 | 2 | 5 | 11 |
| Husband | 1 | 4 | 2 | 7 | 15 |
| Paid minder at home | 3 | 0 | 0 | 3 | 7 |
| Paid minder outside home | 2 | 1 | 2 | 5 | 11 |
| Unpaid relative or friend | 2 | 0 | 7 | 9 | 20 |
| Kindergarten | 2 | 1 | 1 | 4 | 9 |
| Commercial, child minding centre or crèche | 2 | 1 | 2 | 5 | 11 |
| Co-operative, workplace or other special child minding centre | 3 | 0 | 1 | 4 | 9 |
| Combination (of self, husband, relatives and kindergarten) | 3 | 0 | 1 | 4 | 9 |
| | 20 | 8 | 18 | 46 | (5 cases missing) |

Source: J. Harper and D. Worrell, Young mothers and the workforce, Commission research report, no. 12, 1976.

Table V.4 Care of school-age children of working mothers after school hours, by sample

| | Tertiary trained | White collar | Blue collar | Total |
|---|---------------------|-----------------|----------------|-------|
| Self (home or work) | 3 | 4 | 2 | 9 |
| Husband | 0 | 1 | 9 | 10 |
| Paid minder at home | 2 | 0 | 0 | 2 |
| Paid minder outside home | 2 | 0 | 2 | 4 |
| Unpaid relative or friend | 3 | 3 | 7 | 13 |
| Other, or combination | 2 | 2 | 3 | 7 |
| Home alone | 2 | 3 | 7 | 12 |
| Respondent works only during school hours | 10 | 3 | 3 | 16 |
| | 24 | 16 | 33 | 73 |

Source: Harper and Worrell, Commission research report, no. 12.

35. Burns, Working mothers and their children, 1974.

Table V.5 Care of school-age children of working mothers in school holidays, by sample

| | Tertiary trained | White collar | Blue collar | Total |
|--|---------------------|-----------------|----------------|-------|
| Self (home or work) | 2 | 1 | 2 | 5 |
| Husband | 0 | 4 | 5 | 9 |
| Paid minder at home | 2 | 1 | 0 | 3 |
| Paid minder outside home | 0 | 0 | 2 | 2 |
| Unpaid relative or friend | 2 | 4 | 9 | 15 |
| Centre or camp | 0 | 1 | 0 | 1 |
| Other, or combination | 4 | 4 | 8 | 16 |
| Home alone | 0 | 0 | 3 | 3 |
| Respondent does not work in school holidays | 14 | 1 | 4 | 19 |
| | 24 | 16 | 33 | 73 |

Source: Harper and Worrell, Commission research report, no. 12.

Lone parent families

69. Lone parent families have particular problems with child care, both in terms of the need for child care, if the lone parent is working, and the cost, since the income of the majority of lone parents tends to be low.

70. The Council of Social Service, Western Australia, gave evidence about the needs of lone fathers:

[Day care centres] are of very little value. They serve only men who work from 8.30 to 5.00, white collar workers and earning a good wage, i.e. over \$75 per week. Even the subsidised fees are too high for a man with two or three children needing day care. For shift workers and workers on low incomes, they are useless.³⁶

71. The Womens Association of the Prisoners Aid Society of Victoria felt that ‘the children of all one-parent families should have priority for places in child care centres and kindergartens’.³⁷

72. A 20-year-old separated student mother, receiving a widows pension, spoke of the difficulties of finding suitable child care facilities:

There are very few government child minding centres around. The nearest one to my place of residence is 5 miles away. Obviously it is impractical to travel 5 miles twice a day to deliver and pick up your child . . . But there is a long waiting list and you must live in that suburb before your child will be accepted. So I have to pay a woman \$15 p.w. for child minding (which is rather good in comparison) on top of my education expenses—leaving me and my child approx. \$27.00 a week for rent and food. Clothing and entertainment is out of the question.³⁸

Mothers at home

73. Future Lobby stated that while the child care needs of working mothers were being articulated, the interests of women who wanted to stay at home were not being expressed nor was there sufficient understanding of the needs of the very small child. It was considered important that women were able to make an informed choice.³⁹

36. Submission 463, WA COSS.
37. Submission 217, Vic. Womens Assoc., Prisoners Aid Society.
38. Submission 77, Ms Brenda Rosser.
39. Submission 620, Future Lobby.

74. A group of mothers with young children wrote:

We all agree that staying at home and caring for children is a most demanding role in very many ways—not only is it physically and emotionally exhausting to actually care for children and to meet their needs, but it is also very difficult to develop or maintain stimulating outside interests of one's own while one is caring for children. We feel it is most important that a mother should have such outside interests, so . . . it would also be good for the children to have a break from their mother and their home environment, and their social development could also benefit from the time spent with other adults and with their peers in an occasional care centre.⁴⁰

75. A Western Australian mother of two children stated:

. . . I'm advocating increased status in society for mothers and increased short-term child care centres for mothers who have to see doctors, dentists or bank managers or just to see to their own needs for a short while.⁴¹

Lack of extended family and cost of baby-sitters make this a necessity.

76. The Catholic Womens League of Mackay, Queensland, wrote that:

Casual child minding centres should be available for 'non-working' mothers, to facilitate family shopping, medical appointments.⁴²

In order to make life more satisfying for the parent who stays at home more occasional-time child care centres are needed.

There is ill feeling amongst those who need child care centres on a casual basis as opposed to full-time child care, it seems to them they are considered as not needing help in this area whilst those who have out-of-home employment are being catered for.⁴³

Migrant families

77. Child care is difficult for any woman who works. For migrants, the problem is often one of crisis. Migrant women make up 36 per cent of all mothers under 35 in the workforce, although they constitute only 24 per cent of young mothers in the total population.⁴⁴ Among some immigrant groups, more than twice the ratio of women with pre-school children are working as compared with their Australian peers.⁴⁵

78. A survey by the Australian Bureau of Statistics in 1973 of 7700 recently arrived migrant families showed that many of these families were living below the poverty line, as defined by the Commission of Inquiry into Poverty, yet their wives were unable to work because of lack of child care facilities. For example, 25 per cent or 4600 Greek families were living below the poverty line, while 63 per cent of the Greek women gave child care problems as the main reason for not working.⁴⁶

79. Dr Spiro Moraitis, a Greek doctor working in an inner city area of Melbourne, wrote:

We require child care centres geared to the migrants. At present these centres shut down at 3.30 p.m. The migrant worker gets home about 6.00 p.m. Therefore he has to leave his child with unqualified people. These centres should open from 7 a.m. to 6 p.m. and be adequately staffed with multilingual people.⁴⁷

40. Submission 708, Mrs Clare Murphy.

41. Submission 30, Mrs H. Lowe.

42. Submission 904, Catholic Womens League, Mackay, Qld.

43. Submission 224, Mrs R. Moylan.

44. *'But I wouldn't want my wife to work here . . .'*

45. Cox and Martin, Commission research report, no. 13.

46. ABS, *Survey of child care* (1973).

47. Submission 215, Dr Spiro Moraitis.

80. A study of migrant women factory workers in Melbourne revealed a picture of women deeply distressed at the child minding problems. They stated that they had to work because of economic pressures and that, because of poor education and lack of English, they had no option but to work in factories; this meant they had to leave their children. They knew little about child minding services which may or may not have existed near their homes. Few had many friends or relatives and could not understand why factories do not have child care services (as they do in Europe or South America). They were forced to make unsatisfactory child care arrangements which caused enormous psychological worries and often physical accidents.⁴⁸

81. The Cox and Martin report stated that migrant access to registered child care is more limited than that of Australians, because as newcomers they do not know how to find places in short supply. Therefore their children gain a disproportionately lower access to what is already a scarce resource.⁴⁹ Immigrants tend to move into Australian working class areas which provide cheap rented accommodation but few family services. As child care services in NSW are traditionally commercial or volunteer based, they have tended to serve the more affluent areas. The areas of high migrant population are therefore often those with the least adequate child care services.

82. A research project based on a study of some 1000 women (90 per cent of whom were migrants) living in an inner city area of Sydney found that only one in eight of the children whose mothers worked was in any type of registered centre.⁵⁰ The rest were being privately minded or, in some cases, probably not minded at all. Eighty-five per cent of those migrant women with pre-school children saw the care of their children as a problem. Ten wanted to give up work because of these problems. Given that the general economic status of these women is such that they cannot give up work as both salaries are essential to the family, they continue to work at a cost to themselves and their children.

83. The hours that migrant children are left alone are often before rather than after school. Parents working in factories start at 7 a.m., or earlier, leaving quite young children alone at home or in the school grounds. Many inner city schools report children arriving well before any staff members.⁵¹

84. One after-school centre of the unstructured type in an inner city school made a particular effort to attract migrant children. Many of them were going back to empty houses and waiting in front of TV for up to 3 hours until their parents came home. They were also to a large degree excluded from the social activities of their Australian classmates. Usually they were not allowed to play at other people's places, nor to invite other children home to play. The results of the experiment were poor. Older children were allowed to stay, if they insisted, but the parents felt the centre was not safe and not suitable for their children. They saw it as neither a place of learning nor close supervision, and therefore of no value to children.

This suspicion seems to stem from various sources. First, a sheer inability of the parents to communicate with other parents and a reluctance to let their children go they know not where. Second, a sense of over-protectiveness, a need to know their child is at home and physically safe, and not under influences beyond parental control. Third, as there is a social distance between Australian and migrant parents, with little communication and/or social contact, there is also a suspicion of the motives of the Australian parents in allowing interaction amongst the children. This makes the school life of the children more difficult

48. *'But I wouldn't want my wife to work here . . .'*

49. Cox and Martin, Commission research report, no. 13.

50. *ibid.*

51. *ibid.*

and tends to encourage migrant children to congregate according to their ethnic groups. Most of the problems of interaction can be overcome with goodwill and time; but the latter is a commodity in short supply where there are high numbers of working parents.⁵²

85. This kind of evidence indicates that there is a need to develop programs that both allay the anxieties of the parents and prove attractive to the children (see Annexe V.B). Migrant people need to be employed in such programs which should also be open to Australians. The object is not only to provide child care but to develop pride and self-identity and to foster understanding of others. The same observations apply to Aboriginal children who need to have some Aboriginal people caring for them in child care centres.

Handicapped children

86. We received evidence from the parents of handicapped children about a shortage of child care facilities of all kinds. This is dealt with more fully in chapter 7 of Part VI. The main emphasis of our evidence was that child care services for handicapped children should be integrated wherever possible with ordinary services. This would benefit not only the handicapped child but also the other child, as it teaches that variation is normal. Our evidence also showed that perhaps the most longed-for service requested by such families was that of occasional day care and holiday care, to relieve the strain that constant care of a handicapped child can cause. More of such services would assist parents to keep their handicapped children at home, rather than having to put them in full-time residential care.

Child care preferences

87. Because private child minding is the most commonly used form of child care, it would be easy to assume that this is the type of care most parents prefer. The studies on child care do not necessarily reveal this. The Cox and Martin report on migrant women includes the following comments:

Government crèches are best because they have secure people who know how children need to feel comfortable . . .

The government here doesn't help people much. Children, for example, should be in government crèches—not with people who don't know how to love them. The government should make employers provide proper transport and crèches.

The report states:

It is evident that these mothers use informal care, not from choice, but because it is the only type of care available. The women in the groups and in the survey expressed great anxiety about the standard of care their children were receiving. Many wished for the provision of government centres, as they saw these guaranteeing certain standards of care and hygiene.⁵³

88. Australian-born women appeared to have similar views:

I presently have the baby minded by a paid private person, but I would prefer a small crèche with trained people. I've been on the waiting list at the Melbourne University crèche for 16 months and I'm still not in . . .

Evan has the advantage of a play group. He meets friends, he is taught by trained people. I think this pre-school experience is very important for a child. It helps him adjust when he goes to school.⁵⁴

52. *ibid.*

53. *ibid.*

54. Harper & Worrell, Commission research report, no. 12.

89. The Electrical Trades Union study of women from different backgrounds showed that, although over 80 per cent relied on informal types of care, only 7.6 per cent stated that they actually preferred this form of care. Many would have preferred pre-school centres and over 22 per cent favoured family day care.⁵⁵

90. Harper and Worrell found that whatever child care arrangements working women were using, they appeared satisfied. However, they state that caution must be used in the acceptance of such a simple, easily given answer, as 'Yes, I'm satisfied':

The question must be asked as to whether the woman admitted to herself, let alone the interviewer, any doubt, fears, guilt, or just weariness at making these sometimes complex arrangements.⁵⁶

91. Contrary to a common view, the working mothers in the Harper and Worrell study rarely felt that the children suffered in any way by being out of their care while they worked. Half thought their children benefited, either because of a closer relationship with another adult, such as their father or grandmother, or because of the positive social and/or educational experiences that the children were getting.

The role of government

92. On 2 June 1976 the government established an Office of Child Care within the Department of Social Security to plan, co-ordinate and provide policy advice, to identify needs and to allocate funds to community groups and State governments for a range of child care services. The service provided by the Office of Child Care complements the service of State governments and gives child care priority to children with particular needs, including geographically isolated children, handicapped children, children at risk, some Aboriginal and migrant children, children of lone working parents and children from districts with inadequate services.

93. Our view is that child care policy should be based on the fundamental right of every child and parent to have access to child care services of a type best suited to their individual needs. By this we do not mean that parents should abrogate their responsibility for the care of their children. Rather, we see the role of government as recognising that families with young children need community support. Child care should be available to all parents, means tested in accordance with present policy and with preference for those in greatest need.

94. Some submissions opposed government subsidies for child care.

... the having of children should be regarded as a private project undertaken by a couple of their own desire and (so far as possible) at their own expense ... If those people who have children can once manage to claim government support *as a right*, a major (and very reactionary) injustice will have been written in to our system. After all, in essence my neighbour has no more right to expect me to pay for his children than for his boat, his car, his decorations or his stamp collection.⁵⁷

A Sydney woman wrote:

Child care centres should be available within the locality. However, these should be run as a business and not have taxpayers' money lavished upon them after establishment.⁵⁸

55. Burns, *Working mothers and their children*, 1974.

56. Harper & Worrell, Commission research report, no. 12.

57. Submission 931, Mr M. O'Connor.

58. Submission 20, Mrs N. D. Wright.

95. The Co-ordinator of the Womens Group from Gunnedah, NSW, wrote that subsidising child care centres:

. . . is a wrong, mistaken and ultimately disastrous solution. Even if it were purely an economic question, it is not economic to have small children looked after in this way. But it is not purely an economic problem, it is a human problem . . . No industrial gain justifies the progressive dissolution of so many families. It is doubly absurd to spend hundreds of millions in public money to subsidise the destructive process.⁹⁹

96. The facts are, however, that thousands of parents are using inadequate forms of child care with possible consequences to the whole of our society. Not to provide and subsidise child care is to penalise the poor, particularly as commercially operated services are beyond the reach of lower income families.

97. We believe that the government has a responsibility both to support child care services and to ensure their equitable distribution. Often those most in need find difficulty in articulating their problem and we believe it is necessary to have trained community workers who can identify continuing needs and assist parents in initiating child care services and requesting government assistance.

98. The government should also assist the establishment of work-based child care centres by way of direct grants and tax concessions. Smaller employers should be encouraged to provide joint child care. We fully support the grant made to the Womens Trade Union Commission to develop child care programs and to encourage industry and union involvement and support. We would hope that this kind of government backing will continue in the future. We would like to see the government establish and evaluate work-based child care for its own employees.

99. We believe that the work of the last 5 years, to try to develop a full and flexible range of child care services throughout Australia, needs to be continued. Our evidence shows a need for more services catering for children out of school hours. These should be integrated with other child care programs and government assistance should be given to help establish such services. There is also need for more child care services for children under the age of 2; at present this group of children appear to be largely ignored.

100. We believe that, as a general policy, child care services catering for groups with special needs (e.g. migrants, Aborigines, handicapped children, isolated children) should be integrated with other child care services in terms of planning and provision of funds. Migrants require particular government support. Centres in migrant areas should be staffed by multilingual staff. We are in favour of special short-term training programs for migrant people wishing to become involved in child care work. Aboriginal people should be encouraged and assisted to train in child care work and special short-term training programs should be devised for this purpose. Advice and funding should be given to child care services for Aboriginal children.

101. The needs of isolated children require research into ways of bringing early childhood stimulation to isolated children. Advisory services to parents and teachers should be provided.

102. The establishment of child care services in public hospitals, universities, colleges of advanced education and technical institutes should be encouraged and subsidised.

103. Means of assisting working parents responsible for children when those children are sick should be investigated.

59. Submission 474, Co-ordinator, Womens Group, Gunnedah, NSW.

5. Family law

Introduction

1. Our terms of reference direct us to inquire into family and legal aspects of male and female relationships. We have looked at certain aspects of family law in Australia, including the scope of Commonwealth and State powers; matrimonial property; succession; maintenance; custody; children born outside marriage; and aspects of marriage law.
2. Family law in Australia has been in a state of transition since our inquiry was set up, with the implementation of the *Family Law Act* 1975 and the passage of the *Marriage Act* in December 1976.
3. The *Family Law Act* introduced a new no-fault divorce law, based solely on the ground of separation. It established the Family Court of Australia, a specialised court to deal with the legal and social problems of marriage breakdown. Counselling services are available through the Family Court to persons involved in marriage breakdown and to assist the Court in cases concerning children. The Family Law Council, established under the Act, will review the operation of the Act and other aspects of family law and make recommendations to the Attorney-General for the reform of family law. The Act also provides for the Institute of Family Studies to promote research into the factors affecting marital and family stability in Australia.¹ These provisions will help to ensure that social policies and family law are based on a greater understanding of the family and the pressures on it.
4. The *Marriage Act* 1976 extends the period of notice to marry; provides for funding of pre-marital education; requires minors to seek counselling before applying to the Court for permission to marry; and abolishes the action for breach of promise of marriage.

The Family Law Act

5. A new awareness of the causes and effects of marriage breakdown has led to the abandonment of old concepts of guilt or fault which once pervaded family law. Marriage breakdown is seen as a misfortune affecting the family, requiring assistance and support rather than punitive measures against one party or the other. There is a greater understanding of the needs of children caught up in family breakdown. Their welfare is seen as being the prime concern.
6. The *Family Law Act* 1975 maintains the principle of equality between husband and wife in marital obligations. Neither divorce, maintenance nor custody depend upon the proof of misconduct by a party, though the general behaviour of the parties during the marriage is relevant to some issues. The Family Court counsellors, established as an integral part of the Court structure, are available to assist the parties to consider reconciliation, where possible, or to reach agreement on the settlement of their affairs. They have a valuable role in conferring with the parties and helping them to discuss matters which need to be settled and in preparing reports for the Court in contested custody cases.

1. Section 116, *Family Law Act* 1975; see Submissions 1219, Dr J. Krupinski; 375, Mrs S. Cropley; the importance of including the result of research in legal education was stressed in Evidence, p. 2324, F. Bates.

7. The Family Law Act has had critics. Some of our submissions suggest that it makes divorce too easy and thereby weakens marriage.² However, it is as hard to accept that strict divorce laws bring about marital harmony as it is to believe that simpler divorce laws cause marital breakdown. Where marriage breakdown occurs, the law should not allocate blame but should treat the parties with sympathy and respect and help them to arrange their affairs and re-establish themselves. Above all it should be concerned to see that parties make the best possible arrangements for the children.

8. The Act has also been criticised because it is said to erode the rights of married women to maintenance. The maintenance provisions are not based on any presumptions about maintenance obligations. A party is not entitled to maintenance unless able to satisfy the Court that he or she is unable to support himself/herself adequately. The Court must have regard to the means of one party and the needs of the other. In scope, the provisions of the Act cover a variety of different family situations; from the one-income family to the two-income family; from the couple who have followed a traditional life style to the younger couple where both earn an income and share the household responsibilities; from the childless couple to those with dependent children. To do this it provides for flexibility in the exercise of discretion.

Federal and State powers

9. Under the Australian Constitution the Parliament has power to legislate in respect of:

- marriage (section 51 (xxi))
- divorce and matrimonial causes, and, in relation thereto, parental rights and the custody and guardianship of infants (section 51 (xxii))

10. These powers were not exercised for many years. Until the *Matrimonial Causes Act* 1959 was implemented, divorce etc., was governed by separate State laws and until the *Marriage Act* 1961 marriage was a matter of State law.

11. Both heads of constitutional power have been given a broad interpretation by the High Court in cases dealing with the Marriage Act and the Family Law Act.³ The overall effect is that, broadly speaking, *Federal power* over family law now covers:

- the formation of marriage, including legitimation and bigamy;
- the validity of marriages and recognition of divorces;
- dissolution and nullity of marriage;
- the maintenance obligations between husband and wife during marriage and on or after divorce;
- the property rights of spouses on or after divorce;
- the custody and maintenance of the natural and adopted children of a marriage during marriage and on and after divorce;
- the jurisdiction of courts to deal with all the above matters.

12. *State power* to legislate in family law covers residual matters not validly covered by federal legislation. In particular, the following matters can be dealt with only by State law:

- the adoption of children
- the status, custody and maintenance of children born outside marriage

2. e.g. Submissions 180, Australian Council of Catholic Women; 1147, Australian Festival of Light; 1156, Parson J. A. Whitbourn; Evidence, p. 1562, Ms P. Crowley, A. McInnes.

3. *The Marriage Act Case, Attorney-General for the State of Victoria v. Commonwealth* (1962) 107 CLR 529; *Russell v. Russell. Farrelly v. Farrelly* [1976] FLC 90-039.

13. There are some grey areas where the boundary between Federal and State power has not been finally determined. These include:

- property rights between husband and wife during marriage
- succession and inheritance rights between husband and wife

14. The allocation of powers in respect of family law arising from the Constitution and its interpretation has left a number of anomalies. These were brought into focus in 1976 when the *Family Law Act* 1975 came into force and established the Family Court of Australia, a Federal court invested with federal jurisdiction in family law. Until 1976 the Marriage Act and Matrimonial Causes Act were administered by State and Territorial courts. There were disadvantages in this arrangement—lack of uniformity of approach, separate appellate courts (below the level of the High Court), absence of any Federal legislative or executive power to deal with the administration of State courts applying its legislation, etc. As against these disadvantages there was the advantage that the State court could exercise jurisdiction under State family law in areas not covered by Federal law. Within each State the courts had comprehensive jurisdiction.

15. The *Family Law Act* 1975 gave States the option of setting up their own State family courts to administer the Act (section 41). Under this provision, Western Australia set up the Family Court of Western Australia with comprehensive jurisdiction in family law under Federal and State law. In the other States the Family Court of Australia exercises jurisdiction under the Family Law Act and State courts retain jurisdiction under State law in matters such as adoption and maintenance of ex-nuptial children. In the ACT the Family Court of Australia will have comprehensive jurisdiction; a family court has not yet been established in the Northern Territory.

16. The present division of legislative power and jurisdiction between the Commonwealth and States is, in our view, undesirable and leads to anomalies which are referred to below. Some attention has been given recently to the alternative ways of overcoming the difficulties. Discussions have taken place between the Commonwealth and State governments for the establishment of State family courts which would take over the jurisdiction of the Family Court of Australia and have full jurisdiction under Federal and State family law. The advantages of a unified jurisdiction within each State have been mentioned. The disadvantages of separate State courts are, as before, fragmentation, lack of uniformity in approach and interpretation, in practice and procedure. The prospect of the States passing uniform legislation in their areas of family law are remote. Even if this were to occur there would be a danger that the legislation would not remain uniform.

17. With modern communications and increased mobility there would, in our view, be advantages in achieving a unified family law for Australia and a unified jurisdiction in family law matters. One way of achieving this would be to transfer State powers over family law to the Commonwealth.⁴ The Australian Constitutional Convention in 1975 and 1976 resolved:

. . . that this Convention recommends that the following matters should be the subject of references of power by the States to the Commonwealth:

- (a) illegitimacy—including family inheritance as it affects children who are legitimised by Commonwealth legislation (so as to achieve uniformity in law as between legitimate and illegitimate children);

4. Calls for such a referral have been made recently by the National Council for the Single Mother and her Child and by Mr Lionel Bowen, MP.

- (b) adoption;
- (c) maintenance (other than in divorce proceedings).⁵

18. Another alternative would be to hold a referendum for the amendment of the Constitution. This is possibly the solution least likely to succeed.

19. The Commonwealth and State governments announced on 25 March 1977 that a working committee would be set up to examine the division of family law between the Commonwealth and the States and the possible solutions to the problems which arise from this division, including the referral of State powers and the setting up of State family courts.

20. In our view it is highly desirable to achieve a unified family law and family jurisdiction in Australia. We consider that this unity could best be achieved by extending Commonwealth legislative powers either by a referral of powers or by Constitutional amendment. Pending any such action the Family Law Council and law reform agencies throughout Australia should examine ways of unifying and harmonising family law.

Matrimonial property

Present rules

21. Under Australian law, as in most common law countries, marriage does not affect the power of a husband or wife to acquire, own or dispose of property in his or her own name. The basic rule is one of 'separate property'. This was not always the case. In the last century the property of a married woman was vested in her husband and this could be overcome only by a form of property settlement under which she was a beneficiary entitled to an equitable interest. This position was overcome by the enactment of Married Womens Property Acts towards the end of the 19th century.

22. There are a number of special rules which affect the basic propositions just stated. If a husband acquires property and puts it in his wife's name he is presumed to have made a gift to her (the presumption of advancement). The same rule applies if he contributes, for example, to the mortgage repayments of a property in her name. In reverse, if a wife contributes to property in her husband's name no such presumption applies. Instead, she may acquire an interest in the property in accordance with her contribution. These two rules are of special importance when determining the ownership of the matrimonial home, usually the most substantial asset owned by a married couple. It is necessary to consider whose name it is in and who contributed to its purchase when any issue arises between the husband and wife as to the interests in the property.

23. In the State of Victoria a special rule applies to the ownership of the matrimonial home. No matter who paid for it or whose name it is in, there is a presumption, subject to certain exceptions, that the matrimonial home is jointly owned by the parties.⁶ The presumption can be rebutted if there is sufficient evidence of an intention on the part of one of the spouses that the home was not to be jointly owned or that there are special circumstances which make it unjust to presume joint ownership, and judicial decisions have interpreted fairly widely the circumstances in which the presumption does not apply.⁷

5. Australian Constitutional Convention 1976, official record of debates (27–29 October 1976), p. 111.

6. *Marriage Act* 1958, section 161.

7. *Moore v. Moore* (1965) VR 61; *Hogben v. Hogben* (1964) VR 468.

24. Where any question arises during marriage as to the respective rights of husband and wife in any property owned by them the basic rules of separate property and the special rules mentioned above apply. On dissolution of marriage, however, there has for some years been a broad discretionary power in the court to order transfers and settlement of property.⁸

25. Under the *Family Law Act* 1975, the Family Court has power on or after divorce to declare the interests of the parties in property; it also has power to alter interests in property and to order a transfer or settlement of property.⁹ These powers are in addition to the powers to order maintenance but questions of property and maintenance are often considered together. When dealing with an application for a property transfer or settlement the court must consider the financial and other contributions made by each party to the acquisition, conservation or improvement of the property including any contribution made in the capacity of homemaker or parent.¹⁰ The means and needs of each party are also relevant.

26. Property disputes between husband and wife and applications for a transfer or settlement of property such as the matrimonial home cannot generally be brought to the Family Court unless divorce proceedings have been commenced. The exception is that the Family Court has power to grant an injunction in relation to the property of a party to the marriage or relating to the use or occupancy of the matrimonial home.¹¹ This power has been held to be subject to certain limits; an injunction can be granted only in circumstances arising out of the marital relationship and cannot be used solely to preserve a prospective right to apply for a transfer or settlement of property.¹²

Criticisms of present law

27. Family property law has been criticised on the grounds that it does not operate fairly during marriage and on divorce. More recently, criticisms have been levelled at the absence of any power in the Family Court to deal with property prior to the institution of divorce proceedings.

Unfairness of the law

28. The present law has been attacked for some time because, it is said, the rules of separate property do not operate fairly in the case of a spouse who is, for one reason or another (e.g. care of children) unable to earn money and acquire property. In other words the rules, though equal in content, apply to an unequal situation and fail to take account of the realities of family life. If each spouse were equally able to earn money and acquire property the law would not be unfair, but the wife does not always have the same opportunity as her husband to acquire assets because of the need to care for the home and the children. It is said to be unfair that the ownership of property such as the matrimonial home should depend on financial contribution.

29. Husbands and wives are of course free to share their property through joint tenancies and tenancies in common. The increase in the numbers of married women in the workforce has led to a greater measure of financial independence for some. On divorce, the Court has power to order transfer or settlement of property. Nevertheless there are many who consider that the present law leaves the economically dependent

8. *Matrimonial Causes Act* 1959, section 86; see *Sanders v. Sanders* (1967) 116 CLR 366.

9. *Family Law Act* 1975, sections 78, 79.

10. Section 79 (4).

11. Section 114.

12. *McCarney v. McCarney*, Full Court, Family Court of Australia, 3 February 1977 (Appeal No. 153 of 1976); *Mazein v. Mazein* [1976] FLC 90-053.

spouse with no financial security other than that granted by the Court.¹³ The case for reform was summed up by the President of the Probate Divorce and Admiralty Division, Sir Jocelyn Simon, in 1965, when he said:

In the generality of marriages the wife bears and rears children and minds the home. She thereby frees her husband for his economic activities. Since it is her performance of her function which enables the husband to perform his, she is in justice entitled to share in its fruits.¹⁴

Reform proposals

30. A number of proposals have been made to change the basic rules of family property law during marriage and on divorce.

31. The report of the Commission of Inquiry into the Status of Women in Queensland adverted to the many submissions it had received concerning the rights of a wife to matrimonial property which it was felt raised the need for an overall approach to the problem.

The Commission received submissions that there ought to be automatic joint ownership of the matrimonial home and its contents, that there ought to be joint ownership of all property acquired during marriage, that the wife should own or at least have a half interest in savings from housekeeping, that the matrimonial home should be held as tenants in common rather than as joint tenants, that the wife ought to be entitled to a proportion of the husband's income, and that in addition there ought to be some way of protecting a wife where a husband brings his mistress into the jointly owned property. These are matters of considerable importance to the status of women. They deal with circumstances in which women are particularly vulnerable, and where children can suffer greatly. At present the law varies from circumstance to circumstance. The basic claim made is that women who have contributed to a marriage should enjoy the property that is acquired during the marriage.¹⁵

32. The Commission, although it felt that it was not in a position itself to make recommendations for changes in the law governing family property, did however express the view that 'whatever rights a wife has should be the same whether upon divorce or upon separation or death'. The Commission also saw a need for the law to be uniform across Australia:

Families have become much more mobile, and interstate transfers are not uncommon. It is desirable that women should not suffer a loss of status in this area because of the fact that they have to move from State to State.

The Commission therefore recommends that the Attorney-General of the State of Queensland raise with the Attorneys-General for the States and for the Commonwealth the question of uniform legislation throughout Australia concerning the ownership of all matrimonial property and of the financial obligations arising between husband and wife, with the view to recognising the contribution that a full-time mother makes to the acquisition of assets during a marriage.¹⁶

33. We understand that the Attorneys-General invited the Queensland Law Reform Commission to consider the question of matrimonial property. It is a matter which could also be considered by the Family Law Council. We set out below some aspects which we think should be taken into consideration in any review of matrimonial property law.

13. See e.g. Submission 273, Mrs Frances D'Souza.

14. Simon, *The Law Society Gazette* 62 (1965), p. 345.

15. *Report of the Commission of Inquiry into the Status of Women in Queensland* (1974), p. 16.

16. *ibid.*, p. 16.

Sharing the matrimonial home

34. The matrimonial home is the most substantial and often the only substantial asset of the parties. Seventy per cent of dwellings in Australia occupied by married people are owned by the occupant; 25 per cent are rented.¹⁷ Changes in the law affecting the ownership of the home would affect a great many people and might resolve many complaints regarding matrimonial property.

35. In 1973 the Law Commission made an important recommendation to change the English law relating to the matrimonial home:

We conclude that the present rules determining the interests of a husband and wife in the matrimonial home are in need of reform by the introduction of a principle of co-ownership under which, in the absence of agreement to the contrary, a matrimonial home would be shared equally between husband and wife.¹⁸

36. Such a principle would go a great deal further than the Victorian presumption referred to earlier, as it would operate in every case unless agreement were reached to the contrary. The case put forward in support of the recommendation was as follows:

It would reflect the realities of family life, in which husband and wife regard the home as 'theirs' without considering the legal title or the principles of trust law. It would apply during the subsistence of the marriage and would give security of ownership to the spouse who is now considered by the law as having no proprietary interest in the home. It would recognise that each spouse contributes to the marriage and to the family and that the joint efforts of both make possible the purchase and maintenance of the home. It would eliminate the uncertainties of litigation in which ownership rights are established by proof of financial contribution.¹⁹

37. We think that this proposal has a great deal to commend it and that it would overcome some of the unfairness of the present law without the need for a party to seek an order from the Court. It would give each spouse security of ownership during the marriage.

38. There would, however, be a number of problems involved in the implementation of such a proposal. First, it has not been determined whether the Federal power to legislate in respect of marriage would extend to legislation automatically altering the interests of husband and wife in a particular asset.²⁰ Secondly, any such rule would need to be elaborated having regard to the different property laws of each State and Territory. This would be a lengthy and complex exercise.

39. The advantages of this form of sharing have to be considered in the light of the Court's powers to alter interests in property on divorce. It is at the point of breakdown and divorce that questions of ownership of property assume greatest significance. It may be preferable to apply automatic rules for sharing property at this point, when the parties are separated, rather than during the currency of the marriage, in view of the complexity and possible constitutional problems involved.

Equalisation of assets

40. As mentioned earlier, the Court has a broad discretionary power to transfer or settle property when divorce proceedings have been commenced. In exercising this

17. Census 1971; Australian Bureau of Statistics supplied these figures for the nature of occupancy of now-married heads of occupied private dwellings.

18. Family law; first report on family property: a new approach, Law Com. 52, para. 61; see also Working paper no. 42, Family property law, 1971.

19. Law Com. 52, para. 25.

20. See e.g. Barwick CJ in the *Russell and Farrelly Cases*: 'A system of communal property might possibly be erected as a consequence of this act of marriage.'

power the Court takes into account the financial and other contributions made by either party to the acquisition, conservation or improvement of the property, including any contribution in the capacity of homemaker or parent.

41. Some countries, e.g. Germany, have a system providing for the equalisation of assets on the termination of marriage. These systems are sometimes called 'deferred community'. They sometimes replace older forms of community of property under which the property was divided at the end of marriage but was managed by the husband during marriage. Under the more modern equalisation systems the spouses manage their property independently during marriage. On divorce or death the value of the assets acquired by their efforts during the marriage is shared. One spouse pays the other half the difference between their net assets on divorce. Systems of this kind have been recently considered in England, Ontario and New Zealand.

42. The English Law Commission considered a system of equalisation, or deferred community, and concluded that:

... if the principle of co-ownership (of the matrimonial home) were introduced into the English law, much of what is now regarded as unsatisfactory or unfair would be eliminated and the marriage partnership would be recognised by family property law in this very important context. Having regard to our conclusions regarding co-ownership of the matrimonial home, to the broad interpretation by the court of its powers to order financial provision on divorce ... we do not consider that there is at present any need to introduce a system of deferred community.²¹

43. The Ontario Law Reform Commission Family Law Project recommended the adoption of an equalisation scheme which their report referred to as 'deferred community'.²² The great advantage perceived in deferred community was that it provided for separate ownership by the spouses of their respective property during the marriage (subject to necessary restraints on dealings with the matrimonial home and the making of excessive gifts) and guaranteed each spouse a fixed half interest in a specific pool of property on the termination of the marriage. Basically it was to be presumed that all the property a husband and wife held at the termination of the marriage was to be shared equally: property acquired by each spouse before the marriage, or as a result of a gift from a third person during the marriage, was to be excluded. The deferred community system gave both husband and wife an equal share in the family property without reference to contributions made by either of them. The system was not to be mandatory; couples would remain free to opt out.

44. In New Zealand a modified system of dividing the spouses' property known as 'comparable sharing' was proposed.²³ This system involved a distinction between matrimonial property and separate property. The former was defined to include the matrimonial home, family chattels (including a car or boat) and all other property acquired by the husband or wife after the marriage except that received as a result of inheritance or gift. Matrimonial property was further distinguished into two classes:

- (a) domestic assets—that is the home, family chattels and interest of up to \$10 000 in the rest of the matrimonial property or \$30 000 where no home was owned—which were to be equally divided between the spouses on the termination of their marriage; and

21. Law Com. 52, para. 59.

22. Report on family property law (Part IV of the report on family law).

23. Matrimonial Property Bill 1975; see also Matrimonial property, report of a special committee presented to the Minister of Justice, June 1972.

- (b) general assets—being the rest of the matrimonial property, i.e. assets obtained non-gratuitously since the marriage which were to be shared according to agreement between the spouses. In the absence of agreement they would be divided in proportion to the ‘contribution’ of each spouse.

Separate property, consisting in the main of assets acquired before the marriage or as a gift during the marriage, was not to be shared. During the marriage each spouse would remain free to deal with his or her own property though where a matrimonial home was concerned the non-owner spouse could protect his or her interest by registration.

45. The general result of this proposal would be that the husband and wife have an equal share in the matrimonial home, the family chattels and certain other assets and an interest in the rest of the matrimonial property in relation to their ‘contribution’ (a widely defined term) to that property. Further the court would have extensive powers to make appropriate orders including the power to secure matrimonial property for the benefit of any children of the marriage.

46. If couples wished to exclude themselves from this system of comparable sharing they would be free to do so. It was envisaged that parties to a de facto marriage of at least 2 years standing would also be able to participate at the court’s discretion.

47. This system of ‘comparable sharing’ was put before the NZ Parliament in October 1975 in the form of the 1975 Matrimonial Property Bill but its progress has been delayed. In the meantime it has been subject to much comment and some criticism.²⁴

Conclusion

48. A system of fixed rights operating on divorce has much to commend it, provided that the rules are simple and easily understood. It would provide security, or at least the prospect of security, for the spouse with few assets. It would provide greater certainty than at present where a party’s share in the family assets depends on the exercise of discretion. Fixed sharing rules, as in a system of equalisation of assets, would avoid the long drawn out and expensive litigation so often involved in applications for property settlements on divorce. It would be less complex than a system of automatic sharing of the home.

49. There are some problems to overcome, but these are not necessarily insuperable. Legislation in respect of equalisation of assets on termination of marriage may more readily be held to be within Federal legislative power in respect of marriage and/or matrimonial causes than legislation altering the spouses’ interest in the home.

50. It would be important to apply sharing rules to marriage ending in death as well as to those ending in divorce. This would require either Federal legislation or appropriate amendment of the State Testators Family Maintenance Acts.

51. A simple form of equalisation could be introduced in the form of a presumption, but it would be preferable to spell out in some detail the following matters:

- (a) the property to be shared (such as property acquired by the efforts of the spouses during marriage);

24. B. D. Inglis, ‘The Matrimonial Property Bill—comparable chaos’ [1976] NZLJ 321; R. L. Fisher, ‘The Matrimonial Property Bill—misguided chivalry’ [1976] NZLJ 253; W. R. Angelo & W. R. Atkin, ‘The Matrimonial Property Bill 1975—some further thoughts’ [1976] NZLJ 424; Margaret E. Nixon [1976] NZLJ 438.

- (b) the circumstances in which sharing or equalisation is to take place;
- (c) exceptions and exemptions from sharing;
- (d) the position of third parties.

52. We consider that the Family Law Council in conjunction with other law reform agencies should examine ways of introducing into Australian family law a system of equalisation of assets on the termination of marriage by divorce or death.

Powers over property on breakdown

53. Under the present law, when a marriage breaks down and parties separate they are unable to apply for an adjustment or settlement of their property interests until divorce proceedings have been commenced (at least 12 months after the date of separation). This is the effect of the High Court decision in the *Russell and Farrelly Cases*²⁵ and of amendments to the Family Law Act following that decision.

54. There are some who believe that, in certain circumstances, it may be desirable to have a settlement of property matters once the marriage has broken down without having to wait 12 months. In some cases parties may prefer declarations of interest to be dealt with by the Family Court rather than the State Supreme Court.

55. Some married couples, including Catholics, find the idea of divorce unacceptable but can contemplate an indefinite separation. On this basis they may desire that property disputes between them be resolved. In other cases one party may desire a final settlement of property matters, so that plans can be made to sell the home or to move; the children may need to go to new schools. In the absence of agreement, the settlement must wait until the parties have lived separately and apart for one year and an application can be made to the Court for dissolution and for a settlement or transfer of property. There are cases where neither spouse wishes to leave the home pending a final settlement. This in turn can create difficulties for a party who seeks to establish that the spouses have in fact separated.

56. Another problem arising from the *Russell and Farrelly Cases* is that the Family Court cannot make a declaration of the parties' interests in property except in conjunction with proceedings for dissolution. In some cases the parties may prefer that such a matter be dealt with by the Family Court rather than by the State Supreme Court. In our view it is a serious gap that the Family Court has no power to make a declaration or order a settlement until divorce proceedings have been commenced. The tendency may be more and more towards dealing with such matters as custody and maintenance before divorce. It seems anomalous that the Court has virtually unlimited powers in regard to maintenance, including the payment of a lump sum, and can order that one spouse be entitled to occupy the home, but cannot order a transfer of an interest in the home until a divorce application is filed.

57. It may be undesirable to deal with these matters when the parties propose to continue living together or to encourage repeated applications to the Court; the Act itself favours a final determination of property matters. But there are cases where it would be desirable to settle maintenance or property once it is clear that there is a separation without prospect of reconciliation and before divorce.

58. Analysis of the reasons given by the High Court in the *Russell and Farrelly Cases* suggests that where the property in question has been acquired by the spouses for the purpose of the marriage there may be some scope for a valid extension of the

25. *Russell v. Russell, Farrelly v. Farrelly* [1976] FLC 90-039.

Court's power to deal with declarations of interest in property and with applications for the transfer of settlement of property. In our view, the Court should have power to deal with declarations of interest at any time during or after marriage. The power to order transfers or settlements of property should be as broad as possible and should extend at least to cases where the spouses have separated and where the property in question was acquired for the benefit of the parties to the marriage or their children. The Family Law Council should, in our view, examine the most appropriate way of giving effect to these powers.

Succession

59. When a marriage ends in the death of one spouse the inheritance rights of the other spouse depend in the first instance on the terms of the will, if the deceased had made one.

60. If a spouse dies without a will (intestate) the rights of inheritance of the spouse and children of the family are determined by the rules of intestate succession; these vary from State to State. Where there are children they usually share the estate with the spouse but the details differ from State to State. Where there are no children the share of the surviving spouse is greatest but there is a disparity between Victoria and Tasmania, where the surviving spouse takes all, and New South Wales, where the survivor may have to share the estate with the relatives of the deceased (including uncles and aunts).

61. The Law Reform Commission of NSW reviewed the rights of the surviving spouse in the case of intestacy and commented that the present rules of distribution were seen by surviving spouses and by the Courts as operating unfairly.²⁶ The Commission thought there would be:

. . . strong preference for the surviving spouse to receive everything in a less than large estate and for the estate to be divided between the spouse and the children only where a large estate is involved.²⁷

The Commission favoured the adoption of a provision under which the surviving spouse would be entitled to take the matrimonial home in or towards satisfaction of an interest in the intestate estate. Views on these issues were called for.

62. Each State and Territory has legislation for providing for the surviving spouse and children to apply to the Court where a deceased spouse has failed to make adequate provision for their proper maintenance (e.g. Testator's Family Maintenance and Guardianship of Infants Act, 1916 in NSW). However, this legislation also varies from State to State and lacks uniformity. For example, in New South Wales a divorced spouse is not eligible to make application; the Law Reform Commission considered that a divorced spouse should be eligible in certain circumstances and invited comment.²⁸

63. The *Family Law Act* 1975 gives the Court, on or after divorce, power to order one spouse to make a transfer or settlement of property in favour of the other spouse or of the children.²⁹ In considering what order to make the Court takes into account the financial contribution by a spouse to the acquisition or improvement of the property, and other direct or indirect contributions including contributions made in the

26. Working paper on Testator's Family Maintenance and Guardianship of Infants Act, 1916 (1974), p. 165, para. 18.6.

27. *ibid.*, p. 166, para. 18.8.

28. *ibid.*, p. 45, paras 6.13–6.14.

29. Section 79.

capacity of homemaker or parent. This goes some way towards recognition that each spouse is entitled to share the family assets. In our view the surviving spouse should be in at least as good a position as a divorced spouse to claim a share of those assets.³⁰ The law of intestate succession and the law of testators family maintenance should recognise that the surviving spouse has an interest in the property acquired by the parties during the marriage for their common benefit.

64. The lack of uniformity between the States on intestate succession and testators family maintenance is, in our view, undesirable, particularly at a time when uniform family law jurisdiction is being administered by a national court. There should be uniform laws throughout Australia on these matters.

65. We consider that any review of matrimonial property laws should include inheritance and succession rights and should have as one of its aims the achievement of uniform legislation.

Probate and death duty

66. Some of our submissions proposed that there should be uniformity and simplification of the probate laws.³¹ In Part VI we recommend the abolition of Federal estate duty on property passing between spouses.

Family income and maintenance

67. In Part VI we refer to the plight of many married women who are without any independent income and who rely entirely on their husband for support and for money to buy any personal needs. We consider that maintenance ought, where possible, to include some personal spending money. It is, however, difficult to put this into express legal terms. It was proposed that during marriage a housewife should receive a fixed proportion of her husband's income and that this could be achieved by the husband's employer paying a fixed proportion of the husband's wages, each week, direct to his wife.³² Other proposals seek a legally defined proportion of the family income to be allocated to the wife or to the spouse who cares for the home and children. The difficulty about these proposals is that they are arbitrary and unenforceable. They may in fact lead to dissension rather than to harmony; the proportion fixed as a minimum may be regarded as a maximum.

68. Enforcement of the right to a fixed share would require an application to the Court. Since parties may apply for maintenance we see no particular advantage in the proposals. The increases in child endowment may bring some relief to mothers of young children.

69. Another proposal was that the wife should be entitled to a share of the savings from the housekeeping allowance.³³ This is the law in England and should be considered in a general review of matrimonial property law. A more general principle of sharing assets would make a special rule in this area unnecessary.

30. cf. *Report of Commission of Inquiry into the Status of Women in Queensland*.

31. Submissions 460, National Council of Women of NSW; 817, Mr Ian M. Johnstone; Evidence, pp. 2423-4, Dr Clair Isbister.

32. Evidence, pp. 2491-3, Ms Helen Coonan; Submissions 7, Mr Carlos Smitz; 845, Mr Wallace T. Shelley; 452, name withheld ('set wages for wives').

33. Submission 282, Mrs Dulcie Trudgeon.

Children

70. The position of children in family law is now dealt with by Federal or State law depending on the circumstances. Children born outside marriage (and not adopted or legitimated) come solely within State jurisdiction. Generally speaking, natural or adopted children of a marriage and legitimated children come under the Family Law Act and may be dealt with by the Family Court of Australia or by other courts exercising jurisdiction under that Act. The issues which we consider are jurisdiction, custody, and children born outside marriage.

Jurisdiction

71. The High Court decision upheld the jurisdiction conferred by the Family Law Act to deal with custody disputes independently of divorce or annulment proceedings, but limited the jurisdiction so conferred to proceedings between the husband and the wife in respect of their natural or adopted children.³⁴ This leaves an awkward gap in jurisdiction under the Act. Parties to a marriage who seek a divorce or who are in dispute over custody may have children in their family who are not the children of both of them. For example, if either party had a child from a previous marriage, or had a child born outside marriage, that child would be the child of only one party to the present marriage and would therefore be excluded from the jurisdiction of the Family Court to make custody and maintenance orders.

72. When granting a decree of divorce the Court has to be satisfied that proper arrangements have been made for the welfare of the children of the marriage. For this purpose children include both natural and adopted children and any other child of the husband or wife who was living in the household at the time of the separation.³⁵ There is, however, no power to make an order for custody or maintenance—only to withhold or to delay the decree absolute in cases where the Court is not satisfied. A welfare report can be obtained.

73. In custody or maintenance disputes, however, the Court has now no power to make orders in respect of this special category of children which includes the ex-nuptial children of one spouse and also children by a former marriage. These children may have been living with the family for some time and the other party to the marriage may have put himself in the position of a parent to the children, but the Family Court, exercising Federal jurisdiction, can make no custody or maintenance order in respect of those children in proceedings between the parties to the marriage. Some of our submissions raised this problem.³⁶

74. The power to deal with custody of and access to children who are not the natural or adopted children of both parties to the marriage remains with the various State jurisdictions and would have to be resolved according to the relevant State laws. This means that a mother may have to apply to two different courts for maintenance and custody if she has children born during the marriage and children born before the marriage who are not the children of the husband (except in Western Australia, the ACT and the NT). There are differences between these laws and the provisions of the Family Law Act, and the State courts do not (except in Western Australia) have the counselling facilities of the Family Court.

34. *Russell v. Russell, Farrelly v. Farrelly* [1976] FLC 90-039.

35. Sections 5 (2) and 63, *Family Law Act* 1975.

36. e.g. Submissions C221, confidential; 824, Mr Geoff Johnston; C1202, confidential; 1056, WA Dept for Community Welfare; Evidence, p. 2323, Mr Frank Bates; pp. 2469-74, Mr R. (name withheld); pp. 2155-62, John Foulsham; pp. 3058-9, William Crews.

75. It is obviously undesirable that the children of a family cannot all be dealt with together. Stepchildren are affected by the breakdown of the marriage and their interests should be looked after. The matter was not fully considered by the High Court and there is a possibility that the power (which was unchallenged under the 1959 Act) could be restored. A unified jurisdiction is essential in respect of all children of the marriage and we believe that the power of the Family Court to deal with these children should be restored. A further limitation imposed by the High Court precludes third parties from applying for custody and precludes parents from claiming custody against a grandparent or other relative. There is clearly a need to extend this power, or to provide for a unified jurisdiction, since cases do arise where one party to the marriage has died or disappeared and the other parent is in dispute about custody with a third party. It is important to ensure that the Family Court has jurisdiction to deal with these cases.³⁷

Custody and access

76. Several submissions commented on the way in which custody cases are dealt with by the Courts. Most of these submissions related to individual cases which we could not investigate; they also related for the most part to the period before the implementation of the Family Law Act and the establishment of the Family Court with a permanent Court counselling service to assist in custody and access cases and to provide reports for the Court. Other innovations introduced by the Act are the provisions for separate representation of children and the weight which is to be attached to the wishes of children aged 14 and over.

77. The points raised in submissions concerned the need for counselling in custody disputes³⁸; the long-term effects on children where the custodial parent becomes unfit³⁹; the need for separate representation⁴⁰; the attitude of Courts to the father as a custodial parent⁴¹; the weight attached to biological as against psychological ties⁴²; the attitude of Courts to homosexual parents.⁴³ Some of the matters raised suggest a need for research into the effects on children of marital breakdown and of custody and access orders. The Institute of Family Studies could investigate these matters further.

78. Cases were cited to us where parents were said to have deliberately removed their children from the family home against the wishes of the other parent and moved interstate to prevent the other parent having access to the child.⁴⁴ The other side of this situation can arise when the custodial parent complains that his or her movements are unnecessarily restricted by a Court order to ensure access by the other spouse. These situations have to be resolved by the Courts having regard to the circumstances of each case, with the welfare of the child as the paramount consideration.⁴⁵ They do not call for special legislation, except possibly in relation to enforcement.

37. Submissions C1236, confidential, death of custodial parent; 830, Mrs Dorothy Crooks raised the question of grandparents' rights to claim custody.

38. Submission 997, Dr Neville Yeomans; Evidence, p. 2474, Mr R. (name withheld).

39. Submissions 212, A. Trianni; C259, confidential.

40. Evidence, pp. 2318-24, Mr Frank Bates; p. 2923, Mrs E. Graham-Higgs; Submissions 746, Mrs E. Graham-Higgs; C1236, confidential; C773, confidential.

41. Submissions 1177, name withheld; 463, Council of Social Service of WA; C751, confidential; C536, confidential; Evidence, pp. 2808-19, Mr Joseph O'Rani.

42. Submission C1236, confidential; Evidence, p. 2325, Mr F. Bates.

43. Evidence, p. 2322, Mr Frank Bates.

44. Submission 1056, Dept for Community Welfare, WA; Evidence, pp. 2155-62, Mr John Foulsham.

45. See e.g. *Craven v. Craven* [1976] FLC 90-049; *Ryan v. Ryan* [1977] FLC 90-144; English case cited in *Craven*.

Enforcement of custody orders

79. If a child is removed from the custodial parent, the Court may issue a warrant for the recovery and return of the child as part of its power to enforce a custody order. There are, however, a number of cases where the parent entitled to custody under the Court's order cannot afford to incur the legal costs and travelling expenses involved in recovering the child. We consider that, in appropriate cases, legal aid funds should be available to assist the parent to secure enforcement of the order.

80. More difficult problems arise where one parent disappears with the children. Even if the other party has a Court order, enforcement is sometimes difficult. The parent with the order has to trace the child, which can involve delay and expense in instructing solicitors and returning to the Court for contempt proceedings.⁴⁶ Police will not normally assist actively in tracing the child even where there is a Court order. It seems to us that, where a Court has determined that the welfare of the child requires it to be with a particular parent, the government should make some effort to put the order into effect. There are two possible courses of action which could be taken.

81. In some cases the whereabouts of the child is known to the Department of Social Security. Under the Social Security Act this information cannot be revealed to a party or to the Court. It may be desirable for the Act to be amended to allow an application to be made to the Court for an order recommending disclosure of the whereabouts of a child, where the Court has already made a custody order in respect of that child and considers that the welfare of the child requires the disclosure. Disclosure could be restricted to the persons responsible for enforcement.

82. Another possible course of action would be for the Attorney-General's Department to appoint a special child search officer or custody enforcement officer, attached to the Family Court, with the specific function of directing and co-ordinating inquiries about missing children in respect of whom the Court has made custody orders. We consider that these matters should be further investigated by the Family Law Council.

83. Particular problems may arise where one party is a migrant or where the law of more than one country is involved.⁴⁷ Special assistance may be needed, especially where the child has been taken out of the country and cannot be easily traced, or where another country does not recognise a custody order made by an Australian Court. This problem should be recognised and financial and legal assistance provided to a parent whose custody has been recognised in Australian law.

84. We consider that action should be taken in all the matters mentioned and that the Family Law Council should give special consideration to the enforcement of custody and access orders.

Children born outside marriage

85. We received many submissions dealing with the status of children born outside marriage.⁴⁸ We consider here some of the legal issues. Other social issues relating to children born outside marriage are considered in the chapters on adoption and lone parent families.

46. Submissions 420, name withheld; C536, confidential; 1056, Dept for Community Welfare, WA; Evidence, pp. 2155-62, Mr John Foulsham.

47. Evidence, p. 2841, D. Cox, member of Migrant Issues Committee, ACOSS.

48. e.g. Evidence, p. 1005, Ms Rena Scott McLean; Submissions 5, Alex and Connie Rehardt; 40, V. Vempo; 1027, Mr Len Muller; Exhibit 233.

86. Births outside marriage account for between 9 and 10 per cent of live births in Australia. The percentage has been declining slightly. In 1974 there were 23 000 ex-nuptial births. Some of these children are born within stable relationships and others (about 5000 per annum) are adopted.

87. Evidence suggests that increasing numbers of unmarried mothers are keeping their children rather than surrendering them for adoption.⁴⁹ This has been interpreted by some as indicating a dramatic change in community attitudes.

88. The legitimization of children is dealt with by Federal law. The status of children born outside marriage who are not legitimated and adoption are determined by the laws of the States and Territories.

Legitimacy and legitimation

89. In Australia at present a child born or conceived in lawful wedlock is legitimate; a child born out of wedlock is, at least from the outset, illegitimate. A child born or conceived during a marriage is legally presumed to be the legitimate child of the mother's husband at the time.

90. A child who is born illegitimate may be legitimated if his parents subsequently marry so long as the requirements of the Marriage Act are fulfilled.⁵⁰ An adoption order makes a child the legitimate child of his adoptive parents.

Status and disabilities

91. Children born outside marriage have, in the past, been subject to both social and legal discrimination. This discrimination has been mitigated to a great extent by legislation.

92. In England, and subsequently in most Australian States, 'illegitimate' children were given rights of intestate succession against their mothers' estates and rights to apply for testators family maintenance. Mothers of children born outside the marriage had reciprocal rights on their child's intestacy and were generally regarded as having the right to custody and guardianship of their child⁵¹, as well as the right to determine its domicile.⁵² In essence the legislature recognised the mother-child relationship exclusively although duties of support were imposed equally on both parents.⁵³

93. In recent years further steps have been taken to improve the status of these children. New Zealand legislation has abolished altogether the concept of illegitimacy.⁵⁴ Victoria, South Australia, Tasmania and New South Wales have followed New Zealand.⁵⁵ A Status of Children Bill has been introduced in Queensland. The Commonwealth government has indicated its intention to introduce legislation to abolish the status of illegitimacy under Federal law.⁵⁶

49. Submission 1073, National Right to Life Association.

50. Sections 89, 90 and 91.

51. In equity the mother's right to custody was regarded as superior to that of the father: *Barnado v. McHugh* (1891) AC 388, 398-9.

52. *R. v. Ash* (1883) 10 QBD 454.

53. 18 Elizabeth I, c.3.

54. New Zealand Status of Children Act 1969.

55. Victoria—*Status of Children Act* 1974; Tasmania—*Status of Children Act* 1974; South Australia—*Family Relationships Act*, 1975; and see also 18th report of the Law Reform Committee of South Australia relating to illegitimate children, 1972; New South Wales—*Children (Equality of Status) Act*, 1976.

56. Press statement, Attorney-General's Department, 15 October 1976.

94. Notwithstanding the legislative amelioration of their position, children born outside marriage are still not on an equal footing with those born within marriage. We received submissions claiming that the former were penalised for circumstances beyond their control and that their legal and social disabilities continue to exist.⁵⁷ Legislative reform does not necessarily resolve underlying social problems, particularly those which disadvantage children of lone parent families. These matters are considered further in chapter 6.

95. Even in those States where legal reforms have been introduced these are not uniform; further measures have been called for. The main issues raised in our submissions relate to proof of paternity and the rights of the father.

Establishing paternity

96. The new procedures for the establishment of paternity which have been introduced in the new legislation in Victoria, Tasmania, South Australia and NSW provide for registration of paternity (the placing of the father's name on the child's birth certificate), voluntary acknowledgment (in writing) by the father of paternity and a declaration of paternity by the Court.⁵⁸ Paternity is also presumed in circumstances where the child is born during the marriage or within 10 months of its termination by death or dissolution.⁵⁹ In Tasmania and South Australia paternity is presumed where a child is born during the period of cohabitation of a man and a woman or within 10 months of its cessation if the mother has not married before the birth of the child.⁶⁰

97. A Court hearing proceedings for a declaration of paternity can, in Tasmania and South Australia, order the child and any alleged parent to submit to a blood test, the result of which is admissible in evidence.⁶¹ In NSW the Court may order a blood test in any civil proceedings in which paternity or maternity fails to be determined.⁶² In Victoria however there is no statutory provision for blood test evidence and the extent of the Court's power to order such a test is unclear because of the legal implications of assault.⁶³

98. Without provision for blood tests, children born outside marriage may be denied an effective and more accurate procedure than exists at present at common law. We consider that in the interests of both parent and child the best possible evidence should be available to establish paternity or maternity. It is usually more important to establish the truth about the relationship in question than to protect either parent or maintain a presumption of legitimacy. The best available evidence will often require blood tests. Other studies of procedures designed to prove paternity have urged the adoption of blood and other genetic and anthropological tests to assist and protect a

57. Evidence, p. 3076, Patricia X (name withheld); pp. 1005-6, Ms Rena Scott McLean; Submissions 40, V. Vempo; 1027, Mr Len Muller.

58. *Status of Children Act* 1974 (Victoria), section 8; *Status of Children Act* 1974 (Tas.) section 8; Family Relationships Act, 1975 (SA), section 7; Children (Equality of Status) Act, 1976 (NSW) sections 11, 13.

59. *ibid.*, section 5, Vic., section 5, Tas., section 8, SA, section 10, NSW.

60. *ibid.*, section 8, Tas., section 11, SA; see also section 10 (3), NSW.

61. *ibid.*, section 10, Tas.; section 112, Community Welfare Act, 1972-1975, SA.

62. Children (Equality of Status) Act, 1976, section 19; the WA Law Reform Committee report of Affiliation proceedings, 1970, recommended that the Court be empowered to order blood tests.

63. See *R. v. Jenkins: ex parte Morrison* (1949) VLR 277 where the Victorian Supreme Court asserted such a power; also *Re L* (1968) p. 119, *S. v. McC.* (1970) 3 WLR 366, *T v. T* (1971) 3 All ER 580.

child born outside marriage.⁶⁴ We consider that blood tests should be available in all cases where it is in the interests of the child to determine paternity. It should be possible to draw inferences from the failure of a person to comply with an order for a blood test.⁶⁵

99. At present a woman may be required to apply for a maintenance order or declare that she doesn't know who the father is to qualify for State or Federal support. If the best interests of the child are to be the prime consideration, it should be recognised that paternity actions often put both the mother and child through unnecessary mental and emotional strain in trying to force an unwilling father to recognise paternity. In our view, a mother should not be required to commence proceedings to establish paternity or to claim maintenance on behalf of the child as a condition of receiving assistance. The great majority (over 80 per cent) of supporting mothers receive maximum benefits.⁶⁶

Fathers and their rights

100. In the case of children born outside marriage, the father-child relationship has been virtually unrecognised until recently. New legislation equalising the status of all children and providing improved procedures for proving paternity raises questions concerning the rights and responsibilities of fathers of children born outside marriage.

101. The mother of a child born outside marriage has sole custody. Her consent alone is sufficient in adoption. The consent of the father may be required to the marriage of a minor in certain circumstances, e.g. where the parents are apart and the child lives permanently with the father.⁶⁷

102. We heard evidence about natural fathers who undertake the care of children born outside marriage.⁶⁸ A great deal of evidence has been put concerning the rights of natural fathers to be recognised as such and to have equal rights with natural mothers to the custody of and access to their children.⁶⁹ It was submitted that the natural father has, at present, no rights in regard to the future of his child although he can be made financially responsible for its upkeep:

. . . fathers would feel more responsibility towards the child if they were accepted in the eyes of the law as being parents . . . I was the father of the child for 7 years but in the eyes of the law I was not.⁷⁰

Another father asserted that:

. . . where a father has contributed to the upkeep of the child or where he had been living with the mother, and in fact had assumed the role of parent to the child, he should have the right to apply for guardianship.⁷¹

64. The Law Commission, 'Blood tests and the proof of paternity in civil proceedings' (Law Com. no. 16) 1968; Eighteenth report of the Law Reform Committee of South Australia to the Attorney-General relating to illegitimate children, 1972, pp. 8 ff; *The status of children born to unmarried parents*, 5th report of the Royal Commission on Family and Childrens Law (Vancouver, British Columbia, 1975), pp. 37 ff.

65. cf. NSW Act, section 21.

66. See *Law and poverty in Australia*, p. 187 (1974 figures).

67. *Marriage Act* 1961, section 14 and schedule.

68. Evidence, p. 3058, Mr William Crews.

69. Submissions C221, confidential; 993, St Vincent de Paul Society; C1202, confidential; C1225, confidential; 824 (addition), Mr Geoff Johnston; Evidence, pp. 2469-74, Mr R (name withheld); pp. 1005-6, Ms Rena Scott McLean; p. 3058, Mr W. Crews.

70. Evidence, pp. 2471-3, Mr R (name withheld).

71. Submission 993, St Vincent de Paul Society, Adoption and Foster Homes Committee.

103. Looking first at custody, the *Family Law Act* 1975, section 61, provides that the parties to the marriage are guardians and have joint custody of children of the marriage. To apply such a provision to children born outside marriage it would be necessary to define those fathers who should be regarded as joint custodians. It would not be in the interests of the child to impose or to confer custody rights on a father who had only a casual relationship with the mother and who has taken no interest in the child. In South Australia joint custody and guardianship is accorded to acknowledged and declared fathers. Where parents are living together at the time of the birth of the child we consider it appropriate to regard them as joint guardians and custodians.⁷²

104. In other cases the father should be entitled to apply to the Court in respect of custody or access and, if necessary, to determine paternity. Every father whose paternity is acknowledged or declared should be entitled to apply for custody or access. The success or otherwise of the application must, however, depend on the interests of the child, whose welfare must remain the paramount consideration. The Court would take into account the nature of the relationship between the father, the mother and child, and the extent to which the father had shown interest in the child. The father's claim should depend on these factors and on the welfare of the child rather than on the fact of parenthood.⁷³

105. The question of access should be determined in accordance with the welfare of the child. The nature of the relationship would be important, and the question whether any bond of affection had developed between father and child.⁷⁴

106. Where paternity has been acknowledged or recognised, the father should be entitled to be consulted on such matters as adoption and change of name.⁷⁵ It does not necessarily follow that his consent would be an essential requirement. The child should have the same rights of inheritance from the father as a legitimate child, as well as being entitled to claim maintenance.

107. The principles we have outlined apply in some States and Territories, but not in others. The pattern is not uniform either as regards the father's position or as regards the child's position. We consider that uniformity is desirable in regard to the status and rights of all Australian children.

Constitutional power and jurisdiction

108. As mentioned, legislative powers in respect of children born outside marriage reside with the States and Territories and are dealt with in State courts.

109. Besides the differences between the State and Territory laws regarding children born outside marriage, there are also some provisions of the Family Law Act which do not apply in the State laws, e.g. the provision for separate representation, the weight attached to the wishes of a child aged 14 and the abolition of imprisonment for maintenance defaulters. With the exception of Western Australia, the State courts which deal with the custody and maintenance of children born outside marriage do not have the resources or the Court counselling services available to the Family Court of Australia.

72. Section 4 of the Guardianship of Infants Act Amendment Act, 1975 (SA) grants these rights to fathers recognised under the Family Relationships Act, 1975.

73. cf. *Barnado v. McHugh* (1891) AC 388.

74. ACT Law Reform Commission, *Report on the guardianship and custody of infants* (AGPS, Canberra, 1974).

75. See Eighteenth report of the Law Reform Committee of South Australia to the Attorney-General relating to illegitimate children, p. 10.

110. In our view it is unfortunate that, at a time when many of the legal differences in the rights and status of legitimate and other children are being removed, these distinctions should remain as a result of the constitutional division of powers. We believe that a uniform jurisdiction should be established to deal with all children whether born within or outside marriage. This could be achieved in several ways:

- (a) The States could refer legislative powers to the Commonwealth (this was recommended by the Constitutional Convention at Hobart in 1976).
- (b) The Constitution could be amended by referendum.
- (c) State Family Courts could be established exercising jurisdiction under uniform State laws.

111. We consider that either of the first two alternatives is more likely to ensure uniformity and the removal of all remaining distinctions affecting children born outside marriage.

Marriage

112. Capacity to marry and the solemnisation of marriage are governed by the *Marriage Act* 1961–1976. Males of 18 and females of 16 are of marriageable age⁷⁶, but a minor may not marry without the written consent of the parents or other persons according to the circumstances⁷⁷; consent may be dispensed with or may be given by a magistrate.⁷⁸ Since 1 July 1973 there are in fact no male minors of marriageable age; the minimum age at which a person could marry without parental consent was lowered from 21 to 18 on that date. Persons not of marriageable age apply to the Court for authorisation to marry in certain circumstances. A male aged 16–18 and a female aged 14–16 can apply to a judge or magistrate for an order authorising marriage, in exceptional circumstances, to a particular person who is already of marriageable age.⁷⁹

113. These unusual provisions regarding the age of marriage have been criticised for applying a different rule to males and females. Males between 16 and 18 require judicial approval for their marriage; females of that age do not. Females aged 14 can marry (with judicial approval); males of that age cannot marry at all. Statistics show that, in Australia, marriages between very young people, especially where they result from the pregnancy of the girl, have a high failure rate. Pregnancy has been held not to be an exceptional circumstance; nevertheless magistrates tend to ignore such decisions and to grant permission in cases of pregnancy.

114. Figures supplied to us by the Attorney-General's Department show that from 1970 to 1974 relatively few females married under the age of 16 and few males married under the age of 18 (see table V.6).

115. The Attorney-General's Department in 1974 asked the views of persons and bodies with particular experience or interest in marriage and marriage counselling. A great majority favoured a uniform minimum marriageable age for both males and females. Of that majority, most expressed a preference for an absolute minimum age of 16 years, but with conditions, such as parental consent or the approval of a judge or magistrate, for marriages below 18 years.

76. *Marriage Act* 1961, as amended, section 11.

77. *ibid.*, sections 13, 14 and schedule.

78. *ibid.*, sections 15 and 16.

79. *ibid.*, section 12; see also Family Law Act, section 32.

Table V.6 Number of marriages in Australia of females aged 14-15 and males aged 16-18, 1970-74

| | 1970 | 1971 | 1972 | 1973 | 1974 |
|----------------------------------|---------|---------|---------|---------|---------|
| Females aged 14 ^(a) | 6 | 9 | 10 | 8 | 20 |
| 15 ^(a) | 110 | 118 | 116 | 112 | 102 |
| Males aged 16 ^(a) | 11 | 20 | 19 | 14 | 20 |
| 17 ^(a) | 239 | 241 | 244 | 207 | 277 |
| 18 ^(b) | 2 703 | 2 945 | 2 782 | 2 691 | 2 700 |
| Total all marriages in Australia | 116 066 | 177 637 | 114 029 | 112 700 | 110 673 |

(a) Persons concerned would have had to obtain the approval of a judge or magistrate under section 12 of the Marriage Act to enter into the marriage.

(b) After 1 July 1973 the minimum age at which a person could marry without parental consent was lowered from 21 years to 18 years.

116. The change most favoured by the survey would take away the limited existing right of girls aged 14 to 16 years to marry with judicial approval. On the other hand, boys aged 16 to 18 years who had obtained parental consent would be able to marry without having to apply for judicial approval, as they do now. Table V.6 shows that relatively few young people would be affected by such a change.

117. While there is merit in applying a uniform age of marriage to males and females, in our view it is equally important to ensure that the age fixed is one at which the young person can be considered old enough to assume the responsibilities of marriage and possibly of parenthood. We think 14 is too young for this purpose. Girls who marry at such an age may suffer many disadvantages particularly if they drop out of the education system; where marriage is precipitated by pregnancy there are obvious risks involved. There is much to be said for fixing the age of 18 as the uniform minimum age for marriage for both males and females, with no exceptions. This is the age of majority for most young people. It would ensure a more mature approach to the responsibilities to be undertaken by both parties.⁸⁰

118. There are, however, some other factors to take into account. Important new changes have been introduced by the *Marriage Amendment Act 1976*, which are relevant to marriages between young people; these have not yet been proclaimed. Where a minor applies to the Court for consent to marry, the judge or magistrate may not proceed with the matter unless a marriage counsellor certifies that the applicant has received marriage counselling, or the judge or magistrate is satisfied that counselling is not available.⁸¹ A marriage counsellor in this context includes a Family Court counsellor or a counsellor authorised by an approved marriage counselling agency.

119. The 1976 Act extends the minimum period for giving notice of intended marriage from 7 days to one month.⁸² The maximum period of notice is 3 months. The new amendments also require the celebrant to give the parties a document, in prescribed form, outlining the obligations and consequences of marriage and indicating the availability of pre-marital education and counselling.⁸³

80. cf. *Report of the Royal Commission on the Status of Women in Canada* (1970), recommendation no. 102, para. 39.

81. Marriage Act, section 42.

82. *ibid.*, section 42.

83. *ibid.*, section 42 (5A).

120. All the above provisions have the aim of strengthening marriage by making it more difficult for ill-considered marriages to occur. Another important innovation is the enactment of special provisions authorising the Attorney-General to grant financial assistance to approved voluntary organisations for the conduct of programs of pre-marital education.⁸⁴

121. Taking into account the views referred to above and the recent changes in the Marriage Act to assist young people contemplating marriage and to strengthen marriage, we consider that it would be appropriate to fix 16 as the uniform marriageable age for males and females. Parental consent should be required for both males and females under the age of 18 with provisions for dispensing with consent, similar to those which now apply to females between 16 and 18. There should no longer be judicial power to authorise marriages of persons below the age of 16.

Relationships other than marriage

122. It is thought by some that there is an increasing tendency for men and women to live together without becoming legally married. We could find no statistics to show conclusively whether this is so. There has been an increase in the number of ex-nuptial births and in the proportion of ex-nuptial to nuptial births up to 1972–73. In both cases the most recent figures show a slight reduction; in any event we could not link these births to the cohabitation of the parents. The survey carried out by Simon Hasleton showed that 72 per cent of respondents agreed with the proposition ‘that the community should not frown on unmarried couples living together’.⁸⁵

123. Some people do not marry because one or other is already married and has not yet obtained a divorce. The present grounds for divorce may reduce the number of people who are unable to obtain a divorce, though it is necessary for the separation to have lasted 1 year before an application can be filed.

124. Some submissions suggested reasons why people may prefer to live together without being married. One view was that a de facto relationship provides emotional support without economic commitment⁸⁶; another view was that people do not think marriage worthwhile as there are so few rewards.⁸⁷ Others suggested that different forms of marriage should be available; that marriage should be removed from the church so that only those desiring Christian marriage would marry in church⁸⁸, or that marriage licences should be for a fixed period of 1 year, or, if children were wanted, 5 years.⁸⁹

125. A lawyer in Darwin suggested the creating of a ‘cohabitation contract’ as an alternative to marriage. It was thought that, whereas marriage may undermine a relationship, a contract would remove uncertainty. Under the contract envisaged the couple would agree to own all property equally and to pool all their resources. The contract could be terminated by 3 months notice or by 3 months non-cohabitation, the property being divided equally between the parties and joint custody of any children of the union being agreed to.⁹⁰ It is by no means certain that such a contract would have any legal effect or be enforceable in any way.⁹¹ Nor is it necessarily desir-

84. *ibid.*, sections 9B–9E.

85. Simon Hasleton, *Attitudes to sexual issues*, Commission research report, no. 6, 1976.

86. Submission 1142, name withheld.

87. Submission 791, M. Grounds, FRACGP.

88. Submission 995, Congregational Union of Australia.

89. Submission C1107, confidential.

90. Interview report, NT, 9; New Law Journal precedent no. 192, ‘Matrimonial law—cohabitation contract’ (1973) NLJ pp. cxc and 596.

91. Sebastian Poulter, ‘Cohabitation contracts and public policy’ (1974) NLJ 999 and 1034.

able that any such contract should be enforceable. If an agreement is made between husband and wife about property, maintenance or custody, the Court may have regard to its terms but would not enforce the agreement as such. It may not be just and equitable in the circumstances or it may not be consistent with the welfare of the child. We do not consider that an agreement between persons who are not married should have any greater effect. It is a relevant factor evidencing an intention of the parties concerning the nature of their relationship.

126. The more important questions in our view are the extent to which a de facto relationship is recognised by the law, and the rights and obligations of the parties and the rights and status of any children.

127. De facto relationships are already recognised for certain purposes of social security, e.g. widows pension, deserted wives pension. The cohabitation rule implies that, in certain relationships, one party in fact assumes the obligation to support the other, even though this obligation is not enforceable.

128. Recent English decisions suggest a trend towards recognising de facto family relationships in determining ownership of family assets, occupation rights and tenancy interests.⁹² The New Zealand Matrimonial Property Bill 1975 provided for the application of its principles of sharing to de facto marriages, provided that the parties have lived together as husband and wife for a period of not less than 2 years.

129. In our view the recognition of de facto relationships as conferring interests in property should be approached with caution. If parties refrain from marrying because they do not want to incur the legal and financial obligations of marriage then the law should be slow to impose those obligations on them. On the other hand, where parties have lived together ostensibly as man and wife for some time injustice could be caused if the dependent party were unable to claim any interest or right of occupation in the home. The difficulty is to identify the kind of relationship which should give rise to rights and obligations, and to define those rights and obligations without acting as a disincentive or undermining the purposes of marriage. We consider that there is scope for some limited recognition of the mutual obligations assumed by parties to a stable relationship. We note in this regard that Federal legislative power extends to marriage, but have not considered whether this would include such a concept as the Scottish marriage by repute, under which, in certain circumstances, a man and woman who have lived together openly as man and wife are considered as married.⁹³

130. In regard to the children of de facto relationships, we are clearly of the view that their rights and status should be the same as those of children of a marriage and that questions of custody, access and maintenance should be determined in the same way as in the case of children of a marriage. The question of adoption by parties involved in a stable de facto relationship is considered in the chapter on adoption.

Migrants and family law

131. The Migrant Issues Committee of ACOSS raised some issues with respect of family law which are relevant to all dealings of migrants with the law and social service agencies. The emphasis of the Family Law Act on counselling can only be fully implemented when there are the facilities for non-English-language counselling. At present the service is still limited by a lack of staff and facilities which will take some time and money to redress.

92. e.g. *Eves v. Eves* [1975] 3 All ER 768 (CA); *Dyson Holdings v. Fox* [1975] 3 WLR 744 (CA); see Margaret Richards, 'The mistress and the family home', *The Conveyancer* 40 (1976), p. 351.

93. D. M. Walker, *Principles of Scottish Private Law* (Clarendon Press, Oxford, 1975).

. . . the counsellor needs to be conscious of the cultural values and the persons involved and the family systems and therefore there is a special role for social workers familiar with the cultural background of the migrant family.⁹⁴

132. It also exposes the need to have interpreters available to the Courts who can adjust the migrant to the unfamiliar and sometimes frightening atmosphere of the Court as well as assist him/her in communication. The report of the Poverty Commission made some specific recommendations concerning migrants and the legal system which are relevant to the administration of family law.⁹⁵

133. The Family Law Council should consider the extent to which migrants encounter any special difficulties in the administration of family law and should make specific recommendations to overcome these difficulties.

94. Evidence, p. 2840, W. Lippman & D. Cox.

95. *Law and poverty in Australia*, p. 243.

6. Lone parent families

Introduction

1. The term 'lone parent family' refers to any family composed of one parent together with any number of dependent children. The parent without a partner may be separated, widowed or divorced, or may be a parent who has never married and who is living without a partner.

2. In recent years lone parents have become the objects of concern to social workers and academics in the social welfare field. The Australian Council of Social Service has published three reports which deal largely with the question.¹ The Commission of Inquiry into Poverty has identified the widespread existence of poverty amongst these families.² The Social Welfare Commission has drawn attention to many of the disadvantages suffered by lone parents, and has questioned the adequacy of existing social policies in this area.³ In the United Kingdom, the Committee on One Parent Families, chaired by Sir Morris Finer, after a 4-year research effort produced an exhaustive report on the social, economic and legal position of lone parents.⁴

3. Much more information on lone parent families in Australia will soon be available from the family survey commissioned by the Commonwealth government and undertaken by the University of New South Wales Family Research Unit. A national sample included 2000 lone parent and 2000 two-parent families.

4. Our own concern with lone parent families arose directly out of our terms of reference which required us to examine the social, economic, psychological and medical pressures on women in determining whether to proceed with unplanned or unwanted pregnancies, having regard to, inter alia, assistance to single parent families.

5. Some of our submissions took up the issue of the position of lone parents in Australian society. We heard from lone mothers and fathers, from organisations formed to assist lone parents and to promote their interests, and from other organisations and individuals interested in the subject.

6. Australian patterns of marriage have made for a division of social functions between men and women so that, normally, while children are young, their father goes out to work while their mother stays at home. This has meant that, until recently, there has been little effective demand for child care resulting in a short supply made more acute by the number of married women entering the workforce. This particularly affects the lone parent.

7. Girls are brought up in this society to be wives and mothers rather than breadwinners. Boys are taught to become breadwinners not housekeepers. Consequently those who find that they are required to perform the roles of both sexes encounter difficulties.

1. Benjamin Schlesinger, *The single parent family in Australia, some facts and figures* (ACOSS, Sydney); Ronald Sackville, *Social welfare for fatherless families in Australia* (ACOSS, Sydney, 1972); ACOSS, *Are we second class citizens?* (ACOSS, Sydney, 1974).

2. Commission of Inquiry into Poverty, first main report, *Poverty in Australia* (AGPS, Canberra, 1975); Commission of Inquiry into Poverty, second main report, *Law and poverty in Australia* (AGPS, Canberra, 1976).

3. Social Welfare Commission, *Needs of lone parent families in Australia* (AGPS, Canberra, 1976).

4. Dept of Health and Social Security, *Report of the Committee on One Parent Families*, vols 1 & 2 (HMSO, London, 1974), hereinafter referred to as the Finer report.

Isolation

8. Lone parenthood is not new, but previous societies offered lone parents a greater degree of family and community assistance. Nowadays families are often separated from relatives and close friends by frequent moving and by the growth of cities. The nuclear family has been left, in Margaret Mead's words, 'desperately autonomous'.⁵ Modern society has destroyed many of the kinship supports of the past, and although, to replace these, the state offers cash benefits, public housing and child care, these services are often below the level of need.⁶

9. Lack of community facilities and the isolation of the lone parent in this society produces a number of personal difficulties. Providing for the physical, emotional and social needs of children is commonly a task for two adults. If one member of the partnership is absent or incapacitated the other is there. The lone parent family lacks such flexibility. The possibilities for reducing the number of tasks needed for the family to survive are very limited.

10. Social barriers are erected by the rest of society. Lone parents are often excluded from social occasions because these are planned for couples. A number of submissions and evidence to us emphasised this point.

They are isolated to a degree from their peer group, the reason for this being the married friends they have acquired over the years feel that the widow represents a very distinct challenge to all her married lady friends and she finds herself socially isolated. There is a withdrawal by that person and a need for her to re-establish new adult relationships

said a representative of the Parents Without Partners organisation in Melbourne.⁷ One deserted wife wrote from South Australia:

I find Mt Gambier a very lonely place and almost impossible to get into groups because I don't have social status or money and have little time to give.⁸

Because lone parenthood very often means a sharp drop in income and a change of location to find cheaper housing, the lone parent often finds the need to establish a new set of friends altogether.⁹

11. As the Finer report has noted:

The divorced or deserted wife may feel an outsider in the circle of married couples among whom she and her husband moved when they lived together. If, on the other hand, she moves to a new district, more likely than not to poor accommodation to which she may hesitate to invite new acquaintances, she loses contact with supportive friends. All these factors add up to a social isolation which emerges as one of the main personal problems of lone parent families.¹⁰

12. Many lone parents, however, do not see lone parenthood as an affliction and would not change their way of life.¹¹

5. See Salvador Minuchin, *Families and family therapy* (Cambridge, Mass., 1973); Ross Speck and Carolyn Attneave, *Family networks* (Pantheon, New York, 1973).

6. See Winton Higgins, 'A working paper on the welfare state', *Arena* 40 (Melbourne, 1975); F. F. Piven and R. A. Cloward, *Regulating the poor: the functions of public welfare* (Tavistock, London, 1972); Elizabeth Wilson, *Women and the welfare state* (London, 1975).

7. Evidence, p. 502, J. D. Mather.

8. Submission 672, name withheld.

9. P. Glasser & E. Navarre, 'Structural characteristics of lone parent families and the consequences', *The Journal of Social Issues* xxi, 1 (1965).

10. Finer report, vol. 1, p. 428.

11. For instance, Carole Klein, *The single parent experience* (Avon books, New York, 1973).

13. The Finer Committee pointed out that stereotyping of lone parent families should be avoided.

Many of the parents and children in such families are successful in their own relationships, form rewarding relationships with others, attain a measure of personal and social competence and success and enjoy a level of happiness which in no way differentiates them from other families or groupings of families in the community.¹²

Numbers of lone parent families.

14. Statistically lone parents comprise a sizeable minority group. Of all Australian families with dependent children, more than 10 per cent have only one parent.¹³ There are 160 000 lone parents caring for 285 000 children, as is shown in table V.7.

Table V.7 Lone parent families in Australia

| Marital status | Numbers | Children |
|----------------|---------|----------|
| | (000) | (000) |
| Lone mothers | | |
| Never married | 19 | n.k. |
| Separated | 49 | n.k. |
| Divorced | 25 | n.k. |
| Widowed | 39 | n.k. |
| | 132 | 235 |
| Lone fathers | 28 | 47 |
| | 160 | 282 |

Source: ABS, 1973 income survey for Commission of Inquiry into Poverty.

15. The figure of 10 per cent of Australian families being lone parent families is the common experience of Western countries like our own.¹⁴

Poverty

16. The poverty of lone parent families was investigated in England by the Finer Committee, whose report was presented in 1974. In Australia the Commission of Inquiry into Poverty in 1973 undertook a national income survey of lone parent families. Its report in 1975 showed that poverty amongst lone parent families, particularly when the parent was a woman, was severe. Half of the families headed by a lone mother were either poor or rather poor, according to scales developed by the Inquiry. Except for aged single males, no other group contained such a high proportion of people living in poverty. Families headed by lone fathers were not as extensively impoverished, but, nevertheless, some 16 per cent of these families had incomes below the poverty line; some of them were receiving negligible income.

12. Finer report, vol. 1, p. 426.

13. Preliminary estimates from the Family Research Unit survey showed that, in May 1975, the percentage of lone parent families with dependent children was just under 9 per cent. The difference in the estimates between the study and the 1973 income survey could possibly be due to a decrease in the percentage of lone parent families, but could equally be due to different methods of collecting the statistics.

14. Finer report, vol. 1, pp. 21-2.

17. Statistics like these refer not simply to income but to the way of life faced by lone parents, and to the personal relationships they develop. The Church of England, Sydney diocese, wrote to us about the condition of deserted wives in public housing:

Despite low rental payments the costs of maintaining children can be high. A proportion of them have been promised maintenance payments which only appear occasionally, increasing their anxieties. De facto relationships are often established to help with income and to offset the natural loneliness of such situations. Others become involved in what could almost be described as a form of prostitution, as they search for a security of relationship and for the money needed to pay off hire purchase debts which have often been incurred before their partner left.¹⁵

18. Lone parent families have three main sources of income—earnings, maintenance and government benefits. They are dependent on one adult to provide the family income; a lone woman's earning potential is usually lower than that of a man. The lone parent is handicapped in the workforce by the need to care for children, and is often unable to work or can only work part time. The rate of government benefit is low.

19. The 1973 income survey showed that the great majority of those in poverty had worked less than 45 weeks in the previous year. Other characteristics revealed by the survey were:

- (a) the groups most commonly in poverty were lone mothers under the age of 25 or over 50;
- (b) the most usual marital status for those in poverty was separated or widowed;
- (c) mothers in country areas were more likely to be poor than those in cities;
- (d) the larger the family the poorer it was.

20. As with other low income groups, the cost of housing is a major contributor to the impoverishment of many lone parent families. Additional data from the 1973 income survey show clearly how this cost affects the level of disposable income of different categories of lone mothers.

21. After housing costs are included, the groups that remain poorest are separated wives and divorced mothers. Both separated and divorced women are badly affected by housing costs because most are in the private housing market. Widows are comparatively better off after housing costs are added, probably because a number own their own houses, have low mortgage repayments or live in housing provided by a public authority. Unmarried mothers have a very high incidence of poverty, but after housing costs are considered this proportion declines significantly, probably because a number are living with their parents or other relatives.

22. It may be thought the financial needs of a lone parent family would be less than those of a two-parent family, as there is one adult less to feed, clothe, house and entertain, but many expenses do not greatly change because there is one adult less. Lighting, heating, cooking and other power requirements, not to mention items that many lone parents regard as unattainable luxuries such as a telephone and motor car, remain the same; so do mortgage or rental payments if the parent remains in the matrimonial home. Hire purchase commitments do not diminish. One cannot live much more cheaply than two.

23. From an Australian Bureau of Statistics further study of the debts and assets of lone mothers living alone, the position of many of these mothers could only be described as financially desperate. Some 28 per cent of lone mothers were spending

15. Submission 611, Anglican Diocese of Sydney.

about \$4 more than they received each week. About 16 per cent were forced to sell assets which they did not replace. Less than half of the lone mothers were effectively saving or living within their means.

24. The Poverty Inquiry has argued that the extent of debt commitment and decrease of assets in the first 2 years of lone parent status is not simply a result of low income.

In many cases there has been an unexpected drop in income as a result, for example, of death or desertion, leaving an income which is inadequate to meet the high cost of an already existing debt. Sometimes the drop in income is combined with increased costs such as establishing a household with furniture and necessary appliances.¹⁶

25. State assistance to lone mothers who are separated is available immediately they apply for it. These mothers have to be separated for 6 months before becoming eligible for Commonwealth government assistance. However, in this first 6-month period, when assistance is least, the need is the greatest. The separation is frequently a traumatic event and the woman concerned is often in no state to think about money or to make any arrangements for assistance.

26. It is also common for there to be a time lag between desertion and any income from the State Welfare Department because it usually takes 6 weeks for the money to arrive. One deserted mother told us she had been left destitute with a 5-month-old baby. Because she was breastfeeding and was emotionally affected, she could not seek work.

You have to have help from a benevolent society and people like this, because if you did not you could not manage, not an ordinary person who is left, like I was, with \$1 in my purse.¹⁷

27. Another woman told us that a wife is usually deserted on a Friday night, pay night, and needs immediate assistance. Then:

. . . she has to go through the awful rigmarole of getting on the pension which is just about the most horrific experience that can happen to anyone.¹⁸

Conclusions

28. Poverty is a common condition among lone parent families. Governments should be able to give assistance immediately it is requested, the same as private charities are able to do. Being deserted or forced to leave home is bad enough, but the combination of being also forced onto charity can have a devastating effect. We endorse the suggestion made by the Poverty Commission that emergency grants should be made available to cover the waiting period for social security benefits, and that responsibility for the greater part of this area should be taken over by the Commonwealth government. The Poverty Commission envisaged that, although the emergency payment would be made available to a large number of agencies, actual funds and guidelines for their use would be provided by the Department of Social Security. The agent would be reimbursed once the department was satisfied that payment had been properly made.¹⁹

16. *Poverty in Australia*, p. 201.

17. Evidence, p. 2213, Leslie Dawn Wilkinson.

18. Evidence, p. 763, Helen McFarlane, Womens Electoral Lobby.

19. *Poverty in Australia*, pp. 54-7.

29. Pensions are no real answer to the income position of lone parents—many would prefer to be at work rather than at home on government assistance. But this is often impossible because of the need to care for their children. Until the difficulties against lone parents seeking employment are removed, they should at least have sufficient income to survive at a standard that the Australian community regards as a minimum.

Work

30. A job very often makes the difference between living in poverty on government assistance and being able to keep the family together at a reasonable standard of living. The lone parent who works is usually better off, in terms of income and self-esteem than the one who stays at home caring for children. Our evidence shows that there are many lone parents, both women and men, who are trying to maintain their families by earning their own income:

. . . most deserted wives will tell you how surprised they were that they could support themselves: they could stand on their own two feet and look after their family without help from anyone, and there was a great deal of pride in being able to do this.²⁰

31. Since the most common alternative to employment is dependence on the government, it makes sense to give encouragement and assistance to lone parents who seek work. Lone parents suffer the following disadvantages, however:

- (a) Most are women, and their earning capacity is affected by the generally lower levels of women's pay and skills.
- (b) The lone parent is the family's sole wage earner and is operating in an economic system where wages and prices are strongly influenced by two-parent families.
- (c) Arrangements for the care of children during working hours are difficult.
- (d) Lone parents often encounter difficulties in securing part-time employment.

Lone mothers

32. The real change in workforce participation of women in Australia has been the influx of married women. The proportion of women in the total workforce has grown from 25 per cent in 1961 to 35 per cent in 1976. Amongst women themselves, the proportion of those employed in August 1976 was 42 per cent, but the big increase has been in the number of married women as a proportion of the female labour force. This has risen from 15 per cent in 1947, to 48 per cent in 1966, to an estimated 63 per cent in August 1976.²¹ Nearly all of these are members of two-income families.²²

33. Many married women have regarded their workforce participation as a secondary activity to their roles as wives and mothers. They have been helping their husbands meet family commitments.²³ This factor, together with the lack of skills of women workers and their concentration in low-skilled, low-paid jobs, keeps their average earnings below that of men. This makes it more difficult for a lone mother to earn enough to support her family.

34. Clearly there is a need to reappraise policies towards the lone female parent. If she is to maintain her family, action is needed to ensure that she is in a position where her employment opportunities at least equal those of male breadwinners.

20. Evidence, p. 762, Helen McFarlane.

21. ABS, *The labour force* (August 1976).

22. ABS, *Labour force status and other characteristics of families* (November 1974).

23. H. Ware, *Fertility and workforce participation—the experience of Melbourne wives* (Dept of Demography, ANU, 1975).

35. One way out of this difficulty for the lone mother is to acquire skills that will give her an improved standing in the labour market and also help to insure her against falling victim to general female unemployment.

Retraining

36. Until the general level of womens skills has increased by vocational training, and by the further opening of apprenticeships to women, there will remain an urgent need to provide retraining for women who find themselves as breadwinners. Present arrangements under the National Employment and Training system (NEAT) seem to fall short of requirements.

37. The NEAT system is labour market oriented. Its immediate aim is the alleviation of unemployment, wherever it may occur, and to contribute to overcoming skills in short supply. Previous schemes for which lone mothers were eligible had a rehabilitative focus.²⁴ Officers of both the Department of Social Security and the Department of Labour NEAT scheme have commented that widows and supporting mothers are disadvantaged under the NEAT scheme in that their particular needs are not taken into account.²⁵

38. We believe that steps should be taken to make the NEAT scheme more appropriate to the needs of lone parents, both for training and retraining to enter the workforce. Retraining schemes should, where appropriate, give priority to lone parents.

Part-time work

39. Bound up with the need for retraining is that of part-time work. Even if the child care requirements of all lone parents who wanted to work were satisfied, there would remain a large number who feel that they owe their children extra attention to compensate for the absence of the other partner. Thus, they feel part-time work and part-time child care is best suited to their needs. They acknowledge the importance of being at home when children arrive from school in the afternoon.²⁶

40. Part-time work is very difficult to find, however. Employers have regarded part-timers as dispensable and trade unions have seen part-time employment as being in competition with full-time employment and have restricted part-time work. In May 1976, 14 per cent of people in the labour force were working part time, and, of those who were unemployed, 18 per cent were seeking part-time work.²⁷

41. Part-time employees generally have only temporary status. Many awards do not provide for terms and conditions for part-time employees, although a few do provide for sick leave and annual holidays. Part-time work is often not offered as part-day work or as a regular contract, but is part-week work or sporadic. This is usually not satisfactory for the lone parent who requires something more regular to meet ongoing family commitments.

24. Dept of Social Security, Vocational training scheme for widows pensioners; Dept of Repatriation, War widows and defence widows training scheme; Dept of Labour, Employment training scheme for women restricted from employment by domestic responsibilities.

25. *Needs of lone parent families in Australia*, p. 111.

26. Evidence, p. 1702, Edna Thiele.

27. ABS, *The labour force* (May 1976), ref.6.20.

42. The Cochrane Committee on labour market training in 1974 recommended that permanent status and associated benefits should be extended to part-time workers in the Commonwealth public service. The Royal Commission on Australian Government Administration in 1976 favoured part-time work being incorporated into the career structure of the public service.²⁸ The Commonwealth Public Service Board has published a paper, 'Scope for part-time employment', to which we responded:

In our view it is highly desirable that more flexible work structures be introduced to meet the needs of those with family responsibility. The public service has the resources to be a leader in experimentation to show where innovations could be made successfully.²⁹

43. One of the main problems for lone parents about part-time work (apart from finding it) is that money earned above certain levels reduces the payment made from the government. Several submissions argue that the present income test acts as a disincentive to seek part-time work.

Those who work should be able to earn more before the pension goes. Most women would then be willing to obtain a full- or especially part-time job, and the rate of government support could then be lowered, depending on income, with the special benefits available for the children to cover such things as school books, uniforms, sporting fees, dental, medical and travel concessions.³⁰

The Association of Civilian Widows pointed out to us that lone parent families are subject to a more stringent income test than aged couple families.³¹

Conclusions

44. The changes needed in the occupational status of lone mothers are likely to come only with basic changes in practices and attitudes towards womens employment. As the Finer Committee has noted:

Since the early days of industrialisation, women have constituted both a significant proportion of the country's labour force and a main source of cheap labour. An inescapable conclusion from the many recent studies of women's experience in trying to reconcile the claims of marriage, motherhood and work is the existence of a traditional and firmly rooted double standard of occupational morality. As a society we pay lip service to the ideal of equality for women whilst practising discrimination in the very area where it hurts most.³²

45. Retraining schemes should take account of the needs of lone parents and should accord them some priority. Part-time work should be incorporated into the career structure of the public service and in private employment. The income tests on earnings from work should be such as not to be a disincentive to work.

Social welfare

46. Cash benefits are available to lone mothers with dependent children (subject to income tests) through either the Department of Social Security or State Welfare Departments. Except in special circumstances, no comparable benefits are available to lone fathers. Lone mothers therefore have a choice of whether they work or whether they care for their children full time and rely on a government benefit as their principal source of income. Lone fathers do not have this choice; if they cannot make adequate arrangements for child care while they work, their children may have to be placed in an institution.

28. *RCAGA report*, p. 253.

29. Commission correspondence, file S172.

30. Submission 814, *Women Active Politically*.

31. Submission 119, *Assoc. of Civilian Widows*.

32. *Finer report*, vol. 1, p. 425.

47. Widows, including those not legally married, provided the de facto liaison was of at least 3 years duration, become eligible for widows pensions as from the date of their husband's death. Women deserted by their husbands or who, with good reason, left their husbands and took their children become eligible for various forms of State assistance and, if the desertion persists for 6 months, are thereafter on the same footing as the widow. This also applies to women whose husbands are in prison. All other women with dependent children but no adult male to support them are eligible in the same way as those of the group above, except that after 6 months they receive the supporting mothers benefit rather than the widows pension. In addition, unmarried women are eligible for special benefit for 6 weeks before or after childbirth.

48. A woman is ineligible if she lives with a man as his wife, or once the youngest child turns 16 or if her income rises beyond the permitted amount. In addition to the widows pension and supporting mothers benefit, child endowment is paid for each child under the age of 16.

Numbers dependent on benefits

49. In Australia 62.5 per cent of lone mothers, and a few lone fathers, receive a government benefit or pension.³³ The standard of living of many lone parent families, therefore, depends entirely on the level of benefits available. For others the critical factors are the relationship between social security benefits and earnings or maintenance. Several recent studies have considered the range of benefits and eligibility for benefits.³⁴

Table V.8 Percentage of lone parent families receiving government benefits

| Parental status | Percentage on benefits |
|-------------------|------------------------|
| Unmarried mothers | 72 |
| Separated wives | 75 |
| Widows | 62 |
| Divorced mothers | 31 |

Source: Department of Social Security statistics plus 1973 income survey, Poverty Inquiry.

As at June 1975 there were 66 518 women receiving Class A widows pensions and 36 015 receiving the supporting mothers benefit, a total of 102 533.

50. Pension entitlements are assessed on the basis of income. Most widows and supporting mothers receive so little outside income that they are eligible for the maximum rate of pension. In view of the concern sometimes expressed about the burden on government finances of payments to lone parents, it is useful to examine just how long they are likely to be dependent on government assistance.

51. In one Australian study, 38 per cent of unmarried mothers had married by the time the child was 3.³⁵ The English cohort study found that, after 7 years, 84 per cent of unmarried mothers were living in a two-parent family situation.³⁶ The idea that

33. Calculated from Dept of Social Security pension statistics plus 1973 income survey, Poverty Inquiry.
34. *The single parent family in Australia, some facts and figures; Social welfare for fatherless families in Australia; Are we second class citizens?; Poverty in Australia; Law and poverty in Australia; Needs of lone parent families in Australia*; Finer report, vols 1 and 2.
35. Victorian Council for the Single Mother and her child, submission to Poverty Inquiry.
36. E. Crellin, M. L. Kellmar Pringle, P. West, *Born illegitimate: social and educational implications* (National Foundation for Educational Research, London, 1971), p. 27.

there might be large numbers of **unmarried** mothers choosing not to marry, choosing to live alone for the 16 years they are **eligible** for the supporting mothers benefit, is not supported by the facts. We observe that most lone mothers do not stay on their own for long. It is difficult to show this **statistically** for, although there are figures for the number of lone parent families, **there are** no figures to show how long each stays in that condition. It seems likely that individual lone parents remain in that situation for a comparatively short time.³⁷

Anomalies in entitlement to benefits

52. The fact that there are two distinct categories (i.e. widows pension and supporting mothers benefit) for women and children in identical situations of need is seen as discriminatory by the National Council for the Single Mother and her Child. Some idea of the confusion that exists between the two categories is illustrated in these extracts from a fact sheet published by this Council:

. . . If you are single and have lived with a male partner for at least 3 years and he dies you *are* eligible for a widows pension.

If you are single, have lived with a male partner for at least 3 years but he deserts rather than dies, you are *not* eligible for widows pension, only supporting mothers benefit.

If you are married and your husband leaves you, you are eligible for a widows pension.

If you are married and have to leave your husband ('constructive desertion') you are eligible for a widows pension. Evidence is required.

If you leave your husband you are *not* eligible for widows pension, only supporting mothers benefit. However, if you later have a divorce, you become eligible for the widows pension.

If you are married and you and your husband decide to separate, you are *not* eligible for a widows pension, only supporting mothers benefit. However, if you later have a divorce, you become eligible for widows pension.³⁸

53. In practical terms, it must be pointed out there are few differences between the two entitlements, except that supporting mothers are not entitled to free pharmaceutical benefits, and in some States they are not entitled to travel concessions. The dual system is, however, complicated and confusing. It causes unnecessary government expense in administration. It makes the supporting mothers vulnerable, as their needs can be dealt with separately.

54. Furthermore, the concept of two different categories of benefit implies that a moral judgment on the life style of the woman has been retained. And the distinction between deserting and deserted wives is inconsistent with the no-fault divorce legislation which came into effect with the Family Law Act.³⁹

Lone fathers

55. Lone fathers account for one in every five lone parent families. It is anomalous that lone fathers are excluded from support. We had evidence from the lone fathers themselves, and from lone mother organisations urging that this exclusion was unfair. An Adelaide father wrote in March 1975:

We have in the past sent representatives to Canberra to state our case and I have personally written many letters to the main people in parliament. They have all answered my letters and they all give us sympathy and promises, but these do not feed the children or

37. The Family Research Unit expects to have information on duration of current family status—i.e. time since marriage or separation or divorce—late in 1977.

38. Fact sheet, National Council for the Single Mother and her Child, Victoria, 1976.

39. Submission 517, National Council of Women of Victoria.

pay the bills. I have had to give up my work as it is a full-time job looking after seven children. I receive from the government the sum of \$69.50 per week which is a disgrace to think that eight people can live on this amount. I am only one of many thousands of men with families who are in this position.⁴⁰

A single father from Victoria wrote:

On becoming a single parent the things that affect you most are the feelings of failure, helplessness and loneliness that overcome you. Where to turn for guidance? In my case everywhere I turned I was met by the same negative results. Being a single father, social service could do nothing to assist me, not even to put me in contact with anyone that could help me in my predicament.⁴¹

56. Some few lone fathers do get money from the government under special benefit. This was established to provide for people not eligible for age, invalid or widows pensions and is granted at the discretion of the Director-General of Social Security. There is no available breakdown showing how many lone fathers receive this benefit, but it is obviously very small.

57. One lone father from Brisbane, with three children under 7, told us that he was granted the special benefit only 'after a lot of running around' as it was not advertised. He was first told to apply for unemployment benefit and eventually had to wait 2 months before receiving the appropriate payment. His salary as a shipping clerk was \$6000; \$2500 of that went to baby-sitters, \$1000 went to the Taxation Department, and, after he had paid the rent and travelling expenses, he had only \$15 a week left for food and clothing.⁴²

58. When widows pensions were introduced, one of the main assumptions was that it was not considered necessary or right for the woman who had been out of the labour force for a long period to find paid employment. As she was unlikely to be able to become a breadwinner, the government would take over that role. No such assumptions have ever been made about men, however. Lone fathers are considered to be able to continue working if their wife dies or deserts them. It has also been assumed that it is unnatural for a man to care for children on his own, an assumption that surveys have shown the majority of people share.⁴³ It is obviously regarded as abnormal for a man to be unemployed in order to care for his children at home. The problem for men is also seen as being a less serious one because men earn more than women and thus can more afford to pay someone else to care for the children. Admittedly the demand for some form of government assistance is confined to a small minority of lone fathers, but for those who need assistance the need is very great.

59. There is no research in Australia that demonstrates this, but the figures for England show that only 7200 out of 100 000 lone fathers received supplementary benefit from the British government in 1972.⁴⁴ Lone fathers also tended to be on benefit for a short time. Some 55 per cent interviewed in a survey had received benefits for less than a year, and 35 per cent for less than 6 months.⁴⁵

60. Thus, if the government were to make a supporting fathers benefit available, it seems reasonable to expect that no more than about one in ten of lone fathers would apply for it, say 3000 fathers, or \$12 million a year.

40. Submission 142, Mr Anthony A. Jones.

41. Submission 770, Mr W. Baxter.

42. Evidence, p. 1824, Harold Fallon.

43. A. Mackay, P. Wilding, V. George, 'Stereotypes of male and female roles and their influence on people's attitudes to one parent families', *The Sociological Review* 20, 1 (1972).

44. *Finer report*, vol. 1, p. 260.

45. V. George and P. Wilding, *Motherless families* (Routledge and Kegan Paul, London, 1972).

61. A British study showed that about 9 per cent of the children of lone fathers—a total of 4500 children—are placed in institutions for some time because their fathers cannot care for them.⁴⁶ We do not have Australian information, but we do know that it costs the state more to keep the children in institutions than to pay their fathers a benefit. In South Australia, where figures are available, the cost of keeping a child in an institution is between \$50 and \$150 per week.⁴⁷ This suggests there is a false economy in the current policy. We are equally concerned by the possibility of further harm to children who have already lost their mother by placing them in an institution. Society should recognise the obligation to try to keep the family together where this can be achieved at a reasonable cost.

The cohabitation rule

62. One of the conditions under which benefits are paid to lone mothers is that they are not living with a man as his wife. The principle upon which this requirement is based is that an unmarried couple living together as man and wife should not receive more favourable treatment than a married couple in a similar financial position. There is no strict definition either under the Act or in departmental instructions to its officers as to what cohabitation means. A representative of the Department of Social Security explained to us how the Department knew cohabitation when it found it:

We are looking for a married couple, married in the sense of living like a married couple. It is a difficult area. There is no one single factor that we can put our finger on to say: that proves a marriage relationship. We have to take the whole story . . . The evidence we gather or acquire frequently shows that the couple concerned are known by the same name, they are known to go out together, their social arrangements are usually carried out together. There is mutual support, financial support.⁴⁸

The representative said that the policy did not cover casual visits of men to lone mothers, even if there were occasional gifts of money involved. If the relationship was solely of a sexual nature, that would not mean cohabitation. If a man was a woman's employer, or if he was a boarder in her house, but that was the extent of their relationship, the Department would not consider the money she received from him as relevant in determining her eligibility for the benefit. It was only relevant in assessing her income for the means test.

63. Other evidence, however, suggested that the vagueness of the test for eligibility meant that different officers of the Social Security Department interpreted it in different ways. Witnesses told us at our Brisbane hearings that black women, working class women and students tended to be denied benefits under the cohabitation rule more often than other women.⁴⁹ One case was detailed to us where an Aboriginal mother of five children (three of whom lived with her) was denied the supporting mothers benefit because she had sexual relations on some weekends with a man who was in the army and who gave her financial support only in the form of occasional food purchases. Departmental officers had judged their relationship to amount to cohabitation, despite the fact that the man concerned lived in army quarters on weekdays. The mother had gone through a period of destitution after being denied the benefit but, after protest demonstrations, her benefit had been restored.⁵⁰

46. *ibid.*

47. SA Department for Community Welfare, *Annual report*, 1973, p. 49.

48. Evidence, pp. 1590–1, Kevin Kelly, Department of Social Security.

49. Evidence, pp. 1571–83, Ann Malcolm, Roslyn Innes, Karen Duncan, Supporting Mothers Action Group.

50. *ibid.*, pp. 1571–3.

64. Other evidence at the same time was that women in Toowoomba had lost benefits because of alleged relationships with men. One woman had been living in a house divided into flats, and when the Department discovered that other men were living in the same house (though not in her flat) she had lost her pension. Most of these women had used the social security appeals system, and had since had their benefits restored.

65. The evidence given to us about the procedure for notifying recipients of the benefit, of its withdrawal and of their right of appeal was unsatisfactory. We were told that a slip of paper setting out appeal rights should be enclosed with the notice of withdrawal.⁵¹ However, we learnt later that the practice had not always been followed because the Department 'ran out of slips'.

66. Since giving this evidence, the Department has incorporated the information about appeals on the same form as the notification of grant. Rejection and variation benefits, in certain circumstances, are now maintained pending appeal.

67. We note the high rate of successful appeals against decisions by the Department. From February to September 1975, 40 per cent of the 118 appeals against withdrawal of the supporting mothers benefit were upheld, and 42 per cent of appeals against withdrawal of the widows pension were upheld.⁵² A high rate of successful appeals indicates that benefits may be withdrawn unnecessarily.

68. In a report of the Poverty Inquiry, Professor Sackville considered similar cases to those presented to us and pointed out that the cohabitation rule has many disadvantages.

The inquiries required to enforce the rule are distasteful and intrusive into the personal and private lives of those being investigated. Many persons investigated will not be attempting to defraud the department or gain financial advantage but may, in fact, be living in difficult financial and personal circumstances. To these people, investigations into their personal lives, no matter how tactfully carried out, are likely to be especially distressing and humiliating.⁵³

Sackville believes it is also possible to argue that the cohabitation rule is undesirable as a matter of policy.

One of its effects, for example, is to impose an obligation on a man to support the woman with whom he is cohabiting, despite the fact that she has no means of enforcing the obligation by private maintenance action. Unless the man does assist the woman at the level equivalent to the pension or benefit to which she would otherwise be entitled, the woman and her children may be deprived of basic support. The rule may encourage the man to end the cohabitation and perhaps become an occasional caller, thereby depriving the woman and children of the opportunity to form a lasting relationship that might be of value to them. Another common response is of course for the parties to conceal the presence of the man from the authorities. Finally, the rule has the curious consequence that a woman who has relationships with more than one man is better off than a woman who remains faithful to one, since she is less likely to be cohabiting with any of them.⁵⁴

Despite what he sees as the obvious disadvantages of the cohabitation rule, Sackville concludes that it is not possible to break completely with it, as there is no workable alternative.

51. Evidence, p. 1588, Kevin Kelly.

52. *Social Security Quarterly*, Summer 1975-76.

53. *Law and poverty in Australia*, pp. 269-70.

54. *ibid.*, p. 270.

The cohabitation rule is founded on a fundamental policy that cannot be overlooked. That is the need to treat an unmarried couple living together as man and wife no more favourably than a married couple in a similar financial position. In the absence of a cohabitation rule an unmarried couple living together would have a positive incentive to remain unmarried if one party receives an income maintenance payment. This cannot be fair.⁵⁵

69. The Finer report reached a similar conclusion:

It cannot be right to treat unmarried women who have the support of a partner both as if they had no such support, and better than if they were married . . . It applies without hardship or injustice in the great majority of cases for which it was intended.⁵⁶

Their recommendations concentrated on improvements in the administration of the rule.

70. We have considered the cohabitation rule in the light of these views and of the evidence presented to us. We do not accept without question that there are likely to be many people who will deliberately avoid marriage in order to retain government assistance. The case for the cohabitation rule should not be based on the assumption that the numbers of such people will be of any major significance. Where a couple live in a stable de facto relationship they should be treated, for the purpose of the supporting mothers benefit, as if they were married. There is no injustice in applying the cohabitation rule to such a case.

71. Other cases, however, may be less clear. A couple may live together, sharing household expenses and domestic chores, possibly with a sexual relationship, but without any sense of long-term commitment. To apply a cohabitation rule to such a case as the above is to assume that this sort of relationship involves the woman's financial dependence. This sort of assumption does not apply in cases where a lone mother shares a home with another woman, or where an unmarried mother lives with her parents. The alternative in such cases would be to apply a means test.

72. The Finer Committee took the view that if there were no cohabitation rule:

. . . account would have to be taken, in determining the amount of benefit payable, of the extent to which the other adult in the household supports the family financially. This, however, would in our view require inquiry just as stringent and intensive as the inquiries necessary to investigate alleged cases of cohabitation.⁵⁷

The Department of Social Security at present investigates the following matters when it calculates an applicant's means: value of house, furniture and car; shares, share dividends, savings and interest; maintenance payments from husband for children and for wife; earnings from employment.⁵⁸

73. To base entitlement to benefit on the means test alone and to abolish the cohabitation rule for all cases except those of open, stable de facto relationships would require a more detailed financial investigation, but would save departmental officers the often distasteful work of determining the nature of a relationship. It would also minimise the varying interpretations of the cohabitation rule.

74. On the other hand, if such an approach were adopted, it would clearly affect those cases where a pension recipient was living in the same household as another

55. *ibid.*, p. 270.

56. Finer report, vol. 1, p. 340.

57. *ibid.*, p. 340, fn 1.

58. For a complete analysis of how the means test operates see *Social welfare for fatherless families in Australia*, pp. 11-15.

person or family and being partly supported by that person or family—for example, an old age pensioner living with his children, or an unmarried mother living with her parents and receiving free accommodation and/or food.

75. We think the best approach would be to maintain the present cohabitation rule, but to check regularly that officers continue to adopt a sensitive attitude to claimants, and that benefits are not withdrawn suddenly without prior warning. We support the recently introduced system of maintaining benefits pending appeal.

Conclusions

76. We do not believe the present system of two forms of entitlement, namely the Class A widows pension and the supporting mothers benefit, should be continued.

77. It is anomalous not to extend benefits to lone fathers. We consider that all existing Commonwealth benefits and provisions for lone parents should be covered by one benefit, a supporting parents benefit, which should be available to any parent or person *in loco parentis*, supporting a child or children, whatever their sex or marital status.

78. In spite of difficulties with the cohabitation rule in respect of the supporting mothers benefit, we can see no adequate alternative.

Maintenance and social security

79. The Social Services Act requires a lone mother to make 'reasonable' attempts to obtain maintenance for herself and her children before becoming eligible for a widows pension (section 62 (3)):

A pension shall not be granted to a widow, being a deserted wife or a woman whose marriage has been dissolved and who has not remarried, unless she has taken such action as the Director-General considers reasonable to obtain maintenance from her husband or former husband.

The same rule applies to supporting mothers.

80. It is often unrealistic to assume that a lone parent will be able to secure sufficient maintenance from the other party. Usually the resources are inadequate to maintain two households. Frequently only one spouse is able to earn and the lone parent may be unable to take employment because of the need to care for young children or for other reasons. For this reason many lone parents have to fall back on social security. But entitlement to social security is affected by the maintenance obligation.

81. The Family Law Act allows judges, when fixing maintenance, to take into account the eligibility of either partner for State or Commonwealth benefit.⁵⁹ There is no necessary inconsistency between these provisions since the Family Law Act does not purport to prescribe conditions of eligibility to pensions. If maintenance is ordered, the amount may be so high as to exclude entitlement to social security, and there is no conflict. In most cases, however, it is unlikely that the Court could make an order high enough to exclude benefit, and it may order a lower sum in view of the possible entitlement to benefit.⁶⁰

82. Welfare expenditure is not necessarily reduced by insistence on the lone mother pursuing and enforcing the highest possible maintenance order. On the contrary, and

59. Section 75 (2) (f).

60. *ibid.*

somewhat paradoxically, the higher the order the greater the likelihood of default and of the social security funds taking up the whole burden. Fathers are more likely to keep up payments on modest orders which take into account pension entitlements and leave the payer with enough to preserve a reasonable standard of living.

83. Whether or not there is an inconsistency in operation, there is certainly a clash in principle and in social policy which ought to be resolved because of the potential injustice which may be caused to both parties and to the children. The injustice arises from the impossibility of making one wage support two families without keeping both at such a low standard of living that both parents and children suffer. The extent of social responsibility for the well-being and the future of the children has to be put in the balance with the means and obligations of the parents. While it is not advocated that parents who have the means should escape their obligation to contribute to the maintenance of children, there is a broad policy question to consider.

84. Should the lone parent be made to look to the father of the child as the primary source of maintenance, or should the state take over the obligation of supporting the family and, in appropriate cases, pursue, or require the parent to pursue, a remedy against the other party? There are a number of arguments both for and against the current rule.

85. The simplest argument in favour of compulsory maintenance action is that welfare expenditure is substantially reduced by placing the burden of support of fatherless families on the legally responsible male, rather than the taxpayer. This was the viewpoint expressed in some of our submissions. The requirement does not, however, have such an effect. In England, where women are encouraged to enforce their own orders through the courts, the resulting value of payments represents only a small proportion of the supplementary benefits paid (about 8 per cent of the total).⁶¹

86. Another argument in favour of compulsory maintenance action is that the requirement acts as a check on the authenticity of claims by safeguarding against dishonest collusion between married or cohabiting couples. However, the usual departmental investigations into the backgrounds of lone mothers should be adequate as a safeguard against this.

87. Perhaps the most popular argument of all is that the father concerned, particularly if he has deserted his family, should not escape his legal and moral obligations to support it simply because the mother is reluctant to pursue her rights. The second point is that some mothers would still want to bring maintenance actions, particularly if there was a good chance of supplementing their income.

88. Another factor which needs consideration is that a number of mothers, particularly those escaping violent domestic situations, wish to have no contact at all with their former spouses, and are afraid that maintenance actions will reveal their current whereabouts. Again there may be difficulty or embarrassment in ascertaining the paternity of a child.

89. The principal argument against the present position is that many lone parents are forced to wait for benefits while pursuing what may be a fruitless remedy. It falls upon them to seek an order and get it enforced.

... chasing maintenance is a physically and mentally absorbing business. It is tiring and involves a lot of travelling, frustration, telephone calls and wasted time. When you look back over the years you wonder whether it was worthwhile spending that time.⁶²

61. *Finer report*, vol. 1, p. 148.

62. *Evidence*, p. 2211, L. D. Wilkinson.

90. In our view, the problems we have been discussing could be resolved if a new approach were adopted to lone parents and to persons who have a potential maintenance liability. The first step would be to ensure a minimum level of subsistence to lone parent families. Ideally social welfare and employment services should ensure that lone parents whose marriage has broken down are enabled to enter employment should they wish to do so. For persons who are unable to take up employment a minimum social security payment or pension should be paid, its rate dependent upon the needs and means of the lone parent, and not on the income level of the other parent.

91. Changes in social welfare arrangements may be necessary to bring about these objectives. The trend should be towards regarding a family in need of support as a problem to be resolved, in the first instance, through social security and expansion of employment opportunities, rather than through resort to the Court. Certainly the government should immediately do away with the requirement that a lone mother must bring maintenance proceedings before qualifying for welfare payments.

92. While any thought of punishment of a deserting spouse should be abandoned, it may often be proper to call upon that spouse to contribute to the support of his or her family. The lone parent should be free to pursue a maintenance remedy, if desired, but should not normally be required to do so. The agency which is supporting the lone parent should take over the responsibility for enforcing maintenance, and should decide if it is worthwhile pursuing the potentially liable party.

93. The proposals discussed in this section would require changes in the Social Services Act. We believe such changes are overdue, and call for detailed consideration of the points we have raised.

Housing

94. The breakdown of a marriage nearly always involves some sort of housing problem, sometimes of crisis proportions.

95. When a couple separate, there is a need for two separate homes instead of the one in which they and their children previously lived. This means that, unless it is supplemented, the income previously available to pay for a single home has to go twice as far. If the matrimonial home is retained by one of the parties, she (usually) or he may have to take over mortgage payments, rent and maintenance costs. There may be a dispute over the ownership of the existing home or competition for its possession. One party may have to buy out the other, and, if the house is still encumbered by mortgage, this often means that the one who retains possession must try to raise a second mortgage. Often the house has to be sold and the proceeds divided.

96. Thus a common experience of lone parents is that they are forced to move house after the marriage break-up. In a study of deserted wives in Victoria, the Department of Social Welfare found that 40 per cent of deserted wives granted widows pensions had to change their accommodation after their husbands left.⁶³ The position of the deserting wife who leaves the home, taking the children with her, is even worse.

97. English studies indicate that the number and frequency of house moves made by lone parents exceed those of people in other families. The main exception to this pattern was that of widows who have a more stable settlement history than any other family group, two-parent families included.⁶⁴ Only a little more than one-third of lone

63. Department of Social Welfare, Research and Publications branch, *A survey of deserted wives granted widows pensions in Victoria* (1958).

64. Finer report, vol. 1, p. 364.

parents live in houses they own or are buying. The other two-thirds live in rented accommodation or as boarders. Two-parent families, on the other hand, are in the opposite position—two-thirds own or are buying houses, one-third rent.

98. Because they are usually low income earners, lone parents fare particularly badly in the private housing market. Many fail to meet the requirements of banks, building societies and other providers of finance, and are forced into the rental market where they are faced with insecurity of tenure and few legal rights. Evidence presented to us illuminates the dimensions of crisis which can result. Women on widows or supporting mothers pensions often pay half their pension in rent. Some lone parents have difficulty in finding any accommodation at all. One lone mother wrote to us from a Victorian country town:

I am 20 years old with two children aged 3 and 1½. After repeated beatings to the three of us by their father, I decided it would be in their best interest to leave him. I was renting a house that was falling to pieces around us for \$25 per week. After 3 months the agent and owner were to pull it down and build units on the block. I spent this time trying in vain to find other accommodation. It seems no one in this upper class society of ours wants to rent any type of place to a woman without a man. Everywhere we went the answer was the same, 'Sorry, it's not possible'. One place with To let signs would say 'Sorry we have nothing suitable or available'. Family and friends suddenly have no room. As a result of having nowhere to go my children were placed in a home. These same people, agents, family, friends, scream: 'How could you do it? What kind of mother gives up her children?' What do I think of today's society? I think it stinks.⁶⁵

99. Some lone parents solve their housing problem by sharing accommodation, usually with close relatives. Younger mothers with small families are the most likely to do this, widowed mothers the least likely.⁶⁶

Table V.9 Percentages of families sharing houses with other families

| No. of children | Lone parent | Two-parent |
|-----------------|-------------|------------|
| 1 | 43 | 11 |
| 2 | 28 | 5 |
| 3 | 28 | 3 |
| 4 | 19 | 2 |
| 5 + | 9 | 2 |

Source: 1971 census.

House sharing is a two-sided issue. For some lone parents it offers solutions to some of their problems. For others, however, it is a situation forced upon them unwillingly by lack of income.

100. Loneliness and isolation are aspects of lone parenthood that a number of submissions have emphasised.⁶⁷ Many lone parents need considerable support because of the difficulties of caring for children alone.⁶⁸ Shared accommodation offers opportunities for reduced housekeeping workloads and expenses, child minding and baby sitting and companionship. The children have contact with opposite sex figures to their

65. Submission 108, name withheld.

66. Pamela Roberts, 'The unmarried mother who keeps her child', in Australian Association of Social Workers, *Eleventh national conference proceedings* (AASW, Hobart, 1969) pp. 49–59.

67. See e.g. Exhibit 232, National Council for the Single Mother and her Child, Report of a single mothers workshop on human relations, June 1975.

68. Evidence, pp. 2104–11A, Gillian Draffin, Nadine Womens Refuge, Perth.

parent. On the other hand, sharing can be a source of conflict. The most common form of sharing is with relatives, particularly with the child's maternal grandparents. Some lone parents find this difficult because they are blamed for their situation and accused of irresponsibility and similar failings.

101. Because rentals in the private housing market are geared to demand, and not the needs or income of lone parent families, it is unlikely to offer satisfactory accommodation to lone parent families. This position, indeed, appears to be worsening. Low cost housing in the inner city areas of major capital cities is decreasing. In outlying city areas, distance from schools, employment, shopping and community facilities make housing there unsuitable for lone parent families.

102. Public housing schemes are the only ones that offer any real hope of solving the accommodation problems of low income lone parent families. State housing authorities do recognise lone parent families as one of their priority groups. Widows, divorcees and deserted wives under 60 years of age are heavily represented in public housing schemes compared to their numbers in the private market.⁶⁹

103. A number of unsatisfactory aspects of public housing for lone parent families have been recognised in recent times. Public housing is generally constructed with the two-parent family in mind. Families that do not have enough members to qualify for houses (that is, a lone parent with one or two children) are often offered only flats. They tend to be grouped together which means that there is little or no opportunity for the children of these families to gain experience of others from two-parent families.⁷⁰ In particular, as the parents in these public housing blocks are nearly all women, there are hardly any male figures around.

104. The suggestions made by lone parents themselves should be treated seriously. The National Council for the Single Mother and her Child told us that high rise blocks of flats without support services are unsatisfactory; they favoured being integrated into the community.⁷¹

105. Another difficulty brought to our attention arises where families have found the deposit to purchase a Housing Commission house, but have since separated. If the payments are not kept up according to the initial contract, the deserted partner could be placed on a tenancy agreement, losing all equity in the house, regardless of whether 10 per cent or 90 per cent of the total purchase price has been paid off.⁷²

106. The Baptist Community Services provide four home units at Meadowbank, Sydney, at low rentals for lone mothers. The units are scattered throughout a twenty-four unit development.⁷³

Short-term accommodation

107. Short-term emergency accommodation is an important need. A recent development are womens refuges for wives who have left home, usually because of their husbands' violence. Nineteen such centres are being funded by the government.

108. The first report of the Commission of Inquiry into Poverty noted that a crisis such as desertion frequently leads to children being placed in institutions at enormous cost to the community. The Commission mentioned several ways of giving families

69. M.A. Jones, *Housing and poverty in Australia* (Melb. Uni. Press, 1972), p. 56.

70. Submission 591, ACOSS.

71. Evidence, pp. 2982-92, P. Harper, J. Murray and R. Kiely.

72. Submission 591, ACOSS.

73. Evidence, pp. 2428-35, D. Crawford.

short-term accommodation security. Houses could be leased or purchased and provided at low rent, overdue rent could be paid to prevent eviction, subsidies could be provided for half-way houses.⁷⁴

109. The Australian Council of Social Service emphasised to us the importance of information being widely available about housing for lone parent and other families, including information on finance, public housing, rental accommodation and emergency housing. There should be strong links between this and other services to ensure the provision, where necessary, of interpreters, legal aid and consumer protection.⁷⁵

Conclusion

110. Accommodation is a crisis for lone parents. Marital break-up usually means finding new housing. The private housing market is often economically inaccessible to lone parents. Public housing is best able to provide a solution to lone parent housing. Public housing schemes should take account of the needs of lone parents for accommodation integrated with the rest of the community, with community facilities and ready access to schools, job opportunities, shopping, transport and recreation.

Children

111. Lone parents care for a total of 282 000 children in Australia. Lone mothers have 235 000 children and lone fathers 47 000 children in their care.⁷⁶

Effects on children

112. The effects on a child of being a member of a lone parent family are not well researched. Some are convinced that the child concerned is harmed by the lack of the missing parent and that ideally children should be brought up by two loving parents who are living together in harmony. We cannot accept this statement without comment. Many lone parents are bringing up their children very successfully.

113. Lone parents who made submissions to us complained that their main problem was not with the children themselves, but with community attitudes that insisted on treating them as being somehow different. One mother said her schoolboy son had been taunted by his peers when he could not fill in a school form stating father's occupation. When she requested that such forms not be filled out in the schoolroom, she received no response from the school authorities. The repetition of this incident led to her son's withdrawal from his peers. She thought part of the solution lay in after-school centres for working mothers like herself where 'such a centre would remove the hold that the school has on the child's total environment'.⁷⁷

114. Another mother pointed out that there are many difficulties for children of lone parents, relative to their local environment, that can make them feel different.

. . . he is underprivileged in the sense that all he can do is stand aside and look on and observe all the things the average child in our district is taking for granted, but he had always to do without.⁷⁸

Apart from such problems which appear to be, to a degree, built in to the community, some prejudices are fostered by social scientists and educationists and are damaging

74. *Poverty in Australia*, p. 216.

75. Submission 591, ACOSS.

76. From 1973 income survey; lone fathers children figure from 1971 census, adjusted to 1973 levels.

77. Submission 1123, Mrs B. Shannon.

78. Submission C807, confidential.

to lone parents. The womens support group, Grapevine, gave the experience of one deserted wife who:

... took 4 years to get herself qualified to get into teachers college which is what she always wanted to do. She has four young children. She has been deserted for several years but has not been able to get maintenance for some reason and has had to work at weekends. She went to teachers college this year and the psychology lecturer said children from broken homes grow up to be delinquents. It is an enormous thing for her to handle that situation personally. We have hundreds of cases of that sort.⁷⁹

115. The Finer Committee commissioned research which suggests that the children of lone parents are less likely to do well at school, which they tend to leave earlier, and at which they tend to achieve a lower level of attainment than children from two-parent families. The research suggests that the effects on children of being in a lone parent family are very complex and not well understood. However, the Committee's report goes on to say that, if a cycle of transmitted deprivation can be shown to exist, one of the most certain triggers of the cycle will be the lone parent family situation.

This risk provides, in our view, one of the strongest reasons for offering special help to lone parent families, both in the form of cash to raise their general standard of living ... and in the form of services to help parent and child cope more adequately with the demands of day-to-day life.⁸⁰

116. One of the real difficulties for children of lone parent families is that they are stereotyped as being different or as being problems. Such stereotyping may itself be the source of the main disadvantages they encounter.

Many of the parents and children in such families are successful in their own relationships ... and enjoy a level of happiness which in no way differentiates them from other families ... In some, the conditions of being a one-parent family may even create a process of challenge and response which lifts them to achievements they would not otherwise have attained. For some again, the withdrawal of a violent husband and father or a neglectful wife and mother may create better, even if still unsatisfactory, conditions in the home than existed previously. It would be untrue of one-parent families, and do an injustice to them, if an account of the disadvantages from which they suffer were to categorise them as a section of our society united in inadequacy, whether self-made or imposed.⁸¹

117. We were unable to undertake our own research into the effects on children of being in a lone parent family. Perhaps the Institute of Family Studies could undertake such research. Our strong feeling is that, although lone parent families cannot be turned into two-parent families, much can be done to overcome their handicaps and answer their needs.

Social needs

118. Lone parents suffer from the fact that providing for the physical, emotional and social needs of a family is usually a job for two adults. Lone parent families, therefore, need support from a range of family support services including child care, domiciliary help, infant welfare facilities and social support to overcome the disadvantages of being alone.

Child care

119. The provision of child care for pre-school children plus after-school care and holiday care for schoolchildren is the most important single reform that could be made for lone parents. The main way to help lone parents out of poverty is to enable

79. Evidence, p. 2932, Gwen Wesson.

80. Finer report.

81. *ibid.*, p. 426.

them to get jobs. The job market resists changing its hours to suit the needs of parents. Employers should be encouraged to introduce more parent-oriented working hours; child care is possible immediately.

120. Lone parents who cannot find child care during working hours cannot get jobs, and so they fall back on government pensions. To help them into the workforce and to make them less dependent on the government, child care is essential. The cost of subsidising child care is less than that of maintaining an entire dependent family.

121. It is not possible for private enterprise child care services to offer good standard care at prices that lone parents can afford. In Sydney, in March 1976, the going rate of pre-school child care in private kindergartens was from \$25 to \$35 per week per child. At non-profit, community-based kindergartens, receiving government subsidies, the rate for lone parents ranged from \$3 to \$13 per week per child. Non-profit subsidised pre-schools are required to give preference of places to disadvantaged groups such as lone parents.⁸² The child care program of the government has improved child care facilities in Australia in the last 2 years and, in the interests of lone parents, should continue. We believe that child care services should give priority to lone parent families, and that, where government-subsidised child care is not available to lone parents, subsidies should be paid to lone parents to enable the children to attend private child care.

122. The needs of very young mothers for child care, involving parent education, was put to us by the mother of a 16-year-old who had a child, married, and subsequently separated:

[We should have] more government-subsidised nurseries where mother and child can receive care and instruction because unfortunately I must say that having a baby does not make a girl a mother.⁸³

Lone fathers have similar needs. A baby health centre for babies of lone fathers has just opened at Sydney's Wayside Chapel. It is staffed by men (a paediatrician and two nurses) and helps fathers learn how to care for their children. Play centres for lone fathers and their children are also opening.

Domiciliary help

123. Lone fathers told us that one of the major reforms in their interest would be the provision of housekeeping services by the government.⁸⁴ Many fathers in Australia who are widowed or deserted find they go through an early period when they cannot cope with the care of the children and are forced to place them in institutions. English research suggests that 9 per cent of children of lone fathers—that is 4500 in Australian terms—are institutionalised at some time.⁸⁵

124. One lone father told us that there was an Emergency Housekeeping Service in Perth which cost \$85.40 per week (August 1975 rate), which was clearly beyond the pocket of even a moderate income earner.⁸⁶ This meant that the lone father who wanted such a service fell back on what was described as 'low calibre housekeepers' who might take the position for \$5 or \$10 a week in return for board and keep. These sort of housekeepers were usually lone mothers. In a great many cases this sort of

82. Survey of ten pre-schools in inner city, eastern suburbs and lower north shore of Sydney.

83. Submission C584, confidential.

84. See particularly Evidence, pp.2001-7, Alan Luxton; see also Submission from Parents without Partners, WA, published in *Are we second class citizens?*

85. George and Wilding.

86. Evidence, pp. 2001-7, Alan Luxton.

action clearly perpetuates the existing exploitation of women, particularly lone mothers. One should not use the disadvantaged position of one group in the community to solve the problems of another.

125. We should also emphasise that any housekeeping services offered should be available equally to lone mothers and lone fathers, irrespective of the difficulties some fathers may initially face in performing tasks around the house.

126. Since 1948 the government has subsidised some forms of home assistance plans. These were mainly developed to help widows and the aged with their house-keeping.⁸⁷ We believe such services should be extended to lone parents.

Self-help groups

127. Several self-help groups are doing valuable work in providing their members with a range of services, information and support. They act as effective lobby groups and have given evidence to a number of Commissions and Committees of Inquiry, including our own. They provide means of informing governments of changing needs, and of interpreting official policies and programs to their members. They act as a focal point for information, and they are able to give counselling, advice and a sense of purpose which no government organisation can achieve.

128. Lone parent organisations include the National Council for the Single Mother and her Child, Parents without Partners, the Association of Civilian Widows, Australian Birthright Movement, Legacy, the Single Mothers Association of Canberra, the Australian War Widows Guild, the Lone Fathers Association and the Supporting Fathers Association. At the end of last year (1976) a National Lone Parent Federation was formed.

129. Most of these groups are struggling with inadequate financial and clerical support, and are hard pressed to continue. For example, the National Council for the Single Mother and her Child is run entirely by voluntary effort which is difficult for lone parents to provide. Subsidies, in cash or kind, to meet postal and telephone costs, rental, travel and a resource person would make a great difference to the functioning of the Council. The government could also assist by providing printed information about the existence and operation of self-help groups (including information in the main ethnic languages).

130. The value of self-help groups is now widely recognised and we believe they should receive government assistance and encouragement in every possible way.

87. Social Welfare Commission, *Care of the aged* (1975).

7. Adoption

Introduction

1. Our terms of reference require us to consider the 'social, economic, psychological and medical pressures on women in determining whether to proceed with an unplanned or unwanted pregnancy', having regard to (inter alia) adoption procedures and 'the social, psychological and medical results of termination of, or failure to terminate such pregnancies'.
2. Adoption is a process by which society provides a substitute family for a child whose natural parents are unable to or unwilling to care for the child. The principle underlying adoption theory and practice is that the child's welfare and interests, rights and needs are paramount and that these are best served in a family situation. The needs and rights of the natural parents and the adopting parents are by definition secondary.
3. Adoption law and procedure is determined by State and Territorial law and is regulated by State departments, the Department of the Capital Territory and the Department of the Northern Territory. Our study of adoption is limited to matters raised in submissions relevant to our terms of reference and to Federal powers. We note the recommendation of the Constitutional Convention that legislative power in respect of adoption be referred by the States to the Commonwealth and we support this recommendation.¹
4. Adoption is one of the options available to a woman who has an unwanted pregnancy. Our submissions showed that some consider that adoption should always be chosen in preference to abortion. They point to the number of childless couples who seek to adopt. Another view is that adoption is preferable to policies which 'encourage' young single women to keep their babies. We have concentrated on evidence and other material about the effects of adoption on the mother, the child and the adoptive parents and about young single mothers faced with the option of keeping or surrendering their children. We have not considered such important issues as father's consent to adoption of a child born out of wedlock.

Adoption law

5. A series of consultations and conferences between the Commonwealth Attorney-General and the Attorneys-General of the States about uniform adoption legislation took place in the mid 1960s. As a result, over the period 1964-68, each State and Territory passed Adoption of Children Acts or Ordinances which, though relatively uniform in content and interest, have significant differences.
6. Courts which exercise jurisdiction on matters affecting the parties to adoption proceedings are:

In New South Wales, Western Australia, the Australian Capital Territory and the Northern Territory, it is the Supreme Court; in Victoria, the County Court or the Supreme Court; in South Australia, a court constituted of a special magistrate and two justices, one of

1. Australian Constitutional Convention, Hobart 1976, *Record*, p. 159; 'Delegates adopt five resolutions', *Age*, 28 October 1976.

whom is a woman justice; and in Tasmania, a police magistrate sitting alone. In Queensland, the Director of the Department of Childrens Services not only exercises sole authority to arrange adoptions, he also makes the adoption orders.²

The Family Court of Western Australia has now assumed jurisdiction in adoption. The Family Court of Australia will exercise adoption jurisdiction in the ACT in substitution for the Supreme Court.

7. A Community Welfare Advisory Committee in South Australia has issued a report on adoption and recommends establishing an adoptions panel to consist of a clinical psychologist, a gynaecologist, a legal practitioner, a paediatrician, a psychiatrist and a social worker to make recommendations on adoption matters, to review from time to time adoption criteria, to establish an Adoption Board to review decisions of the Director-General and to make research recommendations.³

8. In our chapter on family law we indicate our support for moves towards the unification of family law and family jurisdiction throughout Australia.

Statistics

9. Tables V.10, V.11 and V.12 show the numbers of ex-nuptial births and the proportion of ex-nuptial to all live births. It will be seen that for mothers under 20 there is a high proportion of ex-nuptial births and that this proportion appears to be increasing, whereas the proportion of ex-nuptial births to women of all ages is slightly decreasing. The actual number of ex-nuptial births to women of all ages, as well as to women under 20, is decreasing.

Table V.10 Births and ex-nuptial births (live), Australia, 1970-74

| | Nuptial | Ex-nuptial | Total | Annual % ex-nuptial |
|------|---------|------------|---------|------------------------|
| 1970 | 236 149 | 21 367 | 257 516 | 8.30 |
| 1971 | 250 733 | 25 629 | 276 362 | 9.27 |
| 1972 | 239 310 | 25 659 | 264 969 | 9.68 |
| 1973 | 223 472 | 24 198 | 247 670 | 9.77 |
| 1974 | 221 769 | 23 408 | 245 177 | 9.55 |

Source: Australian Bureau of Statistics.

Table V.11 Births to mothers under 20 (live), Australia, 1970-74

| | 10-14 years | 15-19 years | Total (under 20) | Ex-nuptial (under 20) | Annual % ex-nuptial under 20 |
|------|----------------|----------------|---------------------|--------------------------|------------------------------------|
| 1970 | 159 | 27 497 | 27 656 | 8 334 | 30.13 |
| 1971 | 156 | 30 344 | 30 500 | 9 999 | 32.78 |
| 1972 | 173 | 30 242 | 30 415 | 10 579 | 34.78 |
| 1973 | 177 | 27 622 | 27 799 | 10 084 | 36.27 |
| 1974 | 168 | 26 128 | 26 296 | 9 610 | 36.54 |

Source: Australian Bureau of Statistics.

2. David Hambly, 'Balancing the interests of the child, parents and adopters: a review of Australian adoption law', in *Proceedings of first Australian conference on adoption* (Sydney, February 1976), pp. 75-6.
3. SA Community Welfare Advisory Committee, Report on adoption, p. 38.

Table V.12 Trends in adoption 1970-71 to 1974-75—States and Territories

| | Population | | | Ex-nuptial births | | | Adoption orders | | |
|------|------------|-----------------------|----------|--------------------|------------------|----------|--------------------|-------------|----------|
| | 30.6.71 | 30.6.75 | % change | 30.6.70 | 30.6.75 | % change | 30.6.71 | 30.6.75 | % change |
| NSW | 4 653 000 | 4 793 000 | + 3 | 7 455 | 8 371 | + 12 | 3 196 | 1 762 | -45 |
| Vic. | 3 502 400 | 3 667 700 | + 5 | 4 963 | 1973-74 4 361 | -12 | 1 685 | 746 | -56 |
| | 390 413 | 406 100 | + 4 | 650 | 788 | + 16.4 | 303 | 243 | -20 |
| SA | 1 173 707 | 1 230 000 | + 4.8 | 1 701 | 1 925 | + 12.8 | 879 | 551 | -37.3 |
| | 31.12.70 | 31.9.75 | | 30.6.71 | | | | | |
| Qld | 1 812 800 | 2 003 500 | + 10.5 | 3 367 | 3 413 | + 1.3 | 1 562 | 1 394 | -10.7 |
| WA | 1 048 897 | 1 122 559 | + 7 | 2 316 | 2 352 | + 1.55 | 317 | 533 | |
| | 144 063 | 191 900 | + 33 | 134 ^(a) | 211 | + 57 | 122 ^(b) | 115 | -6 |
| ACT | | | | | 1974 | | 1972 (Dec.) | 1975 (Dec.) | |
| NT | 37 060 | 46 656 ^(c) | | 664 ^(d) | 458 | | 70 | 23 | |
| | | June 74) | | | | | | | |
| | | 34 919) | | | | | | | |
| | | Sept. 75) | | | | | | | |

| | Adoption orders through agencies and solicitors | | | Adoption orders through govt depts | | | Newborn babies allocated through govt depts for immediate adoption | | | Total placed for adoption incl. deferred (and govt or adoption agency) | | |
|------|---|---------|----------|------------------------------------|------------|----------|--|---------|----------|--|--------------------|----------|
| | 30.6.71 | 30.6.75 | % change | 30.6.71 | 30.6.75 | % change | 30.6.71 | 30.6.75 | % change | 30.6.71 | 30.6.75 | % change |
| NSW | 662 | 375 | -43 | 2 534 | 1 387 | -45 | 1 950 | 653 | -66 | 2 628 | 1 146 | -56 |
| Vic. | 1 373 | 537 | -61 | 312 | 209 | -33 | na | na | | 1 557 | 734 | -53 |
| Tas. | 20 | 23 | | 283 | 220 | -22.8 | 171 | 134 | -21.6 | 303 | 243 | -38 |
| SA | (g) | | | 1971-72 755 | 544 | -29.8 | na | 247 | na | 655 | 275 | -58 |
| Qld | (g) | | | | | | 30.6.72 ^(e) 1 118 | 663 | -40.7 | 1 201 | 884 | -26 |
| WA | 165 | 202 | +22 | 1 562 | 1 394 | -10.7 | 337 | 231 | -31 | 448 ^(e) | 259 ^(e) | -42 |
| ACT | (g) | | | 122 | 115 | -6 | 96 | 80 | -15 | 208 ^(f) | 51 | -74 |
| NT | (g) | | | 1972 70 | 1975 23 | | na | na | | 70 | 23 | -67 |

na Not available

Note: No national statistics available on trends—above statistics provided individually by the States and Territories.

(a) Dept of Capital Territory considers this an understatement because unmarried mothers in ACT prefer to travel to interstate hospitals (mainly NSW) to have their children. However, they will be registered somewhere else and do not affect the total.

(b) Dept of Capital Territory considers the figures fluctuate year to year and do not represent a trend.

(c) Population decrease attributed to Cyclone Tracy.

(d) Dept of NT notes 'the large numbers of ex-nuptial births in the NT are contributed to by the numbers of tribally married couples, whose children are counted as ex-nuptial unless the father accepts responsibility in writing'.

(e) Dept only available.

(f) Presumably adopted interstate.

(g) Adoption orders available only through government department.

Table V.13 Adoptions by natural parents, relatives and non-relatives, 1973-74

| | Australia ^(a) 1973-74 | NSW ^(a) 1973-74 | NSW ^(b) 1974-75 |
|----------------|-------------------------------------|-------------------------------|-------------------------------|
| Natural parent | 1304 | 346 | 346 |
| Relative | 190 | 41 | 18 |
| Non-relative | 4728 | 1549 | 1435 |
| Total | 6222 | 1936 | 1799 |

Source:

(a) D. Hambly, 'Balancing the interests of the child, parents and adopters: a review of Australian adoption law', in *Proceedings of first Australian conference on adoption* (Sydney, February 1976), p. 89 (the WA figure included in total is for 1972-73).

(b) Australian Bureau of Statistics.

The unmarried mother's decision

10. Unmarried mothers supporting children were estimated to be 19 000 in 1973.⁴ It was submitted to us that an increasing proportion of teenage mothers are inclined to keep their ex-nuptial child.

11. This trend causes concern, partly because of the shortage of babies for adoption and partly because of doubts about the ability of teenage mothers to care for their ex-nuptial children.

12. The principal officer of the Catholic Adoption Agency, Sydney, testified to the effect that:

. . . 5 years ago 50 per cent of girls would surrender their babies for adoption . . . and now 80 per cent of them are kept by single mothers . . . The age range has gone down; the age range used to be 17 to 25, now it would be something like 15 to 17.

13. The witness testified to the effect that there had been a reverse in social pressure and that:

. . . peer group and social pressure is towards keeping the baby and, very often, in circumstances which appear to be full of risk, both for the child and the mother.

The risk is:

Sometimes very immediate physical risk but more likely a more long-term social risk . . . Many of the girls who are keeping their babies are from deprived families. They . . . do not have a real role model to start with. I would think younger girls who have a happy experience of family life themselves and go back into the support of their families are at very much less risk, although even for these girls complications arise in the family relationship as to who is mother and who is grandmother.⁵

14. The witness also spoke of an increasing number of older children of single mothers being surrendered for late adoption, saying that 10 years ago this was rare but in the last 2 years the agency had had at least twenty children up to age 5 being surrendered.

15. Social workers, witnesses for the NSW Council of Social Service, held the same view and they also remarked on the increasing tendency for small children of single mothers to be surrendered for late adoption. The Council had considered the possibility of requiring mothers under 16 to demonstrate to the court that they were able to

4. Income survey for the Commission of Inquiry into Poverty.

5. Evidence, pp. 2524-32, Mrs Margaret McDonald.

care for their child adequately, but they had rejected this proposal as it was felt to be an abrogation of the young mother's right to keep the child:

. . . the ability to provide good mothering care does not necessarily correlate with chronological age.⁶

16. These witnesses spoke of the need for community services to be alert and to support young mothers both in the maternity hospital and on their discharge.

17. The principal of St Anthony's Home for Unmarried Mothers also spoke of the trend for young mothers to keep their child. She outlined the services offered to unmarried mothers, and explained how the Home kept contact with the mothers. There was a need for continuing support.

The trouble is that the majority of girls who keep their babies are themselves underprivileged and they do not have much in the way of a home to go to, even if their parents have the best will in the world. Therefore a girl like this has to come back to us or has to go somewhere until she can sort herself out and make some arrangements about sharing accommodation with somebody else. Very rarely does a girl face up to this situation until she has had the baby . . . I think as individuals we have to help them all we can . . . They are doing a tremendous job in going through with their pregnancy. I feel it is up to us to help them all we can and do anything we can at all to see that they get on and have a decent life.⁷

18. In her view the young mother who kept her child had a great need for both financial security and support to help her to cope with her situation. Other witnesses also spoke of the need for young mothers to get realistic advice and ongoing emotional support.

19. In the United States there have been similar trends. There have been fewer illegitimate births but they represent a higher proportion of total births. Many more occur to adolescent girls than formerly. Some of the results of this trend are said to be an increase in cases of child abuse and of older children being offered for fostering or adoption. Research suggests that adolescents do not make good parents.⁸

20. A study by the social workers from Sydney's Royal Womens Hospital of thirty-eight unmarried mothers 15 months after confinement presents a less pessimistic view of unmarried mothers than projected above.⁹

21. The study contacted thirty-eight out of the total of forty-seven mothers who kept their ex-nuptial babies born in the hospital in July–August 1971. Of the thirty-eight, twelve were under 20. The researchers found that the mothers were relatively well housed in flats and houses:

. . . only three were in less orthodox accommodation, i.e. caravan, bed-sitter, garage . . . only six were in below average accommodation.

Their financial position was relatively good.

Twenty-three were on incomes above the adjusted 'poverty line' and the minimum male wage . . . most of the mothers managed even meagre incomes adequately. Almost all of them worried about money.

6. Evidence, pp. 3110–20, Ms Audrey Marshall, Pam Roberts.

7. Evidence, pp. 3162–8, Sister Dolor.

8. Betty A. Schwartz, 'Having my baby', *Child Welfare* LIV, 2 (1976); Exhibit 244.

9. J. Wilson & B. Smith, 'They kept their babies: a follow-up study of thirty-eight unmarried mothers, 15 months after confinement', *Australian Social Work* 27, 2 (1974).

Only five were in receipt of government assistance. Of the children's health, the researchers wrote:

The children appeared healthy and well cared for physically . . . on the whole they were impressed by the happy, alert appearance of the children. The mothers maintained a circle of friends and most had supportive relationships with their families.

Of the future, the most frequent worry was about money, and nine were 'anxious about how the child would be affected by not having a father'. Only three thought they had made a wrong decision. The researchers concluded:

Owing to the size and the suspected non-representative nature of the sample only an impressionistic picture of the lives of these unmarried mothers can be given. However, a number of interesting points were revealed and it would be fruitful to have these examined further.

The relative material well-being of the majority of the girls was somewhat unexpected. The fact that a large percentage of the girls returned to work has implications for the planning of substitute care. Those without close family contact had more problems in arranging this than the others. The younger girls relied on their mothers and it would be interesting to examine the permutations of these triangular relationships in the future.

Most of the girls had a network of family and friends, but those without were certainly disadvantaged. It was noticeable that many of the mothers experienced problems with relationships with men, particularly with the father of the child. In fact, the girls' most expressed worries centred on this relationship, as well as on their financial situation.

In contrast the relationships with the children mostly seemed positive. It would certainly be interesting to study these children and other children of unmarried mothers at a later age and in more depth, with a view to assessing long-term emotional adjustment.

In view of the current increase in the number of single mothers keeping their babies, further research in this area should be given priority.¹⁰

22. While a small study is inconclusive, it tends to the view that, if young mothers have a supportive social network, economic stability and social maturity, they can provide adequately for their children.

23. Witnesses did not suggest to us that young unmarried mothers should be compelled to give up their child, nor is there any Australian or overseas precedent for doing so. Rather it was suggested that the welfare and needs of child and mother be considered, and that positive action be taken to avoid risks. In our view action should be taken to ensure that the young mother maintains regular contact with the social work department of the hospital in which the child was born, or with a baby health centre or other suitable community resource, so that she can be assisted to learn child rearing in a supportive environment. Support services should develop a parent aide scheme like the one developed by the Childrens Protection Society, Geelong.¹¹ This scheme trains experienced mothers to assist 'at risk' families with practical and emotional support and provides a non-coping mother with a learning experience—a role model.

24. The community has a responsibility to provide support and advice to the mother through its instrumentalities. This support and advice is required in the interests of the child and should continue until the mother demonstrates adequate coping methods. Better education for secondary school pupils as to child development, children's needs and parental responsibility would help to improve the quality of care for children.

10. *ibid.*, p. 20.

11. Submission 746, Childrens Protection Society, Geelong.

Dispensing with consent to adopt

25. Many people were concerned that very young unmarried mothers, and repeatedly negligent or abusive parents, were able to retain their rights to their children when, in the opinion of experts and others, they would be better placed for adoption. Concern over the capabilities of young mothers may lead to the argument that powers should be granted to the authorities to remove these babies compulsorily.

26. There appears to be widespread agreement in the literature of research on adoption and among paediatricians, child psychiatrists, social welfare and adoption agency workers and the general public that adoption, whilst not without certain hazards, provides a better future for the children of some unmarried mothers and the children of parents who persistently abuse or neglect them.

27. The principal officer of the Catholic Adoption Agency (NSW) quoted the UK National Childrens Bureau longitudinal studies of adopted children and of illegitimate children who stayed with their single mothers, which show that adopted children did as well as children of similar age and status from ordinary families, whereas the illegitimate children were disadvantaged compared to ordinary and adopted children on a series of scales measuring educational achievement, health and general well-being.¹² Some apparently consider that these studies may lead to moves to make it easier to dispense with the consent of the mother to an adoption.¹³

28. The circumstances in which consent may be dispensed with at present were outlined by Professor David Hambly of the Australian National University:

All the Acts authorise a court to dispense with the consent of a person to the adoption of a child where the court is satisfied that:

- (a) after reasonable inquiry, that person cannot be found or identified;
- (b) that person is in such a physical or mental condition as not to be capable of properly considering the question whether he should give his consent;
- (c) that person has abandoned, deserted or persistently neglected or ill-treated the child;
- (d) that person has, for a period of not less than one year, failed, without reasonable cause, to discharge the obligations of a parent or guardian, as the case may be, of the child.

There is a fifth ground which, in all Acts except that of NSW, provides:

- (e) there are any other special circumstances by reason of which the consent may properly be dispensed with.¹⁴

At a later point, Hambly poses the question whether it would ever become acceptable for a natural parent who has never contemplated adoption to be made a party to an application to dispense with her consent to adoption.¹⁵ This is an important issue, which raises the limits on the power of the state to intervene in the parent-child relationship and to sever the legal ties between parent and child.

29. Where it is suggested that the child is suffering from abuse or neglect the state can intervene, in certain cases, remove the child from the parent and assume parental responsibilities. Where, as a result of the exercise of these powers, or otherwise, children are taken into care or placed in a fostering situation, circumstances for dispensing with consent may result under (d) above. Where children have been abandoned

12. Evidence, p. 2524, Mrs Margaret McDonald referring to Seglon, Pringle & Wedge, *Growing up adopted* (UK National Childrens Bureau, London, 1974) and E. Crellin, M. L. Kellmar Pringle, P. West, *Born illegitimate: social and educational implications* (UK National Childrens Bureau, London, 1971).

13. M. D. A. Freeman, quoted in Hambly, p. 97.

14. Hambly, p. 95.

15. *ibid.*, p. 97.

and are in long-term care, their interests seem to require that authorities pursue actively a policy of securing adoption of the child and, in clearly appropriate cases, dispensing with consent to adoption.

30. The powers mentioned should not, in our view, be used to remove children from a single parent, solely on the ground that the child is likely to do better if placed for adoption than if left with the single parent. Other reasons may, of course, indicate that removal of the child seems necessary. We do not consider that there should be any special rules for dispensing with consent merely on the basis that the mother is young and single. We believe that the first right of a child is that its natural parent be given every possible assistance to care for the child. Attempts to help the family as a whole should come before consideration of the question of adoption. There should be a clear preponderance of evidence that the welfare of the child requires that the natural rights of the parents be overruled.

31. One of our submissions illustrates the difficulties some parents experience when they receive notice of an application to dispense with consent.¹⁶ Many parents who are party to an application to dispense with consent, particularly young mothers, will be economically and culturally disadvantaged. The issue is a serious one with long-term implications for all concerned. We believe that the mother should be entitled to legal aid to advise her on her position. This should ideally be provided by the legal aid authorities and not the child welfare authorities.

Adoption and the natural mother

The mother's reaction to adoption

32. Many callers who responded to our 'unwanted pregnancy phone-in' regarded adoption as an unsatisfactory solution to an unwanted pregnancy. While their views are not necessarily typical, the unsatisfactory nature of the adoption procedure was given by some mothers as a reason for wanting abortion. The main reason for rejecting adoption was the finality of the break between the child and the natural mother and the forfeiture of all subsequent rights to knowledge of how the child was faring and to make contact with the child when adult.

33. Further information about the 'phone-in' is set out in Part IV, in the chapter on unwanted pregnancies. While the telephone permitted anonymity and total privacy, the sample was in no way scientific and tended to exclude the inarticulate, the women who work full time, those unable to speak English and those without access to telephones.

34. Some 400 callers responded. Of these, 213 answered a structured questionnaire on how their unwanted pregnancy was resolved. The results appear in table V.14.

35. Of those who elected to have their babies adopted, fourteen questionnaires were scrutinised to assess the effect of adoption on the mother. Our survey of the literature of adoption indicates that the experience of the natural mother is unresearched and not appreciated by many who advocate adoption as a solution to an unwanted pregnancy. Therefore we thought it advisable to report the case histories in some detail. They are set out at Annexe V.C. Of this group of fourteen, nine appear to experience mourning and regret, one after 20 years; four appear not to experience much regret and to be satisfied; and one has no regrets at all.

16. Submission 263, Mr John Doxey.

Table V.14 How unwanted pregnancy was resolved

| Method | Number | % |
|-------------------------|--------|------|
| Abortion | 132 | 62.0 |
| Kept the child | 50 | 23.5 |
| Adoption | 24 | 11.3 |
| Miscarriage | 5 | 2.3 |
| Not known—did not state | 2 | 1.0 |
| | 213 | 100 |

Source: Commission 'Unwanted pregnancy phone-in', December 1975.

36. Four women reported making the decision to place their child for adoption themselves. Five reported family pressure; including three who reported both parents pressuring them, one who reported parents plus brother pressuring, another her father only. One reported being pressured by parents, the child's father and her medical adviser. Other pressures came from the adoption agency—one; the hospital—two; the husband—one; and, in the case of a late adoption, circumstances in which the father's suicide and mother's continued mental illness caused the mother to relinquish the child.

37. Some of the mothers would have liked to see the child or to know something of its progress.

38. Annexe V.C also sets out brief extracts from case notes recorded during the 'phone-in'. Some women wrote to us about their unwanted pregnancies after the 'phone-in'. Among the case histories of those who gave up their child for adoption were some who wanted to keep the child but who could not support it; some who were regretful and wanted to know what had happened to the child. Others were satisfied with the adoption.

39. Some spoke feelingly of the hurtful and cold attitudes of the professionals involved in the birth and adoption processes—nurses, unmarried mothers home, government adoption agencies.

40. Some women chose abortion rather than adoption as they did not feel able to go through with the pregnancy, have the baby and then give it away. Another would have had an abortion if it had been possible. Some of these experiences are set out at Annexe V.C.

41. The case histories we collected show a range of reactions and outcomes. For some there is lingering regret and a desire to know about the child. For others adoption was seen as giving both the mother and the child a better chance. The diversity of experiences emphasises the need for counselling and support in cases of unwanted pregnancies, to enable women to understand the options open to them and the consequences of their choice and to help them to reach an independent decision. There is also a need for assistance to mothers who keep their children.

42. Where proper support and counselling is available during the pregnancy the outcome may be considerably better for all concerned. The principal officer of the Catholic Adoption Agency (NSW) wrote about the response to adoption of young women helped by the agency thus:

My aim is not to present a rosy view—to surrender a child for adoption is a painful experience—the degree and duration of the pain varying enormously. The variation

appears to relate to the maturity or degree of personal integration of the individual, the circumstances surrounding the conception of the child, the capacity for maternal feeling, the capacity to see the child as a separate individual with needs of his own . . .

There is a need to state quite strongly that what we have been able to observe clearly shows that to bear a child and surrender it for adoption can be a worthwhile experience, an experience encompassing a wide range of emotion from deep sorrow to real happiness . . .

It seems possible to make the following broad generalisations about women surrendering children for adoption:

- (1) Many women are able to make positive use of the pregnancy and surrender of the child in terms of working out problems within their family relationships and in their own growth and maturation.
- (2) Even a young girl planning to surrender a child for adoption will often show a degree of genuinely altruistic concern that appears surprising in the light of her overall immaturity.
- (3) Many women continue to think of the child they have surrendered for adoption and even at times to worry about it. It is however uncommon to have contact with a woman who feels remorse at having made the wrong decision, even though she herself may still mourn the loss of her child.
- (4) Most women show great pride in the child to which they have given birth, and many express considerable satisfaction at having enabled a childless couple to have a child. It is unusual now for a woman to choose not to see her child, and most seem to derive some joy and comfort from this brief contact.
- (5) It is of vital importance that a woman facing the decision about the future of her child should have adequate pre-natal and post-natal counselling. It is important to ensure that as far as it is possible the decision she takes is her own decision, not one dictated by outside pressures. It is of equal importance that, once she has surrendered the child for adoption, facilities should be available for her through the adoption agency for assuring herself of the well-being of the child.¹⁷

43. The submission outlined eight case histories, which describe the family support and the help mothers received both from the agency and, in some cases, the unmarried mothers home. Most experienced family support and the agency maintained an interest in the mothers, providing news and a photograph until the child was 1 year old. The submission quotes verbatim from the mothers' letters to the agency. They show the value of careful and accepting support in the recovery of the young mothers from having a child adopted at birth.

44. The excerpts are remarkable for their thoughtfulness, their concern for the fate of the child, their acceptance of adoption as best for their child and themselves once they are assured of its success, i.e. on receipt of a letter or photograph through the agency, and also for their demonstration of the young women's determination and ability to remake their lives.

45. The submission points to the need for and the effectiveness of an accepting, supportive pre- and post-adoption service to the young mother of a child placed for adoption. There was also evidence that some women wished to put the experience behind them.¹⁸ In this they may be reflecting a need to shed the stigma they feel still attaches to unmarried motherhood. The reluctance of some does not negate the need for the provision of pre- and post-natal support services for the majority.

17. Submission 1247, Catholic Adoption Agency, NSW.

18. Evidence, pp. 3162-8, Sister Dolor.

Adoption or abortion

Economic factors

46. Many people who opposed abortion pointed out that there were many childless couples willing and anxious to adopt children, and that support should be given to young single women throughout their pregnancy to avoid abortion and to help fulfil the need for adoption.¹⁹ It was thought that additional support might influence mothers in deciding whether or not to proceed to term or to surrender a child for adoption.²⁰ These sentiments were spelt out in a submission dealing with abortion by an education officer in these words:

If women contemplating abortion are more fully informed and fully aware of the needs of those people in the community waiting to adopt children it is likely that in many cases altruistic and other motives would come into operation so that the probability of more babies becoming available for adoption would be increased . . .

I believe that more women should and could be induced not to have an abortion, thus making more children available for adoption, if practical, social and financial support were available to offset some of the reasons for disposing of 'unwanted' children. The cost of providing through appropriate governmental agencies full financial aid covering all medical, hospital and domestic expenses and, where a woman was employed, the cost of income forgone for part or whole of the confinement and a determinate time thereafter would relieve many women of economic hardship. The cost to the community would be negligible when measured in terms of social responsibility, the contribution to the well-being of society and the enrichment of so many human lives.²¹

47. An alternative to abortion or unmarried motherhood put to us suggested that financial remuneration could be offered to women requesting termination of pregnancy, to enable them to proceed to term and offer the child for adoption. The rationale for this proposal is as follows:

- (1) There is a shortage of babies for adoption.
- (2) Abortion, particularly after 12 weeks, has physical hazards for the woman.
- (3) Financial stringency is a factor influencing many women to seek abortion.
- (4) Money for the biological mother may be obtained from potential adoptive parents.

It is recognised that there are many legal and ethical problems about this suggestion and that social attitudes may not be prepared to accept the implication that babies would be 'sold'.

48. We do not agree that women should be induced or be paid to bear a child for adoption. We are supported in this by the would-be adoptive mother, who wrote:

No person should cause stress to themselves by bearing unwanted children for the purpose of adoption ²²

and also by the Lane Committee report, which says:

. . . if a woman has grounds for the abortion she desires, she ought not to be debarred from obtaining it in order that other people may benefit from her childbearing. There is, of course, no reason why her attention should not be drawn to the fact that, if she does not wish to keep the child, suitable adoption arrangements may be made.²³

19. Submissions 505, Mrs L. Lindsay; 677, M. T. Horth and others; 131, Right to Life Association (SA).

20. Submission 460, National Council of Women, NSW.

21. Submission 776, Mr J. Blair.

22. Submission 266, name withheld.

23. Lane report, vol. 1, p. 59.

We are equally opposed to any suggestion that a woman should be persuaded to surrender a child for adoption by the withdrawal of financial support after the birth of the child. A policy of financial incentives to supply the needs of adoptive parents is in our view unacceptable.

49. Studies referred to in Part IV show that among the main reasons why women elect abortion in preference to adoption or keeping their child are 'socio-economic reasons', 'inability to manage financially' and 'financial problems'. Young unmarried mothers in particular tend to experience relative poverty²⁴ and 'their obstetric care is often inadequate'. Their babies are nearly always the 'high risk' ones.²⁵

50. Young unmarried pregnant women assessing their economic position are realistic in anticipating hardship if they proceed with the pregnancy. They will experience interrupted earnings and probably have little in the way of savings. They may suffer loss of job or a change in job, financial worry, accommodation problems and problems with medical certificates, medical care and government benefits.²⁶

51. The Department of Social Security pays a lump sum maternity allowance (of \$30 at December 1976) to all pregnant women on the birth of their first child. Single pregnant women are eligible for a means-tested special benefit, 12 weeks prior to and 6 weeks after the birth of the child. Prior to this, single pregnant women may be eligible for unemployment benefit or sickness benefit if unfit to work.

52. If society wishes to encourage women experiencing an unwanted pregnancy to proceed to have the child, for the child to be healthy, and, if still unwanted, to place the child for adoption, greater short-term financial support should be offered to unmarried mothers, and society in general should give them greater emotional support and public approval during the pregnancy. Benefits available to unsupported mothers should be sufficient to enable the mother to maintain herself in reasonable comfort and health prior to and after the birth of the child. These measures might help some women to elect to continue their pregnancies and make a marginal difference to the numbers of children becoming available for adoption.

53. However, it is by no means certain that financial assistance to women during pregnancy would in the long term reduce the numbers of abortions or increase greatly the numbers of children available for adoption. Many women seeking abortion are married and this group are less likely to surrender children for adoption. The expectation of financial difficulties in rearing the child may be more important than the immediate problems as a factor influencing the choice of abortion for both married and single women. There are also considerable social and psychological factors affecting the decision and a woman may often prefer abortion to surrender of the baby where she feels unable to look after it herself. It seems that there is likely to be a continued shortage of babies for adoption, no matter what policy is adopted about financial support of pregnancy.

Social factors

54. Social acceptability of adoption is an important factor affecting a woman's decision whether to proceed with a pregnancy or have it terminated. One of our submissions said:

24. Evidence, p. 3167, Sister Dolor.

25. F. Grunseit, 'Adoption of infants and the role of an adoption advisory clinic in NSW', *Medical Journal of Australia*, 28 April 1973, pp. 853-4.

26. *International Family Planning Digest* 1, 2 (1975), p. 12.

. . . due to many reasons, there is a shortage of babies available for adoption. It is still socially unacceptable for a married couple to give up a baby for adoption. It is now acceptable for a single girl to keep her baby. It should be acceptable for a married couple, who so wish, to give up a child for adoption . . . (This is specially so in the case of a possible abortion.)²⁷

Professor Henry Kempe, of the University of Colorado, referred to the 'respectable institution of divorce between parent and child', calling it 'relinquishment', which is awarded with social approval in the case of child abusers, and might well be extended to all mothers giving up children for reasons of the child's welfare.²⁸ The woman presently giving up her child for adoption, at birth or later, does not yet have social approval or adequate support for herself or her actions. If there were greater support, more children might become available for adoption—bearing in mind the other matters we have referred to.

55. To achieve such a situation would require a massive change in attitudes on the part of some sections of the community. The experience of the Catholic Adoption Agency, Sydney, described earlier, indicates that social approval and acceptance are a positive influence in the young mother's acceptance of adoption for her child.²⁹

Psychological factors

56. Evidence was put to us that some mothers whose children were adopted went into psychiatric care. One expert witness, a paediatrician, discounted this post-adoption suffering, likening it to:

. . . losing a brother, sister or parent . . . But I would question whether the reaction is permanent.³⁰

The evidence indicates that the effects can be long lasting in some cases.

57. Dr Peter Hoopman, Adelaide obstetrician and gynaecologist, gave evidence to the effect that his previous anti-abortion stance had been changed by his becoming aware of the effects of unwanted pregnancy, and especially the effects of adoption on the mother. He said:

. . . what changed my whole attitude, after much soul searching, was the fact that five girls in that first year had been refused termination and had subsequently had their babies and had given them up for adoption. They were referred back by psychiatric hospitals after 1 to 3 months of treatment for acute depression . . . One girl in particular . . . sticks vividly in my mind . . . She sat and shuddered in front of me, answering in monosyllables. I do not know what has happened to her, but I think she is probably a useless member of our community at the moment. This shocked me, and I thought, 'Dear God, a termination at 6 or 8 weeks and she would still be a little older, a little wiser, and a useful member of this society.'³¹

58. Pare and Raven, in their study of patients who were post-abortion or refused abortion, found that:

To give her baby away to strangers is extremely distressing for any girl with normal instincts: to keep it and care for it will almost certainly entail the sacrifice of her friends and social activities. Severe and lasting psychiatric symptoms often come on at this stage.³²

27. Submission C809, confidential.

28. C. H. Kempe, Professor of Paediatrics and Microbiology, University of Colorado, in an address to the first national Australian conference on the battered child, Perth, August 1976.

29. Submission 1247, Catholic Adoption Agency, NSW.

30. Evidence, p. 2714, Dr Brian Kearney.

31. Evidence, pp. 1314–5, Dr Peter Hoopman.

32. C. M. B. Pare & Hermione Raven, 'Follow-up of patients referred for termination of pregnancy', *Lancet* 1, 7648 (1970), p. 635.

We stress that these effects are not felt by all mothers; abortion, too, has its traumas.

59. Analyses of our submissions, the 'unwanted pregnancy phone-in', case histories and the literature of research on adoption suggest the following conclusions:

- (a) Women experiencing an unwanted pregnancy see adoption as the least preferred option.
- (b) The available studies indicate that the unknown fate of their child is an important factor in their rejection of adoption.
- (c) Some women surrendering children for adoption suffer trauma at various levels—regret, guilt and a continuing desire to know the fate of their child. Others are able to come to terms with it.
- (d) The difference may lie in the woman herself—her age, her emotional maturity or in the circumstances surrounding her—the attitudes and pressures brought on her to adopt from parents, boyfriend, social workers or other professionals or her financial situation. Counselling and support services may help the woman to reach an independent decision which she will be able to accept without undue regret.
- (e) Knowledge of what happens to the child may be important to the long-term mental health of a mother relinquishing a child for adoption.

60. It may well be that more young women would place their children for adoption if society projected more support and acceptance of the unmarried mother, gave adequate financial support during pregnancy and required employers to grant them the right to re-employment should they desire it.

61. Another factor which could be important is the revision of procedures such as the sealed records which presently deny mothers who place their child for adoption any knowledge of the fate of the child. We consider that the Territories and the States should reconsider the sealed records laws. We do not necessarily think that the mother should be enabled to contact the child directly (see below). In many cases it would be sufficient to provide some general information about the child's progress. Agencies should record such information as is available to them to enable them to answer queries, but they should avoid intrusion upon the privacy of the adoptive family. The social work and medical professions should research the psychological effects of adoption on the mother with a view to providing women contemplating abortion or adoption with guidance and care, based on a realistic appraisal of the effect of adoption on the mother.

62. We consider that adoption agencies should collaborate in an education program to develop community understanding and approval for mothers who relinquish children for adoption, and that they should accept as part of their responsibility the continuing counselling of the mother after she has released a child for adoption.

Adoption and the child

63. Our investigations so far have made it clear that it is the welfare of the child that is of paramount importance. Women placing their children for adoption have the right to expect that every possible precaution has been taken to ensure the child's welfare and the success of the adoption. Evidence to us indicates that some procedures may need review in the child's interest.

Medical records

64. Some doctors, adopted children and adopting parents complained that the medical records available to the adopting parent and child did not have enough information. A paediatrician from the National Council of Women, speaking of NSW practice, said:

A physical examination form for the baby has to be completed by a doctor in some detail . . . I consider the form inadequate. No opinion is allowed the paediatrician either on the child's suitability or on what information should be given the adoptive parents . . . but it appears to be very little . . . the social worker . . . often appears to pass on extraordinarily little information about the mother or the natural father to the adoptive parents.³³

65. An adopted child gave evidence of her handicap when completing applications for life insurance and other forms which ask for a family health history. She and her adoptive parents had insufficient knowledge for her to supply the details required by life insurers and employers.³⁴

66. In our view children being placed for adoption should have a detailed medical screening. The natural parents' social and medical history should be ascertained, so far as practicable, and recorded for the future use of the adoptive parents, their medical advisers and the child on attaining adulthood. Some discretion would have to be exercised in recording social factors to avoid the possibility of identification, embarrassment or distress to the persons concerned.

Access to records

67. Children surrendered for adoption are often illegitimate. This factor has contributed to the confidentiality and secrecy which surround adoption—like a wall of silence being placed between the child and his natural parents. Speaking of the American experience, Professor Rita Dekette explained this phenomenon as follows:

Adoption was contrived, indeed deliberately shaped, as a final step, a break with the past and the beginning of a new life for the child and his original parents. That the child's coming into the world was often kept secret from the unmarried mother's family and associates was a factor in this finality, but other considerations also supported a clean break. These were the wish of the adopted parents to have a family as much like their own as possible, and the beliefs that a child needs one set of parents from the beginning of his life and that the deep sense of belonging he needs can best be provided by parents who are unthreatened in their relationship with the child.³⁵

68. The Australian experience is similar. Out of the concern for finality, privacy and security for all parties to the adoption process, sealed record procedures were applied in Australia.

69. A reassessment is occurring. Adopted children's apparently greater propensity to psychiatric disturbance, especially in adolescence, and the expressed desire of many adoptees to know their origins have led to a call for procedures to enable children to learn about their origins. Natural mothers are also calling for information about the fate of their children. Adoptive parents are as yet not as receptive to change on this matter. The matter was raised in a number of submissions.³⁶

33. Exhibit 56.

34. Interview report, NSW, 109.

35. Rita Dekette, 'Perspectives for agency response to the adoption record controversy', *Child Welfare* LIV, 8 (1975), pp. 546, 550.

36. e.g. Submission 619, Ms Julia Freebury, ALRA.

70. A female witness gave evidence to us and spoke of her need, beginning when she was about 10 years of age, for knowledge of her mother, saying:

It became an obsession . . . to the point where I would sit on a bus . . . and I would search every face . . . to see if I could see my mother . . . It was a continual search. It got really bad when I was 16 or 17 and drove me to find out.³⁷

71. The need to find out about parenthood is not confined to adopted children. We also heard from a man who was born to and reared by a single mother and who tried to find his father. He felt that children are at a disadvantage if they have no right to find out about their parenthood.³⁸

72. Some adoptees have formed associations to press for the right to information. The Adoptees Liberty Movement Association began in the United States in 1971, and has now been established in Australia with the following aims:

- (a) That before adopted children reach the age of 18, their adoptive parents must inform them that they are adopted.
- (b) That a human relationship registry be established to record details of adopted children and their natural parents.
- (c) That once adopted children have reached the age of 18 they, or their natural parents or either of their parents, may ask the registry to contact the other party and, if both parties agree, their identities should be revealed to each other and contact be allowed.
- (d) That data at the registry be preserved in the strictest confidence.

73. A paediatrician spoke of the child's need for information thus:

The adopted child is very vulnerable, and this vulnerability is at its peak in adolescence when he faces the 'identity crisis', and he does not know either where he came from or where he is going. He has no family past, so how can he know who he is or form an image of himself intellectually and emotionally? A child needs a past beyond the adoptive family. It takes a child of great personal attraction and intelligence to be so secure in the present that he has no fear for the future and no need of a past. The security of the family and love he has received and the absolute honesty of his adoptive parents in their relationship with him become vital.³⁹

74. The NSW Council of Social Service Standing Committee on Adoption said:

In the present climate of growing interest in, and awareness of, the 'rights of the child', much consideration was given to the possibility of recommending an amendment of this nature.

The Committee was sympathetic to the right of a young person, on attaining mature age, whether it be 18 years or 21 years, to knowledge of his natural origins. The claims to this right are probably stronger, it was felt, where the adoption has been unhappy or unsatisfactory, and where the young person is trying to formulate some feeling of identity.

However, it was difficult not to conclude that the rights of natural parents and of adopting parents, which have equal value, may not be infringed by the securing of such rights for the young person. The Committee considered that many natural parents, having surrendered their child in good faith, believing that they were severing all contact, would have gone on to make new lives and the advent of the young person may be unwelcome and even traumatic. It was pointed out, in this context, that some unmarried mothers still leave their homes to have their babies elsewhere, to safeguard their privacy. Also there was some feeling that the knowledge that a young person may seek out his natural parents on attaining mature age may frustrate or impede the natural working out of family conflicts relating to adolescent development, within the adopted family.

37. Evidence, pp. 3078-81, Patricia X (name withheld).

38. Submission 1144, name withheld.

39. Exhibit 56.

While not making a firm recommendation, the Committee would like to express support for the view that a young person has the right to knowledge of his natural origins, that is information about the age, physical characteristics, education, interests, family, although we question the wisdom of allowing the young person knowledge which would lead to his locating the natural parents, that is, access to his original birth entry with name of the natural mother/parents.

The Committee makes a general recommendation that in adoption practice every effort is made to obtain the fullest possible information about the background of babies who are surrendered for adoption, and that this information be given in an unidentifiable form, *in writing*, to adopting parents at the time of placement, and, further, that an adopted child should have the right to obtain this information from the agency which arranged the adoption, when that child is 18 years old. This would safeguard the child's right to knowledge of his origins, if his adopting parents do not share this knowledge with him themselves.⁴⁰

75. A US study commented on the increasing number of adult adoptees concerned about their genealogical background; the study recommended that information, intercession and counselling be available.⁴¹

76. In Scotland an adopted child has the right to obtain a copy of the original birth certificate at the age of 17; application may be made to the Court which made the adoption for the right to see the Court records of the adoption proceedings.⁴² Dr John Triseliotis got into contact, through the Registrar-General, Edinburgh, with adoptees who inquired of the Registrar-General for information about their origins in 1969 and 1970. He reported that a crisis in adolescence such as the death of one of the adopted parents, illness, expectation of a child, separation from husband, boyfriend or girlfriend precipitated a search for lost natural parents.⁴³ Two-thirds of the sample learnt of their adoption when they were 11 years or older. Of the small number who did find a natural parent, few established a relationship with them, but found it easier to come to terms with their condition and circumstances. He says:

Almost all the adoptees, irrespective of the objectives and outcome of their search, were in favour not only of retaining the system by which they were able to obtain information, but also of improving it . . . the majority of adoptees searching into their genealogical background and especially most, but not all, of those trying to find their birth parents, were unhappy and lonely people and a considerable number had psychiatric help. They generally hoped that the search would lead to new nurturing relationships or at least to the development of a more secure personality.⁴⁴

77. Dr Triseliotis refers to:

. . . the obvious need for adoption agencies to see their work as part of an ongoing process rather than as a once and for all activity; in other words, to see adoption as part of a continuum and give equal emphasis to its different stages. The process of 'selection' will have to be seen as an opportunity for preparation and for mutual trust to be developed between the agency and the parents. It is hoped that the adoption agency of the future will always be available to natural and adoptive parents, as well as to adopted children and adults. Consultative services to these groups should be built into the structure of each agency and be made available and accessible, without unnecessary barriers, secrecy and evasiveness.⁴⁵

40. Submission 1018, Council of Social Service, NSW.

41. Sorosky et al., *The effects of the sealed record in adoption* (Adoption research project, 1975).

42. *Report of the Departmental Committee on the Adoption of Children*, Cmnd 5107 (HMSO, London, 1972), p. 84, para. 300.

43. John Triseliotis, *In search of origins: the experiences of adopted people* (Routledge & Kegan Paul, London, 1973).

44. *ibid.*, p. 160.

45. *ibid.*, p. 163.

Dr Triseliotis found the Scottish provision was of some value to those who had been deprived of important information about their biological and sociological background.

78. An interesting fact about the Scottish experience is the very few persons who do inquire. The Committee on Adoption noted that over forty people applied each year in Scotland.⁴⁶ The possibility may in itself be both an assurance that one could find out one's origins and an inhibition in that one may not like what one learns.

79. The effects of discovering her natural parents were described by a witness who related how, at 20, she found her mother and father. Of the effect on her adopted parents she said:

My adopted mother is absolutely fantastic about the whole thing. She saw what I went through and her attitude now is if she had to adopt it would be twins because they have a biological link with somebody else.

As for my feelings regarding her they could not be better, I have so much respect for her. Finding your own parents cannot take that away, it cannot take anything away from what you feel for your adopted parents. It is a natural instinct to want to find your own parents.⁴⁷

80. In her view the approach should be made through a trained counsellor, because there may be other children who resent the intrusion: 'None of this just turned up—knock, knock, I am yours'. She was asked whether she thought that the relationship with the adopting parents would be affected and replied that they should not be over-possessive, that children did not want to cling to their parents as they grew up and that they had a right to run their own lives.

81. Ten adoptive parents who phoned during our 'unwanted pregnancy phone-in' were asked about their attitudes to their adopted child having access to information about its origins as follows:

How do you feel about the possibility of your adopted child wanting to make contact with its natural mother?

One was emphatically against this. The others saw it as a natural curiosity, and, while ambivalent about it, would accept it if the children wanted it and it was arranged through an intermediary. One of these, a late adoption, would welcome it. Two submissions from adoptive parents opposed the disclosure of information. One adoptive mother wrote that she would never have adopted children had she known she would have to face the mother.⁴⁸ Another mother said that the child is not mature enough to envisage the consequences, which may mean heartache and stress to the natural parents; she believed that the many should not be disrupted to help the few.⁴⁹

82. The NSW Adoption Legislation Review Committee considered the question of access to birth records. Under NSW regulations, adoption records may not be inspected by private parties except upon the order of a Court. The Committee reported that:

As matters stand, a comparatively small number of people seek information from public authorities such as the Department as to their original birth records and very few take the matter to the stage of seeking an order from the Court. Many of those who gave submissions to the Committee on this subject were apparently unaware of the actual provisions of the legislation.

46. *Report of the Departmental Committee on the Adoption of Children*, pp. 84–5, para. 301.

47. Evidence, pp. 3078–81, Patricia X (name withheld).

48. Submission C393, confidential.

49. Submission 515, Mrs Margaret Freebairn.

They noted favourably that recent adoption practices stressed that the child should be made aware of his adopted status as early as possible, and continued:

Practice, however, had not always followed this line and it would seem to be quite unfair to make any change in the law on this matter which would have retrospective operation.

83. The Committee felt that factual information, rather than actual names, was wanted:

Therefore it was highly desirable that there should be much wider use of non-identifiable matter by agencies and the Department in their dealings with both natural and adoptive parents.

84. The Committee concluded:

. . . that the present legislation permits a serious inquirer the right to seek an order of the Court to obtain the necessary information, by order of the Supreme Court, but there are sufficient checks in the present system to prevent indiscriminate disclosure of information

and recommended:

There should be no change in the present Act or Regulation in regard to access to original birth records but that encouragement should be given to the provision of continued services to all parties to adoptions. In view of the popular misconception about this matter, there should be a public education campaign to advise people of the benefits of telling adopted children of their background and this message should be conveyed to adoptive parents as an integral part of good adoption practice.⁵⁰

85. We welcome the proposals for the wider use of non-identifiable matter and for the encouragement of parents to let adopted children know something of their origins. Adoption agencies could play an important part in recording and making available this kind of information, e.g. occupation, physical characteristics and family history.

86. As regards access to original birth records, limited recourse to a tribunal of experts, chaired by a Judge of the Supreme Court, could be an intimidating and costly procedure for an applicant seeking access to his birth records at, say, 18. Legal aid should be made available to young people making such applications.

87. A further step in assisting adoptees to have knowledge of their origins has been taken in New South Wales.⁵¹ An Adopted Persons Contact Register has been set up within the Department of Youth and Community Services to facilitate contact between adopted children and their natural parents in cases of mutual desire and agreement. The privacy of all affected parties has been safeguarded and registrations are not accepted from persons under the age of 18 years.

88. Under the scheme, adopted persons, with the agreement of their adoptive parents, may register. Natural parents who have surrendered children for adoption may also put their name on the register. Where both parent and child are registered they will be counselled before being put in touch with each other. The register will not interfere with the present system restricting access to adoption records.

89. Further steps are advocated by some to fulfil the child's need for a past. At the first Australian conference on adoption in Sydney, February 1976, the task group reported to the plenary session of the conference thus:

This task group believes each child has the basic right of access to information about his birth origins, and therefore recommends that legislation be introduced . . . 'at the age of

50. Report of the NSW Adoption Legislation Review Committee to the Minister for Youth and Community Services (February 1976).

51. Press statement, 'New deal for adopted persons', Mr Rex Jackson, Minister for Youth and Community Services, 29 October 1976.

18 years an adoptee shall have access to the original registration of his birth'. And further, we believe that the biological parent too has the basic right to information concerning the progress of their child. Therefore we recommend that legislation be introduced to enable the biological parent to be granted the right to information about the progress of their child through the appropriate agency or department in so far as they are able. The task group recognises the vulnerability of some biological parents if a child in later years seeks contact. Notwithstanding this our recommendation stands.⁵²

90. Although some adoptive parents would be apprehensive about such procedures they may become acceptable to others. A representative of an Adopted Families Association told the adoption conference that, after hearing the discussion between agency workers, adopted children, natural mothers and adoptive parents, she no longer opposed disclosure of information and would inform her organisation accordingly.

91. Organisations are being established in Australia to provide child-parent contact⁵³, along the lines of those already established in the United States.⁵⁴ In our view there is a need to establish procedures which will minimise dislocation in adoptive parent-adopted child relationships. The issues which arise are whether disclosure of identifying information should be voluntary by all parties (as under the NSW scheme); whether there should be an absolute right to identifying information; whether the right to information should apply to existing adoptions or only to future ones; and whether provision should be made for an agency social worker or counsellor to effect introductions.

92. We believe that the first stage should be to introduce a right to non-identifying information. Agencies and departments should release information in their possession and record information for any party involved in the adoption.⁵⁵ Information of this kind should be available to an adopted child at the age of 18. The interest of the natural parent in receiving such information should not be a reason for intruding upon the adoptive parents and the child. To do so would go counter to the purpose of adoption—i.e. to provide a substitute family environment. The thought of surveillance or unnecessary invasion of privacy could be a cause of tension and possibly distress. For this reason great care would need to be given to the means by which information could be collected. Similar considerations apply in the reverse situation.

93. We do not think there should, at this stage, be an automatic right to identifying information in respect of past adoptions as this could upset many people and intrude upon their privacy. However, we think that agencies and departments should make contact where feasible with the natural parent or child on the request of the other, after the child is 18, and report back as to whether the other party wishes to make contact. The agency or department should assist in effecting a meeting if both parties wish it; the consent of the adopting parent should not be required.⁵⁶

94. Subject to what has been said above, we do not consider that birth records or identifying information should be disclosed to either parent or child except upon the order of the Court, in exceptional circumstances, taking into account the interests and privacy of both natural and adoptive parents and the child. We do not think that such applications should be considered until the child has attained the age of 18.

52. *Proceedings of first Australian conference on adoption*, Appendix 1, p. 174.

53. See *Sydney Sun*, 11 April 1976 and 16 June 1976.

54. Adoptees Liberty Movement Association.

55. See fifth report of the Canadian Royal Commission on Family and Childrens Law, 1975, part 7, recommendation no. 27.

56. *ibid.*

95. The possibility of extending the right to identifying information in the case of adoptions in the future should be further researched and considered.

96. Once an adoption has been effected, the adoptive parents naturally desire privacy and freedom to care for the child in the manner they consider best. The selection of persons as suitable adopters should ensure that the interests of the child are secured. Adopted children are, however, vulnerable in some respects, simply because they are adopted. This vulnerability may relate to uncertainty about their origins. Adoption agencies and departments should not intrude upon the privacy of the adoptive parents. Their role should be that of helpers rather than supervisors; nevertheless we think that they should try to ensure that the child is helped to understand the nature of adoption. For this purpose we consider that adoption agencies, government and private, should contact adoptive parents from time to time to ensure that the adoptive parents inform and help children in their understanding of their origins. Counselling services should be provided to assist parents in this matter.

The adoptive parents

Adoption and mental health: the need for parent screening

97. The South Australian Medical Womens Society stated:

Several surveys have shown that a disproportionate number of adopted children are referred for psychiatric opinion on account of emotional, educational and social problems.⁵⁷

Their submission said that there was a positive correlation between psychiatric disturbance and late adoption, less ante-natal care and stress on the natural mother and lack of preparation for the adoptive parents.

98. They spoke of the need to provide pre-adoptive training for adoptive parents and for post-adoption counselling, which they felt would reduce the numbers of adoptive parents and adopted children attending psychiatric clinics.

99. In a study of adopted children in psychiatric care Drs Harper and Williams investigated the adopted children admitted to the North Ryde Psychiatric Centre's Childrens Unit over the 5 years June 1969–June 1974.⁵⁸ Of 191 residential admissions of children up to the age of 13 from throughout the State of NSW, twenty-two were adopted (seventeen boys and five girls), representing an incidence of 11.5 per cent of adopted children over the 5-year period. This compares with a Bureau of Statistics estimate that 3 per cent of children are adopted each year in NSW. The authors conclude that adopted children were:

. . . highly over-represented in terms of psychiatric referral to the Childrens Unit during these 5 years.

100. The adoptive families were somewhat older than natural parents when they had a first child and tended to be middle class.

In seeking the stated reasons for adoption, data were available in all except one case. Of the thirteen families who stated that they could not conceive, it was not possible to elucidate the medical reasons in most instances. Four were compensating for loss of a natural child; fear of childbirth, loneliness, pressure to adopt the sibling of an already adopted child and an intrafamilial adoption made up the rest . . . There was evidence of deprivation prior to adoption in all six cases where adoption was after 6 months. Later deprivation, that is after adoption, was evident in six cases although two of these were also amongst those who had been deprived prior to adoption.

57. Submission 143, SA Medical Womens Society.

58. Juliet Harper & Sara Williams, 'Adopted children and psychiatric care', *Australian Journal of Social Issues* 11, 1 (1976), pp. 43–53.

101. It was not possible to find out how nine of the children learnt of their adopted status, but:

. . . in five cases disclosure appeared to be well handled and in the remaining eight cases it was mishandled.

102. Three children were under 5, thirteen were between 5 and 10 years, six were 11 to 13. At admission, three of the children had moderate retardation and six were assessed as mildly retarded. 'Personality disorders accounted for 22.7 per cent of the diagnoses', psychoneurotic disorders for 45.2 per cent.

103. The researchers sought to:

. . . separate pathology in the parents prior to the adoption from later pathology, which could be reactive to or interactive with the outcome of the adoptive process and its concomitant stresses. In six cases, it was felt that the major pathology lay in the child, in twelve cases with the parents, and in four cases that it was essentially an interactive process in which both parents and child were involved in a failing relationship in which there was no specific aetiology but rather a mismatch of parents and child giving rise to stress and conflict in both parties.

104. Harper and Williams recommend:

. . . more effective screening of prospective parents, including a professional, psychiatric assessment and post-adoptive counselling and follow-up

which they suggest should be part of the conditions of adoption or at least available to those who require it.

105. Harper and Williams did not question the value of adoption, but sought to isolate the factors which inhibit success, so that steps could be taken to overcome them. Factors which they considered important were the adoptive parents, the child's loss of the natural parents and fantasies about them, fear of loss of adoptive parents 'especially where extrusion from the family is used as a threat to ensure good behaviour'. They quoted Lawder as saying that post-adoptive counselling is a 'professional obligation' and that the involvement of the adoption agency in post-adoptive counselling is therapeutic for the child and the adoptive family.⁵⁹

106. Dr Muriel Blackburn, a child psychiatrist, reports a similar study done in the Auckland Hospital of a small sample of both day and inpatients over the 6 months 1 May 1974–30 October 1974. She comments:

The fact that adopted children are over-represented in psychiatric outpatient facilities overseas and in New Zealand has been well documented in the past.⁶⁰

107. Dr Blackburn attributes the children's problems to late adoption, the adoptive parents' motives for adoption, parental insecurity and anxiety because the child is adopted, over-representation of the middle classes in adoptive parents, the relative youth and poor ante-natal care of the birth mother and the age of the adoptive parents. In her view a period of getting ready for having a child is necessary to replace natural gestation; it also allows parents with abnormal motives to drop out.

59. E. A. Lawder, 'Post-adoptive counselling, a professional obligation', *Child Welfare* (1970), pp. 435–42.

60. Muriel Blackburn, Adopted children in a psychiatric inpatient unit (paper presented at the Child Psychiatric Services Conference, Lake Alice Hospital (NZ), 14–17 April 1975).

Parent preparation

108. Dr Clair Isbister refers to her own work as a paediatrician and to the work of Magaret Kornitzer⁶¹ which confirms Dr Blackburn's views. Dr Isbister concludes:

Both adoptive parents and adopted children have special problems that normal parents and children do not have. To meet these problems the parents need preparation for parenthood and as much information as possible about the heredity of the child . . . It should be a condition of adoptions that the child should be told of his adoption, and counselling be available for the parents as long as they need it.⁶²

109. Dr Angel Lord, regional paediatrician, northern metropolitan health region of the NSW Health Commission, in discussion with a member of the Commission, reported her impression that an increasing number of children who turn up for child guidance are adopted children. She is concerned that adoption procedures are not sufficiently stringent, and that people are often allowed to adopt a child for the wrong reasons. She thinks that adopting parents should be screened by more highly skilled personnel—psychiatric and senior social workers. She felt that adopting parents also need more efficient health screening. All that is presently required is a doctors certificate and not all doctors give adequate examinations.

Criteria for adoptive parents

110. The NSW Review Committee on Adoption Legislation, having considered the criteria for assessing prospective adopting parents, said:

. . . criteria should include age, health, capacity to provide properly, reputation, potential family stability, history of the applicant's own family, education, fertility, size of existing family as well as any other relevant consideration (whether related to the applicants or to the child proposed for adoption).⁶³

These criteria should in their view be published to ensure that they are available to interested members of the public.

111. Our evidence indicates that 'health' should read 'physical and mental health'. The Committee recommended:

Medical assessment of applicants should be by way of a long and detailed examination and specialist reports should be sought wherever this is indicated after preliminary scanning by a medical practitioner.⁶⁴

112. We agree and stress that the mental health and emotional preparedness of the prospective adoptive parents should be a prime factor in assessment of suitability as adoptive parents. Government regulating authorities and adoption agencies should, in our view, require from adoptive parents a certificate of physical and mental health including a certified medical history before admitting them to the lists of prospective adopting parents. The South Australian Committee made detailed recommendations about the criteria for prospective adopters; we have not considered these fully but they cover some of the matters dealt with in our report.⁶⁵

113. A solicitor and adoptive parent said there was a need for further research into the success or otherwise of parent-child relationships in the adoptive situation. He also feels that 'adoptive parents should play a part in the assessment procedures of agencies'.⁶⁶

61. M. Kornitzer, *Adoption and family life* (Putnam, London, 1968).

62. Exhibit 56.

63. NSW Adoption Legislation Review Committee, report, pp. 25–6.

64. *ibid.*, p. 27.

65. Report of the Community Welfare Advisory Committee on Adoption Matters, Adelaide, December 1976, pp. 8 ff.

66. Interview report, ACT, 59.

114. Some adoptive parents complain of their unpreparedness and the short notice they receive of the arrival of a child⁶⁷. Some agencies are already active in pre- and post-adoption parent education and counselling; group learning situations have been successful in some agencies.⁶⁸

115. Adoptive parents have established self-help groups to work both as a lobby and as a resource.⁶⁹ A valuable task which they can perform is to arrange discussions with pre-adoptive parents, to help them to understand their motivation and their future as adoptive parents.

116. We consider that adoptive parents organisations should be encouraged to provide support for their members, to develop parenthood courses in conjunction with the professionals and to seek recognition and aid from adoption authorities and agencies for this role.

117. We also consider that government regulating authorities and adoptive agencies should collaborate in developing group learning programs for prospective adopting parents and pre- and post-adoption counselling programs. We believe this would help to ensure the success of adoption as a procedure for the child and to reduce mental health problems. State and voluntary agencies should ensure that all adoptive parents have a basic knowledge of child development patterns and that they receive adequate preparation for parenting. Where necessary, they should provide such a service or refer the adoptive parents to a suitable agency for pre- and post-adoption education and counselling.

Infertility and adoption

118. It has been estimated that 10 per cent of Australian couples are infertile.⁷⁰ (Artificial insemination is considered in Part IV.) The number of children available for adoption falls short of the number of couples who wish to adopt and the gap is growing. For many infertile couples childlessness cannot be overcome by adoption. They will need to adjust not only to their infertility but also to their inability to adopt.

119. Barbara Eck Menning, director of a self-help group for infertile couples, writes of the depression, isolation and grief felt by such couples and of their need to resolve these feelings and to rebuild their self-esteem. In her view, this should be undertaken before adoption is considered.⁷¹

120. One of our submissions echoes Menning's description of the suffering of the infertile couple:

A little more understanding and less criticism of the childless couple would release many feelings of failure and guilt that the community inflicts.⁷²

121. The principal officer of the Catholic Adoption Agency, speaking about the adoption process, said:

Adoption is a very complicated subject in terms of relationships, in terms of the feelings the adopting parents bring to it and problems about their own infertility, the attitude towards illegitimacy, their feelings of a right to a child, probably flowing from their own

67. An adoptive parent [on] 'Adoption—a personal experience' in *Proceedings of first Australian conference on adoption*, Appendix 2, p. 175.

68. Nancy Campbell, 'After placement—what then?', *ibid.*, pp. 139–40.

69. Pamela McNeilly, 'The Adoptive Parents Association', *ibid.*, pp. 156–8.

70. D. Llewellyn Jones, *Human reproduction and society* (Faber, London, 1974), pp. 126–9.

71. Barbara Eck Menning, 'The infertile couple: a plea for advocacy', *Child Welfare* LIV, 6 (1975), pp. 456–7.

72. Submission 266, name withheld.

feelings of unworthiness, connected to infertility. All those things need to be very carefully looked at and people need to understand what it is that they are taking on. Unless they have the chance during the adoption assessment to look at these things they go into adoption really quite unprepared for what they face as parents.⁷³

122. It is important that infertile couples who seek adoption should come to terms with their feelings of guilt, failure or unworthiness⁷⁴ before the adoption proceeds. Similarly, infertile couples who fail to adopt will have suffered additional trauma and may well be in need of help to come to terms with their infertility and their childlessness. The adoption agencies are the logical providers of counselling services to infertile couples. They should accept as part of their responsibility the counselling of infertile couples who seek adoption, both pre-adoption or after the failure to adopt. This could be done by providing group learning situations where infertile people can meet people who have successfully adjusted to infertility with or without adopting.

123. Some couples may be more appropriately referred to other community resources or agencies for continuing counselling after failure to adopt. Self-help groups could provide support for infertile couples and help to educate the public about the life style of childless marriages. Health Departments should alert health professionals to the need to develop a community acceptance of both infertility and childlessness.

Eligibility to adopt

124. We received a number of submissions which suggested that the present categories of persons considered eligible to adopt were too narrow and that they exclude persons who would be able to provide well for the needs of children. We emphasise that adoption is primarily for the benefit of the child to ensure that children whose own parents are unable or unwilling to care for their upbringing are placed with parents who will provide for their emotional and material needs and compensate for the separation from the natural parents.

125. The child's welfare is paramount; it is therefore inappropriate to speak in terms of a 'right' to adopt. The suitability of adoptive parents has to be determined by criteria appropriate to the needs of the child, including the ability to provide a suitable environment and to contribute to the welfare of the child. Where there is an excess of prospective adopters over the number of children available it is justifiable to limit adoption to those able to offer most to the child in accordance with these criteria. The factors relevant to suitability should be part of public education programs about adoption.

126. The groups who consider they are unfairly excluded by the criteria of eligibility are single people, people without religious affiliation and homosexuals.

Single persons; de facto relationships

127. While we do not consider that single people should be excluded from consideration (particularly where an existing relationship has been established)⁷⁵ we clearly favour the two-parent situation as providing the best opportunity for the care and upbringing of most children.

128. Parties living in a stable de facto relationship are sometimes able to offer a child a family environment, care and nurture similar in nearly all respects to that

73. Evidence, p. 2528, Mrs Margaret McDonald.

74. Menning; see also Submission 266, name withheld; Evidence, p. 2528, Mrs Margaret McDonald.

75. NSW Adoption Legislation Review Committee, report, p. 57.

which a married couple can provide. The stigma and the discrimination which have in the past applied to children born outside marriage are now being eliminated progressively, but the process is not complete. While there is in principle a case for admitting the general entitlement of such couples to adopt, the consequences to the child must be considered. The entitlement of de facto couples to adopt should be postponed until it is established that the natural children of a de facto relationship suffer no disadvantage because their parents are not married; it would be necessary to determine criteria for the recognition of such relationships. In the meantime applications for adoption by such couples should be considered on their merits, bearing in mind the above factors. A relationship of less than 3 years should not in our view entitle the parties to consideration.

People without religious affiliation

129. Atheists and agnostics are another group who have been disadvantaged in adoption procedures. A member of the Humanist Society of Victoria wrote:

. . . there is a problem of atheists who want to adopt a child; obviously since church groups cater for so many of the adoptions the atheist comes up against problems for a start, and in government agencies one is dependent on the personal prejudices and perhaps religious bias of the public servant who interviews and assesses the potential adoptive parents.

The climate is changing slowly, but atheists are quite often prepared to compromise their beliefs and principles in an attempt to ensure that they are approved as adoptive parents. It is heartbreaking for a couple who are sterile to think that they may be renouncing the joy of being parents and the satisfaction of watching children grow up, because they do not subscribe to a religion.⁷⁶

130. We incline to the view expressed by the NSW Review Committee that 'welfare' does not include 'religious welfare' and that:

. . . applicants should be equally competent whether they had formal religious affiliations or were in fact non-religious, agnostic or atheistic. Similarly, there should be no formal obligation on an adoptive parent to provide any religious upbringing for an adopted child . . . subject to the overriding necessity for the adopting parents to be capable of giving and willing to bring the child up according to desirable ethical and moral values.

131. Where the mother releasing a child for adoption expresses a wish, the adoption authority:

. . . should be under a strong obligation to give effect to that wish but where no wish is expressed should be free to place the child with persons who do not adhere to any religion or are in fact non-religious and who do not propose to give the child any religious upbringing.⁷⁷

132. Lack of religious affiliation should not be a bar to placement on adoption registers.

Homosexuals

133. The right of homosexuals to adopt was raised with us by Campus CAMP, Queensland⁷⁸, and by CAMP NSW who questioned the belief that 'the nuclear family is the only suitable atmosphere in which to raise children'. They commented that the restrictions on homosexuals adopting children are absolute, and requested:

That the Commission recommend changes to all adoption laws so that the restrictions would not be based on the sexual nature of the family or person wishing to adopt children.⁷⁹

76. Submission 535, Miss Yvonne Foster.

77. NSW Adoption Legislation Review Committee, report, pp. 30-1.

78. Submission 430, Campus CAMP.

79. Submission 558, CAMP NSW.

134. An opposite point of view was put by a witness for the Festival of Light who considered that homosexuals were unsuited to adoption because of the basic need of children for an upbringing by two sexes: 'It is generally agreed that every child needs the love of both sexes.'⁸⁰ We did not receive any definitive evidence one way or another that homosexuals, males or females, were either good or bad parents.

135. The question of adoption by homosexuals has two aspects. The first is that of acknowledged homosexuals who wish to adopt as a couple. We do not accept such a proposition. Adoption practice is based on matching the child with the prospective parents in the belief that it will be in the best interests of a child already atypical by virtue of being surrendered by its natural parents (often a single mother) to be placed in a typical family situation. A very strong case would have to be made for placing such a child in an atypical situation. The stresses of adoption may well be increased by a child being so placed. This is not to imply that a homosexual couple would not be able to care for a child, rather that it is not proper to add to the potential burden of stress for the child which may arise from being placed in an atypical family.

136. The second aspect arises where a prospective adoptive parent is in fact homosexual or bisexual. In this context we see no immediate reason why a married couple otherwise suitable as parents should be automatically excluded as adoptive parents because one is homosexual. The working party of the Standing Conference for the Advancement of Counselling (UK National Council of Social Service), which studied the personal needs of and public attitudes to homosexuals, said of some married bisexuals:

Despite the conflicts and difficulties they experience, there is no convincing evidence that homosexuals and bisexuals make less effective parents than heterosexuals.⁸¹

Conclusions

137. In the context of the present shortage of children to adopt, it seems unlikely that adoption agencies will further extend the categories of acceptable parents. The tendency will be rather to restrict the categories of persons able to adopt and to base suitability on criteria which are seen as supportive of the particular child and likely to lead to adoption success.

138. In principle we accept this approach. While a family setting is desirable, we consider that persons applying to be adoptive parents should be considered for their overall ability to provide a suitable environment and to contribute to the welfare of a particular child.

Aboriginal adoption

139. The question of Aboriginal adoption cannot be considered in isolation from earlier practices of removing children of mixed blood from Aboriginal mothers to be brought up in a white community. While the motives for such action may have been to promote the child's welfare, this was not the necessary consequence; there is a residual legacy of resentment and a determination among some Aboriginal groups to retain control over certain aspects of the adoption of Aboriginal children. The issues raised before us related to:

- (a) the placement of Aboriginal children for adoption;
- (b) the recognition of Aboriginal tribal marriages;
- (c) the administration of Aboriginal adoption.

80. Evidence, pp. 2584-5, Mrs Frieda Brown; see also Submission 611, Anglican Diocese of Sydney.

81. Peter Righton (ed.), *Counselling homosexuals: a study of personal needs and public attitudes* (Bedford Square Press of the National Council of Social Service, London, 1973), p. 11.

The placement of Aboriginal children

140. Aboriginals maintain that Aboriginal and part-Aboriginal children should be adopted by Aboriginal families, since Aboriginal families are best placed to assist the child to meet the problems he or she is likely to meet in Australian society.

141. The task group on the Aboriginal community and adoption at the first Australian adoption conference in Sydney, February 1976, in which Aboriginals, social workers and experts in law and sociology took part, called for an end to the placement of Aboriginal children with white families on the ground that the need of such children to develop a strong identity as a counter to racism could be met only in an environment which reinforces the cultural values of Aboriginal society.⁸²

The recognition of Aboriginal tribal marriages

142. One obstacle to adoption in Aboriginal communities is that tribal marriages are not recognised for the purpose of adoption. The task group referred to above demanded immediate recognition of Aboriginal marriages.

143. Representatives of the Aboriginal Legal Aid Service in the Northern Territory also sought recognition of tribal marriages. They complained that Aboriginals are forced to marry western style in order to adopt. They stated that the administration's objection to Aboriginal marriage was that the date of marriage would not be known and that 'this affects custody, maintenance, adoption and social security'.⁸³

144. The obstacles referred to above which may preclude adoption by parties to a de facto relationship do not apply with the same force to parties to a relationship which is recognised as a marriage within their own tribal community. The stability of a relationship is not necessarily enhanced by entering into a marriage under the Marriage Act. We think that there may be many cases where the interests of a child will be best served by an adoption by parties to a tribal marriage and that there is a good case for regarding parties to a valid tribal marriage as persons eligible to adopt if otherwise suitable. Such recognition should not preclude consideration of the child's welfare as the paramount consideration. The welfare of the child may need to be considered having regard to its identity as a member of an Aboriginal community.

Administration of Aboriginal adoption

145. The task force at the adoption conference considered that Aboriginal people should have the sole prerogative of placing Aboriginal children for fostering or adoption since only they could determine the best interests of the child.

Criteria relating to material possessions and wealth are no substitute for love, pride in the Aboriginal identity and relationships with other Aboriginals in the black community.

146. A position paper put to the conference explained aspects of the extended family system of Aboriginal communities under which arrangements are made for the care of children.⁸⁴ It was considered that Aboriginal customs were not taken account of in current adoption practice and that the criteria for adoption reflected standards of the dominant society not accepted by blacks. The paper emphasised that children of part-Aboriginal blood were classified by the white community as black and that they needed to establish this identity within an Aboriginal community; it was argued that the interests of such children would be best served in most cases by placement in a

82. Dr Elizabeth Sommerlad, 'Homes for blacks: Aboriginal community and adoption' in *Proceedings of first Australian conference on adoption*, p. 161.

83. Interview report, NT, 45.

84. Sommerlad, pp. 160, 163-5.

black family even where the mother wished the child to be adopted by a white family. The paper called for the establishment of Aboriginal adoption and fostering agencies to be responsible for the placement of all Aboriginal children.

147. The adoption conference recommended that Aboriginals themselves should play a determining role in placing Aboriginal children for adoption or fostering so that Aboriginal kinship and marriage customs are respected, and the Aboriginal child's sense of identity reinforced.

148. The Aboriginal Childrens Service in Sydney is developing a service which is to include adoption and fostering. The NSW Department of Youth and Community Services, which regulates adoption in NSW, consults with the service but it is not yet accepted as an authorised adoption agency and does not at present have the personnel or funds to develop such a service adequately.

149. Adoption practice has been to match the children for adoption to the adoptive parents as much as is possible in physical appearance and socio-economic status, so as to simulate what might have been the child's natural family and social environment.

150. The matching process, while not the only consideration, is seen as a factor in ensuring the success of an adoption. There does not seem any reason to depart from this in the case of Aboriginal parents and children.

Conclusions

151. We believe that adoption authorities and adoption agencies should make every effort to employ Aboriginals to arrange adoptions of Aboriginal children or develop special adoption agencies manned by Aboriginals for this purpose. Agency practice should recognise and respect the family customs of the Aboriginal people.

Future research

152. Adoption enriches the life of many Australians, adults and children. It is important that factors which impede its success are the object of ongoing research and reform.

153. Research is needed into infertility and its social effects. The Institute of Family Studies, to be established under the Family Law Act, and the Social Welfare Research Unit, University of NSW, should research adoption law and practice, especially the 'sealed record' provisions in relation to adolescent identity, community attitudes to infertility, childlessness and adoption and the interaction between them.

8. Fostering

Introduction

1. Foster care in Australia is regulated in the States and the Territories by the social welfare authorities, under their respective Acts. The Acts are similar but not identical.
2. Foster care takes the form of the placement of a child with a family, or a group or cottage home with houseparents.
3. One of the problems of fostering arises when the 'rights' of the natural parents are in conflict with the welfare of the child or the 'rights' of the foster parents. This is seen, at its worst, in cases of applications to dispense with parental consent to adopt, when fostering has been over-long or parents have continued to ill-treat a child. We propose to confine ourselves in this chapter to the 'over-long fostering' aspect of dispensing with consent. There are other problems in fostering, e.g. the whole psychological problem of the child's adjustment to a new environment, the uncertainty, the non-permanency—all this places special demands on some people and can be a cause of stress.
4. Foster care is ideally a temporary form of substitute family care, as near as possible simulating a natural family, providing emotional and physical security and stability for children whose parents for a variety of reasons are unable to do so. It needs to be available when needed, of good quality, properly organised and supervised.

The reason for fostering

5. The need for foster care arises in situations where parents are unable or unwilling or have been found by the courts to be 'unfit' to care for their children.
6. Situations where parents are unable to care for their children frequently arise from poverty, lack of family support systems or family crisis.
7. Parents unwilling to care for their children include those whose child is destructive, delinquent, uncontrollable, disliked or rejected by the parents, or whose presence in the family is disturbing to other members.
8. Parents found 'unfit' often have a history of child abuse, physical neglect, alcoholism, violence, crime, homelessness or a combination of these.
9. The ideal in fostering is to provide for and promote the child's welfare by temporary care, while the family recovers.¹
10. The NSW Children-in-Care Project Team (no. 2) considered it a 'desirable principle' that, whenever there is potential for the involvement of natural parents in the planning for a child, this should be encouraged in order to maintain the family ties.²

The problems of fostering

11. A special difficulty in fostering is that some foster parents are would-be adopters. The Department for Community Welfare in WA states:

1. Submission 1056, Department for Community Welfare, WA.

2. Child Welfare Legislative Review Committee, Recommendations of Children-in-Care Project Team (no. 2), Department of Youth & Community Services, Sydney.

In families which are prepared to foster there is often an unvoiced need to completely absorb the child into the family unit, a goal which is quite contrary to the requirements of a family as a temporary substitute care for a child.³

Where long-term fostering occurs because natural parents do not reclaim a child, and make no contact, foster parents and the child are in the ambivalent situation of being unable to develop a full commitment to each other.

12. The NSW Council of Social Service wrote of the necessity to review placements which have become long term: in their view, where parents have 'failed without reasonable cause to discharge or to make suitable arrangements to discharge the obligation of a parent or guardian' for 1 year at least, the child should be deemed as available for adoption and parents should be warned of this possibility.⁴ They further recommended that the age of a 'child who has to consent to his own adoption be lowered to 10 years' and his consent be signed and attested by a person independent of any of the agencies or parties to the adoption.

13. It needs to be recognised that where a parent (or parents) for whatever reason—hardship, neglect—leave a child in the long-term care of another the welfare of the child may require the surrender of parental rights to foster parents or to others. Equally it is important to avoid this unless it is essential.⁵

14. In this and in other circumstances, as where child interests were being contested by parents or by parents and public authorities, submissions referred to the right and need of the child to be represented on the lines of section 65 of the *Family Law Act* 1975.⁶ We support this proposal.

15. The UK Childrens Act 1975 provides that foster parents can apply for adoption after they have the care of a child for 5 years and for an alternative between fostering and adoption called custodianship, which indicates to natural parents the child is moving towards adoption and increases the security of the foster parent. The Act extends the reasons for dispensing with consent to adoption and makes it easier for foster parents to adopt the children in their care. Foster parents may apply for a custodianship order after caring for the child for 1 year⁷ (relatives after 3 months), and after 5 years the foster parents may apply for adoption without the risk of the natural parents removing the child.⁸ After 3 years the local authority will be able to assume parental rights.⁹

16. The Act has been criticised partly on the ground that parents may be induced to remove their children from care before the time limit, to avoid losing their rights, and partly because it is seen as a measure which facilitates removal of children from their families rather than providing family support.

The Bill's critics oppose all those provisions which infringe the rights of natural parents. They all agree that children are usually put in care because of bad housing, poverty, or lack of day care facilities rather than because the parents are perverse or inadequate. A spell of care is often an essential breather which allows the family to get together again.¹⁰

3. Submission 1056, Department for Community Welfare, WA.

4. Submission 1018, Council of Social Service, NSW.

5. *ibid.*

6. e.g. Submission 746, Childrens Protection Society, Geelong.

7. UK Childrens Act 1975, section 33.

8. *ibid.*, section 29.

9. *ibid.*, section 57.

10. Paul Harrison, 'Childrens Bill, pro & con', *New Society*, 17 July 1975, p. 140.

17. It should, in our view, be a primary aim of family policy to protect and assist the family as the fundamental unit of society.¹¹ Fostering should aid, not replace, this policy. The Australian Catholic Social Welfare Commission suggests replacing the term 'state ward' with the term 'foster child' and supports the concept of a more legally secure form of fostering, because a child can 'become stigmatised by a legal status that was designed for his own protection'.¹²

18. Western Australia reports a shortage of suitable foster parents and an increasing demand for foster care.¹³ On the other hand, NSW has a waiting list of people wanting to foster young children. This may be as a result of the shortage of children available for adoption.

19. Most agencies experience:

. . . the tendency . . . to accept only those children having no apparent mental, behavioural or physical handicaps.

This attitude prevails on community levels also, with growing opposition to the establishment of treatment and/or residential units for such children in local suburban settings. Most communities still prefer that they be established on very peripheral locations and be strictly controlled to minimise inconvenience to those living nearby.¹⁴

20. Welfare policies have shifted in recent years from large residential institutions to a multiplicity of cottage homes for children needing foster care where families are not available or are inappropriate. The units are placed in any neighbourhood to simulate normal family life. They permit siblings to remain together, all the children to attend the local school and are near enough for parents to have and maintain regular contact. The Australian Catholic Social Welfare Commission supports such a policy:

In practice there are very few foster families who could accommodate three or even two extra children so that brothers and sisters could remain together. The family group home or cottage home . . . is the only facility that could be of assistance in this case.¹⁵

21. Yet there are press reports of local protests at the establishment of small-scale residential care in residential neighbourhoods.

22. Mr G. W. Kendall, president of the Slow Learners Advancement Society, commenting on one such publicly discussed reaction in NSW, wrote that persons establishing community facilities do so without informing neighbours. He said it is quite natural for people to fear the unknown and they need to be taken into the confidence of the organisers and their goodwill enlisted.¹⁶ Since there will always be the need to keep siblings together, some cottage homes will be a necessity. Community acceptance and goodwill are vital to the self-esteem of young persons in care, and cottage homes are needed.

23. The deputy Director-General, Department of Social Welfare, Victoria,¹⁷ and the Department for Community Welfare, Western Australia,¹⁸ both spoke of the difficulties of placing Aboriginal children for fostering; they are seeking to involve the Aboriginal community in the fostering of Aboriginal children. This is in line with the view that substitute parents should if possible match the natural parents, and it accords with the principle that:

11. Section 43, *Family Law Act* 1975; see also Submission 995, Rev. G. L. Barnes, Congregational Union, Tasmania.

12. Submission 992, Australian Catholic Social Welfare Commission.

13. Submission 1056, Department for Community Welfare, WA.

14. *ibid.*

15. Submission 992, Australian Catholic Social Welfare Commission.

16. Letter to the editor, 'Reacting to hostel plan', *Sydney Morning Herald*, 25 November 1976.

17. Interview report, Vic., 11.

18. Submission 1056, Department for Community Welfare, WA.

Fostering by relatives or other persons within the child's familiar contact should be considered preferable to his removal to a distant area and to strangers.¹⁹

The economics of foster care

24. Some submissions emphasised the financial problems involved in fostering—the foster parents incur expenses in looking after a child. While they generally receive an allowance, some feel this is inadequate.

25. Submissions emphasised the importance of fostering as a public service²⁰ and the pressures upon parents and children.²¹ Calls were made for greater recognition of fostering, and of the difficulties involved²²; it was suggested that a wage of \$25 per week should be paid for each child. One foster mother thought that money should be paid for the first 3 months only to discourage people who foster for money; she thought that the physical restrictions on foster homes and their quality, such as requiring a single room for a child, are not necessary because a separate single room can be very isolating for a lonely child.²³

26. It is generally accepted that foster parents undertake a difficult job, that foster mothers forgo income that they could earn if they worked outside the home, that society benefits socially, in having substitute families undertake the family role, and financially, in that foster care is more economical for the State both in the short term and the long term than state institutions. While it would be undesirable to encourage fostering for financial gain, it seems there is a good case for foster parents to be relieved of financial stress, through reasonable allowances, thus permitting them to concentrate on the difficult job of substitute care.

27. A country doctor suggested that successful parents be co-opted to foster children before they get into trouble.²⁴ Voluntary organisations are also experimenting with ways of supporting families before crisis and the need for child fostering occurs. The Childrens Protection Society, Geelong, describes how they have developed a Parent Aide Scheme, which briefly trains volunteers to help families who are near crisis. The concept is to foster the family instead of the child.²⁵ A volunteer for the Society gave evidence about spending from 10 to 25 hours a week in this work and spoke of the need to be recompensed for out-of-pocket expenses, such as transport, and how at present the organisation gets neither grant nor subsidy from any source for its work.²⁶

28. Another method of fostering a child and its family was reported at a conference in Perth where a foster mother described how she and her family receive an abused child, maintain open contact and establish friendship with the child's family and nurture the child physically and emotionally while the parents are helped by both counselling from social workers and by visiting, talking and working with the foster family.²⁷ The foster family therefore becomes part of a rehabilitative team.

19. Submission 992, Australian Catholic Social Welfare Commission.

20. Submission 885, Conference of Major Superiors of Religious Congregations of Women of NSW.

21. Evidence, p. 2524, Mrs Margaret McDonald.

22. Submission 699, Mrs T. Lasking; Interview report, SA, 38.

23. Interview report, NSW, 224.

24. Submission 969, Dr B. Batt.

25. Submission 746, Childrens Protection Society, Geelong.

26. Evidence, p. 2918, Ms Jean McKenzie.

27. 'Use of the foster parent in helping the battered child and his family', in *The battered child: proceedings of the first national Australian conference*, Perth, 25–28 August 1975 (Department for Community Welfare, WA, 1975), pp. 75–7.

29. Voluntary social welfare work has generally been done by people, mainly women, who are sufficiently well off not to have to consider the expense. Payment of out-of-pocket expenses will encourage greater participation in this work by women of lesser means who, through their own experience of coping with tight budgeting and the problems of small incomes, make a special contribution.

30. Some UK authorities are experimenting with professional salaried foster parents for children who have had particularly disturbing experiences. The organiser of the scheme sees the service as home-based child care but at a professional level:

The scheme is particularly directed to short-term intensive help for disturbed adolescents with problems of the kind parents hope they will never face.²⁸

Conclusion

31. Fostering is seen as a temporary, recuperative, rehabilitative phase for children and their families; fostering families should be selected for their similarities, their ability to relate to the child's family and to provide foster care, acceptance and friendship. Fostering should be developed as part of policies aimed at maintaining the family unit by assisting rather than replacing that unit, except in cases where the child's interest requires separation from the family.

28. Joy Melville, 'Paid to foster', *New Society*, 21 October 1976, pp. 138-9.

9. Family violence

Introduction

1. Family violence affects the attacker, the victim, their families and society at large. It appears to be a problem the community has been reluctant to face.

2. Our concern with the subject arises out of our inquiry into family relationships in which we consider pressures upon the family which might lead to its breakdown or to suffering within the family.

3. We define family violence as acts of violence by one spouse against the other spouse or against the children. De facto relationships are included. Child abuse is technically part of this definition, but we deal with this in chapter 10. We are concerned primarily with physical violence including rape, although the latter is dealt with more fully in Part VII of our report. At the same time we recognise that emotional or verbal assault can be equally intolerable. 'Battered' wives often have their counterpart in 'battered' men, victims of incessant nagging which can precipitate physical attack.

4. A certain level of violence has always been accepted as normal in male and female relationships; the wife with the rolling pin, or with a black eye on Saturday night, is familiar comic material. Extreme domestic violence has been regarded as atypical, or characteristic of only certain lower socio-economic groups.

5. Our evidence leads us to believe that family violence is common in Australian society; it occurs across lines of class, race and age. The damage done to women and children is often severe.

6. We heard from a wide range of people and organisations, including many of the womens refuge centres which have been established in Australia in the last 3 years, as well as men and women who have been directly involved in cases of family assault.

7. There has been little formal research in Australia into family violence. In 1975 the NSW Bureau of Crime Statistics and Research studied 184 cases of domestic assault which came before chamber magistrates in New South Wales.¹ In Queensland Dr J. Price of the Royal Brisbane Hospital made a study of battered wives to investigate the possibility that women who are assaulted are in some way predisposed to be treated this way; this report is not yet complete.

8. Our own research consisted of:

- (a) a study by Christina Gibbeson of 111 women who had sought accommodation at Elsie Womens Refuge in Sydney between late 1975 and early 1976;
- (b) a 'phone-in' we conducted in February 1976 which resulted in sixty-five women reporting domestic violence. Responses were recorded and analysed.

9. Although church and voluntary organisations have long offered shelter to women and children escaping from violent situations, the problem did not attract widespread public attention until Mrs Erin Pizzey opened a refuge for women in Chiswick, London, and wrote a book called *Scream quietly or the neighbours will hear*.² Between 1971 and 1974, 6000 women and children either passed through the Chiswick centre

1. NSW Bureau of Crime Statistics and Research, Statistical report 5, series 2, *Domestic assaults* (1975).

2. Erin Pizzey, *Scream quietly or the neighbours will hear* (Penguin, Harmondsworth, 1974).

in person or made requests for aid. Since then other shelters have been started elsewhere including Australia. The common experience has been that all such refuges have been crowded.

10. In the United Kingdom a Select Committee on Violence in Marriage handed down its report in 1975.³ We have drawn upon this report in our inquiry.

11. As a result of our investigation we believe that family violence is an issue of major social concern, calling for action by the government and the community. In this chapter we discuss the scale and nature of the problem in Australia, the reasons for its occurrence and the kinds of people who are involved. We examine the kind of help, both legal and social, that is available to victims of family violence and make recommendations for change.

12. The question for society becomes one of the degree of violence which can be tolerated in family relationships before lives are threatened or damaged, particularly where children are involved. It is a question of the degree of support the community is prepared to offer and the extent to which the law should intervene. And it is a matter of considering the influence of community values and attitudes. Social expectations of male and female behaviour and relationships between the sexes are important factors in family violence.

Incidence

13. The size of the problem of domestic violence in Australia is difficult to determine because of the desire of most people involved to keep it secret and suffer in silence. A submission from the National Confederation of Womens Refuges to the Prime Minister estimated that, from March 1974 to June 1976, some twenty-five refuges mainly run by womens groups have offered shelter to over 5000 women and nearly 7000 children.⁴ These figures would be significantly increased by adding all those women and children who sought shelter at other church and welfare homes such as those run by the Salvation Army or St Vincent de Paul Society.

14. We agree with the comment of the NSW Bureau of Crime Statistics and Research:

While it is important to gain some idea of the extent of domestic assaults in the community, knowing the incidence of such assaults is in some ways less important than knowing about their severity, the context in which they occur and the action taken by the victims.⁵

The people involved

15. A popular view about family violence is that it occurs only in 'working class' families. One effect of this belief has been to hide from public scrutiny the numbers of middle class victims who often feel too ashamed to make their plight known. Our own and other Australian research suggests that marital violence occurs in all sections of society and amongst all age groups. Thus we found that most of the women (66 per cent) interviewed in the 'phone-in' were married to skilled or white collar workers and lived in middle income suburban areas in their own homes. They ranged in age from their mid 30s to 60s. On the other hand, most of the Elsie women (64 per cent) had been living with unskilled workers and in rented homes prior to leaving their partners; 70 per cent of them were less than 30 years of age. Tables V.15 and V.16

3. UK House of Commons, *Report of the Select Committee on Violence in Marriage* (HMSO, London, 1975).

4. National Confederation of Womens Refuges, Submission to Prime Minister, August 1976.

5. *Domestic assaults*, p 2.

show marked differences in the job status of the male partners in the two studies: whereas only 18 per cent of the men in the Elsie study were in the professional/managerial category, 38 per cent of the male partners in the 'phone-in' came into this category.

Table V.15 Status of man's occupation and regularity of employment (Elsie study, involving 111 women)

| Category | Whether employed | | | Total |
|-----------------------|------------------|-------------|-----------------|-------|
| | Yes | No—wilfully | No—lack of work | |
| | % | % | % | % |
| Professional | 4 | 1 | 0 | 5 |
| Managerial/proprietor | 10 | 3 | 0 | 13 |
| Office/sales | 7 | 1 | 0 | 8 |
| Skilled | 9 | 5 | 0 | 14 |
| Semi-skilled | 4 | 2 | 2 | 8 |
| Unskilled | 19 | 12 | 2 | 34 |
| No usual occupation | 1 | 11 | 6 | 18 |
| Total | | | | 100 |

Source: C. Gibbeson, Domestic violence, Commission research report, no. 11, 1977, p. 22.

Table V.16 Status of man's occupation ('phone-in', involving 65 women)

| Category | % |
|-----------------------|----|
| Professional | 20 |
| Managerial/proprietor | 18 |
| Office/sales | 13 |
| Skilled | 28 |
| Semi-skilled | 3 |
| Unskilled | 12 |
| No usual occupation | 5 |

Source: Commission 'Domestic violence phone-in', 1976.

16. The income levels of the male partners also showed a difference between the two studies. Thirty-four per cent of the men in the Elsie study earned less than \$100 per week; a little under 2 per cent earned more than \$200 per week. In the 'phone-in', only 10 per cent of the men earned less than \$100 per week and 22 per cent earned more than \$200 per week. The NSW Bureau of Crime Statistics and Research also reported that there was no evidence from their study on domestic assaults to show that wife battering was confined largely, much less exclusively, to the lower socio-economic group.⁶ We believe that the situations we investigated in both our studies are probably representative of situations generally in Australia.

Nationality

17. Eighty per cent of the women in the Elsie study said they were Australian. Twenty-six per cent were born overseas: 12 per cent in Great Britain and the remainder in New Zealand (three women), Europe (seven women), South-East Asia

6. *ibid.*, p. 8

(one woman), South America (one woman) and the Middle East (two women). Two women in the sample said they were Aboriginal, and two women Maori. Of the men, 20 per cent were born overseas: 5 per cent in Great Britain, seven in Europe, one in South-East Asia, two in South America and four in Middle Eastern countries. Two women said their partners identified as being of Aboriginal descent, and five said their partners were of Maori descent.

Sex

18. Nearly all the cases we investigated have involved physical violence by the man against the woman. For a variety of reasons, including physical strength and social custom, men are not only more likely to use physical violence than women but, when they do use it, are more likely to inflict serious harm.

19. A Bristol study of undefended divorce proceedings (1973) showed that, of 105 petitioners, ninety-six women and nine men, suing for divorce on the grounds of unreasonable behaviour, only two of the men alleged that they had been subjected to physical violence from their wives. On the other hand, of the ninety-six women, seventy gave details of physical violence in the marriage.⁷

Nature of the attack

20. Women in the Elsie study were asked to give the most common situation leading to violence. Although a total of forty-seven women (42 per cent) associated the attacks with drinking, twenty-five of the women (23 per cent) said their husband exploded without apparent cause and did not mention alcohol.

He just starts abusing me and calls me a slut and then starts hitting me. I don't know why.

He just starts arguing about anything at all. It wouldn't matter if it was just a toy lying on the floor. He just goes off his rocker.

Sometimes sexual demands led to conflict:

If I had my periods and didn't want sex he used to bash me up. Another time when I was pregnant (and didn't want sex) he rolled me on my stomach and lashed my buttocks so I couldn't lie on my back for a week.

. . . sex is supposed to be an expression of love as far as I'm concerned, and they treat you bad all day and at night you're supposed to feel like it, but you don't want it.

21. On other occasions, violence occurred when the woman reported she 'stood up for her rights':

My disobedience. Not hopping to him immediately . . . and when I stick up for myself.⁸

22. Both our studies revealed that the majority of women had suffered attacks throughout the whole history of their relationship, sometimes for many years. Four of the women in the Elsie study had experienced violence for between 15 and 20 years. Attacks were usually frequent. Twenty of the women suffered daily attacks (see table V.17).

23. In discussing marital violence it is important not to exclude sexual assault where deliberate force is used by one partner against the other. Paul Wilson's study on unreported rape contains the following description of an assault:

We hadn't had sex for a few months. Things were bad between us and I just couldn't let him have me. One night he came home drunk and started to argue with me. He called me a

7. E. Elston, J. Fuller & M. Murch, *Battered wives: the problems of violence in marriage as experienced by a group of petitioners in undefended divorce cases* (unpublished, University of Bristol, 1973).

8. C. Gibbeson, *Domestic violence*, Commission research report, no. 11, 1977, pp. 76-9.

pro and started to hit me . . . Then he ripped my clothes off and had me. I fought him hard. Scratched him and bit him but it didn't do any good. I never thought he'd do it even though we hadn't been getting on.⁹

The victim was 41 and was describing her husband's attack.

Table V.17 Frequency of violence (Elsie study, involving 111 women)

| Frequency of violence | Number | % |
|------------------------|--------|------|
| Daily | 20 | 18.0 |
| Once weekly | 26 | 23.0 |
| Two-three times weekly | 23 | 21.0 |
| Bimonthly | 21 | 19.0 |
| Monthly | 10 | 9.0 |
| Interval of 3 months | 8 | 7.0 |
| Total | 108 | 97.0 |

Source: Gibbeson, Commission research report, no. 11, p. 105.

24. Dr John Gayford, who has conducted a number of studies in the United Kingdom, writes that, by piecing case histories together, a picture emerges of men with low tolerance to frustration who often lose control under the influence of alcohol, punch and kick their wives in a savage manner, perhaps using weapons to aid their assault. Pregnancy seems to heighten the tirade, and remorse for previous attacks is either forgotten or meaningless. Few assaults have a sadistic component.¹⁰

Nature of the injuries

25. The study conducted by the NSW Bureau of Crime Statistics and Research showed that, out of 184 cases, more than 75 per cent of the women claimed to have been punched repeatedly, mostly about the head and upper parts of the body. Several had been punched in the eyes and mouth. One woman had a tooth broken and another's dentures were smashed in the attack. Twenty-five per cent of the women reported being kicked about the body, mostly in combination with other forms of assault.

26. Altogether, fifty-two of the women were considered to have been severely injured in the alleged attacks. Severe external bruising was the commonest type of serious injury and was accompanied in two cases by severe lacerations, in two cases by concussion and in five cases by internal injuries. Fractures were reported in six cases, including fractures of the nose, ribs, vertebrae, arm and a suspected fractured skull.

27. In only one case was the entire history of assaults recorded in detail. On various occasions, over 20 years of marriage (now dissolved), the woman had suffered fractures of the skull, internal injuries, concussion, severe lacerations, severe external bruising, abrasions and other minor injuries at her husband's hands. She had been assaulted with blunt instruments, kicked and punched, and on one occasion strangulation had been attempted.¹¹

9. Paul Wilson, *The other side of rape*, Commission research report, no. 9, 1977.

10. J. J. Gayford, 'Wife battering: a preliminary survey of 100 cases', *British Medical Journal*, 25 January 1975, pp. 194-7.

11. *Domestic assaults*, pp. 3-5.

28. Most women in the Elsie study gave a list of the various injuries they had received such as:

. . . bruising, lacerations, perforated eardrum, black eyes, burns, knife wounds plus he had a habit of trying to strangle me.

29. The most serious or the most prevalent injury was recorded in an attempt to identify the types of assault.

Table V.18 Types of injuries reported by women in the Elsie study

| Type | No. | % |
|------------------------|-----|----|
| Bruises, cuts etc. | 50 | 45 |
| Head injuries | 28 | 25 |
| Broken bones | 14 | 11 |
| Knife, gun injuries | 12 | 13 |
| Internal injuries | 4 | 4 |
| Burns | 1 | 1 |
| Injuries to sex organs | 2 | 2 |
| Total | 111 | |

Source: Gibbeson, Commission research report, no. 11, p. 106.

30. Thirty-nine per cent of the Elsie women had received hospital treatment as a result of their injuries. Two-thirds of the women with knife or gun injuries had been hospitalised as had half the women who had received head injuries.

31. Similar patterns of injury emerged from the ‘phone-in’:

He’d knock me over, slap me, try to strangle me and his eyes would stand right out and he’d lay an open razor on the bed and threaten me and black my eyes.

Nature of the problem

32. Each case of domestic violence is different, and there is no single cause. Some people are more predisposed to violent behaviour than others, and family background is an important factor. Children who are raised in violence are more likely to commit violence in adult life¹² unless they learn other, more constructive ways to deal with frustration and anger. This is why it is important to support those women and children who are victims of violence in order to prevent such tragedies perpetuating.

33. The nature of Australian society provides a climate for family violence. Men are still encouraged to be aggressive and women to be passive. The male acts upon the world, and the woman is acted upon. Thus the report on domestic assaults by the NSW Bureau of Crime Statistics and Research commented:

Despite the often thin line between a domestic ‘blow-up’ and a serious or even fatal attack, the issue seems to have provoked surprisingly little anxiety in the Australian public. Some might speculate that this insensitivity is linked with an acceptance of the subjugated role of women within marriage.¹³

34. Dr Charles Noller, director of counselling, Lifeline, Brisbane, told us:

12. M. H. Lystad, ‘Violence at home: a review of the literature’, *American Journal of Orthopsychiatry* 45, 3 (1973), p. 330.

13. *Domestic assaults*, p. 1.

The general problem is that the male in the family is fairly insensitive to the needs and ideas and feelings and aspirations of the woman. I see this as bound up with our whole cultural stereotype in Australia.¹⁴

35. The Elsie study revealed a picture of men treating their women as possessions, there to provide food and service. Gibbeson writes of men who are for ever suspicious that their wives have found some other man, that they are neglecting housework or disinterested in sex because they have another, more engrossing pastime to occupy themselves whenever their husbands are out of the house. There seems little realisation that wives may be bored or exhausted with numbers of small children, or that they might find their men unsupportive, drunk and disruptive.

He doesn't know how to get along peacefully. If he does, he thinks he's being weak.

. . . before I had the baby I used to take care of myself and he'd say 'I'll clip your wings'.

He just gets fed up I suppose and he mixes with a very rough crowd who just see beating the wife as normal.¹⁵

36. This kind of evidence has obvious implications for human relationships programs in schools. It is essential that boys and girls grow up with a better understanding and respect for each other and with the ability to form relationships that are not based on aggression and subjugation.

37. Unemployment, poverty, inadequate housing, excessive drinking and job pressures are all factors which can lead to marital conflict. Although working class families are more vulnerable to such circumstances, middle class families are also susceptible. The way men or women perceive their situation is what is important.

Family background

38. If we view violence in marriage as learnt behaviour, it is important to look at the childhood environment of both partners in violent relationships. It is especially important to understand the family background of the man, as it is in males that the use of physical force as a solution to problems is most tacitly condoned. A number of women in the Elsie study spoke of their partner's childhood:

They were very strict and would beat him if he didn't do well at school . . . sometimes his father drank every day.

His father was very cruel to him, used to kick him out of the house and never feed him.

He says he was never allowed to get away with anything. Was an only child. He complains of his parents' harsh punishments.

39. In A United Kingdom study of domestic assault cases Gayford found that, of 100 couples, twenty-three of the women and fifty-one of the men had suffered violence in childhood. On the other hand, some of the men in the Gayford study were said to have been over-indulged as children.¹⁶ This was also evident in our own studies; 5 per cent of the Elsie women said their partners' violence was caused by having had an over-protective mother.

In fact his mother spoilt him, but she also drank and ran around.

He used to get away with murder as a kid.

He was spoilt by his mother. I can't stand up to him. Everything he does has to be right.

40. Many of the women in the Elsie study presented a bleak picture of neglect and ill treatment which appeared to have followed them all their lives. They had childhood

14. Evidence, pp. 1481-2, Dr Charles Noller.

15. Gibbeson, Commission research report, no. 11, pp. 72-4.

16. Gayford, pp. 194-7.

memories of severe punishment, drunken family scenes and violence. The cycle of violence is vividly portrayed. Thirty-nine (60 per cent) of the women reported that their own father had been violent towards their mother.

My father was always chasing my mother around and slapping her if he felt like it. He used to get drunk and come home and just get mad at her, smashing things and hitting her and locking her outside.

41. Marital violence in the woman's childhood home was not confined to the lower income groups in the Elsie study. Eight women with fathers in a professional occupation reported physical violence towards their mother. Fourteen women with fathers in a managerial category said the same thing.

42. Several women said that they did not understand their mother's behaviour until they were in a similar position themselves.

Well, I sort of blamed my mother for not trying to get along with my father, but after my experience I realise you just can't get along with some men.

43. Twenty-five of the women (23 per cent) said that they had been ill treated in a variety of ways as children.

My father tried to rape me when I was 14.

My father was a pig to everyone. He was moody like my husband and sometimes he would beat us.

44. One-quarter of the women grew up without either parent present. Ten women (9 per cent) spent most of their childhood in institutions. Of those who grew up with their parents, eight (7 per cent) were institutionalised for a juvenile offence.¹⁷

Alcohol

45. Both the United Kingdom Committee and we ourselves found that excessive drinking was a frequent factor in domestic violence, although it is difficult to decide to what extent alcohol is a cause of stress or a response to it. A Sydney psychiatrist, Dr Ron Spielman, told us:

. . . alcohol abuse does make it easier for somebody to have an episode of interpersonal violence when they are intoxicated than when they are sober.¹⁸

46. Heavy drinking is more common among males than females.¹⁹ Dr Charles Noller said:

The alcoholic typically is a male who cannot express his own feelings. In order to illustrate that I will explain that if you talk to an alcoholic and ask him about his wife, he will describe her as a perfect wife and mother. That is a very common statement. He will go down the road then and come home and bash her up. Socially it is a fairly acceptable way because he will say 'It is not the way I really feel about you—it is the grog'.²⁰

47. Sixty-three (57 per cent) of the Elsie women said that the man with whom they had been living drank too much, and fourteen (13 per cent) said that he was an alcoholic. Thirty-two of the sixty-five women who telephoned us said that their partners were habitual or heavy drinkers.

48. Excessive drinking was the main reason Elsie women gave for their partners' violence:

17. Gibbeson, Commission research report, no. 11, pp. 7–9.

18. Evidence, p. 2408, Dr R. Spielman.

19. J. G. Rankin & M. Sargent, 'Epidemiology of alcohol abuse', *MJA* 1 (1970), pp. 1218–20.

20. Evidence, pp. 1482–3, Dr C. Noller.

His constant drinking—he doesn't know what he's doing. He says he's sorry in the morning.

I don't know. He just seems to get the shits with himself when he can't get enough to drink—when he's broke he'll take it out on me.

**Table V.19 Whether man was intoxicated at last assault
(Elsie study, 111 women)**

| Category | Number | % |
|--------------|--------|----|
| Yes | 76 | 69 |
| No | 32 | 29 |
| Had hangover | 2 | 2 |

Source: Gibbeson, Commission research report, no. 11, p. 88.

49. The study by the NSW Bureau of Crime Statistics and Research showed that, on the women's statements, nearly 60 per cent of the attackers had been drinking before the assault. In three-quarters of all incidents occurring between 6 p.m. and midnight, there had been prior consumption of alcohol by the attacker. In fifty-nine cases, nearly a third of the sample, no alcohol had been consumed recently by either party.²¹

Unemployment

50. One of the most striking results of the Elsie survey was the very high degree of unemployment amongst men involved in domestic violence. A total of 34 per cent of husbands had no regular work. This is a surprisingly high figure—at November 1975, the figure for all unemployed male heads of families was 1.7 per cent.²²

51. In the 'phone-in', of fifty-six callers who identified their husband's employment status, thirteen (or 23 per cent) had husbands who were either unemployed or were mainly unemployed.

52. The difference between the two groups (34 per cent and 23 per cent unemployed) may be explained by a difference in social status. The majority of women at the Elsie refuge were wives of unskilled workers (see table V.15). In the 'phone-in', though, the majority of wives had husbands in the middle to upper middle income groups (see table V.16).

53. Alcohol featured in many of the cases of unemployment and it is difficult to say which factor was the more important; whether the unemployment led to drinking, or the drinking led to unemployment, or whether some personality characteristic contributed to both or either. In the Elsie study, 71 per cent of the men described as alcoholic were said to be wilfully unemployed; as were 39 per cent of the men who were said to drink too much. Of the teetotallers, however, 38 per cent (six men) were said to be wilfully unemployed. In other words, unemployment featured amongst both drinkers and non-drinkers, but the size of the sample, when broken down, was too small to draw any conclusions. There is obvious need for further research in this area, particularly as research into child abuse has also shown an association with unemployment as well as alcohol.

54. It might be argued that alcohol and unemployment are not the direct causes of wife battering. Personality disorders could be the factors which lead to drunkenness

21. *Domestic assaults*, pp. 6–7.

22. ABS, *Family status and employment status of the population*, November 1974 & November 1975, ref 6.55, table 1.

or which account for men losing their jobs and which then precipitate violence. Again we have also to look to cultural factors. Heavy drinking among males has long been an accepted part of Australian society. Equally the fact that most males are expected to be breadwinners can lead to feelings of failure and frustration when a man loses his job. Someone who feels powerless to control his own life is likely to compensate by trying to control others close at hand, and violence is often the only way that is known.

Mobility

55. Both the Elsie study and the 'phone-in' revealed a pattern of household instability. Thirty of the Elsie women had moved house between five and ten times since their first pregnancy, seven between eleven and fifteen times, and eight between fifteen and twenty times. In the 'phone-in', nine of the households (out of sixty-five) had moved more than seven times.

56. An English study of twenty-three violent matrimonial cases revealed that the families seemed to spend their time on the move. One family (with three children under the age of 5) moved twelve times in 7 months.

Each downward thrust of the yo-yo begins with a violent quarrel aggravated by the parents' inability to communicate rationally . . . The husband then threatens or beats the wife who runs away, usually to her mother.²³

57. Such frequent moving can be traumatic; it can wreck family solidarity and aggravate conflict. Women are often left with no friends or community support.

. . . they [friends and neighbours] don't want to become involved. If they knew where I was they'd tell him because they'd be too frightened not to.

He's never let me have any [friends] . . . one friend will come if she knows he's away . . . all have been insulted.²⁴

Mental disturbance

58. Forty-one per cent of the men who lived with women in the Elsie study had been known by their partners to have had psychiatric treatment. Others, partners of women who telephoned us, betrayed personalities of a type often characterised as 'schizophrenic'.

. . . should have seen the writing on the wall when he had difficulty having intercourse; his face, eyes, voice would change. He'd say he was being victimised, and it was my fault . . . Couldn't take stress . . . he said it was 'war nerves'. Psychiatrists say he's been schizophrenic for 10 years.

This caller continued:

In a sophisticated manner, he tried to execute me [with a live fuse box]. It would have looked like an accident . . . he'd frighten us—go around at night tapping the house with a stick—the same stick he used on me.²⁵

Marriage expectations

59. Many people enter marriage with little understanding of its realities. This point was made to us many times in evidence by marriage guidance counsellors, community workers, clergymen and members of the public in 'open house' discussions.

60. Our research study of the women at Elsie equally showed that most of the women had given little serious thought to what married life would be like, or to their role in that marriage:

23. NSPCC, 'Yo-yo children', *International Child Welfare Review* 25 (1975), p. 19.

24. 'Domestic violence phone-in'.

25. *ibid.*

. . . I don't know, not this for sure. Romantic, just a sharing companionship. I never really thought about it.

Beautiful—everything's going for you. Everything happy—kids contented and that.

A 'bed of roses'. I expected him and I to be happy and to have a family and all the silly things you think about when you get married!

I don't know what I expected, just to get married and live happily ever after without all the things that really happen.

61. Seventy per cent of the women in the Elsie study thought married life would mean companionship and a happy family life, even though 60 per cent of the women came from families in which the father had assaulted the mother. In 42 per cent of relationships the male partner had been ill treated as a child. Thus many people, men and women, who marry into violent relationships come from violent home backgrounds. Their experience cannot be said to have equipped them to choose non-violence; rather the contrary.

62. Marriage for almost all the women turned out to be a shock, something which they had been told nothing about. Courtship seems to have left them ill prepared for one another. Some women married men they said they knew to be drinkers, gamblers or violent, but expected them to change once they were married.

Effects on women

Physical

63. Women who are assaulted suffer in a number of ways. The most obvious is the physical injuries, some with long-term effects. Forty-three of the women in the Elsie study (39 per cent) were permanently injured or scarred in some way due to assaults. Many women showed signs of stress or chronic ill health.

Table V.20 Health problems (Elsie study, 111 women)

| Problem | Number | % |
|------------------------|--------|----|
| Ulcer | 34 | 31 |
| Anaemia | 54 | 49 |
| Asthma/bronchitis | 35 | 32 |
| Deformities/scars | 48 | 43 |
| Extreme nerves | 86 | 78 |
| Insomnia | 81 | 73 |
| Anxiety | 102 | 92 |
| Loss of appetite | 66 | 60 |
| Migraine | 47 | 42 |
| Lost weight recently | 58 | 52 |
| Gained weight recently | 22 | 20 |
| Miscarriage/abortion | | |
| miscarriage recently | 19 | 17 |
| abortion recently | 17 | 15 |
| both | 1 | 1 |

Source: Gibbeson, Commission research report, no. 11, p. 167.

64. Gayford's UK experience of 100 cases of domestic assault requiring medical attention revealed the following:

Excluding trauma, eighteen of the women suffered from chronic physical illness. The majority frequently attended their general practitioner, and seventy-one were taking anti-depressants or tranquillisers. A psychiatric opinion was sought for forty-six wives and

twenty-one were told that they were depressed and were treated with either physical or chemical agents. Suicidal attempts or gestures occurred frequently, with thirty-four trying self-poisoning, of which ten did this more than once. Seven tried self-mutilation, with three repeating the attempt. Nine tried other methods, in two cases repeatedly. Sixteen women claimed they really wanted to die, but twenty-one admitted it was only to draw attention to their plight or to get away from the situation.²⁶

Psychological

65. Perhaps as bad or even worse than the physical injuries women receive is the effect such attacks have on their confidence and self-esteem. Many women are unable to understand what is happening. Those who leave men are usually reported as society's failures because they have not managed to keep their homes and their families together. They frequently feel not only humiliated by their husbands, but feel disapproved of by others:

Well, because I come from a fairly respectable family, I certainly don't want people to know. My family wanted me to have my name changed.

[I feel embarrassed] because I thought I would make a success of my life, but instead I've ended up like this.²⁷

66. Almost all the women in the Elsie study (90 per cent) talked about being depressed.

I feel really down sometimes. I think the kids keep me going, apart from that the world stinks.

I worry where I'm going to live. I'm weepy. I feel trapped. I haven't even reached 30 but I feel my life is over.

Many are frightened:

Scared stiff. I am really scared coming home from work. I thought he was following me. If he comes and belts me up I wouldn't be frightened but I know he wants to kill me.

67. Twenty-two per cent of the women in the Elsie study had taken overdoses at some time. For others, one resort had been to seek psychiatric help; 8 per cent said they went at the suggestion of their partner; 5 per cent because of depression, and a further 5 per cent because of attempted suicide.

Effect on children

68. One of the most disturbing aspects of family violence is the effect that it has on children, not only immediate effects but long-term effects, as the violence they witness or suffer may affect their own behaviour in adult life.

69. We discuss this aspect of family violence in our chapter on child abuse (chapter 10). It is a factor of which those who work in womens refuges are well aware.

It is one of the most depressing areas, because mostly one can only see that these children are going to return and grow up in the same sort of circumstances, and that it is going to be really hard to break the circle. Many of them have been severely disturbed. Most of them have been culturally deprived. Some of them have never played—don't know how to play.²⁸

70. In the Elsie study, 22 per cent of women said their children were attacked constantly, and 16 per cent said sporadically. In 5 per cent of relationships one particular child was singled out for attack. In 32 per cent of the relationships, the children had

26. Gayford, p. 195.

27. Gibbeson, Commission research report, no. 11, p. 143.

28. Evidence, p. 2108, G. Draffin.

intervened, physically or verbally. Over half the women said they always feared that their children would be attacked. Women talked about their distress in seeing their children inevitably involved.

She'll come up and [intervene] put her arms around my legs and start crying. You can't really expect a little kid like that to understand.

I think they [the children] could be permanently affected. I think they could just hate people in general.

They've been too scared to intervene on my behalf, they just stand there and hug each other crying and screaming or run away and hide.

Terrible. My second son gets up screaming, running from one end of the house to the other . . . I think they could be permanently affected.

71. Children in refuges suffer from a history of a past lack of proper medical attention. They have poor health, a combination of poor nutrition, cramped conditions in their homes and a high level of stress and tension in the family including domestic violence. These children are often treated by inexperienced doctors and dentists when they attend public hospitals, and disruptive, transient home life inhibits follow-up medical attention.²⁹

72. Christina Gibbeson, in evidence to us in Sydney, described the state of many of the children who come with their mothers to Elsie Womens Refuge.

It is really quite terrifying. Depending on their age—2-year-olds having nervous breakdowns is not uncommon, even being hospitalised, right up to 13- or 14-year-olds who cannot sleep, cannot eat, they are vomiting, calling to their mothers—they have terrible screaming tantrums.³⁰

73. Sixty-six per cent of the women in the Elsie study said they were afraid of themselves harming the children. Seventy-five per cent of women said that they thought there had been actual instances where the children had been in this kind of danger. The instances were mostly related to feelings of inadequacy, depression and exhaustion.

What can be done

74. The problems facing women in situations of domestic violence are very great. They have accommodation difficulties, financial problems, worries about bringing up their children single-handed (particularly as these children are usually disturbed) and they have to contend with a social climate which is often unsympathetic. Many stay in situations of danger and conflict because they cannot see any other alternative. Their upbringing has trained them to be dependent rather than to make decisions, particularly such a major decision as seeking help or leaving their husbands. We were told:

They cannot see themselves existing without a man and without the possessions they have obtained. They do not think they can cope because they do not think they have been educated to cope, no matter how articulate they are.³¹

A woman of 66 who telephoned us said:

Many times I'd like to have run out without my hat or anything, but the priest said whatever you do, don't leave. And anyway, where could I go? How could I support myself? I felt it was just my lot and I'd best get on with it. I really felt ashamed that it was my choice of a man, so I never even told the doctor, I was that ashamed.³²

29. National Confederation of Womens Refuges, Submission to Prime Minister, August 1976.

30. Evidence, p. 457, Christina Gibbeson.

31. *ibid.*, p. 455.

32. 'Domestic violence phone-in'.

75. We believe that these women need assistance in a number of ways:

- (a) They require immediate physical protection.
- (b) They need a place of refuge should they decide to leave. Later they will need more permanent accommodation.
- (c) They need counselling and advice, including legal advice.
- (d) They need medical treatment and attention for mental stress, both for themselves and their children.
- (e) They need access to government and community agencies.

76. These needs are specifically related to the issue of domestic violence. Education should emphasise a better understanding in the community of the cause and nature of marital conflict, so that women are less dependent and men less aggressive.

Family crisis centres

77. We believe that the community should offer places where people can receive family counselling, and not necessarily by appointment. A woman or a man in a crisis situation cannot wait. We would like to see family counsellors as part of community health teams.

78. The UK Select Committee recommended that each large urban area (with a population over 50 000) should have a well-publicised family crisis centre open continuously, to which wives, husbands and children can turn.³³ These centres would have three primary roles. First, to provide an emergency 24-hour service linked with local medical, social, legal and police services, as well as refuges. Secondly, to co-ordinate local arrangements already available to families in distress. This would avoid women having to consult several different professionals, in different places, employed by different agencies. Thirdly, to develop specialist advisory services, education and publicity programs, and group meetings for women with similar problems. We believe a similar provision is necessary in Australia. We would prefer to see these centres known simply as family centres, as use of the word 'crisis' can inhibit some people from attending and our hope would be that help is sought long before a crisis occurs.

Refuges

79. The need for shelter is the primary requirement of any woman in an immediate situation of violence. Often she will have no ready cash, and a refuge is her only hope of escape.

80. Refuges which have been established in Australia in the last 3 years (mainly by womens groups) provide short-term emergency accommodation for women and children undergoing severe domestic crises. At June 1976 there were at least twenty-five refuges.³⁴ The majority of women who use refuges are fleeing from intolerable marital situations. Where the marital relationship has not finally broken down the woman needs help in achieving satisfactory reconciliation; where the breakdown is irretrievable, help is required in establishing independence and a new life.

81. The National Confederation of Womens Refuges made the point, in August 1976, that until recently the need for refuges has been overlooked by both government and charitable organisations who only conceived of homelessness in terms of

33. *Report of the Select Committee on Violence in Marriage*, 1975.

34. ACT 1, Qld 2, NSW 11, Vic. 2, SA 2, WA 3, Tas. 2, NT 2.

actual destitution.³⁵ Those institutions which did make provision for women victims of violence were usually overcrowded and were often unable to take the woman and all her children. For example, some places were unable to take boys above a certain age and families were therefore separated.

82. The refuges provide more than mere shelter for women, which is why homeless peoples' shelters are not necessarily appropriate, as they do not offer the same kind of support.

. . . what we do for them is what they ask for, and we can also show them things that they did not know existed that would help them, and we also support them. This is a 24-hour-a-day job, it is not just seeing someone in a little office . . . We offer them a roof over their heads and justification and validation for how they feel, rather than spending a night in the gutter or on the streets.³⁶

83. Refuge workers inform women of their legal, social and economic rights, and accompany them to government agencies such as community welfare, legal aid, state housing, as well as to court for maintenance and custody cases. Refuges also supply information about education, health, child care, professional counselling and social welfare.

84. We were told by Dawn McMahon, of the North Adelaide Womens Shelter, that the women support each other and:

. . . congregate in kitchens, talk over their problems, and help each other.³⁷

85. We heard from one woman with four children who had tried to leave her husband three times previously before going to the Elsie shelter. She had first tried two church organisations but both had been full. A government agency had sent her to Elsie.

I was quite surprised about the way it was. They took me in, made me a cup of tea and things for the children to eat, and then they settled me in a room with the four kiddies and one of the counsellors spoke to me afterwards about why I was there and told me I could stay for at least 6 weeks. I was there for nearly 3 or 4 months. They taught me how to save and I got a little flat at Annandale afterwards.³⁸

This woman, like many others, still visits the refuge, both for friendship and to work there herself on a voluntary basis.

86. Children comprise well over half the population that have been accommodated within refuges, and they require counselling, health care, play and schooling.

87. We were told that most of the refuges in Australia are filled to overflowing. Nadine Womens Refuge in Perth reported that for every family that they took, three had to be turned away; for every unaccompanied woman given shelter, two had to be rejected.³⁹ Telephone and crisis counselling is offered to the hundreds of women for whom there is no room. Gillian Draffin, a community worker, told us that the women refused:

. . . mostly had no money and no alternative shelter . . . neither relatives nor friends
. . . many indicated they would have to return home to drunken, bashing husbands.⁴⁰

35. National Confederation of Womens Refuges, Submission to Prime Minister, August 1976.

36. Evidence, pp. 453-4, Christina Gibbeson.

37. Evidence, p. 1256, D. McMahon.

38. Evidence, p. 460, J. Samuels.

39. Evidence, p. 2104, G. Draffin & S. Speed.

40. *ibid.*, pp. 2104-5.

It is significant in terms of the need for shelter that the main reason women gave in the Elsie study for not having left their partners earlier was 'nowhere to go and no money'. Those women who had left before had mainly sought accommodation with relatives and friends.

88. Only six women in the study had ever been successful in providing alternative accommodation. In many instances husbands had found where they were staying and beaten them up, or relations had told them to return because their place was with their husband. Womens refuges therefore provide the additional security of protecting women from further attacks.

89. The situation regarding funding of refuges is complex. Not all receive government aid. Some survive on voluntary labour and donations. One, Emmaus in WA, had to close. Shelta, in Brisbane, closed for a few months, raised money and then reopened. The Newcastle refuge which is about to open will have to rely on donations and voluntary work.

90. Refuges which are funded receive their money under the community health program, administered through State governments. In some cases State governments have withdrawn funding from established shelters. Those refuges which are currently funded are only secure in their grants until 30 June 1977.

91. Some idea of the struggle of womens refuges to survive was given to us in Perth:

While running the refuge, we were also trying to get continuing funding and, as you have heard, we still have no guarantee of this . . .

Nowhere could people be found who trusted us or who had the responsibility and power to make the commitment or a decision. Sometimes it happened that a promise was made only to have the decision overridden by someone else. We never found out why or who made the decision. Most people within the departments themselves seem powerless to help.

Any success we have had is due to the fact that most of the women in the group are educated and middle class and have the time and energy to spend.⁴¹

92. We were impressed with the sincerity and hard work of the people connected with womens refuges. We believe that the refuges are answering an important need and that it is essential the government should support them. Funds should be made available for all existing refuges, as well as for opening new ones. The present number is inadequate. The UK Select Committee believed that the first need was for more places of refuge. The Committee recommended that one family place per 10 000 of the population should be an initial target in establishing refuges.⁴²

93. We believe that funding of refuges should be a Federal responsibility, with direct grants to the refuges in a separate womens refuge program—the requirement is distinct from those of other organisations presently included in the Homeless Persons Assistance Program.

94. We believe that the level of funding should cover the whole of a refuge's activities, certainly more than basic accommodation. The refuges need to be able to give information and support to women seeking shelter, provide child care activities and follow-up for ex-residents and conduct research.

95. Although many of the refuges currently rely on women giving voluntary assistance, we do not feel that this situation should continue. The refuges are fulfilling an

41. *ibid.*, pp. 2110–11.

42. *Report of the Select Committee on Violence in Marriage*, 1975, p. xiii.

urgent community need which, in our view, the community should be prepared to meet rather than rely on unpaid labour. We believe that funding should make some provision for paying salaries for essential work done in the refuges.

96. We would like to see refuges assured of funding over 3-year periods so they can plan effectively.

Housing

97. Finding permanent accommodation is one of the most difficult problems facing women at refuges. The woman's income and present pension levels often make it difficult to pay for housing in the private sector. The availability of public housing varies but a wait of at least 9 months can be expected.

98. The National Confederation of Womens Refuges noted:

If a woman has been housed with her husband in Housing Commission accommodation it is sometimes possible to have the lease transferred to her name, but this is not policy. Public housing is also open to criticism for its policy of not allowing women to share accommodation, and for the quality of housing it provides. Public housing estates of single mothers only increase the loneliness and isolation, already the lot of single mothers.

The inability to find suitable accommodation in the private or public housing sectors may put a woman in a situation where she decides to put her children in a private or state welfare home, until she can resolve her housing problem. The accommodation that a woman can afford is substandard.⁴³

99. At the Elsie Womens Refuge in Sydney, women are encouraged to share rented accommodation in close proximity to the shelter, so as to engender a sense of 'belonging' to a supportive community.

100. Gillian Draffin, of Nadine, talked of the concept of a community village:

. . . something like a migrant hostel (but perhaps without that rather cold atmosphere) where in fact the women and children who have come to us and who are perhaps not able to cope with going out into a State Housing Commission block of flats or out into the never-never . . . could go and live in a community atmosphere, where there would in fact be a whole lot of community support.⁴⁴

101. Sue Edmonds, from the Womens Shelter in Hobart, told us of a scheme for the Housing Department to buy a house which would accommodate four family groups. Workers from the shelter would provide ongoing support.⁴⁵ The use of half-way houses is increasingly seen as a need. In South Australia the Housing Trust provides several houses and flats close to a refuge to be used as second-stage emergency accommodation for up to 12 months while women stabilise their situation. We would like to see other housing authorities do the same. They should also waive regulations prohibiting two or more women and their children setting up co-operative households. Governments should provide housing subsidies for women seeking permanent accommodation, both by way of low interest loans and repayable cash grants to meet housing deposits.

Health services

102. Health service professionals, particularly general practitioners, need to have a better understanding of the dynamics of marital conflict. Doctors often do no more than treat a woman's injuries and sometimes prescribe sedatives. Women are seldom referred on to community agencies.

43. National Confederation of Womens Refuges, Submission to Prime Minister, August 1976.

44. Evidence, p. 2106, G. Draffin.

45. Evidence, p. 2245, Sue Edmonds.

103. The Bristol study in England made similar observations and noted that sixteen out of the seventeen women who went to the doctor were given drugs such as Librium or Valium.

These women are being treated for anxiety and other reactions to their husband's behaviour, thus one could say they are being treated for their husband's behaviour—for his 'illness'.⁴⁶

104. The education of health professionals should include information about marital conflict. People working within health and other social services should have a sound knowledge of local community agencies likely to be of assistance.

105. It is also important that womens refuges receive co-operation and support from local hospitals, health centres and dental clinics.

106. The Darwin Womens Centre has a medical clinic 4 hours per day, with a doctor as well as a nurse, Monday to Friday. Elsie Womens Refuge in Sydney has a health service with the Royal Alexandra Hospital for Children, in partnership with a community nurse from the local community care centre. In addition, the baby health centre nurse from the Glebe Baby Health Centre makes weekly visits. Other refugees have similar arrangements although those refuges which are not close to health services have only emergency medical attention. Refuges that are not funded, and which have voluntary staff, rely on contact with social workers within the Department of Social Security and professional staff within local community care centres.

Employment

107. The National Confederation of Womens Refuges has noted that the majority of women coming to refuges arrive with little or no money and almost all are eligible for immediate government assistance. Many of them are not aware of this. Employment prospects for women with children, however, are very slight. Most have been out of the workforce for some years; most are unskilled and uneducated. Those who would work at full-time jobs are prevented from doing so because of the lack and cost of adequate child care.

108. There seems little point in finding a part-time job, if any were available, as the payment received would be little more than the allowance they receive, and they would have the problem of finding suitable child care.

109. Many women find temporary and casual positions, but then lose their government assistance. If these women could earn some money independently and still receive government assistance up to the minimum wage, many would do so.

110. Over the last 7 months at the Bonnie Womens Refuge in Sydney, out of fifteen single women seeking employment, only three have been successful in finding temporary positions. At the Melbourne Half-way House, out of 202 women seeking employment, in the period from October 1974 to December 1975, eighteen found full-time employment, and four part-time employment.

111. A special need is for child care with extended hours.

Services to men

112. In discussing domestic violence we have concentrated on women and their needs but we stress that policies should recognise that husbands equally need help.

46. Elston, Fuller & Murch, p. 18.

Without it, they are likely either to repeat the violence if their wives return, or to carry it into new relationships. Christina Gibbeson said:

... we see ourselves as over-burdened as it is, with the wives. Of course we meet husbands and do offer them advice if they want it, depending on what they are doing at the time. We meet them but we do not see ourselves as marriage guidance.⁴⁷

113. We understand that, in London, Chiswick Womens Aid is attempting to set up a centre for the male partners in situations of family violence where they too can receive counselling and support. Many men have little understanding of the problem. Some men will express deep regret, only to repeat the violence a few days later. Ways and means of helping men need to be investigated. Consideration should be given to the following:

- (a) mental health emergency teams to attend serious cases of violence as an alternative to police intervention;
- (b) police and lawyers educated to refer men charged with domestic assault for counselling or psychiatric treatment;
- (c) referral of the parties to counselling, e.g. in the Family Court;
- (d) provision for adequate explanation of the meaning and implications of orders made by a court against a man and automatic referral to specialised agencies for help.

Legal services

114. A woman battered physically and emotionally often simply cannot muster the courage and ability to take legal action to protect herself from further assault and to maintain some economic interest in the family home. A woman has the following legal initiatives open to her:

- (a) she can apply to a magistrate, or to the Family Court, for an injunction restraining her partner from molesting or harassing her;
- (b) she can lay a charge of assault, involving criminal prosecution by the police;
- (c) she can apply for divorce, after a year's separation;
- (d) she can, at any time, apply for custody of her children or for maintenance for herself and her children.

Injunctions

115. The first thing for a woman in a situation of violence is to get away from danger. If she leaves the house her problem will be to find alternative accommodation. She may apply to the Family Court or magistrates court for an injunction to restrain her husband from assaulting or molesting her. The injunction may also restrain the husband from entering the home or order him to vacate it. Non-compliance can be punished as contempt of court. The remedy is discretionary and depends on the particular circumstances. To avail herself of the remedy the woman needs reliable legal advice; to get it she needs to know enough about her legal position to seek out a solicitor who is willing to act and who has relevant experience, or she may seek legal aid.

Knowledge of legal situation

116. Over half the women in the Elsie study had not consulted a solicitor for advice. Many victims of marital violence are ignorant of their legal rights and are therefore

47. Evidence, p. 455, Christina Gibbeson.

deprived of access to the law. A solicitor stressed to us the need for school and community education to give people a better understanding of the law; in her view a womens legal centre was needed to provide this kind of education.⁴⁸

117. A woman will often be reluctant to pursue a legal remedy against her husband: she may hope for a reconciliation, she may fear a permanent breach or even more violent behaviour. In our view, education programs are needed to inform women of their legal position and the availability of community services. Courses should be organised at times and places to enable easy access by women, e.g. at community health centres, mother and baby clinics, schools and places where child care is available.

118. Some women are nervous and reluctant to approach a solicitor, and we would support the proposal for a womens legal advice centre to help overcome ignorance and sponsor community legal education programs.

Assault proceedings

119. A battered wife may charge her husband in a magistrates court with assault. Women are often reluctant to pursue this remedy; the police are often discouraging and delays and threats from the husband often lead to the charge being dropped. In any event, further assaults may still occur.⁴⁹

I didn't go through with the charges because his family and he threatened me with death and my son came down to beat me up and to 'break my neck' but I wasn't there and they got stuck into my daughter and belted her up.

He didn't turn up in court, the case was adjourned and adjourned. I got so fed up I didn't bother going to court.⁵⁰

120. In 36 per cent of cases in the study by the New South Wales Bureau of Crime Statistics and Research charges lapsed and there was no prosecution.

121. Police attitudes to domestic assault cases were commented on in submissions and evidence to us. The main point made was that police are reluctant to take any action unless serious injuries are inflicted. This attitude was also reported in the Bristol study.⁵¹ The police often believe that it is not their job to interfere in domestic disputes which they see as a personal problem, in much the same way that physically punishing children is sometimes seen as the natural right of the parent. The superior physical strength of the man is often overlooked, especially where an argument involving both parties is in progress.

They told me to go home. 'He'll be all right when he sleeps it off.'

They said they didn't want to get involved in domestic problems. They said 'Go home because we can't see any signs of injury' and I said 'No because he belts me round the head'. I thought they would only take action if he killed me.⁵²

122. Half the women in the Elsie study had reported assaults to the police.

123. The figures in table V.21 may not accurately reflect the real number of charges which might arise out of domestic assault. The reluctance of women to press charges, the number of cases withdrawn, and the difficulties of intervening in a domestic situation may affect the attitude of the police.

48. Evidence, p. 2845, Helen Coonan.

49. *Domestic assaults*, p. 22.

50. Gibbeson, Commission research report, no. 11, pp. 176, 179.

51. Elston, Fuller & Murch, p. 20.

52. Gibbeson, Commission research report, no. 11, pp. 173, 175.

Table V.21 Action taken by police (Elsie study, 111 women)

| Action taken by police | Number | % |
|-------------------------------------|--------|----|
| None | 16 | 14 |
| Reprimanded partner | 14 | 13 |
| Accepted wife's charges | 17 | 15 |
| Took partner into custody | 1 | 1 |
| Assisted woman to leave | 4 | 4 |
| Total | 52 | 47 |

Source: Gibbeson, Commission research report, no. 11, p. 174.

124. Thirteen women in the Elsie study said that they felt that the police were concerned for their safety and they were pleased with the attitude the police had towards them. The remainder felt that the police did not care, or that the police were openly rude to them; of these, nineteen women said that the police were indifferent to their situation and thirteen women said that the police showed open contempt towards them. But police reaction was not uniformly hostile:

They have usually been very good and wanting to help and doing whatever they could. I can't say that they were unfriendly.

125. It was suggested to us that ordinary police training does not equip police officers to deal with situations of domestic conflict. A child care officer told us:

They are untrained for this sort of work. There is little guidance to be had from standing orders or regulations or anything like that. They are usually scared, I think, when they enter such a situation. It is not a type of visit that police like making and because of this it makes them really incompetent in handling the situation. I think there is a great need for police to be trained in crisis intervention.⁵³

Gibbeson writes:

Whether a body of men in uniform would ever be equipped to handle ongoing situations such as those described in the Elsie study is debatable, especially where the general concept of police work is that of protecting and maintaining property and protecting the community from arch evil. The police role in the crisis of domestic violence cannot be ignored, however, owing to the 24-hour-a-day, on-call service they provide.⁵⁴

126. Domestic violence clearly presents problems for the police. The police are just as likely as the rest of the community to have difficulty in understanding the real position of women victims. Their field of action is limited; there are few community resources they can call on, and their chances of being complained about or even injured are great.

127. The police are, however, often the first point of contact in crisis situations and it is therefore important that they have the ability to deal with them effectively. In our view, police training programs should be planned to give trainees insights into situations of domestic conflict and skills in dealing with them. A social work component could be introduced into courses. The Australian Institute of Criminology could play a role in sponsoring training films and other materials for this purpose.

53. Evidence, p. 2328, Joan Roberts.

54. Gibbeson, Commission research report, no. 11, p. 182.

Counselling

128. A further aid is now possible under the Family Law Act. A woman subject to violence may now call upon the counselling services of the Family Court.⁵⁵ It is not necessary for an application to be made for any other order to use these services. The success of counselling would depend on how receptive the husband was to the proposal; it is not compulsory for any person to attend for counselling.

129. Where an application is made for an injunction and the Court makes an order restraining the husband from assaulting the wife or from other action:

. . . the Court shall, if it is of the opinion that it is in the interests of the parties or of the children of the marriage to do so, direct or advise either or both of the parties to attend upon a marriage counsellor, but failure to comply with such directive or advice does not constitute a contempt of the Court.⁵⁶

130. While attendance is not compulsory there may be more incentive for parties to accept counselling when the Court directs it and when the matter has come to court already. These powers are relatively new and their use and effectiveness in cases of violence has not yet been fully proved.

131. It should be mentioned that the powers under the Family Law Act can only be used in respect of married persons; the Commonwealth has no legislative power in respect of de facto relationships. This is unfortunate as at least some of the cases in the Elsie study concerned parties who were not married to each other.

Conclusions

132. There is no easy solution to the problems of family violence. Some short-term remedies are possible and commendable work is being done, particularly by womens organisations. The work of womens refuges is exemplary in selfless community action. But their work must now receive adequate and continued government support.

133. Proceedings for assault appear to be a relatively ineffective remedy if the objective is to protect the woman rather than to punish the man. Many cases are not pressed. If the husband is fined or bound over, he may in fact still commit further acts of violence. In more serious cases the husband may be imprisoned, but this is not really a long-term solution for the problems faced by the husband and wife.

134. Nevertheless, we believe that the best has not yet been achieved. We would like to see determined efforts to make the law provide a real help to the couple, first by protecting the woman under threat and then realistically helping the couple either to resolve their differences or to go separate ways temporarily or permanently. There is an urgent need for investigation, research and consultation on the part of police, the courts, counselling services, attorneys-general, the legal profession, social workers and social welfare agencies, private and official.

135. In the long term, other approaches are required. Community education is essential to ensure that marital violence is more frankly discussed so that women are encouraged to seek help.

136. Community education should make women aware of the location of womens refuges, of the range of available social services and of their legal rights. Information booklets should be written and distributed to women seeking help and should also be available in the main ethnic languages.

55. Family Law Act, section 15.

56. *ibid.*, section 14 (4).

137. More attention should be paid within schools to the problems of family violence. Children need to grow up with an understanding of the nature of conflict and of the roles and relationships of men and women. They should have information about community resources, basic family law and social services. Girls should comprehend the consequences of dependency and their need for job skills.

138. Tertiary and adult education programs for those who are likely to come into contact with cases of family violence should include information about family conflict and the skills needed to deal with it.

139. It may not be possible to eliminate family violence, but there is much more that we could do. We must examine our own attitudes to violence. We must question our views of family roles and relationships, for these may contain the seeds of conflict. We must look at our values and customs. We must acknowledge that, as a community, we bear responsibility for the kind of environment that exacerbates violence. Unless help is given to families who are in distress, violence is likely to persist from one generation to the next.

10. Child abuse

Introduction

1. He'd have been 2 when I first really used to get stuck into him. I used to punch him. And I used to belt him hard. I can remember breaking wooden spoons on him. I used to get him around the throat, and I'd hit his head up against things, and I couldn't understand why I would do this to a child. I used to be all sort of tense inside. It was a terrible thing and was just terrifying, but I couldn't stop.¹

This account by a mother of the way she treated her son was one of several hundred cases of child abuse which came to our attention both from government and community organisations and from individual people.

2. Some parents contacted us on their own behalf, seeking help. Others responded to our appeal for people in Sydney to telephone over a 2-day period and relate their personal experiences of family violence. One-fifth of the calls were concerned with violence to children.

3. The cases involved both men and women. The stepfather of a 3-year-old girl, admitted to a Sydney hospital with a fractured arm and fractured skull, said:

I liked her a lot. She was like my child and everything but I wasn't in my normal senses . . . I just don't know what really caused the whole scene because I'm not that sort of awful person to do such a thing.²

4. Some people spoke about violence experienced when they were children. A 55-year-old woman, eldest of eleven, said her father used to attempt to smother them with a pillow. Sometimes he would grab them by the head and hold them in the air. Other times he would hold their heads under the cold water tap, when it was running 'full pelt'. This woman's father broke her arm when she was a teenager and stuck a fork through her sister's arm, and a knife through her leg.³

5. Altogether a disturbing picture emerged of children, now and in the past, subjected to all kinds of miseries and maltreatment:

When I'm drunk, I hit the kids a bit too hard and a bit too much.

My husband loses his temper and hits the elder boy over the ears and head . . . he tells him he'll have to go and live somewhere else.

My father committed fellatio with me when I was very small . . . I used to have nightmares about it.

My daughter spilt flyspray in her bed. He made her sleep in it, and as a result she had burns and skin infection. He poured hot tea over my son's head . . .

I'd hit him . . . and bruise his eyes. I'd bruise him all over and tell my husband he fell off his bike. I wouldn't feed him. I'd throw him outside if he dirtied himself.⁴

Tonight, mum's purse went missing and I got the blame for it . . . I got belted on the chin and mum started shouting at me really loud and I got a headache and an earache and I yelled to mummy that I'm innocent . . . Boy, mum does a lot of terrible things to me. Do you know that one night she belted me so hard that I couldn't hardly breathe. My nose was bleeding and I kept falling on the floor and that.⁵

1. Interview report, NSW, 281.

2. Interview report, NSW, 287.

3. 'Domestic violence phone-in', 5 and 6 February 1976.

4. *ibid.*

5. Exhibit 24, confidential.

6. Our investigations coincided with growing public concern in Australia about child abuse. All State governments introduced new child abuse laws or programs of management during the period of our inquiry. The Victorian government published a research study of maltreated children seen at the Royal Childrens Hospital, Melbourne,⁶ and a report of a Child Maltreatment Workshop containing recommendations for a comprehensive child abuse program.⁷ The South Australian government held an Inquiry into Non-accidental Physical Injury to Children in South Australia⁸ and subsequently amended its legislation, set up regional panels and introduced a number of new programs. Tasmania introduced the Child Protection Act and established a special Child Protection Assessment Board on a regional basis. New South Wales passed the Child Welfare Amendment Act, 1977, which introduces compulsory notification of child abuse. The Queensland government examined child abuse as one aspect of its Commission of Inquiry into youth⁹ and set up an inter-departmental committee on child abuse. Western Australia opened a Parent Help Centre offering 24-hour crisis counselling and probably has the most comprehensive and innovative child abuse program in Australia. In 1975 the Western Australian government organised the first national Australian conference on 'The battered child'.

7. The conference was opened by Judge Kemerl Murray, who said:

Battered children . . . have no votes, no political power—their voices cannot be heard. We do not even know their precise numbers. For too long, I believe, we as Australians have been unwilling to recognise that the problem of child abuse as a serious problem exists; that it can exist in an affluent, developed, democratic society. We have been unwilling to face up to the possibility that as individuals we can and do do terrible damage to our children.¹⁰

8. Our view is that as long as people are reluctant to accept the reality and seriousness of child abuse, children in need of protection are likely to remain at risk, and parents in need of help are likely to remain isolated. We need to realise that child abuse can occur in any neighbourhood and in any family.¹¹ We do not know the size of the problem in Australia, but one American estimate is that physical abuse is the main cause of death of children between 6 and 12 months of age.¹²

9. Our terms of reference directed us to 'inquire into and report upon the family, social, educational, legal and sexual aspects of male and female relationships'. We were also required to 'give particular emphasis to the concept of responsible parenthood'. Child abuse is a consequence of a breakdown in family relationships and a failure on the part of parents to nurture and protect their children. However, it must also be seen in the context of the broad social environment.

6. Patricia Price, Jerzy Krupinski, *Maltreated children*, a study of hospital records (Department of Health, Victoria, 1976).

7. Report of the Child Maltreatment Workshop, Melbourne, 1976, released April 1977 by the Victorian Department of Health.

8. Inquiry into Non-accidental Physical Injury to Children in South Australia, Report of the Community Welfare Advisory Committee, Adelaide, SA, January 1976, Cat. No. 362-74 (94).

9. Commission of Inquiry into the Nature and Extent of the Problems Confronting Youth in Queensland 1955-75, report (Govt Printer, Brisbane, 1975).

10. *The battered child: proceedings of the first national Australian conference, Perth, August 1975* (Department for Community Welfare, WA, 1975), p. 3.

11. *The problem and its management*, vol. 1 (US Dept of Health, Education and Welfare publication (OHD), 75-30073, 1976), p. 11.

12. Barton D. Schmidt & C. H. Kempe, 'Child abuse: management and prevention of the battered child syndrome', *Folia Traumatologica Geigy* (CIBA-Geigy Ltd, Basle, Switzerland, 1975), p. 3.

10. Child abuse legislation and child abuse services are mainly the concern of State governments within Australia. All these governments have been helpful to us in compiling our report and in identifying the major issues we need to consider, including:

- (a) What environmental factors provide a climate for child abuse?
- (b) What is the nature and extent of the problem in Australia?
- (c) What kind of children are abused and how can they be helped?
- (d) What sort of child protection laws provide the best framework for services?
- (e) What long-term preventive measures are required?

Public abuse and family abuse

11. [A] child has the right to be wanted, to be loved and to have the ordinary necessities of life, which is ample tucker, and warmth and so on . . . there are a lot of children in this community who are not exercising this right . . . at the moment.¹³

Initially our attention was drawn to those cases of child abuse where children are harmed by members of their family, usually parents or guardians, occasionally brothers or sisters. This is the most familiar kind of abuse and the one that attracts most attention and indignation.

12. Child abuse also occurs at the public level, when social institutions, policies and practices inhibit the development of children to their fullest potential; equally it manifests itself in statistics on infant hunger and malnutrition, mortality, poverty, inadequate medical care, poor education and racial discrimination.

13. Public abuse can take place within our corporate institutions, such as schools, courts, hospitals, welfare departments and residential homes. For example, a form of public abuse is found when children are charged with criminal offences and have no representation in court, or when a sick child in hospital is denied the basic right to be with his parents because this inconveniences hospital routine.

14. Both family and public abuse include abuse by neglect. A child who fails to thrive because he or she has not enough to eat, or a child who grows up emotionally crippled because of emotional neglect, can be just as damaged as, and sometimes more damaged than, a child who is physically beaten.

15. Australian social worker and sociologist, Jan Carter, believes that increased attention to child abuse in the family may well be matched by decreasing attention to other forms of maltreatment.¹⁴ For example, when a child is brutalised by its parents public indignation is understandably aroused. Yet often there appears to be little public indignation for those hundreds of thousands of Australian children who, daily, are subjected to such conditions of deprivation that we have little room for complacency.

16. Professor William McDonald, Professor of Child Health at the University of Western Australia, said in evidence:

These are the children who are less likely to go to the child health centres, less likely to go to pre-school, and are the ones . . . who are more likely to have respiratory infections, otitis media, perforated eardrums, chronic discharging ears, partial deafness, speech defects, difficulty in applying themselves to the educational process . . . What is going to happen to these children? They are not sick enough to die now (they die in some developing countries). They drop out of school, they become unskilled labourers, they finish up doing anything . . . and this is the cycle of deprivation.¹⁵

13. Evidence, p. 477, Dr John Birrell.

14. J. Carter, 'Child abuse and society', in Carter (ed.) *The maltreated child* (Priory Press Ltd, London, 1974), pp. 14-15.

15. Evidence, pp. 2030-1, Professor W. B. McDonald.

17. Aboriginal children are subjected to conditions which would not be tolerated by the white community. In the south-west region of Western Australia, the infant death rate among Aboriginals is twice as high as among the rest of the population.¹⁶ Half of the children surveyed on six Queensland Aboriginal settlements aged between 6 months and 3 years were retarded.¹⁷ At two primary schools in western New South Wales, perforated eardrums resulting from chronic ear infections were forty-six times more frequent among Aboriginal children than among white children.¹⁸ Children of fringe dwellers in Alice Springs are said to be stunted in growth, lethargic and susceptible to infection. Of the school-age children permanently resident, 70 to 80 per cent were truant. One of the major causes of truancy was hunger.¹⁹

18. Public abuse and neglect of children in Australia was summed up by Adelaide child psychiatrist, Dr Peter Eisen:

Australia has grossly deficient services in the fields of parent preparation and education, infant and early child care and developmental support and nurture. If services are not freely available soon, the next generation will certainly suffer, and it is likely that at least the next two generations will bear the stigmata of adverse development and care.²⁰

19. The way children are treated in our society relates to the way we value children and the way we define their rights. It relates to the degree of submission and conformity we expect from children and the extent to which we sanction physical force as a means of getting children to obey.

20. It is important to consider these issues, because they may well contain the genesis of child abuse within the family. Violence towards children is only one aspect of the way society treats the weak and helpless. The aged, the disabled, the poor, the retarded also suffer. Within the family setting, children are the weakest members and the most vulnerable.

History and definition of child abuse

21. According to historian Lloyd de Mause, 'the history of childhood is a nightmare from which we have just begun to awaken'. The further back in history, the more likely children were to have been killed, abandoned, whipped or sexually abused by their caretakers.²¹

22. Children were sacrificed in religious rituals, sold into slavery, beaten to exorcise the devil, maimed to exploit them as beggars or performing freaks.²²

23. The fact that our society is now concerned with the problem of child abuse does not mean that parents have suddenly taken to beating their children, but that our tolerance to child maltreatment has declined, and we are now appalled by acts to which our ancestors would have been indifferent. It is part of a growing awareness that the human rights, dignity and integrity of every man, woman and child should be protected.

16. *Social/medical aspects of poverty in Australia*, p. 215.

17. *ibid*, p. 215.

18. M. Kamien, 'Ear disease and hearing in Aboriginals and white children in two schools in rural NSW', *Medical Journal of Australia* 1, 4 (1975), Supplement, pp. 33-7.

19. *Social/medical aspects of poverty in Australia*, p. 216.

20. Commission correspondence, file 76/99.

21. L. de Mause, 'The evolution of childhood' in de Mause (ed.), *The history of childhood* (Souvenir Press (E & A) Ltd, London, 1976), p. 1.

22. T. Solomon, 'History and demography of child abuse', *Pediatrics* 51, 1 (1973), p. 773.

24. This point was made in evidence by Dr George Maxwell, Professor of Paediatrics at the University of Adelaide, when he said that child abuse is a problem that, until recently, society has scarcely acknowledged, and many parents have only recently begun to seek help.²³

25. Change in public attitude has come about partly because of a growing sensitivity to the legal and human rights of individuals, partly with improved knowledge of childhood development, and partly because of the increased importance of outside agencies to families. Private life is now more public.

26. Perceptions of child abuse relate to time and culture and it is possible that today's practices of child rearing may shock future generations of Australians, particularly as our knowledge of childhood development continues to evolve.

27. In this regard it is interesting to see how definitions of child abuse have broadened since the term 'the battered child syndrome' was first used by an eminent American paediatrician, Professor Henry Kempe, in 1962.²⁴

28. The term was originally meant to apply to young children (usually under 3) who had received 'serious physical abuse, generally from a parent or foster parent'.²⁵ However, child abuse is not just confined to serious physical abuse, and it has since been widely acknowledged (by Kempe as well as others) that a broader definition is required.

29. Children can be abused intentionally (the parent who deliberately harms a child) or they can be abused unintentionally (the parent who shakes a baby without realising this may damage his brain). Abuse can occur through acts of commission or acts of omission. Abusive acts may be one-time events, occasional incidents or regular patterns. These acts can include physical abuse, sexual abuse, emotional abuse or abuse through neglect of many kinds.

30. Victorian police surgeon, Dr John Birrell, tendered evidence to us which graphically illustrated a case of abuse through neglect:

The baby was crying and covered in excreta. The only clothing it had on was a nylon nightdress which was soaking wet . . . The bed clothing was filthy and covered in excreta, and the baby's bottle which was partly filled with milk was in the excreta.²⁶

31. Definitions of abuse are easier to formulate when the cases are extreme, but it becomes more difficult when the harm is less obvious. This is why cases of emotional neglect are particularly difficult to define. Yet a 21-year-old girl who lived for 15 years in an emotionally abusive family asked: 'What is the more important, a broken elbow or a broken person?'²⁷

32. In Australia legal definitions of child abuse differ from State to State. For example, the Tasmanian *Child Protection Act* 1974, defines child abuse as 'injury as a result of cruel treatment', and says that a child may be regarded as having suffered cruel treatment:

. . . notwithstanding that the treatment was not intended to be cruel or was not intended to result in injury to the child; and the neglect, or failure to perform any act required for the welfare of the child may constitute cruel treatment of that child.

23. Evidence, pp. 1132-48, Dr George Maxwell.

24. C. H. Kempe, 'The battered child syndrome', *Journal American Medical Association*, 7 July 1962, pp. 17-24.

25. *ibid*, p. 17.

26. Exhibit 25 (e).

27. W. Simmons, *Child abuse: a study of management and research programs in Great Britain and the USA* (Churchill Fellowship report, unpublished, 1975), p. 12.

33. The South Australian Community Welfare Act refers to the child:

. . . who is maltreated or neglected in a manner likely to subject the child to unnecessary injury or danger.

This clearly takes in more than solely physical abuse.

34. Proposals under consideration in Victoria refer to the child 'who shows evidence of suffering physical or emotional injury or neglect (irrespective of how such injury or neglect occurred)'.²⁸

35. Overseas, the United States Child Abuse Prevention and Treatment Act (1974) refers to:

. . . the physical or mental injury, sexual abuse, negligent treatment or maltreatment of a child under the age of 18 by a person who is responsible for the child's welfare under circumstances which indicate that the child's health or welfare is harmed or threatened thereby.²⁹

36. Just as legal definitions vary, so do age definitions. In Tasmania the age is under 12, in South Australia under 15, in the ACT and NT under 18. In Victoria the government's voluntary reporting system is based on children under the age of 6. In Western Australia the specialist Child Life Protection Unit is also concerned with children under 6.

37. Research studies in Australia (and there have been few) equally use varying definitions and age criteria.

Conclusions

38. As a general principle, we believe that legal definitions of child abuse should focus on the child's needs for assessment and care, rather than any wilful desire on the part of the parents to inflict injury or to cause neglect.

39. Definitions should be broad enough to encompass all forms of abuse. At the same time, we recognise the dangers of subjective assessments of what constitutes abuse. Cultural and social values affect such assessments and what might be seen as neglect in one culture might be regarded quite differently in another.

40. We believe that failure to use common definitions contributes to our lack of knowledge about child abuse. Comparisons between different studies only become possible when common criteria have been agreed.

41. We recognise the rights and responsibilities of State governments to frame their own child protection legislation, but the difficulties of comparing statistics between the various States was a point that constantly occurred in our evidence. This is regrettable in a field where knowledge is scanty. We would like to see the government convene discussions between the Commonwealth and State Attorneys-General and appropriate child protection agencies (government and voluntary) in an attempt to frame common definitions of child abuse, for both legal and research purposes.

Dimensions of the problem

42. . . . the cases that are actually recognised and labelled are probably only the small tip of the iceberg, and there is probably a great deal more in the way of damage that is either not brought to attention or seen and not recognised.³⁰

28. Report of the Child Maltreatment Workshop, p. 72.

29. US Child Abuse Prevention and Treatment Act, Public Law, 88 Stat. 4, Laws of 93rd Congress, 2nd session, 31 January 1976, pp. 93-247.

30. Evidence, p. 1613, Dr Helen Connell.

At present we know very little about the extent of child abuse for a number of reasons, including the lack of any clear and accepted definition of the term.

43. The vast majority of cases go unreported. One estimate is that for every child reported, 100 children go unreported.³¹ When Professor David Gil testified before the US Senate Subcommittee on Children and Youth, he said:

. . . there is no connection whatsoever between the statistics and reality of this particular issue.³²

44. Conjectures about the incidence of child abuse in Australia are usually based upon American figures, and these show a marked variation. Furthermore, there is the questionable validity of transferring statistics from one country to another, particularly when social and cultural factors are important aspects of family violence.

American statistics

45. Estimates for the incidence of child abuse in the United States have ranged from a figure of 'between 2.5 and 4.0 million incidents a year'³³ to 'from 2000 to 3000 children injured each month' (24 000 to 36 000 each year) and one or two children killed every day.³⁴

46. Richard Light has suggested that 'approximately one child in every 100 is physically abused, sexually molested or severely neglected each year'.³⁵

Australian statistics

47. In Australia studies of child abuse have been mainly based on hospitals which have tended to draw most of their patients from working class areas³⁶ and to see only the more severely injured children. Thus it is not possible to generalise from these studies to the population at large. No studies have attempted to estimate the national incidence of child abuse in Australia. Projections have been made, based on American information, but, in view of the inconsistency and uncertainty of the material, such exercises are little more than guesswork.

48. An inquiry conducted in South Australia during 1974 and 1975 showed a wide discrepancy between the number of cases officially reported and the number of cases the survey revealed.³⁷

49. The inquiry included a retrospective survey over 1 year of hospitals only and a 3-months prospective survey of hospitals, medical practitioners, clinic nurses, district and branch offices of the Department of Community Welfare, schools, kindergartens, child care centres, non-statutory childrens homes and the South Australian Police Department.

50. The surveys revealed a total of 211 cases of child abuse and a further 857 children at risk. The response rate ranged from 22 per cent (doctors) to 68 per cent (kindergartens).³⁸ Only twenty cases were officially reported to the Department during this period.

31. D. Gil, *Violence against children* (Harvard University Press, Cambridge, 1970).

32. *American families: trends and pressures*, 1973.

33. Gil, p. 59.

34. Joint Commission on Mental Health of Children, *Crisis in child mental health* (Harper and Row, NY, 1970).

35. R. Light, 'Abused and neglected children in America', *Harvard Ed. Review*, November 1973, pp. 557-98.

36. Price and Krupinski.

37. Inquiry into Non-accidental Physical Injury to Children in South Australia, report, p. 16.

38. *ibid*, p. 17.

51. Rates of child abuse do not vary according to the season.³⁹ Therefore it is reasonable to estimate that an approximate 844 cases of child abuse occurred in South Australia during the year 1975. On this basis (of at least one case per 1000 total population) the incidence of non-accidental physical injury to children under 15 in Australia, nation-wide, could well be as high as 13 500 cases a year or thirty-seven children injured every day.

52. The grave nature of the problem is further emphasised by the fact that 20 per cent of diagnosed children in the retrospective survey and 67 per cent in the prospective survey suffered serious, possibly permanent, injury.⁴⁰

53. Many submissions referred to the increasing incidence of child abuse. We have no way of knowing whether this is true. Growing public recognition and better reporting methods contribute to rising figures. So does broadening the definition of child abuse.

54. Child abuse has been reported in many countries other than Australia, including the United States, the United Kingdom, France, Germany, Denmark, Latin America, Hawaii and New Zealand.⁴¹ This suggests a widespread problem.

Conclusion

55. Our lack of knowledge about child abuse in Australia makes it difficult to plan effective services. The probable magnitude and gravity of the problem warrants far more attention than it has received in the past. Many of the statements made are based on little more than guesswork; some are educated guesses, some are not. We see a need for research on a national scale.

Understanding the problem

56. Australian society, like many other western-type industrial urban societies, provides a conducive environment for child abuse in its many manifestations.⁴²

Child abuse is more a problem of family and society than of the individual. It is misleading to treat all cases as belonging to a single group, and to attempt to extract a common cause.

57. Dr Ray Helfer, one of the pioneer workers in child abuse in the United States, believes that there are three necessary components in child abuse, and these are:

- potential for abuse in the parents
- reaction to a special kind of child
- a crisis, or series of crises⁴³

58. The potential for abuse in the parents is a result of how they themselves were reared, their ability to use the help of others, the quality of their marriage relationship and whether they have unrealistic expectations of the child.

39. D. G. Gil, 'Physical abuse of children: findings and implications of a nation-wide survey', *Pediatrics* 44 (1969), Supplement, p. 857.

40. Inquiry into Non-accidental Physical Injury to Children in South Australia, report, p. 16.

41. C. Peckham, 'The dimensions of child abuse', in Carter (ed.), p. 20; D. M. Ferguson, J. Fleming, D. P. O'Neill, *Child abuse in New Zealand* (NZ Govt Printer, Wellington, 1972).

42. P. Boss, 'Some facts and fancies about child abuse', *Australian Child and Family Welfare* 1, 2 (1976), p. 14.

43. C. H. Kempe & R. E. Helfer (eds) *Helping the battered child and his family* (J. B. Lippincott & Co., Toronto, 1972), pp. xiv-xv.

59. The special kind of child is one that is different from others, for example because of prematurity or a birth defect. Given the first two components, the third—the crisis—precipitates abuse. Helfer emphasises that when one crisis is resolved the risk of abuse is not removed, since the next crisis may precipitate a new incident.

60. All these factors are deeply rooted in our social and cultural environment and are constantly interacting in ways which we do not yet fully understand.

Environmental characteristics

61. Many social and cultural factors have a high relationship with violence in the home: poverty, unemployment, lack of social services, isolation, unwanted pregnancy, poor health, alcohol abuse, attitudes to violence, attitudes to parenthood and children, and family roles and relationships can all play a part.

Poverty

62. We know that children are abused and neglected in all kinds of families, some rich, some poor, some well educated, some not, and from all races, nationalities and religious groups. It is difficult to find out whether one group predominates. In Australia there have been no large-scale studies which might give this kind of information. One of the few projects of this nature was conducted in the USA in 1965, when the Childrens Bureau of the US Department of Health, Education and Welfare initiated a series of nation-wide studies on child abuse.⁴⁴ These surveys, by Professor Gil, involved some 13 000 reported cases of physical abuse, and revealed a significant association with poverty.

63. Incidents of maltreatment were over-concentrated among the poor and ethnic minorities, among fatherless families and among families with four or more children. The educational and occupational status of parents was fairly low and unemployment was disproportionately high, about three times the then national rate. Income was lower than nation-wide equivalents: four out of every ten families were on public assistance. There was high geographic mobility: nearly half of the families had been living in their current homes for a year or less.

64. Gil's work was based on reported cases and therefore involves a possibility of bias, as do those studies which have come from public hospitals. Middle class people are more likely to go to private doctors and psychiatrists for help, and they sometimes find it difficult to report a family with whom they can identify.⁴⁵

65. It is important, however, to recognise that some families are victims of circumstances outside their control. The fact that some parents neglect and even harm their children often stems directly from environmental conditions which may be hard to change.⁴⁶ Poor people have fewer alternatives and fewer escapes from dealing with their aggressive impulses than those who are not poor. Moreover, violence tends to be part of the culture of the poor. Feelings of powerlessness and frustration may arouse aggression which is taken out on the child.⁴⁷

66. Pauline Windler, from the Brotherhood of St Laurence, told us:

[Poverty] destroys the relationship between parents and children . . . It isn't that you haven't enough money in your pockets to buy your beer. The worry is how are we going to keep a roof over our head. How are we going to keep the children. How are we going to pay the electric bill and the gas bill. This is what keeps us down.⁴⁸

44. Gil, *Violence against children*.

45. *The problem and its management*, p. 11.

46. *Poverty in Australia*, p. 197.

47. Carter (ed.), p. 18.

48. Evidence, p. 2952, Pauleen Windler.

Alcohol

67. Australians, particularly men, tend to drink a great deal. Professor Basil Hetzel describes our generous consumption of alcohol as something that is deeply embedded in our concept of mateship.⁴⁹

68. Heavy drinking undoubtedly contributes to family violence, although it is difficult to know whether alcohol features as a cause of the violence or as a result of the frustration which produced it.

69. A typical situation was described by Dr Helen Connell, of the Department of Child Health, University of Queensland:

Father drinks a considerable amount, loses control of his aggressive impulses, the child irritates him and the damage is done.⁵⁰

70. Dr Ron Spielman, a Sydney psychiatrist, told us that many of the young people he sees who come from violent families report that there is heavy drinking.⁵¹

71. A figure of one in five child abuse cases having a connection with alcohol is often quoted. This is based on a study of forty-one abused children seen at the Royal Childrens Hospitals in Melbourne. In at least eight of the families alcoholism was present.⁵²

72. Another study of 289 disturbed and deprived babies in state care in Melbourne reported that there was little or no information on 212 of the fathers, but the remaining men featured 'criminal backgrounds, immaturity and drunkenness'.⁵³

73. Professor Gil's studies of child abuse in USA found that alcohol featured in 12.9 per cent of the cases, either in association with 'caretaker quarrels', or when the mother was temporarily absent and left her boyfriend or a male baby-sitter to look after her child.⁵⁴

74. When we organised a 2-day 'phone-in' asking people to talk about their experience with domestic violence, the misery of children who live in homes where alcohol leads to violence was graphically described.

75. One woman who was regularly beaten up as a child described the situation leading to violence as:

Royal Purple Para Port and a gun. Father just used to sit there and drink and drink and drink.

76. Women who talked about being beaten by their husbands described how the violence also erupted on the child:

He drinks and wants to beat the house up and starts arguments and abuses the kids (and me).

49. Basil Hetzel, *Health and Australian society* (Penguin, Melbourne, 1970), p. 127.

50. Evidence, p. 1613, Dr Helen Connell.

51. Evidence, p. 2408, Dr Ron Spielman.

52. R. G. Birrell and J. H. W. Birrell, 'The maltreatment syndrome in children: a hospital survey', *MJA* 2 (1968) p. 1024; Exhibit 25 (c).

53. D. Bialestock, 'Neglected babies: a study of 289 babies admitted consecutively to a reception centre', *MJA*, 10 December 1966, p. 1132; Exhibit 25 (a).

54. Gil, *Violence against children*, p. 129.

77. Christina Gibbeson, from Elsie Womens Refuge, said that most women who come to Elsie leave men who are alcoholics or heavy drinkers, and who become violent when they drink. The children know violence and deprivation as a normal way of life:

The children have been caught in the middle of a violent relationship and they often admire the bravado of the father who beats them up as well. Young girls often have been sexually assaulted by their fathers, and have seen their mothers sadistically raped. They are children in a terrible state and they have a lot inside them that wants to get out, and cannot.⁵⁵

78. Even if children are not directly abused by a drinking parent, they suffer in other ways. In turn their own children may suffer. Children of alcoholic parents, particularly boys, are at risk of becoming alcoholics themselves⁵⁶, and children of violent parents are likely to become violent adults.⁵⁷

Roles and relationships

79. Society will have to accept the fact that mothering does not occur spontaneously because of the biological fact that the child has been in the birth canal.⁵⁸

'Everyone marries' and 'everyone has children' were statements frequently made to us. And, indeed, most Australians do marry and most Australians have children.⁵⁹

80. A Commission research study, by Lyn Richards, on the reasons why people have children showed that most of the couples had thought very little about the matter.

I just . . . thought it would be nice . . . I mean when you get married you have children. I don't think that I ever sat down and thought I wanted a child, probably because you are so conditioned being a woman and being a girl that just one of these days something is going to happen and it is going to be a baby.⁶⁰

81. Parents who telephoned us about abusing their children made similar comments:

I had a baby because my husband's family were all having babies. It was really the only thing to do.

I had a child because people seemed to . . . I didn't know what to expect.⁶¹

82. This unquestioning acceptance of parenthood is often coupled with an extraordinary ignorance of the meaning of parenthood. All the evidence we received about child abuse raised this issue.

83. Dr Kim Oates, from the Royal Alexandra Hospital for Children in Sydney, gave the following examples of unreal parental expectations:

Don't talk to him. He's been really naughty and needs to be punished. Talk to me instead.
[a 2-day-old baby]

He just wants to spite me. He keeps rolling over and over.
[a 5-month-old baby]

55. Evidence, p. 457, Christina Gibbeson.

56. A. Keane & D. Roche, Developmental disorders in children of male alcoholics (20th International Institute on Prevention and Treatment of Alcoholism, Manchester, England, June 1974).

57. Report of UK Select Committee on Violence in Marriage, 1974-75, p. ix.

58. C. H. Kempe, 'Paediatric implications of the battered baby syndrome', *Archives of Diseases in Childhood* 46 (1971), p. 35.

59. *Population and Australia: a demographic analysis and projection*, first report of the National Population Inquiry, vol. I (AGPS, Canberra, 1975), pp. 58-92.

60. L. Richards, Having families. Commission research report, no. 14, 1976.

61. 'Domestic violence phone-in'.

'Being naughty' for many of the parents consisted in the baby not being toilet trained, no matter how young, and in balking at food.⁶²

84. Richard's study showed that people were far better prepared for the birth of their baby than for what followed after.

Well I was tense in myself . . . I can remember getting very close to battering him at times . . . I was very cross with myself because I felt I should have been able to cope with it better.⁶³

85. Add these factors to a culture which idealises and romanticises motherhood and the scene is set for trouble.

86. Dr Desmond Gurry, a paediatrician who works with abused children at the Princess Margaret Hospital, Perth, told the national Australian conference on 'The battered child' that:

Romanticising babyhood and motherhood is just plain stupid. When the reality falls short of romance it requires a considerable amount of maturity and confidence on the part of the mother to put up with a child who doesn't behave as the sweet little darling of the magazines and the television screen.⁶⁴

87. The fact that the problems of coping with a demanding and totally dependent infant are not openly acknowledged leads to feelings of inadequacy within many young mothers.

All the time I felt I should be able to cope and do it myself . . . as I assumed everyone else did . . . so I thought, 'something wrong with me if I can't manage'.⁶⁵

88. Cultural attitudes to child rearing may also prevent women from using what help is available. They feel they should be able to manage on their own. Yet women spoke to us about their need to find time away from their small children to the point of locking themselves in the bathroom or locking the children in the house while they sat outside the house.

89. The kind of behaviour and roles that our society expects of men and women creates pressures which can erupt in violence:

. . . there is a conflict within the community itself about what the role of a housewife is so that on the one hand you get the magazine pictures where the housewife is expected to have beautiful children and a beautifully tidy home and expensive things in it; on the other hand you get the system coming through the schools where homemaking skills are of no prestige and these two just do not fit in together and this in itself can cause tension and conflict within the mother and this can be reflected down to the children.⁶⁶

90. One mother described a period in her life when her two young daughters both had constant tonsillitis, she had bronchitis and asthma and her husband had a demanding job as well as studying for a post-graduate degree:

I was trying to keep all my problems away from him so that he could concentrate on that, and the more I tried to do this and to play the part of a good wife, the tighter and tighter I got, and everytime the children cried and everytime I got up during the night I began to resent this more and more. I reacted by trying to hold my daughter down on the bed one night so that she wouldn't struggle out . . . but I suddenly realised that I was holding her so strongly that perhaps I would suffocate her.⁶⁷

62. Interview report, NSW, 274.

63. Richards, Commission research report, no. 14.

64. D. Gurry, 'The role of the health services in prevention, detection and treatment of child abuse', in *The battered child*, p. 43.

65. Interview report, NSW, 287.

66. Evidence, p. 2787, liaison officer, Parents Anonymous (name withheld).

67. Commission consultation, liaison officer, Parents Anonymous.

91. Male attitudes to work or lack of work play a part in many cases of child abuse. Apart from the obvious worry and financial stress of being unemployed, abusing fathers who have been out of work have frequently complained of feeling 'demeaned' when required to help their wives at home, particularly when they have been asked to undertake child minding tasks which they regard as unmanly and not part of their normal role.⁶⁸

92. Studies have tended to focus attention on mothers who abuse their children more than on abusing fathers. There are fewer opportunities to observe fathers interacting with their families, and men are more reluctant than women to admit they need help.⁶⁹

93. Whichever parent is the abusing one, it must always be remembered that the partners interact. A study by the National Society for the Prevention of Cruelty to Children in England reported complicated, unsatisfactory patterns of dominance and submission in most of the couples. Often the wives appeared initially submissive, if not submerged.

Where they needed dependency and caring, they were offered undermining and dominance. 'It's a man's world.' 'I'm always getting into trouble from him . . . I'm dreading him coming home tonight—he's sure to find something wrong.'⁷⁰

94. Resentment was also expressed at husbands' dependency needs: 'I've got one baby already—I don't need two'.

95. In turn the men made comments like the following:

My mother brought up four of us on two pounds a week and my old man beat her up every weekend and she didn't complain.⁷¹

Attitudes to children

96. Many of our submissions were concerned with children's rights. Children were described as being 'the chattels of their parents'⁷²; as 'belongings, to be pushed around, nagged at, neglected and frustrated mentally and physically'⁷³; as an 'oppressed group'⁷⁴; and as being treated 'worse than the average domestic animal'.⁷⁵ Such attitudes to children provide a climate for child abuse. Children are often subjected to a great deal of slapping and scolding by those entrusted with their care.

97. The connection between physical punishment and child abuse is complex, but it is now widely acknowledged by research workers in this field (Gil, Carter, Kempe) that the extent to which physical punishment of children is socially condoned has disturbing implications. To quote Gil, 'carried to its extreme, this pattern of child rearing produces the abused child'.⁷⁶

98. Few parents realise the risks involved in physical punishment of young children. Sometimes injury arises when the parent, in the name of discipline, moves from what has been called 'reasonable force' to 'unreasonable violence'.⁷⁷

68. *ibid.*

69. Interview report, NSW, 282.

70. *At risk*, report of the NSPCC Battered Child Research Team (Routledge & Kegan Paul, London, 1976), pp. 86–7.

71. *ibid.*

72. Submission 436, Council for Civil Liberties, NSW.

73. Submission 375, Ms S. Cropley.

74. Submission 742, Katrina McKinnon.

75. *ibid.*

76. D. Gil, 'Unravelling child abuse', *Amer. Journal Orthopsychiatry* 45, 3 (1975).

77. M. Richards, *Non-accidental injury to children in an ecological perspective*, Conference at Department of Health and Social Security, London, June 1974 (HMSO, London, 1974), p. 8.

99. Shaking is particularly dangerous as it can lead to subdural haematoma (bleeding within the skull) which can cause death or chronic brain disorder.⁷⁸ Yet shaking is a common form of violence in child abuse.⁷⁹

100. Professor Kempe speaks about the self-righteousness which many parents feel to justify corporal punishment:

The almost religious fervour with which some parents righteously beat their children all the way from serious injury to death is frightening, but it is a result of learnt behaviour which can be overcome in two or three generations.⁸⁰

Conclusions

101. The relationship between social deprivation and child abuse should not be overlooked. Poverty-stricken families who abuse or neglect their children are unlikely to respond to treatment unless steps are also taken to relieve the conditions under which they live.

102. We draw particular attention to evidence given to us in Tasmania by Dr Cunningham-Dax, co-ordinator of community health services in Tasmania, when he said that in many cases social services are geared to a middle class attitude rather than to the particular culture of the poor.⁸¹

103. Dr Cunningham-Dax was referring specifically to multi-problem families, of which he has made a study. He said:

I like to think of the multi-problem family as being handicapped, because we do a lot for the intellectually handicapped people, and we do a lot for the physically handicapped. We neglect our socially handicapped.⁸²

104. While excessive drinking is a feature in only some cases of child abuse, it is essential that all people who work with families where there is a drinking problem should be aware that children of these families are at risk of abuse.

105. In Australia our consumption of alcohol is increasing and the number of alcoholics growing (see chapter 11). Unless a vigorous national alcohol policy is introduced and positive steps are taken to reduce the incidence of alcohol consumption, we are fearful that child abuse may increase.

106. The fact that many men and women in Australia embark on parenthood with little idea of the realities involved strongly indicates the need for parent education, both for adults and children. We believe that such education should include critical discussion of the roles and relationships of men and women in Australian society.

107. We believe that meeting the problem of violence to children requires a critical examination of our child rearing practices and philosophies.

108. We recognise that there is a wide difference between the occasional slap administered by a frustrated parent and the kind of violence that constitutes child abuse, but in principle we believe that physical punishment is not a suitable way of dealing with the problems of children, nor is it an effective way of changing behaviour.

78. R. MacKeith, 'Speculations in non-accidental injury as a cause of chronic brain disorder', *Develop. Med. Child Neurol.* 16, pp. 216-17.

79. John Caffey, 'On the theory and practice of shaking infants', *Amer. J. Dis. Child* 124 (1972) pp. 161-9.

80. Kempe, in *The battered child*, p. 7.

81. Evidence, p. 2171, Dr E. Cunningham-Dax.

82. *ibid*, pp. 2176-7.

109. We believe that discussion of discipline should be a part of all parent education programs, and that parents (and young people) should be helped to learn more positive ways of bringing up children. Every effort should be made to reach fathers as well as mothers in parent education programs. Some educational programs on child rearing should be organised during working hours, in offices and factories.

110. We believe that more use should be made of the media, particularly television, in developing parent education programs, and that ways to achieve this should be investigated.

Precipitating factors

111. Parents who abuse their children often give a history of 'everything going wrong'. A parent described it as 'one door starts closing as another door shuts'. The circumstances which can contribute to child abuse include unemployment, poverty, eviction, moving house, changing jobs, drunkenness, illness, fatigue, working excessive hours and shift work, pre-marital, unwanted or ill-timed conception of a child.

112. An English study which compared a group of twenty-five abused children with their non-abused siblings found that in twenty-one out of the twenty-five abused cases either the child or the mother was sick in the first year of the child's life; in six instances both mother and child were ill. At least three of the mothers were known to have made suicide attempts. Yet with their other (non-abused) children, illness had featured in only five cases and had never been found in both mother and child. Furthermore, during the first year of the siblings' lives, the mothers had been perfectly fit.⁸³

113. Other significant factors emerging from the study were: abnormal pregnancy, abnormal labour or delivery, neonatal separation and other separation in the first 6 months.

114. The survey suggests that ill health and difficult pregnancies and childbirth appear to be significant factors, as can be sheer fatigue. We had evidence from one young woman with three small children who said that after the birth of the third child she was never able to get any sleep. At night the baby constantly woke and cried. During the day she was unable to rest because her husband, who was a night shift worker, asked her to keep the children out of the house so he could sleep.⁸⁴

115. Unemployment has featured significantly in many studies of family violence, including child abuse. Gil (USA) found that over half the fathers in his 1967 study were unemployed throughout the year and at the time of the abuse 12 per cent were unemployed, a rate about three times as high as the nation-wide unemployment rate.⁸⁵

116. Poor housing is another factor. Skinner and Castle's study of seventy-eight battered children (UK) found that 35 per cent of the families were known to have accommodation problems.⁸⁶

117. Dr Dora Bialestock's study of 289 neglected babies in Melbourne revealed that lack of housing or rentals proportional to earnings was an ever-occurring feature:

It is easy to picture the difficulties of a mother with young children forced to live in a room and to share facilities. Crying at night is usual for a young baby. This normal crying will

83. M. A. Lynch, 'Ill health and child abuse', *Lancet*, 16 August 1975, pp. 317-18.

84. Interview report, NSW, 280.

85. Gil, *Violence against children*, p. 111.

86. A. Skinner and R. Castle, *78 battered children: a retrospective study* (NSPCC, London, 1969), p. 11.

disturb the sleep of father and irate neighbours. Complaints are accusingly poured on to the tense and unhappy mother who produces further tension on her baby, making him cry all the more—a vicious cycle is soon established.⁸⁷

118. Many of the factors associated with child abuse are revealed in three stories related by parents who had abused their children. They give, perhaps better than any of the statistics, an idea of the totality of a situation which leads to a child being harmed. Names have been changed in the interests of anonymity, and we are grateful to these parents whose stories are given in our research report, no. 15.

The families

119. It is a rare family, in more than 750 [child abuse cases] we have carefully studied, which means to kill a child. The vast majority of our families, both rich and poor, are people caught in a terrible problem of their own past, each other, the baby and the crisis.⁸⁸

Families are caught in patterns of behaviour which have their roots in the past and their seeds in the future.

120. Family violence has been traced through five generations⁸⁹ and it is a common finding that abusive parents were themselves deprived, rejected and possibly physically abused.⁹⁰

121. In the same way as feelings of deprivation and rejection can be passed from generation to generation, families also provide the training ground for aggression. According to one writer, some 30–60 per cent of abusing parents were themselves battered as children.⁹¹ The abused child may well become the abusing parent.⁹²

122. A woman who telephoned us about abusing her children said:

Mum used to lose her temper and be violent to me. I remember at one stage I dropped the meat coming home from school and she got hold of me and she belted me and bashed my head up against a wall. Now my daughter acts like this . . . it frightens me, and I don't want her to treat her children the same way as I treated mine.⁹³

123. Other behaviour patterns which may be passed from one generation to the next are reactions to stress. Dorothy Ginn, from 'Prevention', a Sydney counselling service for abusing parents, reported that a recurring characteristic is a low tolerance to frustration and 'a tendency to become angry or despairing whenever anything goes wrong'.⁹⁴ Children who see this kind of reaction in their parents adopt the same kind of behaviour unless they are helped to learn more appropriate ways of solving problems.

124. Equally parents who have a low feeling of self-esteem often look to their children to meet their needs for love and dependency. Professor Kempe describes them as:

. . . people who have no fun . . . who are remarkably isolated and whose self-image is so extremely poor that they, in turn, cannot give because they have not been given.⁹⁵

87. Bialestock, p. 1132; Exhibit 25 (a).

88. Kempe, in *The battered child*.

89. J. E. Oliver & A. Taylor, 'Five generations of ill-treated children in one family pedigree', *Brit. J. of Psychiatry* 119 (1971), pp. 473–80.

90. Submission 1056, Dept for Community Welfare, WA.

91. T. Solomon, 'History and demography of child abuse', *Paediatrics* 51, 4, Part II (1973), pp. 773–6.

92. Kempe, in *The battered child*.

93. Interview report, NSW, 281.

94. Interview report, NSW, 282.

95. Kempe, in *The battered child*.

125. Joan Court in *The maltreated child* cites a recent long-term study by Galdston which showed that no abusing parents had been on good terms with their own parents. They felt unable to please them and recalled being scapegoated and humiliated in front of others.

In later life a sense of failure or diminished self-esteem, perhaps in response to unemployment or to a baby who is difficult to manage, may reactivate these feelings with disastrous consequences.⁹⁶

126. Marital conflict is often present in families where child abuse occurs. Dorothy Ginn reports that it is present in nearly all the cases she sees.⁹⁷ Many studies reveal a high instance of divorce, separation and instability.⁹⁸

127. Isolation is another common factor. The Child Life Protection Unit (WA) described:

... the physical and social isolation of many nuclear families emphasising the lack of emotional support for both partners that is typical of the traditional Australian pattern of male-female relationships.⁹⁹

128. A study of 100 children attending the casualty department of the Royal Alexandra Hospital for Children, in Sydney, over a 2-year period showed that mothers who abused their children were significantly more isolated than the other mothers in the study (the control group). They rarely went out of the house other than to shop and did not visit friends during the day.¹⁰⁰

129. Carter believes that a further clue to understanding child abuse may be located within the family's power system. Families who feel powerless to control their environment are more likely to exercise power in ways closer to hand. The high incidence of child abuse in families where the father is unemployed could reflect reactions to powerlessness.¹⁰¹

130. Mothers, because they lack economic status, are also seen and perceive themselves to be powerless. 'I just felt that I was a nobody, caught in a trap.'¹⁰²

The parents

131. Only a small proportion of abusing parents (approximately 10 per cent) are believed to be seriously mentally ill.¹⁰³

132. At the extreme end of the scale are those who deliberately murder their children. Although a significant number of battered children eventually die because of repeated injuries (10 per cent), deliberate child murder is believed to be a different phenomenon.¹⁰⁴

133. The remaining 90 per cent of people who abuse their children are neither insane nor criminals.¹⁰⁵

96. J. Court, in Carter (ed.), p. 31.

97. Interview report, NSW, 282.

98. M. H. Lystad, 'Violence at home: a review of the literature', *Amer. J. Orthopsychiatry* 45, 3 (1973), p. 334.

99. Submission 1056, Dept for Community Welfare, WA.

100. B. J. Springthorpe, S. C. Hayes, R. K. Oates, Non-accidental injury presenting at casualty—a controlled study (unpublished).

101. Carter (ed.) p. 18.

102. 'Domestic violence phone-in'.

103. Kempe, in *Archives of Diseases in Childhood* 46 (1971), pp. 29–30.

104. I. Adelson, 'Slaughter of the innocents', *New England J. Med* 264 (1961), pp. 1345–59.

105. Kempe, in *Archives of Diseases in Childhood* 46 (1971), p. 30.

134. Steele and Pollock, who studied sixty American families where abuse had occurred, said:

If all the people we studied were gathered together, they would not seem much different than a group picked by stopping the first several dozen people one would meet on a downtown street.¹⁰⁶

135. Dr Connell described the personality characteristics of people who are likely to maltreat a child:

First there is the group of aggressive people who have poor impulse control. Perhaps the family has been in pretty poor circumstances for a long period and in rather precarious adjustment with bills piling up, poor housing and that sort of thing. Some quite minor thing often happens; for instance the child is sick and cries rather more than usual. The parent is irritable and because of the irritability the parent loses control and the child is attacked . . .

The second group—and these are not very clearly defined because there is quite a lot of overlapping between them—are people who have missed out very much on their own parenting. They are people with very great dependency needs and often they have depressive features and they have a child and then look to the child to fulfil their needs. Of course no young child can do this and they are frustrated and angry and so then attack the child.

The third group of people have rather rigid obsessional personalities, who cannot tolerate a child's natural untidiness and childish behaviour and they tend to punish to excess. It is of course quite hard to know where punishment ends and child abuse begins.¹⁰⁷

136. Where children are abused in two-parent families it is often difficult to find out which parent is committing the abuse or whether both are involved. We were told:

In a marital situation if one person is abusing the child there is likely to be tension right throughout the whole family structure which means the other spouse is implicated in it too. For one spouse to say 'This is not my particular problem' is to deny this fact.¹⁰⁸

137. It is impossible to say whether there are more abusing mothers than fathers or vice versa. The ratio varies from study to study.

138. Many studies have found a relationship between young parents and child abuse. Smith and Hanson's work in Birmingham, England, found that half of the parents they investigated were married before 20 years of age, and the mothers were 4 years younger than the national average at the date of first confinement.¹⁰⁹

139. The parents involved in the Royal Childrens Hospital study in Melbourne also tended to be young; 33.7 per cent of the mothers were under 21. However, the researchers point out that this could be related to the finding that one-child families were over-represented and large families were under-represented. 'Many parents . . . had probably not completed their families.'¹¹⁰

140. Dorothy Ginn described the mothers she works with as being 'mostly young, isolated and frightened of dealing with a totally dependent being'.¹¹¹

The children

141. The children who are damaged are usually under 4 and very commonly under 1 year of age. Those are world findings.¹¹²

106. B. F. Steele & C. B. Pollock, 'A psychiatric study of parents who abuse infants and small children', in Helfer & Kempe (eds), *The battered child* (University of Chicago Press, 1968), p. 92.

107. Evidence, pp. 1613–4, Dr Helen Connell.

108. Commission consultation, liaison officer, Parents Anonymous.

109. S. Smith & R. Hanson, '134 battered children: a medical and psychological study', *Brit. Med. J.*, 14 September 1974, p. 666.

110. Price & Krupinski.

111. Interview report, NSW, 282.

112. Evidence, p. 1614, Dr H. Connell.

Young children are most vulnerable to child abuse for a number of reasons: they are more easily hurt; they are with the parents more than older children; they cannot get away; they make many demands. Dr Connell told us:

Many of these people have their dependency needs frustrated and they look to the child for attention and for fulfilling those needs, and the young child just cannot do it. An older child might manage to do it to some extent.¹¹³

142. Older children are also victims of child abuse, and it is essential that this is not overlooked. Gil found in the United States that there were more older children than previously thought. Nearly half the sample of 13 000 children were over 6, and nearly one-fifth were teenagers. Over three-quarters were over 2 years of age.¹¹⁴

143. Warren Simmons, of the Catholic Family Welfare Bureau, reported to us that in his overseas investigations of child abuse for a Churchill Fellowship report he found growing concern about the plight of abused adolescents. The Special Unit of the NSPCC in Manchester initially concerned itself with children up to 4 years of age but now includes children up to 16 on its register. Immediately this step was taken, calls for investigation and help were 'overwhelming'.¹¹⁵

144. We were told by the Young Peoples Refuge in Sydney that 80 per cent of adolescents running away from their homes were escaping from alcoholic and/or violent parents.

145. Boys are more likely to be abused than girls until they reach adolescence, when the situation is reversed.¹¹⁶ Gil's studies showed that girls then outnumber boys by almost two to one. He conjectures that parents are less likely to hit their teenage sons for fear of being hit in return. Violence against adolescent daughters usually arises over conflict about their sexual relationships.¹¹⁷

146. Several researchers believe that certain characteristics of the child may contribute to the abuse. The South Australian committee inquiring into child abuse pointed out that there are many reasons, both real and imaginary, which may make a child 'different' in the parents eyes. These include:

Social characteristics—e.g. adopted, born outside lawful marriage, fostered, child of previous marriage or child of de facto relationship;

Physical characteristics—e.g. congenital deformity, chronic illness or physical characteristics dissimilar to those of the parents, siblings or family;

Developmental characteristics—e.g. delay in developmental milestones or mental retardation;

Behavioural characteristics—e.g. gross overactivity or marked underactivity, disordered patterns of feeding or sleeping, lack of bladder and/or bowel control.¹¹⁸

147. Dr Connell explained:

... it is not uncommon for one child to be singled out. There may be a history of illegitimacy. Possibly the child has some handicap, either mental or physical, and you will realise that these are all situations where the mother-child relationship has been rather hard to establish.¹¹⁹

113. *ibid.*, p. 1614.

114. Gil, *Violence against children*, p. 105.

115. Simmons, Churchill Fellowship report.

116. Peckham, in Carter (ed.), p. 26.

117. Gil, *Violence against children*, p. 104.

118. Inquiry into Non-accidental Physical Injury to Children in South Australia, report, pp. 23–34.

119. Evidence, p. 1617, Dr Helen Connell.

148. Children, right from the moment of birth, are very different one from another, and some are much easier to live with than others. In *The maltreated child* Court cites a recent American study in which forty-nine healthy infants were initially tested during the first 3 days of their life. The study found consistent individual differences in the temperament of babies from birth to 4 months. Some babies were more irritable and tense than others, and these differences appeared to be innate.¹²⁰

149. A recently published American report cites Caffey as believing that 5 to 10 per cent of infants in the general population may be classified as provocative.

It is clear that the extra stress of living with and caring for these overactive, demanding, defiant and exhausting infants may well paralyse the overburdened mother's self-control temporarily and release violent impulses to rid herself of him.¹²¹

150. Studies like these have implications for the prevention of child abuse. Identification of potentially difficult children would mean that it would be possible to concentrate giving help to the parents who are most likely to need it.

151. Equally, if a distraught mother reports that her child has been difficult from birth, her observations should be heeded, rather than giving her stereotyped advice: 'He'll grow out of it', or leaving her with the impression that she is the difficult person, not the baby. Babies who wake at night and defeat every effort of their exhausted parents to soothe them can create immense strains. The Hyperactive Childrens Association of NSW told us that out of 180–200 members, about 30 per cent of the parents report having abused their children.¹²²

152. Premature babies and low birth weight babies appear to be significantly at risk. In one Birmingham study of 134 battered children, a quarter of the children were low birth weight babies.¹²³ Skinner and Castle's retrospective study of seventy-eight battered children (UK) also noted a high incidence of babies described as premature. The figure of 13 per cent was double the national average. Early mother-child separation in the newborn period was a feature of all the cases.¹²⁴ In Canada, Klein and Stern found that of fifty-one battered children, 23.5 per cent were low birth weight compared with the regional average of 7 to 8 per cent. Other associated factors were, again, a high degree of mother-child separation and a strong history of deprivation in the maternal history.¹²⁵

153. Parents Anonymous, a self-help group in Melbourne for parents who abuse or are in danger of abusing their children, also reported prematurity as a significant characteristic:

Mothers complain that the child seems like something alien to them . . . perhaps 3 months after the birth of this child they are suddenly landed with this strange baby that they've only seen through a window before. And they've got no relationship with the child, yet they're expected to love it. Some parents can cope with this and say 'Nobody can expect me to' but other parents who are not certain about their ability and their relationships with people think 'What's wrong with me that I can't love this child?' and the tension builds up.¹²⁶

120. Court, in Carter (ed.), p. 32.

121. M. Hurt, *Child abuse and neglect: a report on the status of the research*, US DHEW publication, no. (OHD) 74-20, p. 10.

122. Commission correspondence, file S021.

123. Smith and Hanson, in *BMJ*, 14 September 1974.

124. Skinner & Castle, p. 5.

125. M. Klein & L. Stern, 'Low birth weight and the battered child syndrome', *Amer. J. Dis. Child* 122 (1971), p. 15.

126. Commission consultation, liaison officer, Parents Anonymous.

154. Certain social characteristics of the mother may make low birth weight more likely but, equally, low birth weight may influence the battering. There is sufficient evidence to suggest that where the mother, for one reason or another, is prevented from touching her newborn child or establishing eye to eye contact, this may disturb her relationship to the baby.¹²⁷

155. These findings have obvious implications for hospital procedures at the time of childbirth.

156. A controlled study of thirty children considered 'at risk' of child abuse at the Royal Alexandra Hospital for Children, Sydney, did not find any significant differences associated with problems during pregnancy, caesarian section, prematurity, neonatal difficulties or retarded development, but did find a significant association with forceps delivery and prolonged hospitalisation, which could again suggest disturbance of the mother-child bonding.¹²⁸

157. Abnormal children also feature in child abuse studies. Birrell and Birrell found that of forty-two abused children seen at the Royal Childrens Hospital, Melbourne, eleven children 'had congenital anomalies, including two with cleft lips, two with fibrocystic disease and two with talipes. One child was retarded before admission'.¹²⁹

158. Dr Gurry believes that one reason why intellectually retarded children are sometimes abused is because of their failure to respond to their mother's love:

Instead of smiling at 4 to 6 weeks, the baby can look stony faced at mother for months, and her initial warmth can become exhausted. This, plus isolation from friends and relatives and perhaps husband, is a good way of setting a stage for inept mothering and child abuse.¹³⁰

Unwanted children

159. How many abused children are unwanted children, or how many unwanted ones are abused? Many of our submissions were concerned with this issue and its implications both in terms of family planning services and abortion.

160. A submission from the New South Wales Right to Life Association quoted Dr Herbert Rattner:

There is no evidence to show that the battered child could have been predicted in advance and prevented by an abortion.¹³¹

161. Right to Life Associations wrote about 'the battered child syndrome' as the major social argument currently in vogue as support for ready access to induced abortion.¹³² One such submission quoted various articles on child abuse¹³³, pointing out that none of these suggested that the problem was correlated with refused abortion, and that none of these suggested that more ready access to abortion would solve the problem. There is no firm evidence to link unwanted pregnancies, unwanted children and child abuse. Nevertheless, being wanted is important and being unwanted can have dangers.

127. Gurry, in *The battered child*, pp. 43-6.

128. Springthorpe, Hayes & Oates, p. 7.

129. Exhibit 25 (c).

130. Commission correspondence, file S021.

131. Submission 585, NSW RTLA.

132. Submissions 1073, National RTLA; 585, NSW RTLA.

133. eg. V. J. Fontana, *Somewhere a child is crying* (Macmillan) quoted in Submission 1073, National RTLA.

162. Briget Gilling of the Council for Civil Liberties said:

An unwanted mother produces an unwanted child, and an unwanted child, in my simple observation . . . has a bad start in life and in many cases a bad continuation in life.¹³⁴

163. While not all unwanted children are abused children and vice versa, it seems there is sufficient evidence to warrant the belief that being unwanted is a significant factor in many cases of child abuse. A newborn unwanted child may create an immense amount of stress in family life, emotionally, socially and financially, to parents who had not planned its arrival. We share the view of the Mothers and Babies Health Association of South Australia that all children should be wanted, ideally by two parents.¹³⁵

The effects of maltreatment on children

164. If early warning signals are ignored, the effects of child abuse can be tragic. The Birmingham study of 134 battered children, of whom nearly half had serious injuries and twenty-one died, revealed that sixty-five had been battered more than once. Twenty had permanent neurological damage including spasticity, paraplegia and blindness. Twenty-three had been previously admitted to hospital with failure to thrive. Mortality and morbidity among their siblings was also high.¹³⁶

165. A study by the NSPCC in England of seventy-eight abused children showed that serious or fatal injuries accounted for 74.5 per cent of all the cases; of forty children who were followed up, twenty-four (60 per cent) were rebattered. At least two in every five of the children in the study had received medical attention before the incident.¹³⁷

166. The South Australian inquiry into child abuse equally revealed the gravity of the problem. Of twenty non-accidentally injured children seen at eleven hospitals over a 3-month period, two (10 per cent) died, twelve (67 per cent) suffered permanent or serious injury and four (20 per cent) were known to have suffered recurring injuries.¹³⁸

167. A long-term follow-up of twenty-one children from the Royal Alexandra Hospital for Children, Sydney, who had been diagnosed as having non-organic failure to thrive revealed that nearly 6½ years after their initial presentation most of the children were found to be of normal height and weight. However, disorders in personality traits and educational attainments were common. Half of the children had abnormal personalities. Two-thirds had a delayed reading age. Intelligence testing showed that one-third had verbal scores significantly lower than their performance scores. Two children from the original series of thirty children had died in suspicious circumstances. The families of these children had a high incidence of marital instability and financial difficulties.¹³⁹

168. Two graphic descriptions of the way abused children feel were presented to us by Dr Birrell. The first is a statement made to the police by an 8-year-old girl.

You know when Mummy hits me I have very bad dreams all night. I usually dream of horrible things like something awful going to happen and I get very scared and I wake up screaming.¹⁴⁰

134. Evidence, p. 396, Mrs B. Gilling.

135. Submission 146, Mothers and Babies Health Association, SA.

136. Smith & Hanson, p. 666.

137. Skinner & Castle, p. 6.

138. Inquiry into Non-accidental Physical Injury to Children in South Australia, report.

139. I. Hutton & R. K. Oates, Non-organic failure to thrive: a long-term follow-up from the Community Paediatric Unit, Royal Alexandra Hospital for Children, Sydney (unpublished paper).

140. Exhibit 24, confidential.

The second is a statement made to the police by an 11-year-old girl.

When I do things wrong I know I should be punished but I don't think I should be hit so hard with the big stick. I don't like being hit with the big stick all the time because sometimes it makes me vomit.¹⁴¹

169. A 55-year-old married woman who telephoned us to talk about violence in her childhood described how her father used to try to smother her, and said she still has 'this terrible hidden fear of men'. She hates to be left alone in the house at night and for years feared sleeping with pillows. Her husband tells her not to talk about it, but she still wonders 'Why? There must have been a reason. Was I bad? I must have been bad'.¹⁴²

170. Dr Ruth Kempe, speaking at the first national Australian conference on 'The battered child', stressed that, with moderately severe abuse, perhaps 30 per cent of the children will have neurological damage of one kind or another, but the overall problem is that the whole personality organisation of these children is endangered.

Most of these children see themselves as bad or stupid and deserving of any punishment meted out.¹⁴³

Conclusions

171. In trying to help families where children are abused it is essential to do more than just protect the child. Ways to teach these children less destructive patterns of behaviour than those used by their parents must be found, otherwise child abuse will persist from one generation to the next.

172. It is important for our community to realise that any parent, given the circumstances, could abuse their child. This point was consistently made at the Perth conference on the battered child.

173. The fact that abusing parents are often young has, again, implications for human relationships programs in schools, and for programs concerned with marriage preparation.

174. Concern for the very young child who is abused should not detract attention from the needs of older children. We believe this is an area which warrants far more concern and investigation. We endorse the recommendation arising out of the Perth conference:

That the abuse of the school-age child be considered from the viewpoint of detection, treatment and research and a conference on this be held at a later date.¹⁴⁴

175. We feel that telephone counselling services for abusing parents should be extended to cover advice on children up to the age of 16, and that children themselves need places where they can receive advice and support.

176. We believe that school counsellors could play an important role here, and that both counsellors and teachers should be educated to have a full understanding of child abuse. This is particularly important where identification is concerned.

177. With regard to very young children who are at special risk (premature babies, low birth weight babies, handicapped children) we would like to see hospitals make every effort to allow the parents to help care for these children and to encourage them

141. Research evidence presented by Dr J. Birrell.

142. 'Domestic violence phone-in'.

143. Kempe, 'The behaviour of abused and deprived children', in *The battered child*, p. 81.

144. *The battered child*, p. 140.

to talk out their feelings. Parents should be told that feelings of rejection are not uncommon and they should be given follow-up support once they take their babies home.

178. The fact that so many children are injured again after being discharged from hospital indicates the need for stringent follow-up programs.

179. Abused children need far more than solely medical attention. They need long-term programs of emotional, social and educational support. Children who are removed from their families, whether temporarily or permanently, also need such support and it is essential that foster parents or adopting parents who take in abused children are given information and professional assistance to help them in what is likely to be a difficult task.

180. Our observations about pregnancy and childbirth experiences are important for hospital management and for the education of health care professionals.

181. It is essential that adequate support be given to mothers when they first bring their babies home and that fathers understand maternal fatigue.

182. People working in the field of child abuse should be aware that not only are there vulnerable families but there are also vulnerable periods in people's lives, and that when unemployment or some other crisis occurs in a family extra support should be made available.

What can be done

183. Much can be done to protect children who are being abused, and to help their families. A great deal can also be achieved to prevent such tragedies from ever occurring. But to do this requires public recognition of the severity of the problem. It requires integrated government, legal and community action. And it requires adequate funding and staffing.

184. We believe that child abuse services need to be seen as part of a comprehensive family policy. Within that broad framework, child abuse legislation and services need a specialist identity.

185. Responsibility for this is properly the province of State governments and of the Commonwealth government in regard to the Territories. We feel, however, that the Commonwealth government could and should play an important role in funding research and training, in providing assistance to public and private agencies, in community education and in initiating discussion and exchange of information between the various bodies concerned with child abuse throughout Australia.

186. In this regard it is useful to look at initiatives which were taken by the United States Federal government in January 1974 with the establishment of a Child Abuse Prevention and Treatment Act.¹⁴⁵ The Act provided for the first time within the Federal government a National Centre on Child Abuse and Neglect. Responsibility for the activities of the Centre was assigned to the US Department of Health, Education and Welfare which, in turn, placed the Centre within the Childrens Bureau of the Office of Child Development.

187. The Centre is required to:

- (1) compile, analyse and publish a summary annually of recently conducted and currently conducted research on child abuse and neglect;

145. Child Abuse Prevention and Treatment Act, Public Law, pp 93-247.

- (2) develop and maintain an information clearing house on all programs, including private programs showing promise of success, for the prevention, identification and treatment of child abuse and neglect;
- (3) compile and publish training materials for personnel who are engaged or intend to engage in the prevention, identification and treatment of child abuse and neglect;
- (4) provide technical assistance (directly or through grant or contract) to public and non-profit private agencies and organisations to assist them in planning, improving, developing and carrying out programs and activities relating to the prevention, identification and treatment of child abuse and neglect;
- (5) conduct research into the causes of child abuse and neglect, and into the prevention, identification and treatment thereof; and
- (6) make a complete and full study and investigation of the national incidence of child abuse and neglect, including a determination of the extent to which incidents of child abuse and neglect are increasing in number or severity.

188. In order to conduct such a program, the US Congress allocated \$85 000 000 for a 3-year program, 1974–77.¹⁴⁶

189. We would like to see a similar national centre established in Australia. The Office of Child Care already funds a number of child abuse programs, and could incorporate the centre. Our knowledge of child abuse in this country is both fragmented and inadequate. Child abuse services in some parts of Australia are improving; some are good. But there are many areas where services are not only inadequate but at times non-existent. Children are dying and being injured who might otherwise have been saved. We believe that priorities are often grossly astray. All too often attention is focused on treatment after a child has been abused rather than on prevention.

Community and professional education

190. We are sometimes inclined to deal with the disquieting manifestations of human behaviour by dissociating ourselves rather than by developing our understanding.¹⁴⁷

Our community appears to have a widespread reluctance to accept that it is not unusual for parents to have violent feelings towards a child. Perhaps this is because we are disturbed by evidence that violent impulses exist in others, and may therefore exist in ourselves.

191. Our evidence suggested that community attitudes are often punitive:

Child abuse is one of the most 'heinous of crimes'.¹⁴⁸

. . . punishment [should be] more severe, like bringing back the cat-o'-nine-tails or hanging.¹⁴⁹

192. In answer to the question 'Do you feel you are the only person who behaves like this?', eight out of ten mothers who telephoned us about abusing their children replied, 'Yes'.

146 1973 C.Q. Almanac—513.

147. R. Jones & C. Jones, 'Treatment: a social perspective' in Carter (ed.), p. 89.

148. Submission 428, F. & R. Roberts.

149. Submission 496, name withheld.

I thought drunks and the poor did it. Not my kind of person.

I never, never told anyone. I couldn't bear anyone to know I did that to my child.

The people in the play group talk about it and they always refer to baby bashers as 'those sort of people'. I think they'd die if they knew they had one of them in their midst.¹⁵⁰

193. Community attitudes also permeate the attitudes of professional workers in the field of child abuse. This leads to a form of professional denial.

The resistance of physicians to the diagnosis of the battered child syndrome, particularly in its mild form, is overwhelming. Physicians will go to enormous lengths to deny the possibility of physical abuse of a child by his parents.¹⁵¹

194. The South Australian Inquiry into Non-accidental Physical Injury to Children showed a lower response rate from general practitioners than from any other groups taking part in the survey. Only 22 per cent of doctors responded to the prospective survey.¹⁵²

195. Some hospitals have also shown a reluctance or an inability to become involved. In 1972 the Victorian government appointed a departmental committee to investigate child abuse through a study of country hospitals. The committee's report appeared to indicate that there were few, if any, serious cases of maltreatment at the hospitals contacted.¹⁵³

196. A reinvestigation of most of these hospitals together with other hospitals in the same districts disclosed twenty-six definite cases of maltreatment and thirty-two suspected cases. This second study also discovered that the original committee had been hampered in its findings for the following reasons:

- (a) the committee of one hospital voted against revealing information;
- (b) some of the medical superintendents who conducted the investigation on the committee's behalf admitted that they had neither the time nor the inclination to undertake an adequate search;
- (c) those who made a genuine attempt and searched the hospital's medical records were unable to locate the cases because of the variety of diagnoses under which they were classified.

Dr Colclough, who conducted the reinvestigation, commented:

It is evident that neither the public hospitals nor the general practitioners are co-operating in voluntarily reporting known cases of child maltreatment.¹⁵⁴

197. Some reasons for medical reluctance to be involved with child abuse were given by Dr Gurry at the Perth conference:

Playing detective . . . is a reversal of the doctor's usual role . . . it is not a job for which the soft-hearted paediatrician has been particularly trained . . . he can be horrified at the thought that a child could be actually injured, and find the whole subject quite repulsive.¹⁵⁵

150. 'Domestic violence phone-in'.

151. D. Gurry, 'The doctor as detective', in *The battered child*, p. 119.

152. Inquiry into Non-accidental Physical Injury to Children in SA, report, p. 11.

153. Report of Victorian Committee of Investigation into Allegations of Neglect and Maltreatment of Young Children (1969).

154. I. R. Colclough, 'Victorian government's report on child abuse: a reinvestigation', *MJA*, 30 December 1972, p. 1497; see also Evidence, pp. 485-6, Dr John Birrell.

155. Gurry, in 'The doctor as detective', p. 119.

198. Doctors who are not familiar with child abuse cases tend to react to 'horror' stories in the press and take a helpless pessimistic view. People who actually handle the cases take a more optimistic one. According to Gurry: 'that is, immature parents *can* be helped to grow up and we do have quite a few wins'.¹⁵⁶

199. A Brisbane survey on child abuse services involving twenty-five general practitioners and fourteen hospital doctors found that hospital doctors seemed more aware than general practitioners of the social as well as the medical aspects of child abuse. For instance, only one-third of the general practitioners felt that child abuse cases could be satisfactorily helped, compared with nearly three-quarters of the hospital doctors.¹⁵⁷ (Kempe estimates that 80 per cent of cases can be satisfactorily treated.¹⁵⁸)

200. If doctors are unaware of what can be done to assist families in need, it is probable they will either fail to refer them to any agency, or will refer them to a punitive agency such as the police. Three out of four general practitioners who felt that child abusers could not be treated noted feelings of 'intense hatred', 'immediate hostility' and 'utter revulsion' towards these parents.¹⁵⁹ Half of these doctors said they would refer such cases to the police.¹⁶⁰

201. Yet doctors are in the front line of child abuse detection, especially doctors in casualty departments of hospitals and general practitioners.

202. Dr R. Tozer, physician at the Princess Margaret Hospital, Perth, says that:

. . . the failure of hospital casualty departments to meet the needs of a family 'at risk' is frequently quoted and frequently true. Diagnoses may be missed or the veiled cries for help of potentially abusive parents may be ignored.¹⁶¹

203. Equally, if general practitioners fail to recognise that a family is in trouble, this can lead to tragic consequences. One of the parents quoted below subsequently seriously harmed her child:

I remember pushing one of them one day and he fell and punctured his head and the blood gushed out. I had to race over to the doctors. When I got back I was frightened. I thought, 'He'll report me to the Child Welfare'. I rang and said it was an accident. He said, 'I know, it can happen with children'.

Three different lots of sedatives I used to take: one that helped me not to be nauseated, one which was a straight sedative and one which was a sleeping thing. I used to take these four times a day and if it got bad I'd take more. All the doctor said was 'It's difficult bringing up three small kids with your husband away'.

I went to the doctors and said, 'Look, I just can't cope with David any more'. I took him about four times and he'd give David a sedative and say, 'You were such a good mother with the other two. Why can't you do it this time?'¹⁶²

204. Parents Anonymous reports that many of the women who telephone the service say: 'Look, the doctor has given me Valium and said I will be all right'. In other situations, where parents have acknowledged abusing their children, doctors have treated the physical injuries but have shown a marked reluctance to talk about the reasons why the injuries occurred.¹⁶³

156. *ibid.*, p. 118.

157. C. Pockley, A review of the treatment facilities available in Brisbane to parents who batter their children (unpublished thesis), p. 10; Interview report, Tas., 57.

158. C. H. Kempe, Keynote address, in *The battered child*, p. 5.

159. Pockley, p. 10.

160. *ibid.*, p. 10.

161. R. Tozer, 'Exploring complaints of child abuse—the problems of inquiry', in *The battered child*, p. 26.

162. Commission research report, no. 15.

163. Commission consultation, liaison officer, Parents Anonymous.

205. As well as a need for educating professionals to understand and deal with child abuse, community education is also required. Such programs should encourage the idea of neighbour helping neighbour. The media should be used to promote community awareness and understanding.

206. Overseas evidence shows that public information programs, when linked with appropriate services, contribute significantly to the discovery of child abuse. Between September 1970 and September 1971, only seventeen notifications of abuse and neglect were reported in Florida (USA). In the following year, after the government introduced a comprehensive child protection program including a state-wide publicity campaign, reports of child abuse increased to over 19 000. One year later after an even more intensive public information campaign involving government press releases, government-sponsored television programs, media advertising, posters, postcards and telephone stickers, the reporting rose to 29 686 cases.¹⁶⁴

207. In Western Australia the Child Life Protection Unit, which began operating a Parents Help Centre in January 1976, has distributed posters about the service to doctors surgeries, baby health clinics, laundromats and shopping centres. Taxi-drivers have put them on the sun shields inside their taxis. Their poster is reproduced at Annex V.D.

Conclusions

208. If community attitudes towards child abuse are to be changed, widespread education programs are required. These programs should not be based on punitive policies but on increasing community awareness in a way that parents will be encouraged to seek help and neighbours will be willing to give help.

209. Education programs should be planned and implemented to give appropriate professional and community workers insights into child abuse, skills in dealing with it and knowledge of agencies which may assist.

Early identification and prediction

210. Very young children cannot talk about their miseries, cannot tell us if they are being battered, burned or neglected. Older children are sometimes afraid to talk, or out of loyalty to their parents they will not talk. Ultimately, therefore, it is a community responsibility to take action when a child is in danger.

211. Professor Kempe, speaking in Perth, said that one of the great obstacles in developing effective diagnostic and treatment programs in the field of child abuse is that 'in a democracy, everyone feels guilty about intervention . . . in a free society we feel that people should be left alone'.¹⁶⁵

212. In any society, when parents fail for whatever reason, children should not be 'left alone'. Someone must take responsibility to ensure a child's basic right to fundamental physical, mental and emotional care. This is particularly necessary in those early years from birth to school age when children can be virtually hidden from the rest of the community if their parents so desire.

164. *The problem and its management*, vol. 3 (US DHEW publication), pp. 119-42.

165. Kempe, Keynote address, in *The battered child*, p. 6.

213. Many people discussed with us the need for some kind of national health visitor system which ensures regular supervision of children in the early years of their lives. Dr Birrell talked about the need for:

... someone who knows the child's milestones, who is trained to cope with this, and who I suppose has the right of entry because so often these children come in for care either at a hospital or the State Welfare Department and then are sent home by a court action to exactly the same situation whence they came ... We know one has since died in Tasmania ... In one case ... we found they were relying on an occasional letter from the mother saying little Fanny was all right.¹⁶⁶

214. Dr Oates proposed that Australia should have a health visitor system 'like that in the United Kingdom, where health visitors have right of entry'.¹⁶⁷

215. Dr Bialestock referred to:

... better use of infant welfare sisters' time, and changes in their training on the lines of the 'health visitor' training in the United Kingdom [to] assist in the early diagnosis of the baby at risk of neglect.¹⁶⁸

216. Professor Kempe equally favours a national health visitor scheme.

It has been found that health visitors are fully capable of determining which children are at risk, whether they are thriving adequately or not doing well, whether the child is unloved or deprived, whether the mother's inexperience or the father's lack of support are interfering with the care of the child.¹⁶⁹

Kempe's proposal is to use lay people, backed by professionals. He said:

It is fair to say that in most western countries health visitors are obsessed with mothercrafting but not with mothering. They often feel that their job is limited to teaching mothers the skills of bathing and feeding the baby. But what you need in this situation is not some starchy expert in bathing or feeding, but rather a successful mother who has had a few scars of battle and is generous with an inexperienced young family, is ready for eternal cups of tea and a listen ... she can be the bridge between the isolated family and the helping professions.¹⁷⁰

217. Ideally the health visitor should know the family from the pre-natal period on and, if necessary, make frequent visits. One health visitor can care for between fifty and sixty children, working about 5 or 6 hours a day.

Since there are millions of mature women whose children are in school and who are otherwise not gainfully employed, we have already excellent candidates for a very worthwhile career.¹⁷¹

218. The use of health visitors should be seen as a general service rather than as one solely to identify child abuse.

166. Evidence, pp. 478, 484, Dr John Birrell.

167. Interview report, NSW, 274.

168. Bialestock, p. 1133.

169. C. H. Kempe, Predicting and preventing child abuse: establishing children's rights by assuring access to health care through the health visitors concept (Armstrong lecture, read before the annual meeting, Ambulatory Pediatric Association, Toronto, Canada, 9 June 1975, p. 8; reprint—University of Colorado Medical Centre).

170. Kempe, Keynote address, in *The battered child*, p. 6.

171. Kempe, Armstrong lecture, p. 7.

It is not a service for the poor or the minorities, but rather an expected, tax-supported right of every family, along with fire protection, police protection and clean water . . . it seems incomprehensible that we have compulsory education, with truancy laws to enforce attendance and, I might add, imprisonment of parents who deny their child an education, and yet we do not establish similar safeguards for the child's very survival between ages zero and 6.¹⁷²

219. Maternity hospitals could initiate programs to identify and assist mothers who seem likely to reject their newborn child. Pioneer work in the field has centred on the University of Colorado Medical Centre in Denver. The work involves not only the routine medical care of the mothers, but also an assessment of their attitudes and feelings. In the pre-natal stage, at delivery, and in post-partum checks a number of observations are made including a video of the first few minutes of the mother's reaction to her newborn baby and the first feed. As a result of these observations an 'at risk' rating is made and extra support services are given to mothers and babies considered to be in need.

220. A study was carried out involving 100 mothers who were identified as 'high risk for abnormal parenting practices'. These mothers were randomly divided into two groups. One group received comprehensive follow-up in the home, the other group merely received routine care. Fifty other mothers who delivered at the same time, and were considered to be at low risk, served as controls.

221. Five of the children in the high risk group which had no special care later received serious injuries. None of the children in the group which was given extra attention nor in the low risk group were injured.¹⁷³

222. Trying to predict children at risk of abuse has been criticised on the grounds that there is a danger of labelling women as 'potential baby bashers'.¹⁷⁴ It is also said that predictive and preventive work, however well intentioned, cannot alleviate poor environmental circumstances which may precipitate child abuse. However, if the basic philosophy of predictive programs is to identify families in need of extra support, and then to give it, we feel that this is a valid and worthwhile approach to pursue.

223. Many of our submissions expressed concern about the failure of health care professionals and hospitals to give this kind of support. The New South Wales Branch of the Mental Health Association wrote:

There is growing evidence that mothers of premature babies are often separated from their child—with long-term consequences for the whole family and in particular the child's development.

Often the critical physical demands of prematurity distract health professionals and others from this equally important mental health issue. Hence the mother is displaced (unnecessarily) by the nurse who handles the child in the incubator and so on, mistakenly trained to believe that the mother would be a nuisance and could not be supervised to handle the task.¹⁷⁵

224. A Sydney mother wrote to us:

I am yet to even begin to understand how such a false atmosphere could arise at such a precious time of a family's life. A husband, wife and family wait for the birth of a child,

172. *ibid.*, pp. 8–9.

173. J. D. Gray, C. A. Cutler, J. Dean, C. H. Kempe, Prediction and prevention of child abuse (paper given at International Congress on Child Abuse and Neglect, Geneva, September 1976), p. 15.

174. Evidence, pp. 2781–91, liaison officer, Parents Anonymous (name withheld).

175. Submission 899, Mental Health Association of NSW.

then, when the time arrives, the father, tiny brother and/or sister and even mother are suddenly excluded . . . everyone who doesn't belong takes over . . . Please can't something be done to improve this most important of human relationships, that tiny defenceless human being's first week of life?¹⁷⁶

225. We noted that a number of women who telephoned us about violence towards one of their children referred to unhappy experiences at the time of delivery or to depression afterwards. One woman whose child weighed 2½ pounds when born and was suspected to be mentally retarded was told the child had been starved in the womb. Nobody counselled her, and she blamed herself for the condition of the child. She feels that had she been told that early separation from a newborn child can cause problems, and had the hospital provided her with some kind of life line, her violence could have been prevented.¹⁷⁷

226. Margaret Mead, in discussion with us, raised the issue of child abuse and said:

One of the things we've found is that mothers immediately after delivery are very impressionable, so if you have a group of mothers in a hospital 2 or 3 days after birth, if you have one good mother in that room, everybody starts to breast-feed their babies and their babies don't cry . . . now with the size of delivery hospitals today, if they took the trouble, they could be sure they had a good mother, an experienced mother who has breast-fed three or four children and knows how to hold a baby and it will stop crying. It isn't expensive, but you need somebody on the hospital staff (what we call a medical social worker) who can go around into the pre-natal clinic and pick the mothers that they are going to strategically place with the other mothers. That would save a great deal of misery and not cost a lot.¹⁷⁸

227. In the United Kingdom, the Association for Improvement in the Maternity Services has stated:

Many mothers believe that an investigation of the possible links between modern obstetric procedures, post-natal depression and baby battering would lead to a reassessment of priorities, to ensure that the psychological well-being of women during childbearing is given equal value with their physical health. When this is done, maternity care will become what it should be, a means of practising preventive medicine on behalf of the whole person, the whole family, and one cause at least of baby battering will no longer be 'inevitable'.¹⁷⁹

Conclusions

228. We believe that there is sufficient evidence to show that prediction and prevention of much child abuse is possible using the various approaches we have described including hospital identification of mothers and children likely to be at risk, improved childbirth procedures and the use of health visitors to call on all mothers after the birth of their child.

229. We feel that the idea of using lay people has a great deal to commend it, providing these people receive appropriate training and have, at all times, the support of professional staff. Improvements in hospital procedures could be made with little, if any, extra cost.

230. We must also remember the cost both in human and economic terms every time a child is maimed or killed. The subsequent social effects of child abuse may be equally distressing. An American study of 100 delinquent children seen for the first time in a detention centre found that 83 per cent of these young people had been

176. Submission 363, Mrs Jan Grant.

177. 'Domestic violence phone-in'.

178. Commission consultation, Margaret Mead, file S021.

179. *The Observer*, 8 June 1975.

abused before the age of 6 years. Ninety-two per cent were bruised, lacerated, fractured or involved in incest in the year or so before they came into care.¹⁸⁰ In Australia at the present time some thousands of children are held in custodial care. In the absence of much needed research, we can only speculate on the numbers of these who have been physically maltreated or emotionally scarred.

Legislation

231. Laws do not of themselves solve problems of human behaviour. They merely provide a framework around which services can be developed.¹⁸¹

In each State and Territory of Australia legal mechanism exists for dealing with child abuse, either by provisions of the Criminal Code or by way of various child, social or community welfare Acts. At present Tasmania is the only State which has separate legislation specifically concerned with child abuse (the *Child Protection Act* 1974).

232. In those States where a number of statutes are involved, legislative partitioning of responsibility between law enforcement officers and child welfare officers can work against providing a coherent and consistent approach. The anachronism persists in some States of children 'charged' with being neglected; care and protection orders, which may result in institutionalisation of children, do not always distinguish between the abused or neglected child and the young offender. While it is true that they may share underlying family problems, the abused child has a special need of protection from ill treatment by the family.

233. We believe that unified responsibility is necessary in the field of child abuse and that this could best be achieved by a single enactment, either as a separate Act or as a new or expanded part of existing welfare law.

234. In all the States there has been a swing away from a punitive stance to one of protection of the child at risk, together with help for the family involved, rather than punishment or imprisonment.

235. Criminal sanctions are a poor way of preventing child abuse. Daily family life, particularly when charged with tension, is not likely to be an area easily ruled by threat of fines or imprisonment. A criminal proceeding may punish an offender who seems to deserve punishment, but it may destroy a child's family relationships. However, there are some cases where the family may well destroy the child without provisions for swift intervention and removal. Equally there are occasions when parents welcome legal intervention. The Child Life Protection Unit states that if parents are well prepared, and the court well informed and non-punitive in attitude, legally protecting a child can be a therapeutic experience.

For some parents it can be a relief, and a sign that the community cares.¹⁸²

236. On those occasions when the child's rights must be considered as against the rights of the parents, the welfare of the child should be the paramount consideration.

237. Legal procedures should also be capable of meeting difficult and sometimes desperate situations with a minimum of delay. We believe that an essential step in dealing with child abuse is that reporting should be made to a specialised agency as distinct from a law enforcement agency.

180. B. Steele & J. Hopkins, cited by Kempe, Keynote address, in *The battered child*, p. 11.

181. G. J. Zerk, 'Legislation and child abuse services', in *The battered child*, p. 37.

182. J. Hamory & M. Jeffery, Flexibility and innovation in multidisciplinary management of child abuse in Western Australia (unpublished paper), p. 6.

238. The kinds of action which now need to be taken in cases of child abuse, or suspected child abuse, include the following:

- (a) detection or suspicion of abuse (e.g. by a medical practitioner, social worker, health visitor, teacher, neighbour) and reporting to an appropriate agency;
- (b) removal of the child from the family; or retention of the child, e.g. by a hospital or foster family, on a temporary basis;
- (c) examination and assessment of the child;
- (d) a decision whether to proceed with criminal charges against any person;
- (e) a decision whether the child needs to be placed in official care and protection for a specified period, or whether to return the child to the family on specified conditions;
- (f) provision of counselling and other services to the family to enable the child to be returned with appropriate follow-up support and advice;
- (g) the placement of the child in appropriate substitute care (e.g. foster care, cottage home etc.);
- (h) social therapy programs for the child.

239. It is our view that a single child protection service should be involved in each stage of action outlined above. The service should receive all reports relating to child abuse and be responsible for placing the matter before an appropriately constituted court or tribunal which would have power to determine whether the child should be removed for assessment or placed under care and protection. The service, or a hospital, may also need power to hold or retain a child for a very short period to observe and assess the child; the details of such a power would need careful consideration. The child protection service should decide whether to press criminal charges, bearing in mind that the major premise of child protection policy should be the provision of support and services to the family to enable the child to remain at home. The provision of services is a key factor in the necessary program, and it should be of equal priority to the necessary legislative and administrative measures. Where a child needs to be placed in alternative care the service should be responsible for the arrangements.

240. In planning for the necessary legislative and administrative machinery for implementation, the welfare of the child should be the paramount consideration. The child's welfare should not be used, however, to override arbitrarily the interests of the family as a whole. The standards of natural justice should be observed and action taken without notice, and without opportunity for a full hearing, only when this is necessary to prevent the risk of harm to the child. In a great many cases it may not be necessary to remove a child, even temporarily. For this reason a child protection agency or hospital should have only short-term powers to detain or remove a child and these powers should be used with regard to a respect for the parents and for the family unit. Powers of entry into private homes should be available only with a proper authorisation or a warrant, and only to a specified class of persons.

241. The constitution of the court or tribunal with power to make orders about children may vary from State to State; it may be appropriate to invest the Childrens Court with the necessary powers, or perhaps to establish a specially constituted tribunal—including a Childrens Court magistrate or judge. The child protection service should be responsible for bringing matters before the court and providing counselling and other services which may be needed by the court or the family.

Compulsory notification

242. One contentious aspect of child abuse legislation is the question of compulsory reporting or notification. What kinds of people should be required to report, and to whom, and should they be prosecuted if they fail to report or protected if they do report?

243. Reporting was discussed at the national conference on 'The battered child' in Perth, when delegates agreed that the term 'notification' is more appropriate than the term 'reporting'. Opinion was divided on the question of immunity from the law. Some felt that specialist matters demanded specialist statutory immunity so that nobody would be subjected to a court case. In an informal vote put to the delegates, approximately 65 per cent voted in favour of some sort of mandatory notification.¹⁸³

244. Arguments in favour of legislation requiring certain persons to notify suspected cases of child abuse are that this would:

- (a) denote a public commitment and enable the community to become involved;
- (b) provide protection for the person reporting a suspected case;
- (c) make it easier for the doctor not to have a choice in the matter and to explain his action to the parents; to learn that it is too complicated a field for any professional to deal with alone;
- (d) ensure that a process can be set in train leading to counselling for the parents and protection for the child;
- (e) define the boundaries of responsibility and help ensure that rebattering does not occur.

245. On the other hand there are several arguments against compulsory notification:

- (a) it might discourage parents from seeking medical attention for children they have injured;
- (b) it might jeopardise patient–doctor relationships and patient–doctor trust;
- (c) it is virtually unenforceable (experience in the field of venereal disease reporting shows that doctors only report about one in ten cases);
- (d) it does not guarantee effective services and might lull people into believing the problem has been solved.

246. In the United States, each state has a law requiring reporting of child abuse and neglect to a designated public agency.¹⁸⁴ In the United Kingdom, however, there is no such legal requirement. Holland employs a voluntary system of reporting by physicians to physicians.¹⁸⁵

247. Reporting laws without back-up services are like air-raid sirens without shelters. Good preventive and supportive services should be the first priority. Given that proper services are established, it is essential that all cases be brought to the notice of the appropriate agency. We consider that if the services are effective and have adequate resources, doctors and other persons will want to bring cases to the notice of the agency. Compulsory notification may be unnecessary; it should never be introduced as a substitute for proper services—its introduction should follow not precede such services. The medical and other caring professions should be involved in the planning of appropriate services.

183. *The battered child*, p. 122.

184. *The problem and its management*, vol. 1, p. 29.

185. J. J. Peeterse, *The confidential doctor in the Netherlands* (from report of International Congress on Child Abuse and Neglect, Geneva, 1976), p. 77.

248. On balance, and subject to what is said above, we think that there is a value in imposing on certain persons a duty to notify cases of suspected child abuse.

249. Detection or suspicion of child abuse and notification to an appropriate agency are essential to set in train the necessary inquiries, emergency action, treatment, counselling and support of the family. Compulsory reporting laws by themselves do not resolve the problem of child abuse, nor do they prevent it. Probably the strongest argument in favour of reporting laws is that reporting to a designated agency (rather than the police) helps ensure control of knowledge. Many tragedies have occurred because too many people knew too little.

250. We believe the term 'notification' is better than the term 'reporting', and we believe that notification should be the responsibility of a wide range of designated people such as health care professionals, child care workers, schoolteachers, police and social workers. Persons making such notifications to the child protection service should be protected from any civil or criminal liability if acting in good faith. This protection should apply to both compulsory and voluntary notification. While we favour compulsory notification we do not envisage the imposition of criminal sanctions against doctors or others. This may tend to be self-defeating. The imposition of the obligation is the essential factor.

251. We would like to point out, however, that absence of compulsory notification does not necessarily mean absence of good child abuse services. The Western Australian experience shows that if a service is good, and is known to be good, people will use it.

The role of the police

252. Mr H. E. Cosgrove, Crown Advocate for Tasmania, told us there was some conflict about the role the police should play in cases of child abuse.¹⁸⁶ In Tasmania police and police cadets have been involved in an ongoing educational program. However, police have been omitted from the specified groups required to report under the Child Protection Act and from the list of authorised officers required to receive reports. This is because police officers 'are viewed, rightly or wrongly, by many health and welfare personnel as punitive and heavy handed in their dealings with abusing families'.¹⁸⁷ Specific police regulations require police officers to notify the Child Protection Assessment Board of suspected cases.

253. Our view regarding prosecution has already been stated. There will always be cases of child abuse where prosecution is a necessary or helpful requirement but, in the majority of cases, prosecution hinders rehabilitation. However, this is not to say that the police should not be involved, but should be educated to see their role as part of a rehabilitative team. We believe that where there is compulsory notification, it is desirable that this should not be made to the police but to the designated child protection agency. This relieves the police of the responsibility of feeling they 'must' prosecute when perhaps prosecution would be best avoided. The police should, of course, be included in the groups of people who have an obligation to notify cases to the appropriate agency. In some cases the police may be needed to enforce a warrant for entry of premises to protect a child. Police should be encouraged to develop insights into the nature of child abuse, the skills to deal with it and a knowledge of appropriate agencies which may assist.

186. Commission correspondence, file 75/1352.

187. Submission 1149, Professor I. C. Lewis.

Child abuse services

254. Too many children and families are processed through the system with a paper promise of help.¹⁸⁸

Child abuse services in Australia are provided by a wide range of agencies, government, hospital and private. Some of the private agencies receive public funding, some are purely voluntary. The system is often fragmented, overlapping and uncoordinated.

255. Our experience suggests that in each State and Territory there is a need for one designated statutory child protection service to have prime responsibility for co-ordinating and integrating the work of all appropriate services. This does not mean superseding the valuable role played by private agencies such as the Childrens Protection Society, in Victoria, or Prevention, in New South Wales, but rather that the work of such organisations should be integrated within a total community plan.

256. Too many tragedies have occurred because information has not been shared. One tragic example of lack of agency communication is that of 7-year-old Maria Colwell. Maria Colwell died in London, in January 1973, 15 months after she was returned to her natural mother from foster care. Her stepfather had battered her to death. The Committee of Inquiry which investigated her death reported that there had been:

. . . a failure of system compounded of several factors of which the greatest and most obvious must be that of the lack of, or ineffectiveness of, communication and liaison . . . Because that system is the product of society it is upon society as a whole that the ultimate blame must rest.¹⁸⁹

257. At the Perth conference, Dr Birrell reported that there had been and would be Australian cases like that of Maria Colwell. He described one child who came to the attention of the police when he failed to thrive. On different occasions authorities noted that he had a fractured hip, frostbite, pressure sores and signs of gross neglect. A police check of the home revealed that other children in the family appeared to be all right. The child, who had a harelip, was returned to his family. Six months later he was in hospital with fractures and pressure sores and was blind. After he regained health he went to a Blind Institute which was not told of the family background. The child was sent home on holiday and died soon after of a brain haemorrhage.¹⁹⁰

258. Services need to be regionalised and available. In Hobart Professor Ian Lewis of the Department of Child Care, University of Tasmania, told us that in country areas the Tasmanian Child Protection Assessment Board has established three regional management committees on a multidisciplinary basis so that there can be speedy intervention and supervision by people who know the area and are familiar with local agencies.¹⁹¹ South Australia has also established multidisciplinary regional panels.

259. Services need to be broad ranging, flexible, adequately funded and adequately staffed. They should be backed by ongoing research and evaluation. Once child abuse is suspected, intervention must be swift and effective. It is no use encouraging parents to seek help, and then doing nothing for them because of shortage of staff or inadequate facilities.

188. D. J. Besharov, 'Building a community response to child abuse and maltreatment', *Children Today*, Sept.-Oct. 1975, p. 2.

189. *Report of the Committee of Inquiry into the Care and Supervision provided in relation to Maria Colwell* (HMSO, London, 1974), p. 86.

190. J. Birrell, reported in the *Age*, 31 August 1975.

191. Submission 1149, Professor I. C. Lewis.

260. Practical assistance may be required such as homemaker services, financial aid, help with housing and child care. There is little point in treating the child without giving the parents assistance with living conditions which may have precipitated the abuse.

261. Services must be well publicised and known to be non-punitive. A system is needed whereby people at any time know where to ask for help either for themselves or for a child. We had evidence that there are many families and many children who are being denied assistance because they do not know it is available.

262. Dorothy Ginn described the day a distressed man was found crying in the Wayside Chapel, Sydney. His wife had killed their baby that morning. He kept repeating one question: 'Where do you go when you know something like this is happening, before it is too late?'¹⁹²

263. Dr Connell urged the need for 24-hour crisis services:

Most people want to be good parents and, if they feel hostile and agitated to their child, they become very distressed and guilty about it. It's hard to know to whom they should go. I can see a very real need for some sort of crisis centre . . . even a telephone crisis centre in the way that there are suicide centres, somewhere they can get immediate help when things get difficult at home.¹⁹³

264. Although some government departments operate 24-hour crisis services, there are still many areas which are not covered. For example, in Sydney such services are operated by voluntary organisations and the only service which is specifically concerned with child abuse (Prevention) is run by a small group of trained volunteers. Recently Prevention was forced temporarily to close. The group was receiving no funding; not even their expenses were being met. The workload became too heavy for most of the volunteers. In 2 years, Prevention had assisted some 230 mothers and 300 children. Many more could have been assisted had there been proper support.

Self-help groups

265. Sydney child psychiatrist Dr Sara Williams believes that many people find it easier to accept support from others who, like themselves, have experienced violent feelings towards their child.¹⁹⁴

266. As far as we know, the only self-help group in Australia is Parents Anonymous. Members maintain frequent contact through meetings and by telephone. Parents Anonymous receives support from professionals as well as members of the community, who care for children in emergencies.

267. The liaison officer for the group told us:

A lot of our phone calls come from people who have not at that particular point abused their children but who are terrified they are about to. If they do not get help . . . then it is quite likely they will abuse their children. This area is not covered at all by the Childrens Hospital and police.¹⁹⁵

268. Parents Anonymous is modelled on similar lines to a self-help group of the same name in the United States. This group was started in California in 1969 and has rapidly developed into a national organisation.

192. Interview report, NSW, 282.

193. Evidence, p. 1618, Dr Helen Connell.

194. S. Williams, *The battered child and its parents—a psychiatrist's viewpoint* (unpublished), p. 8.

195. Evidence, p. 2785, liaison officer, Parents Anonymous (name withheld).

Lay workers

269. The University of Colorado Medical Centre was the first place to begin experimenting with the use of lay people as foster grandparents and parent aides.

270. The job of foster grandparents 'is simply to cuddle hospitalised children'. Each grandparent is assigned one child for the duration of hospitalisation if the mother is not able to remain for long periods of time.¹⁹⁶

271. Parent aides, whose ages range from 24 to 60, have the job of mothering or fathering the abusing parents. Parent aides need to be patient, warm, loving people with willingness to listen, be non-directive and non-critical. Their focus is on the parents and not the children. The premise is that if the parents are all right, the children will be protected. Parent aides are available 7 days a week, 24 hours a day by phone. They are paid \$3 an hour and receive ongoing professional supervision and support. In initial stages they generally spend 20 hours a week with each family, leveling off to about 4 hours a week. Their support is usually required for up to 2 years.¹⁹⁷

272. A number of places in Australia have similar schemes. The Royal Alexandra Hospital for Children has been using lay therapists for some 2½ years with considerable success. The lay workers form part of the hospital child abuse team. Their expenses are met but nothing more, due to lack of funds.

273. A young Sydney man, who had seriously hurt his stepdaughter, told us that the hospital lay worker had been visiting the family regularly.

He's been more like a father to us, because he has always advised us and put us from wrong to right all the time.¹⁹⁸

274. The Childrens Protection Society, in Victoria, also uses parent aides. Jean McKenzie, who is a parent aide with the Geelong branch of the Society, described a week's activities with one family:

Perhaps this is an extreme case but, so far this week, one of my mothers—her husband has deserted her so I have to take her to the clerk of courts to obtain a maintenance order, then to the social welfare to apply for supporting mothers pension, to the Housing Commission to arrange to have the rental of the house changed to her name, to legal aid to advise her on court procedure, take her shopping, take her to the doctor for herself . . . I am mother to mothers and grandmother to the children.¹⁹⁹

275. The Childrens Protection Society is another example of an organisation receiving no government assistance for its child protection work.

Services to children

276. Abused children require specific treatment programs extending over many years; returning the child to the family is not sufficient. The child may be safe but it needs love to establish its emotional well-being.

277. We had evidence of many abused children being physically healed, but then returned to their families with no further help or care. Dr Oates told us that often abused children don't even get to ordinary pre-schools because their parents are unable to cope with transport problems, or cannot afford the fees, or there are no pre-schools available. We heard about one 2-year-old who had been discharged from the

196. C. H. Kempe & R. E. Helfer, 'Innovative therapeutic approaches', in Kempe and Helfer (eds), *Helping the battered child and his family*, p. 43.

197. *ibid.*, pp. 43–5.

198. Interview report, NSW, 287.

199. Evidence, p. 2919, Jean McKenzie.

Royal Alexandra Hospital for Children with the recommendation that she attend a pre-school. After a few weeks her parents had to remove her. They could not afford the \$20 a week fee.²⁰⁰

278. The realisation that abused children need special care has led in the United States to the establishment of therapeutic nurseries and pre-schools, family residential treatment centres and family day care treatment centres. Our discussions and evidence suggest that, in this vitally important area, Australia has few such services. Only Western Australia, through its Child Life Protection Unit, appears to offer a comprehensive approach.

279. Such remedial programs are expensive, both in money and in professional time. But the alternative is repeating cycles of abuse and neglect as one generation follows another. We believe this cost is even greater.

280. Kempe believes that the cycle of abuse can be broken. At the national conference on 'The battered child' he cited the story of a 14-year-old son of a battering parent, treated many years earlier, who said:

I read your material and you said that children who have been abused are likely to abuse their children, so I guess you think that I will be doing it too.

In response to the question 'Well, will you?', the boy replied:

I don't think so, because when my parents were in trouble you taught them how to get help, and I think if I were in trouble of this kind, I would know how to get help.²⁰¹

Conclusions

281. Prevention of child abuse should be an ultimate goal, even if it is an idealistic one which no society can ever fully achieve.

282. Prevention is contingent upon many factors, requiring an enlightened and co-ordinated government, legal and community approach:

- (a) It requires a deep understanding of the causes of child abuse and an approach which is supportive, not punitive. Only then will parents seek help before tragedy occurs.
- (b) It requires widespread community and professional education about the problems of family violence. Children and parents need a better understanding of roles and relationships within family life; they need to learn ways of coping with aggression and frustration other than violent ways. Education for parenthood is a vital need.
- (c) It requires better information networks. Many people, at all levels in our society, are unaware of help that is at hand.
- (d) It requires enlightened legislation to provide a framework for flexible and varied services that are integrated to care for total family needs.
- (e) It requires better ante-natal services so that families at risk can be identified before a child is born; more humane hospital procedures that encourage rather than inhibit parent-child bonding; effective screening of all children at risk between the ages of 0 and 5.
- (f) It requires particular attention to children who are raised in violence. Without such attention the cycle will perpetuate itself in generations to come.
- (g) It requires a stringent look at our current child rearing practices, including inappropriate disciplinary methods still widely sanctioned and widely used.

200. Interview report, NSW, 287.

201. Kempe, Keynote address, in *The battered child*, p. 6.

- (h) It requires a realisation that environmental stress such as isolation, poverty, squalid or inappropriate housing, inadequate child care and unemployment are contributing factors. Strategies to prevent child abuse must aim at alleviating the disastrous effects of being poor in an affluent society. The relationship between child abuse and unwanted pregnancies indicates that birth control programs are of major importance.
- (i) It requires a national policy on alcohol and programs to reduce the level of alcohol consumption. Alcohol abuse too often leads to child abuse.

283. Above all, prevention of child abuse requires a critical assessment of the value our society places upon children, of the rights we are prepared to accord them, and of the resources we are willing to employ in order to care for them. Many thousands of children in Australia today are living in hunger, fear, isolation, abuse, neglect and despair. In the absence of adequate family policies and programs, even their most basic needs are being denied.

11. Alcohol and human relationships

Introduction

1. In the course of our inquiry we found that many situations in which human relationships were damaged had a common element in that one or more of those involved had been drinking. Wherever there was excessive or uncontrolled drinking, there was distress and often suffering for many others as well. Our terms of reference do not mention alcohol specifically, but its social effects have overshadowed our inquiry. Many of the problems of human relationships, particularly for families, are bound up with alcohol. These include absenteeism, unemployment and poverty.

2. In our society, alcohol is one of a range of psychotropic drugs (i.e. drugs which have an effect on the central nervous system) with a potential for abuse. Other drugs of this kind are nicotine, minor tranquillisers, analgesics, sedatives, hypnotics, cannabis, hallucinogens and narcotics. The World Health Organisation Expert Committee on Drug Dependence, in its 1974 report, compared the problems associated with alcohol with problems associated with some of these other drugs:

The Committee was of the opinion that, in many parts of the world, problems associated with the use of beverage alcohol far exceed those associated with the non-medical use of less socially acceptable dependence-producing drugs, such as those of the amphetamine, cannabis and morphine types.¹

In Australia, some medical opinion follows this view. Dr Michael Chegwidan, a Sydney psychiatrist, believes:

Alcohol is the most dangerous and addictive substance known to mankind; it is more dangerous than pot, heroin or any drug you can name. The problem is that no government will . . . say so.²

3. The use of alcohol may have some social benefits. Its abuse has adverse effects which may be physiological, psychological and social. They may arise from a high intake on particular occasions, or from prolonged intake of small amounts. The drinker's individual health is at stake, and also his or her relationships with family, friends, workmates and neighbours.

Alcohol in Australian society

4. Drinking alcohol is not only accepted but is expected social behaviour in Australia. The rate of intake is increasing. The per capita consumption more than doubled between 1938 and 1970.³ The situation now is that 80 per cent of Australian men drink, and that this pattern is established by 20 years of age.⁴

5. 'Excessive use' refers to daily consumption of over 80 g of pure alcohol⁵ and these people are known as 'hazardous drinkers'. This is accepted throughout the world as the cut-off point between use and abuse of the drug alcohol.

1. WHO, Expert Committee on Drug Dependence, 20th report, *Technical report series*, no. 551 (WHO, Geneva, 1974).

2. Quoted in Peter Davis, *Australians and alcoholism* (Summit Books, Paul Hamlyn, Sydney, 1976), p. 11.

3. J. N. Santamaria, 'The social implications of alcohol', *Medical Journal of Australia* 2, 10 (1972), pp. 523-8.

4. J. G. Rankin & M. Sargent, 'Epidemiology of alcohol abuse', *MJA* 1 (1970), pp. 1218-20.

5. B. S. Hetzel, *Health in Australian society* (Penguin Books, Melbourne, 1974), p. 122: 10 g = 7 oz glass beer.

6. A Melbourne metropolitan study revealed that drinking habits varied over ethnic groupings and socio-economic levels. Australian born, United Kingdom born and people from central and western Europe had higher levels than those from southern Europe (Greece and Italy).⁶ Higher levels of consumption (greater than 80 g per day) were found in the lower socio-economic groups, and this coincides with Raymond's findings on the breathalysed driver group.⁷

7. Consumption patterns vary with age, location and cultural background. For example, among urban adults, 4 to 8 per cent of males and from 1 to 2 per cent of females have been classified as hazardous drinkers. In some Melbourne and Sydney suburbs from 1 to 2 per cent of adolescents come into this category, while in some country towns half of the adult male Aboriginals are hazardous drinkers.⁸

8. Pressures to drink are exerted by the liquor industry, by the media, by the example of public figures and by peer groups. Professor Basil Hetzel says that 'the consumption of alcohol in generous quantities is deeply embedded in the concept of mateship' and much of our early social history is linked with the philosophy of the right to drink. The cry of 'wowser' goes up at any suggestion that this right should be restricted. A WHO survey of thirty-three countries showed that Australia had the highest beer consumption of all (128 litres per head of population in 1972).¹⁰

9. Margaret Sargent, who has been concerned about the effect of culture on attitudes, writes of 'drinking as a symbol of mateship and social solidarity'.¹¹ Dr J. N. Santamaria, of St Vincents Hospital, Melbourne, said:

From discussions with young men, I have been impressed by their attitude . . . many are unable to find satisfying entertainment unless they are drinking alcohol, especially in an hotel setting.¹²

10. There is no doubt that the consumption of alcohol is a pleasurable activity for a large part of the community, and that most drinkers who consider drinking to be a recreational activity drink in moderation. Alcohol is regarded as a kind of social lubricant which eases tensions, promotes fellow feeling and helps overcome inhibitions which limit ability to communicate. It has long been accepted that the working man drinks and gambles to help overcome the essential frustrations of his workaday world.

11. Alcohol is used as a tranquilliser and as a relaxant, and it serves a useful and approved social function. Kessel and Walton point out that:

Drink is used as a medicine by people under stress. It does not serve as a tonic or as a sedative but as a pain-killer. With its help they can, temporarily at least, cope with their ordeals. Afterwards, when the stress is over, a man may get himself really drunk, this time to relax and unwind.¹³

6. *ibid.*, p. 123.

7. A. E. Raymond, Characteristics of breathalysed drivers (paper delivered at National Road Safety Symposium, Canberra, 1972).

8. Patricia Healy, 'Use of psychotropic drugs in Australia', in *Informed opinion* (Journal of NSW Health Commission, Division of Health Education), no. 14 (1975), p. 2.

9. Hetzel, p. 127.

10. J. Moses, *Problems and programs related to alcohol and drug dependence in thirty-three countries* (WHO, Geneva, 1974), p. 2.

11. Margaret J. Sargent, 'Heavy drinking and its relation to alcoholism—with special reference to Australia', *ANZ Journal of Sociology* 4, 2 (1968), pp. 148–50.

12. J. N. Santamaria (paper presented at Summer School of Studies on Alcohol and Drug Dependence, St Vincents Hospital, Melbourne, 1974).

13. N. Kessel and H. Walton, *Alcoholism* (Penguin Books, Middlesex, 1965), p. 65.

Groups at risk

Men

12. Alcohol is typically a problem of the adult male. Reports show that some 5 per cent of men and 1 per cent of women are affected by alcohol dependence.¹⁴

Women

13. There have been several reports recently of increased alcoholism amongst women. Two groups are said to be particularly at risk—teenage girls who begin drinking to keep up with their boyfriends, and women in their late 30s and early 40s who take part-time jobs as their children grow up.¹⁵ This coincides with figures of women using other drugs of abuse, especially analgesics in the later age group.¹⁶

14. There has been little research done in Australia on women and alcohol. It has been claimed that there has been a change in women's drinking patterns—that they now pay for their own drinks and drink alone.¹⁷ Nevertheless women have a very good record with insurance companies in the matter of drink-driving accidents.

15. Dr Gerald Milner reports that, in the Northern Territory, about 75 per cent of women regularly use alcohol, 3 per cent of women will already be alcohol damaged, and 5 per cent of men and 1 per cent of women would probably be labelled as alcoholics. Further, in 40 per cent of deserted families, an alcohol problem may be identified in the spouse.¹⁸

16. The effects of heavy drinking by pregnant women have been observed in several research studies.¹⁹ Dr David Smith, of the University of Washington, School of Medicine, reports that numbers of babies are born drunk, and that other hospitals are finding handicapped babies due to their mothers drinking during pregnancy.²⁰ The 'foetal alcohol syndrome', as this condition in babies is called, has been known for some time, in fact since 1968, when it was first described in 127 French infants.

Young people

17. Adolescents are a vulnerable group. Evidence from Professor Ian Lewis, of the University of Tasmania, referred to a survey of secondary school students which revealed that 41 per cent of the 13-year-old boys and 29 per cent of the girls had had some alcohol in the previous week. This kept rising until age 16, when 62 per cent of the boys and 45 per cent of the girls had been drinking in the past week. The amount drunk was also of concern; 10 per cent of the 13-year-olds claimed to have drunk one or more bottles of beer, and 16 per cent of the 18-year-olds claimed to have drunk four or more bottles during the week.²¹

18. In NSW in 1974 the Department of Education and the Health Commission carried out a survey of 2741 adolescents and found that by age 11 almost half the boys and a third of the girls had been introduced to alcohol, usually by their parents; that more than 9 per cent of children between 12 and 17 years claimed that they became

14. Rankin and Sargent, *MJA* 1 (1970), pp. 1218–20.

15. *Australian*, 9 April 1976.

16. Healy, p. 8.

17. Phillip Ramsay, paper delivered at Autumn School of Studies on Alcohol and Drug Dependence, St Vincents Hospital, Melbourne, May 1976.

18. Dr G. Milner, *Darwin drunks* (a report for the Department of the Northern Territory, 1975), pp.13–14.

19. David Zimmerman, 'Medicine today', *Ladies Home Journal*, August 1975.

20. *Sunday Telegraph*, Sydney, 4 May 1973.

21. Exhibit 170, Prof. Ian Lewis, The pattern of self-medication, smoking and alcohol consumption in 6709 Hobart secondary school students.

'very drunk' more than once a month; 2 per cent claimed they regularly became unconscious; almost 2 per cent of all children from 12 to 17 years could be classified as 'problem users' and a further 16 per cent as 'potential problem users'. It seems clear that alcohol is currently being used by children in Australia, and that it is being used increasingly by an age group which lacks the experience and maturity to understand its full implications.

19. Part of Dr Cunningham-Dax's submission to us reads:

With our own attitude of permissiveness to drunkenness, our tolerance of, and even our inability to recognise the early stages of alcoholism, it is especially difficult for the young to live by adequate example, or to conform to our indefinite and inadequate community standards.²²

Aboriginals

20. Aboriginals have distinctive drinking patterns which are related to their status in the community. These aspects are considered by the Poverty Commission.²³

Social effects of alcohol consumption

The community

21. Society incurs economic and human costs from what was described to us as our greatest social problem.²⁴ The economic cost of the road toll, the loss of productivity in industry, the cost of health and hospital services, social security payments, the cost of institutional care for alcoholics, dependent children and accident victims—all these take the problems associated with alcohol beyond their effects on the individual. Alcohol control thus becomes a public health measure.

22. One Melbourne study showed that the cost to the community for medical, hospital and social services for alcoholics was nine times greater than for the general population. For the State of Victoria the annual costs amounted to some \$57 000 000, excluding social service benefits paid to the families, loss to industry, legal and police costs.²⁵

23. The community suffers in terms of street brawls and domestic violence, broken families, neglected and deprived children, evictions, lowered community health and hygiene standards and higher crime rates.²⁶ It is also a principal factor in at least 50 per cent of road deaths.²⁷

Personal health

24. The effects of alcohol on the health of the individual relate to the pattern of consumption. The depressive effect of alcohol on the central nervous system can lead to a comatose state and to respiratory paralysis and death at high levels of consumption. The long-term toxic effects of alcohol include gastritis, stomach ulcers, alcoholic hepatitis, cirrhosis of the liver and other injuries to health. The damage to health is caused

22. Submission 500, Dr E. Cunningham-Dax.

23. Commission of Inquiry into Poverty, third main report, *Social/medical aspects of poverty in Australia* (AGPS, Canberra, 1976), pp. 115–17.

24. Evidence, p. 3004, Dr Stella Dalton; Submissions C403, confidential; 715, Mr C. O'Shea; Dr John Birrell, The Howard Ball Oration (Autumn School of Studies on Alcohol and Drug Dependence, St Vincents Hospital, Melbourne, May 1976).

25. C. M. Louise Deakin, J. N. Santamaria and P. Williamson, 'The cost of alcoholism to the community', *Medical Journal of Australia*, 30 June 1973, pp. 1305–8.

26. Evidence, pp. 424 ff, Miss Dorothy O'Halloran; Submission 1056, WA Department for Community Welfare.

27. WHO, *Technical report series*, no. 551, p. 19.

more insidiously than in the case of other drugs because the symptoms develop slowly and there is broad acceptance of the associated behaviour.

The family

25. We received submissions touching on the corrosive effect of alcohol on relationships within the family. Many of these were from womens organisations; others were from doctors and other health workers; some were from organisations such as the Mental Health Association and Al-Anon; and many were simple, often tragic, personal histories from individuals who wrote to us hoping that their stories might help to prevent the same kind of unhappiness occurring in other lives.

26. Helen McNamara, a social worker in an alcohol treatment clinic, in a submission mentioned eight effects of the excessive use of alcohol on family life:

- (a) Gradual deterioration of family relationships often leading to separation or divorce.
- (b) Periodic or chronic illness or premature death of the breadwinner, leading to financial problems, anxiety and sometimes the breaking up of the family by the children having to receive institutional care.
- (c) Frequent loss of employment resulting in financial insecurity, debts, loss of accommodation and poverty.
- (d) Disruption of family and friendship networks by evictions and moves from house to house, and to distant locations.
- (e) Chronic emotional strain added to financial insecurity with a damaging effect on the health of the spouse.
- (f) Parental alcoholism's damaging effect on the emotional development of children, with conflict and unhappiness.
- (g) Financial deprivation and other losses to children who feel stigma and shame.
- (h) Anti-social activities arising from erratic parental discipline, or none at all, resulting in appearances in juvenile courts with some growing up to be socio-paths or alcoholics themselves.²⁸

27. Behaviour involving cruelty, violence and economic hardship in families may lead to feelings of shame or guilt and a resort to further drinking. We were told that, in two-thirds of the cases of women seeking aid from legal aid offices, alcohol is a problem in the family, and that many of these women are young with several young children. This submission concluded that:

It would appear that many people enter into relationships . . . without sufficient preparation for the responsibility involved. It is the lack of ability to cope with these relationships which often drives people to find an escape from the situation in excessive drinking.²⁹

28. The crisis service operated by the South Australian Dept for Community Welfare has found that 60 per cent of its crisis situations involve alcohol.³⁰ A submission from the director of Lifeline in Brisbane states that alcohol is a consistent factor in family breakdown, and is commonly related to violence.³¹ The WEL Williamstown group said that alcohol and associated violence often made families 'unfit to live in'.³²

28. Submission 67, Miss Helen McNamara.

29. Submission 1163, ALP Womens branch, Launceston.

30. Mr Eric Cox, Director-General of Community Welfare Services, Adelaide, Commission consultation, May 1976.

31. Submission 397, Dr C. Noller.

32. Submission 244, WEL, Williamstown group.

29. The senior physician of a large hospital, who is an expert in the field of alcohol and drug problems, sees 'the whole question of human relationships shot through with problems of alcohol'. He believes that from 30 per cent to 50 per cent of people seeking divorce are affected in some way. He would like to see the Family Court look at the role of alcohol and drug dependence in the case of every couple filing a divorce petition, and offer counselling help or referral.³³

30. The relationship between excessive drinking and family violence was emphasised in our research projects. In a study of 111 women at Elsie Womens Refuge in Sydney, sixty-three (57 per cent) of the women said that the man with whom they had been living drank too much, and fourteen (13 per cent) said that he was an alcoholic.³⁴ A submission from the Elsie Refuge stated that:

Alcoholism in the male partner appears to be the main reason for the violence that results in the destitution and homelessness of women and children who come to Elsie.³⁵

Our 'phone-in' on domestic violence showed that half of the women callers said that their partners were habitual or heavy drinkers.

31. Whenever excessive use of alcohol is part of the family environment, human relationships are at risk for members, but with wives and children suffering most damage. As a submission from a 73-year-old woman stated, 'No woman's life should be sabotaged by persistent alcoholism'.³⁶

Employment

32. It has been estimated that one in twenty-five of Australia's workforce has a drinking problem, and that this costs 1 500 000 man days per year, or, measured in loss to industry, \$1000 million annually.³⁷ The effects on human relationships of the alcoholic process, as viewed by welfare workers in industry, was spelt out by Trish Ritman, a social worker at Nylex Corporation Ltd, Victoria. She said:

I have seen sadness and heartbreak caused by alcoholism . . . which makes men and women unable to drink socially in the way that their friends do . . . At work their competence often declines and their accident rate and absenteeism increases. At home, their family's well-being is increasingly ignored as the weekly paypacket is spent at the hotel and normal responsibilities are forgotten. Inevitably their health deteriorates and their very life is endangered.³⁸

33. Until recently neither trade unions nor employers were concerned with the problem.³⁹ If a person became an unreliable worker through drink, he could be dismissed. If costs of production rise, through inefficiency and absenteeism due to alcohol, these costs can be passed on to the consumer. It has been claimed that industry and commerce reflect community attitudes to alcoholism which are 'often ill informed, prejudiced and displaying a real lack of interest in the problem'.⁴⁰

33. Dr George Wilson, St George District Hospital, Sydney, Commission consultation, May 1976.

34. C. Gibbeson, Domestic violence, Commission research report, no. 11, 1977.

35. Submission 159, Elsie Womens Refuge.

36. Submission 199, Mrs E. B. Wilson.

37. J. R. Moon (address to the National Management-Union Alcoholism Conference, Canberra, November 1974).

38. Trish Ritman, Commission consultation, May 1976.

39. Submissions 481, Salvation Army (Australian Eastern Territory); 348, A. J. Young; 715, Mr C. O'Shea; 303, Mr G. Sculley; 500, Dr E. Cunningham-Dax; 216, Mrs Yule; 270, Mrs P. G. Barlow; Evidence, pp. 2089-90, Ms Jenny Hewett, Mr Gerry Bodeker.

40. B. Luby, General problems within commerce and industry (paper presented to Summer School of Studies on Alcohol and Drug Dependence, St Vincents Hospital, Melbourne, 1972), p. 37.

34. In recent years some firms have shown concern over alcohol abuse and its costs and have undertaken programs of identification and treatment. Following a conference organised by the Australian Foundation on Alcoholism and Drug Dependence (AFADD) in 1974, a National Management–Union Council on Alcohol in Industry was established to combat the problem of alcohol and drug dependency in industry.

35. Responsibility lies with the community to assist those who mishandle alcohol: the workplace is strategically important for prevention, identification and help. A national policy on alcohol in industry, involving management and trade unions, would benefit the individual worker and industry. There are already several tested programs available.

Offences

36. Many of our submissions were concerned about the links between alcohol and crime, and the submission from the Anglican Diocese of Sydney pointed out that alcoholism is found in cases of offences against persons rather than property.⁴¹ There is a great deal of damage to human relationships when alcohol is involved in the area of civil offences—what the lawyers call ‘backyard offences’ or neighbourhood disputes over such issues as a dividing fence or a rowdy party. When people have a few drinks too many, they are likely to become aggressive; goodwill disappears and the result is often damage to persons or property, or wounded feelings and a law suit.

37. In families where alcohol is a problem, there is sometimes uninhibited or aggressive sexual behaviour. Mothers often reveal a fear for the safety of their young daughters when the father, uncle or grandfather comes home ‘under the influence’. One of the case histories presented to us tells of a woman’s lifelong disturbances due to witnessing her drunken mother in sexual encounters with many men.⁴²

What can be done: the problem and its solution

38. Some people define the problems of alcohol as ‘alcoholism’—an illness for which medical treatment is required. The WHO International Seminar in 1972, on the other hand, emphasised the need for concern for the wider problems related to the use of alcohol:

These include the consequences for the individual of contaminants and intoxication, the physical and mental consequences of prolonged consumption. . . as well as the socio-economic consequences for the family, in the occupational sphere, in traffic, in the penal sphere and in treatment services.⁴³

One of the consequences of the disease concept has been that attention has been mainly concentrated on clinical symptoms and most information concerns those people who are in some kind of therapeutic institution.

39. Many people, however, feel that this describes only half the picture, and that clinical treatment of the symptoms leaves untouched the underlying causes. They see the social context as the key, and counselling and rehabilitation as the essentials of successful treatment. This may involve the family of the person concerned, the employer and community helping agencies, as well as the doctor.

40. Our whole community is involved in the alcohol issue because of the illness, accidents, crime, social disorganisation and poor human relationships which result

41. Submission 611, Anglican Diocese of Sydney.

42. Submission 450, Mrs J. I. Robertson.

43. WHO, *Technical report series*, no. 551, p. 13; see also E. M. Jellinek, *The disease concept of alcoholism* (Hillhouse Press, Newhaven, 1960).

from misuse or abuse. When consumption is rising, there comes a point where the hazardous drinking range (in excess of 80 g of pure alcohol per day) is approached by more and more consumers, and then the whole community is at increasing risk. Approval of drinking is bound up in social drinking patterns. For example, the 1973 World Health Organisation Study Group on Youth and Drugs stated that:

. . . the definition of misuse of alcohol in a given society depends on the group norms concerning alcohol use, that is, on the range of drinking behaviour regarded as socially acceptable.⁴⁴

41. Although our society accepts, condones and encourages heavy drinking up to a certain point, when the addicted individual passes that point society rejects him. He may be driven to seek treatment at this stage, and if he goes to his local doctor he may be told to give up his drinking which by then is all that he has left. It is not surprising that he seldom takes this piece of advice.

42. Some people, concerned about civil liberty, tend to regard heavy drinking as a self-chosen path and contend that if it leads to self-destruction that may be unfortunate for the individual, but would claim that he has every right to so choose. This stand is criticised from a public health viewpoint which would regard measures to control alcohol, or to force the hazardous drinker to accept help, as no different from legislating to control venereal disease, poliomyelitis or other epidemics.

43. Many people drink too much, even by their own standards, and many get drunk regularly. Drinking behaviour of this kind often has associated social and economic problems, and, although such people are clearly at risk of becoming alcoholics in time, their drinking is acceptable by general community standards and, indeed, acceptance into some social groups, such as the 'drinking school', may actually involve drinking to excess.

44. People who describe themselves as 'social drinkers' may become a social menace on those occasions when drinking and driving are combined. It is of no avail to separate out from the social environment only 'problem drinking', because this arises out of generally accepted drinking patterns. Social expectations of behaviour are important here, and the role of drinking in preserving a traditional image. An example of this latter factor occurred in the difference between the success of low alcohol beer and low calorie beer. The lowered alcohol content did not attract the drinkers because their mates would have considered them 'soft' or 'sissy'. The low calorie beer was accepted, on the other hand, because the promotion line stressed that only calories were reduced, not the alcohol content. This beer therefore did not threaten the male image.

45. In order to succeed, recommendations for change must take into account the cultural components of alcohol consumption patterns, and the beliefs and attitudes of those affected. Encel and Kotowicz have said that 'the beer-swilling Australian male appears to be a national stereotype'⁴⁵ and per capita consumption tends to confirm this image. It is a stereotype that is reinforced by liquor advertising, where drinking is linked to social success, virility, fast cars, horses and leisure.

46. A retrospective study by St Vincents Hospital, Melbourne, of the history of 1000 alcoholics revealed that drinking patterns are established in men in their early 20s.

44. Quoted in Moses, p. 12.

45. S. Encel and K. Katowicz, 'Heavy drinking and alcoholism', preliminary report, *MJA*, March 1970, pp. 607-12.

This suggests that formative influences must have been operating during adolescence, because the pattern does not change much after the age of 20. Professor Hetzel claims that this drinking pattern is part of the male identity and that the:

... important marks of adulthood in our society are the opportunity to drive a motor car and to drink alcohol. Often these two goals are achieved together with disastrous effects.⁴⁶

For policy considerations it is vital to know whether there is a connection between incidence and prevalence, between total consumption and heavy or hazardous use.

47. Hetzel has concluded that measures designed to reduce overall consumption are more likely to be effective than trying to change individual drinking patterns. Alcohol consumption on a graph reveals a continuous smooth fall from a large proportion of moderate users to a very small proportion of extremely heavy users. This is an indication that there is:

... no clear demarcation into two groups which would have suggested two distinct populations—normal and ‘alcoholics’.⁴⁷

The number of heavy drinkers is directly related to the average level of consumption, and heavy drinking can only be reduced by lowering the average consumption level.

Education

48. All of those who are concerned to get effective action to deal with the problems of alcohol use are united in stressing the role of education and, in fact, a great deal of public money is set aside by governments for health education, drug education, drug counselling services and for research in these areas. There is, however, no overall policy.

49. If we are going to change drinking patterns we will have to supply countervailing pressures to those at present influencing young people. A group of educationists from South Australia wrote, in a submission to us, that there is very little attention given to drinking at all, except for one short film which is on the disease of alcoholism.⁴⁸ This contrasts with the sophisticated, professionally expert advertisements which promote alcohol consumption.

50. We had evidence that the insights of psychology are being used and paid for by liquor interests in advertisements which use sexual motivation and adolescent identity strivings to sell alcohol.⁴⁹ A substantial amount of advertising is now directed to adolescents and young people, suggesting not only that drinking is a path to social success but that drinking spirits is part of their desired cool, mature image. The discrepancy between what the liquor industry is prepared to spend and what the government allocates to counteract this type of social pressure highlights one of the difficulties of developing programs to combat this social problem.

51. There is great ignorance of the toxic drug effects of alcohol along with widespread use. One survey by the Traffic Accident Research Unit at Rosebery, Sydney, found that most people were unaware what amount of alcohol consumed would bring the blood alcohol level to 0.08g per cent. Many people still assumed, even after an

46. Hetzel, p. 134.

47. Basil Hetzel, ‘The prevention and control of alcoholism in Australia’, in Proceedings of First National Management–Union Alcoholism Conference, *Australian Journal of Alcoholism and Drug Addiction* 2, 1 (1975), p. 15.

48. Submission 145, Dr Puddy et al.: film referred to is *To your health* from SA Film Corporation.

49. Exhibits 5, 6, 7.

education program subsequent to a drink-driving offence, that they could drink five glasses of beer every hour without ill effect. Dean Ian George, of Brisbane, commented at our Brisbane hearings:

There is so little being done to educate people responsibly. I would not want to prohibit the use of alcohol, I certainly enjoy it myself, but I think we have to educate people much more effectively to use alcohol responsibly.⁵⁰

Treatment

52. Underlying all approaches to the treatment of alcohol abuse needs to be an awareness of what the Poverty Commission describes as factors in the surroundings which reinforce and reward excessive drinking⁵¹—these are issues which we have already discussed. Specific treatment programs are also obviously required. This is not an area which we investigated, as it is dealt with in some detail in the Poverty Inquiry's third main report. It is obvious, however, that we are in no way coping with our present problem in terms of size. For example, a submission from a psychologist in ACT pointed out that, of an estimated 3500 hazardous drinkers in that area, there are over 1000 breathalyser arrests per annum. There are, however, treatment facilities for only 200 per annum.⁵²

53. Medical schools do not train doctors specifically to deal with alcohol problems, although doctors are seen as a first resource. Some doctors admit that they don't know what can be done.⁵³ It is common experience for a wife who goes to her doctor because of her anxiety and depression about her husband's drinking to be sent on her way with a prescription for Valium.⁵⁴ Many workers in the field have complained that doctors treat patients with accident injuries, wounds from drunken brawls, gastritis, ulcers and anxiety without ever seeing them in relation to a drinking problem. Alcohol problems and how to deal with them should be included in the training of all relevant professionals, both at the undergraduate and graduate level.

54. Denial of the problem is common to western society—by the person concerned, his family, his workmates, his employer, his drinking companions and by society at large. It would be unrealistic to expect that doctors, as a professional group, would have escaped the cultural pressure to keep the alcoholic hidden. This is part of the environment which must be altered if the problems of alcohol are to be prevented or controlled.

55. Country areas need advisers to provide back-up support for health personnel and to initiate volunteer training programs in the community. New roles need to be developed for the local general practitioner who, because of lack of training, often sees the problem as hopeless or as more suitable for social work intervention. The local doctor could be a key figure in the entire system of early detection and prevention; his attitudes and habits can be influential in attitude formation.

56. We have been impressed with the self-help groups such as Alcoholics Anonymous, Al-Anon and Alateen, and the work of centres like the Brotherhood of St Laurence in Melbourne, and the various homes run by the St Vincent de Paul Society and the Salvation Army. Their work is invaluable. They are agreed on the vital necessity of early recognition and on the need to heighten public interest. We believe these groups warrant government support.

50. Evidence, p. 1693, Dean Ian George.

51. *Social/medical aspects of poverty in Australia*, p. 122.

52. Submission 303, Mr G. Sculley.

53. I. Reynolds, *Alcoholism and drug dependence: a survey of general practitioners' opinions* (NSW Health Commission, 1973).

54. From the Commission's case histories from Alcoholics Anonymous.

57. Alcoholics Anonymous has proved to be very successful, but works on the willingness of the alcoholic to ask for help. Al-Anon and Alateen are designed for families, and believe changed family attitudes can often aid recovery. They work anonymously, as their name implies, and believe that helping the family has a greater potential for recovery than initially attempting to approach the alcoholic.

The role of government

Revenue and research

58. Duty and excise taxes are imposed by governments upon alcoholic beverages and constitute an important part of national income. The liquor industry is important in the economy of western nations. In Australia, on beer alone in 1972-73, taxes amounted to over \$500 million. The amount of revenue collected is seen by some people as a reason for the government being liberal in funding research and education into alcohol problems.⁵⁵

59. Although governments in Australia receive such a bounty from the liquor industry, they do little to counteract the ill effects of alcohol. In Canada, a country which has similar alcohol problems, the Province of Ontario subsidises its Addiction Research Foundation at a rate of \$7 million per annum. There is a national body in Australia, the Australian Foundation on Alcoholism and Drug Dependence (AFADD), and this provides a nucleus for a series of programs designed to help tackle alcohol and drug problems in a national way.

60. There have been moves to ban radio and television advertisements for liquor. There are good grounds for believing that such advertising gives a misleading picture of the consequences of drinking alcohol, but there may be ways of changing the focus of advertising without resorting to prohibition methods.

61. Government revenue is a powerful resource and could be utilised in many ways to reduce the environmental pressures to drink, to use funds gained from drinking to pay some of the social costs and for media campaigns based on promoting a positive image of the benefits of avoiding excessive drinking. If the problem associated with alcohol could be seen as a major threat to public health, as well as a destructive influence on human relationships, then funds and other resources would be more likely to be diverted to aspects of prevention.

A national approach

62. To plan effectively it is necessary to know how far the causes of alcohol abuse are understood, the degree of behaviour change required of the people concerned, what preventive measures are possible and the availability of resources. Finally there is need of the will and vigour to carry out an effective program.

63. Planning of this order requires a national approach. We believe that Commonwealth and State Ministers of Health should jointly acknowledge that Australia's increasing consumption of alcohol has reached the proportions of a public health problem, and should declare that a program will be initiated to eliminate the social, economic and human losses involved.

64. Unless there is acceptance of the need for action on a national basis, programs at all levels will be developed without the benefit of policies and strategy that everyone can understand and follow. The policy should encourage healthier drinking patterns and modify social patterns which have negative effects.

55. Hetzel, 1974, p. 139.

65. This policy approach would require certain basic information about drinking patterns, how they are acquired, which population groups are most affected and other information which would help to predict trends. A model exists in the work done by Dr David Ball and published by the Health Commission of NSW.⁶⁶

66. A national policy needs to be reflected in legislation throughout Australia. The framers of the law need to apply insights from the social and behavioural sciences and new technological advances, as well as comparative studies of overseas legislation and recent advances in some State laws.

67. Many legislative changes might be indicated. One issue is the decriminalisation of drunkenness. This would be a progressive step towards treatment and rehabilitation, provided that support services were geared to do at least what is now done by the police. Decriminalisation alone would not decrease consumption rates.

68. Another area where legislative measures would be influential in altering the environment would be some form of regulation about the advertising of liquor through the media, similar to those concerning cigarettes. At present media presentation glamourises drinking and this reinforces current patterns. Advertisements would be less misleading if they included warnings against excessive use and against drinking and driving.

69. The focus needs to shift to a more rational and less emotive base for the use of alcohol, and this would help to promote wiser drinking behaviour. The same could be said for regulations governing sale and the distribution of alcohol outlets so that these also favour healthy patterns of drinking.

70. The liquor industry itself would probably be susceptible to rational change. For example, if the reduction of the alcoholic content of beer were considered, let it apply to all brands and all breweries. Such nation-wide decisions affecting all concerned may help reduce conflict of interests in the industry. Strategies would take account of areas which have been neglected until recently, principally in programs of prevention and early intervention. Management and trade unions should co-operate within a national policy to provide work-based programs of education, identification and rehabilitation. The government should show the way by initiating programs in the public service.

71. The present system of health education is fragmented over the States and disjointed within States. In some States the task is part of the education system, in other States it is a Health Department function or a welfare function. A national policy is needed to provide the necessary guidelines and unity.

56. D. S. Ball, R. A. Champion and A. J. E. Rowe, *Monitoring drug use in NSW* (Health Commission of NSW, Division of Health Services Research, 1975).

12. Prisons and the family

Introduction

1. Several submissions drew our attention to imprisonment involving tension in human relationships both to the prisoner and his family. Prisons and similar institutions in Australia are a State responsibility. Nevertheless persons convicted under Federal laws and under the laws of the Australian Capital Territory are committed to State prisons; the Northern Territory has its own prisons. Further the views expressed to us seem to be of general application.

2. The daily average prison population in Australia is 9000; most of the prisoners are men, less than 3 per cent are women.¹

3. Men in prison are predominantly young. In NSW for example, in 1974-75, 40 per cent of men received into custody were between 18 and 24 years of age. As the Bureau of Crime Statistics and Research of NSW reported from its study of 1000 prisoners sentenced to 12 months or more, more than twice as many as in the general community were in the 18-24 age group.² In recent years about three-fifths of those offenders dealt with by the higher criminal courts have been in the 18-24 age group. The typical prisoner is therefore male and young.

4. David Biles examined the findings of a prison census in Victoria taken in 1970 and concluded that the majority of people sentenced to prison are neither dangerous nor serious offenders. In general, sentences are for offences such as vagrancy or drunken and disorderly conduct, and are of short duration.³ In NSW in 1974-75, less than one in ten males were received into custody for serious offences (including homicide, assault, sexual and related offences, robbery and extortion); only one in sixteen females was received into custody for these offences. The fact that prison sentences are of short duration mostly and are given for offences against property or good order, and prostitution⁴ or drug use, may provide a lead to ways of dealing with offences other than imprisonment. Certainly the view that prisoners are all dangerous and diseased people is not supported by the facts.

5. Prisoners under sentence do not represent the total prison population. At any one time there will be a substantial number of prisoners who have been neither convicted nor sentenced. Over a 5-month period in 1976, 10 per cent of the prison population of NSW included prisoners on remand for a variety of reasons and prisoners being held while trials were in progress.⁵ This group of prisoners was represented to us as having special problems: particularly those who spend a period in prison but are subsequently acquitted. In NSW in 1974-75, 7706 men and 418 women not under sentence were received into custody. The structure of the offences alleged against these persons was similar to that for sentenced prisoners, although there was a higher percentage of offences against persons and other serious offences.⁶

1. Australian Institute of Criminology, Newsletter, 4 December 1976.

2. NSW Bureau of Crime Statistics and Research, *Statistical report 16*, 1974.

3. D. Biles, 'Who goes to prison?' in D. Edgar (ed.), *Social change in Australia* (Cheshire, 1974), pp. 548-57.

4. In 1974-75, 42 per cent of women received into custody in NSW had been sentenced for prostitution: *Prison statistics 1974-75* (ABS, NSW).

5. Summary of prison population: 8.7.76, 12.8.76, 9.9.76, 7.10.76, 11.11.76 (Dept of Corrective Services, NSW).

6. *Prison statistics 1974-75*.

The problems of the prisoner

Marital status

6. Given the characteristics of the prison population, it is not surprising that our submissions deal almost entirely with the situation of men in prison and the situation of women and children separated from partners and fathers.

7. When a married man is sent to prison, severe burdens are imposed upon his family and others close to him. When young persons are committed to prison they are separated from those with whom they should be developing close emotional ties.

8. In NSW at 30 June 1975, 28 per cent of male prisoners in custody under sentence were married and 26 per cent of those not under sentence; the comparable figures for women were 25 per cent and 47 per cent.⁷

9. These figures, therefore, would give us a minimum figure of about 26 per cent to 28 per cent of male prisoners married and 25 per cent to 47 per cent of female prisoners married.

Arrest

10. It is likely that everyone who is arrested by the police will, at least initially, spend some time either in police cells or in prison before being charged or tried on any charges or convicted. A submission from the NSW Association for Mental Health stated:

It needs to be remembered that this person who has been newly arrested has not been proved guilty . . . However, the way our system works he is punished as though he were guilty and loses a great deal materially and psychologically before the fact is proved one way or the other.⁸

11. The first trauma of the newly arrested arises from the ignorance of the accused of his situation and legal rights and the ignorance of the family of the accused of even his whereabouts. The NSW Mental Health Association gave further instances:

He [the accused] is not informed of his rights, he has no idea how the system works, he has no realistic expectation of what he is facing. This is in direct contrast with the US where a newly arrested person is fully informed of his legal rights.⁹

My brother was picked up one night in town and charged with assault. He is a homosexual. He was taken to Central Cells, charged the next morning and let out on \$200 bail. I knew nothing of this, only that my brother had not come home that night . . . In the morning, having waited for him all night, I went to the police and reported him missing. They just laughed and said that he had just gone off somewhere with some bird and he will come back . . . I searched for 6 days, by which time I was sure he was lying dead somewhere. Finally in great distress I went into CIB. The policeman there was very good and helpful. He rang Long Bay for me and found that my brother was there, that he had been charged, was awaiting a hearing and had been remanded on \$200 bail . . . When I asked about the phone call he was supposed to make, he said that he was not allowed to make the phone call and the policeman told him that I would be notified of his whereabouts.¹⁰

12. The question of notification is raised forcefully in other submissions also. Although arrested persons are permitted to make one phone call, it is claimed that the one phone call may go astray and there is no chance of making a second. The police and the courts are not required to inform the family or other contacts either that an

7. *ibid.*

8. Submission 899, NSW Association for Mental Health.

9. *ibid.*

10. *ibid.*: statement made to Committee for the Welfare of Prisoners on Remand, March 1975.

arrest has been made or where the person is being held unless asked. Even when asked, it is suggested that this does not always happen. The Womens Association of the Prisoners Aid Society of Victoria proposed that:

When a man is picked up by the police . . . he be allowed to make at least two phone calls and that it be the business of the court where he is charged to make *immediate* contact with his family . . . wives should be told directly their husband is transferred to a different prison. At present this is not the case.¹¹

Other people may also need notification:

There is no way the newly arrested person is able to contact an employer, for instance, and his employer may never know what has happened to him.¹²

13. An arrested person may lose his job regardless of whether or not he may eventually be found guilty of the charge.¹³

14. The problems of notification and ignorance are aggravated when the arrested person is a non-English-speaking migrant. The prisoner himself finds great difficulty in coping and there is evidence that arresting officers have little understanding of cultural differences.¹⁴ As migrant wives are less likely to speak English than their husbands, they will have little capacity to cope with the trauma of the arrest and the attendant practical problems. At present interpreter services are not available to the police or the courts. Another proposal from the Womens Association was:

. . . that interpreters be attached to all levels of courts to assist not only the defendant but his family, and that special consideration should be given to encourage these women to learn English.¹⁵

15. Another way in which it is claimed that a defendant can suffer materially from being arrested is by losing possessions, being evicted from rented accommodation and having goods purchased under hire purchase agreements repossessed. If a person lives alone, there may be no one he can seek assistance from to prevent any one or all of these things from occurring. In addition, if he owes money and defaults on payments because of being arrested he may be faced with action for debt.¹⁶

16. Dependants may have serious financial and accommodation problems, with no wages to pay the rent¹⁷ This can cause serious emotional and psychological effects which can last a long time. Several submissions made strong comments on this point.

Remand

17. One submission describes the reaction of a wife when faced with her husband who was being held on remand.

It was a shock to see him in his denim prison clothing with a number. It was a shock to see that, as I believed that he was not guilty of the crime he had been accused of. He was very badly shocked and, as I was speaking to him, he started to cry. Although he did have a handkerchief in the pocket of his own clothing, he had not been allowed to keep that and there was nothing for him with which to wipe away his tears.

He was in Long Bay for a month. He became extremely depressed, became involved in long fantasies about suicide and escape and finally at the end of the month when he was released he didn't seem to care whether he was released or not.

11. Submission 217, Womens Association, Prisoners Aid Society, Victoria.

12. Submission 899, NSW Association for Mental Health.

13. *ibid.*

14. *ibid.*

15. Submission 217, Womens Association, Prisoners Aid Society, Victoria.

16. Submission 899, NSW Association for Mental Health.

17. Submission 217, Womens Association, Prisoners Aid Society, Victoria.

18. The poignancy of this account is heightened by one of the concluding remarks of the woman:

It is an experience which I would never want to go through again and I feel really bitter about the whole thing too, because my husband's case was subsequently dismissed in court.¹⁸

It would seem that some changes in treatment of remand prisoners is desirable so that less stress should be placed upon them, their wives and families.

19. Lack of active work and the restriction of visiting to two 20-minute sessions per week also create emotional and personal distress for the prisoner and his family.

Financial problems

20. For the married prisoner imprisonment can mean severe financial hardship for his family. This can continue after he leaves prison if he suffers the loss of his job or, for some other reason, is unable to return to work when he is released.

During the sentence, many of the initial problems . . . continue but almost invariably the financial position deteriorates until most families just exist at the best.¹⁹

21. For the prisoner himself, the knowledge that his family is in bad circumstances: . . . causes greater concern and the feeling of absolute helplessness and devastation of spirit increase.²⁰

I feel powerless to do anything about my situation or to help my wife and child—they may have left me anyway

said a prisoner in his 30s serving 3 years for a larceny offence.²¹ This feeling of helplessness should not be viewed as simply an inevitably depressing aspect of the situation of the prisoner, because it has serious implications for rehabilitation. Fully functioning adults in society are required to accept responsibility both for their own actions and for the welfare of those who are dependent upon them. Imprisonment places a man in a situation where he is systematically refused the opportunity to fulfil these responsibilities. It is surely legitimate to ask if this is the best way of rehabilitating prisoners.

22. The specific kinds of financial problems encountered by prisoners and their families are indicated in the recommendations about money matters made in submissions to us. A particular concern was expressed for the migrant wives of prisoners. Very often their command of English is so inadequate that they cannot understand documents or fill out forms for social welfare benefits.

23. It would benefit the families and dependants of prisoners if the fragmentation of treatment they often receive through various agencies and benefits could be overcome.²²

24. Both specific information and access to support services could be integrated by a co-ordinating body, including access to general assistance for women who often find that taking over the financial role in families is fraught with problems.

Apart from the fact that the wife is usually not accustomed and therefore often not capable of handling business matters that arise, these are generally made much more difficult to handle by such things as refusal of credit by firms.²³

18. Submission 899, NSW Association for Mental Health: statement made to Committee for the Welfare of Prisoners on Remand, March 1975.

19. Submission 611, Anglican Diocese of Sydney.

20. *ibid.*

21. Submission 899, NSW Association for Mental Health.

22. Submission 217, Womens Association, Prisoners Aid Society, Victoria.

23. Submission 611, Anglican Diocese of Sydney.

25. Accommodation presents financial problems for many families with a breadwinner in prison. Rents can fall into arrears and leave families exposed to eviction. This has led to suggestions that emergency accommodation should be made available to distressed families, including, where possible, therapeutic counselling or even psychiatric help. This kind of last resort housing is already available in some areas of major cities in the form of womens houses or refuges.

26. An additional suggestion which was made to deal with the fundamental problem of housing for distressed persons and families was that:

There should be an officer with the Housing Commission(s) dealing specifically with housing for problem families.²⁴

Prisoners' families would certainly need to be included.

Family problems

27. Apart from the material issues of money and housing, imprisonment creates a range of problems for the prisoner, his wife and his children. The first problem is simply that of separation and the feeling of helplessness this engenders for both prisoners and wives. Arising from this is the need the prisoner has to feel that someone outside the prison is caring and waiting for him, and the stress upon a woman who may be attempting to do this.

28. If a prisoner does have a family to support him the benefits are of many kinds. The prisoner remains conscious of this support and to some extent is involved in outside affairs during his sentence. He is less isolated and has a greater ability to resist the more damaging aspects of imprisonment. On release he has a home to go to and has social contacts available to him and a stable base from which to re-establish himself in a normal social life. As one submission observed:

The importance of the family is nowhere more clearly demonstrated than in a situation where, for one reason or another, it does not exist so far as the prisoner is concerned.²⁵

29. One prisoner wrote to us on this subject in graphic and moving terms.

I am a prisoner, and I can personally attest to the mental ease and stability and hopefulness that can be inculcated in a man's personality by having the knowledge that he is supported by the love of the woman he loves.²⁶

30. When a liaison is more casual or of a de facto kind even worse problems may occur in maintaining the relationship during imprisonment than in the case of marital relationships. Many of these relationships produce children. When a man comes to prison the liaison may break up. The result is sometimes a very mixed-up family with children never knowing any real home life. Even if the liaison does survive the imprisonment, the prisoner almost inevitably goes home to debts and tensions.²⁷

31. The prisoner's wife in her ordinary affairs may be faced with stresses arising from a range of factors: the immediate adverse reaction of some friends and neighbours and other children at school; the great personal strain when faced with the single and seemingly impossible responsibility of holding the family together; the feeling of being alone, mostly for the first time in a marriage; and, in some cases, the severe and nerve-racking strain of facing hurtful publicity and trying to shield and protect her children from it.²⁸

24. Submission 217, Womens Association, Prisoners Aid Society, Victoria.

25. Submission 611, Anglican Diocese of Sydney.

26. Submission 1148, Darcy Dugan.

27. Submission 611, Anglican Diocese of Sydney.

28. *ibid.*

Other deserted wives and widows have tremendous problems, but when one's breadwinner is imprisoned, every financial problem seems greater, coupled with the associated social stigma and very often lack of emotional support from the community; we know of women too ashamed to do the shopping and children too frightened to play in the playground.²⁹

32. In addition to the problems of separation, it has been suggested that the institutional restrictions placed on the contact between men in prison and their wives, partners and children have the effect of breaking down family relationships. A prisoner comments on this:

The prisoner's relationship with his children is hopeless. Here again, the problem is the inability to make any real personal contact with them. Looking and talking through bars with a stranger listening to every word is inhibiting to the child and the prisoner. The relationship deteriorates. It must.³⁰

33. We received suggestions aimed at this range of problems. One was that visiting by families should be encouraged, with free rail passes to make this easier; another that during visits there should be no physical obstruction between the parties and that conversation should be able to be conducted out of earshot, if not actually out of sight, of warders.³¹

34. Occasionally a person commits an offence when visiting another State. At present there are no arrangements for prisoners to be transferred from one State to another. The cost of family visits can be very high. A further suggestion is that:

Visiting centres should be established outside each prison where a family can relax after the journey and prepare for the visit. Free baby-sitting services should be made available. Physical conditions for visiting in the prisons should also be improved and contact visits be allowed in all prisons.³²

35. Women and children also need assistance to face the tensions of the reintegration of the prisoner into the family and into society upon his release. Counselling and group therapy rehabilitation sessions prior to the husband's release could help in this.

36. Arrangements to encourage the preservation of family and other relationships can be justified on several grounds: that of compassion to the innocent members of a family, and that of encouraging the constructive development and rehabilitation of the prisoner, both during and after a sentence. An additional factor is the association which has been claimed to exist between delinquency and a broken childhood home.

One can surely say now that there is good empirical evidence that any experience which threatens or actually interrupts the flow of family group life increases the members' chances of becoming delinquent and, while the family remains fragmented, of their remaining delinquent. Further research to establish these crude facts is really no longer necessary.³³

Imprisonment of a parent may therefore be contributing to the next generation of offenders.

29. Submission 217, Womens Association, Prisoners Aid Society, Victoria.

30. Submission 1148, Darcy Dugan.

31. Submission 217, Womens Association, Prisoners Aid Society, Victoria.

32. *ibid.*

33. *Statistical report 16, 1974.*

Sexual problems

37. Imprisonment raises two major sexual problems: the denial of heterosexual relationships and, as a direct result of this, the homosexual harassment that a prisoner may experience from other prison inmates. The denial of heterosexual relationships to prisoners has led to demands for conjugal prison visits. It has been pointed out that prisoners in Sweden, many Latin American countries and several states in the USA enjoy the privilege of conjugal visits. These programs are said to have run successfully and it has therefore been asserted that the majority of prisoners should be allowed conjugal visits with wives or husbands, boyfriends or girlfriends. These should take place, it is suggested, in as natural surroundings as possible, by granting 'leave' from the institution. Alternatively accommodation for weekend leave could be provided close to the institution. This would both help maintain personal relationships and reduce sexual frustrations which, it is claimed, tend to increase the level of homosexual activity in prisons.³⁴

38. One long-term prisoner who has been exposed to homosexuality wrote to say that young men can become homosexuals after seduction or rape. He claims to have been the victim of an attempted sexual assault himself.³⁵

39. A more recent instance of homosexual assault is reported in another submission. This alleges that on his second night in a remand centre a young offender was threatened with rape. His cell mates were three men who had committed multiple crimes and had been arrested again for armed robbery while on bail. The submission concludes with the claim that:

The only way that this person seemed to be able to avoid being raped was to apply for segregation and to spend the month he was held in solitary confinement.³⁶

40. Discussions of the sexual problems of imprisonment have led to several proposals. The first, which has already been mentioned is that conjugal visits should be permitted.³⁷ The second is that prisons should be staffed by persons of both sexes, particularly some women staff in male prisons.³⁸ Several penal systems, most notably the Swedish system, employ female staff extensively:

The advantages . . . are obvious: women bring a softening influence to the prison society, assisting men to strengthen their inner controls through a variety of deeply entrenched processes of psychological growth.³⁹

The third is that alternatives to prison should be sought for offences of a sexual nature.⁴⁰ Public attitudes towards easing sexual restriction on prisoners show a degree of liberality that prison administrators may find surprising. In a recent study in the USA, over 50 per cent of two groups of respondents in a sample survey (164 in one and 104 in the other) supported the idea of conjugal visits for prisoners. In the first sample, 82 per cent thought conjugal visits would reduce internal prison conflict and, more explicitly, in the second sample 83 per cent expected less homosexuality in prisons to follow.⁴¹

34. Submission 436, Council for Civil Liberties, NSW.

35. Submission 1148, Darcy Dugan.

36. Submission 899, NSW Association for Mental Health.

37. Submission 436, Council for Civil Liberties, NSW.

38. *ibid.*

39. Morris and Hawkins, *The honest politician's guide to crime control* (University of Chicago Press, 1970), p. 133.

40. Submission 558, CAMP NSW.

41. *Criminology* 14, 1, p. 113.

Rehabilitation

41. It has been asserted that the penal systems of western industrial societies appear to value punishment above rehabilitation.

Alexander Patterson stated long ago that 'men are sent to prison *as* punishment, not for punishment'. This seemingly self-evident proposition has yet to be accepted in Australia. The notion still subsists that prisoners should be punished not merely by incarceration and deprivation of liberty but also by the treatment accorded them when so incarcerated.⁴²

The Bureau of Crime Statistics and Research of NSW pointed out that, although there is a great deal of concern with the punitive aspects of imprisonment, there is, with only two or three exceptions, much less research into the effects of treatment or preventive programs.⁴³

42. Recommendations arising from the rehabilitation implications of imprisonment fall into two areas which have not been touched on yet: personal autonomy and meaningful work.

The deprivation of autonomy

43. Letters outwards are censored and it is claimed that in many cases they are either not forwarded or are delayed and forwarded with many deletions. Inward mail is similarly censored. We were told that letters may be date-stamped by prison staff and then not posted for days or weeks afterwards. The Council for Civil Liberties of NSW recommended that:

. . . there is no justification for restricting the quantity of outgoing mail and that the only security check that can be justified is the check for enclosures . . . the practice of withholding mail cannot be justified.⁴⁴

The Council supports this argument by reference to a statement by the NSW Corrective Services Advisory Council:

. . . the Council has been given to understand that many prisoners suffer psychiatric disturbances because of worry about their personal and business affairs upon their confinement in prison, and that an ability, upon imprisonment, to write letters freely on these matters, subject to security considerations, would help to remedy this position.⁴⁵

44. The issues of dehumanisation and loss of autonomy in prison are reflected in a range of other issues in submissions. These relate to prison uniforms; forfeiture of possessions; use of numbers; lack of facilities for voting, where the right exists; restricted visiting; and restricted access to books.

45. The demand for meaningful and creative work for prisoners was expressed consistently in submissions.⁴⁶

46. It was claimed that most prison work programs involve repetitious drudgery, and idleness is the prevailing characteristic of prisons. This has destructive consequences. A submission from the NSW Council for Civil Liberties proposed:

That all prisoners be guaranteed the right to proper, meaningful work.

That prisoners be paid ruling wages for that work such as are paid outside prison.

42. Submission 436, Council for Civil Liberties, NSW.

43. *Statistical report 16*, 1974.

44. Submission 436, Council for Civil Liberties, NSW.

45. Dept of NSW Corrective Services Advisory Council, Sept. 1971–Dec. 1972, p. 12.

46. e.g. Submission 1148, Darcy Dugan.

That after deductions for 'board and lodging' the money earned be put towards the support of a prisoner's family or dependants where relevant. Where not relevant, and where there is a balance subsisting after the above deductions, the money be placed in a bank account to be managed by the prisoner.⁴⁷

47. It has also been suggested that work in controlled centres could afford a community-based alternative to incarceration and enable the prisoner to partially support his family.⁴⁸

48. Women prisoners have a number of special problems which arise when they are responsible for the care of young children. Statistics show that a high proportion (60 per cent) of women in prison are mothers, and that 28 per cent of them see lack of contact with their families or worry by their families as one of the main effects of their imprisonment.⁴⁹

49. In NSW a woman who gives birth to a child while in prison is allowed to keep the child for 12 months—then, if suitable care cannot be found for the child by the mother, it will be made a state ward. It is often very difficult for women prisoners to regain custody of their children if this happens.⁵⁰ Pressure is sometimes brought to bear on mothers who have their children placed in institutions for the duration of their sentence to have the child fostered out. If this happens there is no legal right for the mother to see the child or any obligation on the foster parents to bring the child to the gaol to visit her.⁵¹

50. Proposals that have been made on these matters include the following:

- (a) Where the spouse, parent or child of a prisoner is suffering from a serious illness, special leave should be given to them to visit the sick person. If this is impossible then rules relating to communication should be relaxed to allow maximum communication with relatives.
- (b) The custodial rights of women prisoners to their children should not be disturbed unless special circumstances demand it. Where this happens, rights of access should include an obligation on the person having custody, or the foster parents, to bring the child to the prison to visit the mother regularly.

Conclusion

51. Even a short term of imprisonment can have serious effects on the prisoner and upon the prisoner's family. Those involved in sentencing policy should be aware of the repercussions for the family and should develop alternatives to imprisonment where possible. Conditions in prisons should also be substantially improved to allow for more contact with the family. Maintaining a relationship is important in any rehabilitation program as well as possibly inhibiting the homosexuality which may develop when persons of one sex are confined together.

47. Submission 436, Council for Civil Liberties, NSW.

48. Submission 217, Womens Association, Prisoners Aid Society, Victoria.

49. Department of Corrective Services, Research and Statistics Division, Publication no. 7, *Background of women in prison*.

50. Submission from Women Behind Bars to NSW Royal Commission into Prisons, p. 28.

51. *ibid.*, pp. 25–6.

Recommendations

We recommend that:

1. The government should initiate a national family policy.
2. The government should introduce the concept of a family impact statement in respect of changes proposed in policies, programs and capital works. Such a statement should be required both of governments and of the private sector.
3. Governments should co-operate to increase the provision and distribution of family support services, especially preventive services and programs including home help and homemaker services.
4. Family centres should be established and evaluated.
5. Specialised services for particular groups of people (e.g. the aged) should be integrated within normal family services.
6. In planning and providing family services, governments should encourage user participation.
7. Government departments responsible for family services should recruit more lay workers.
8. Government departments should ensure that social policies and family services are better known. Information brochures written in the main ethnic languages should be widely distributed.
9. Community centres should be established immediately people move into new housing estates.
10. Travel and accommodation subsidies should be available, on a means test basis, to families living in remote and rural areas to assist in such expenses as visits to health and welfare services in the cities.
11. The government should move to bring family support services to people living in country towns and remote areas.
12. Marriage and family counselling services should be funded to send counsellors to country areas and to train people living in country areas.
13. The policy of the government should be to ensure that all children throughout Australia have access to child care of a type best suited to their needs and the needs of their parents.
14. Child care should be subsidised to ensure rates that parents can afford.
15. A range of child care should be available to all families, including those where one parent chooses to stay at home, but with preference for children in greatest need such as children of lone working parents, Aboriginal and migrant children, handicapped children, children 'at risk' and children who are geographically isolated.
16. Industry and commerce, organisations and institutions should sponsor a proportion of child care places in community centres.
17. Employers should be encouraged to provide child care facilities in consultation with trade unions and government; in appropriate cases they should be eligible for subsidies.

18. Continued support should be given to the Womens Trade Union Commission and the Working Womens Centre to develop child care programs and to encourage union involvement.
19. Aboriginal and migrant people should be encouraged and assisted to train in child care work, and special short-term training programs should be devised for this purpose.
20. Child care services for handicapped children should be integrated with normal services wherever possible. Special assistance should be given to those pre-schools and child care services which include a high proportion of handicapped children.
21. Child care buildings should be so designed that they can accommodate handicapped children.
22. The government should establish and evaluate work-based child care centres for its own employees.
23. High rise residential buildings should provide child care and recreational facilities (indoor and outdoor) for children of all ages, with residents using the facilities paying a nominal fee.
24. The government should publish and distribute regional information booklets giving details of available child care.
25. The government should seek ways of achieving a unified family law as to both legislative powers and the exercise of jurisdiction throughout Australia.
26. The Family Law Council and law reform agencies throughout Australia should examine ways of unifying and harmonising family law throughout Australia.
27. The government should consider a Constitutional amendment or the States should consider surrendering to the Commonwealth their powers in relation to all ex-nuptial children so that they could be covered by appropriate Federal legislation.
28. The Family Law Council and Australian and State law reform agencies should consider the law relating to the ownership of matrimonial property and to the financial obligations between husband and wife. Special attention should be given to the means of introducing a system of equalisation of assets acquired by husband and wife during marriage, intestate succession and inheritance rights, and to achieving uniform law throughout Australia on these matters.
29. The Family Law Council should examine ways of extending the power of the Family Court to deal with declarations, transfers and settlements of property of spouses in cases where an application for dissolution has not been made.
30. The Family Court should be given power to deal with the custody and maintenance of stepchildren and ex-nuptial children of either party living as a member of the household of the married couple at the time of separation (who are not the children of both parties).
31. The Family Court should be given jurisdiction in disputes between a parent and a third party in respect of the custody or maintenance of a child of a marriage.
32. The Institute of Family Studies should investigate the long-term effects on children of marital breakdown and of custody and access orders.
33. The Family Law Council should give consideration to the enforcement of custody orders, particularly in respect of children who have disappeared; funds should

be made available to assist partners to enforce custody orders in respect of children who have been taken interstate or overseas; consideration should be given, inter alia, to allowing an application to be made to the Family Court for a recommendation that the Department of Social Security disclose the address of a child in respect of whom a custody order has been made; child search officers or enforcement officers should be appointed to assist in tracing children in respect of whom custody orders have been made.

34. In any civil proceedings in which paternity or maternity falls to be determined the Court should have power to order a blood test in respect of a party or the child and to draw inferences from the failure of a party to submit to a blood test.

35. All necessary steps should be taken to ensure equality of status and rights for all Australian children whatever the marital status of their parents and, in particular, all Federal, Territorial and State laws which distinguish between the legitimate and illegitimate child should be reviewed and reformed.

36. A child's relationship to his or her parent should not be defined by terms such as 'legitimate' or 'illegitimate', nor should the child's status be so defined.

37. Provision should be made for the unification of legislation and jurisdiction in regard to the custody and maintenance of all children, whether by a referral of power, amendment of the Constitution or otherwise.

38. Fathers who have acknowledged their paternity or whose paternity has been judicially determined should be entitled to apply to the Court in respect of custody and access.

39. A uniform marriageable age of 16 for males and females should be introduced.

40. Persons under the age of 18 should not be able to marry without parental consent or an order dispensing with or granting consent.

41. Persons below marriageable age should not be able to marry under any circumstances.

42. The government should introduce a supporting parents pension to be payable to any single parent, with the present 6 months qualifying period abolished.

43. Steps should be taken to make the NEAT system more appropriate to the needs of lone parents both for training and retraining to enter the workforce.

44. Retraining schemes should, where appropriate, give priority to lone parents.

45. Part-time work should be incorporated into the career structure of the Commonwealth public service.

46. The taking of maintenance action should not be a prerequisite for eligibility for a widows pension or a supporting parents pension.

47. Public housing schemes should pay greater attention to the needs and wishes of lone parents whose housing should be integrated with the rest of the community.

48. The government should assist in the provision of short-term accommodation for lone parents.

49. The government should make provision for housing subsidies to lone parents, both by way of low interest loans and repayable cash grants to meet housing deposits.

50. Child care services should give priority to lone parent families.

51. Where government-subsidised child care is not available to lone parents, subsidies should be paid to enable the children to attend private child care.
52. The government should subsidise domiciliary care, home help and homemaker services, with particular recognition for lone fathers.
53. Self-help organisations for lone parents should be encouraged and supported by the government, which should also distribute printed information about self-help groups.
54. The State and Territory child welfare and health authorities should maintain contact with very young mothers and provide support and advice for the mother in the interests of the child until the mother demonstrates ability to cope.
55. The natural parent should be entitled to legal aid for advice on her position before an order is made dispensing with consent to adoption.
56. Women who have unwanted pregnancies or who are contemplating adoption or abortion should have access to counselling services to help them to understand the options and consequences and to reach an independent decision.
57. The sealed record system should be reviewed to enable natural mothers to obtain, from the adoption agency or department, general social information about the child and its progress; adoption agencies should record such information to enable them to answer queries.
58. Identifying information about the natural parent or adopted child should not be disclosed to the other party (or to the adoptive parents) except by the direction of a Court in exceptional circumstances, taking into account the interests and privacy of natural and adoptive parents and of the child. Applications to the Court should not be possible until the child has attained 18.
59. Adoption agencies should collaborate in an education program to develop community understanding and approval for mothers who relinquish children for adoption, and should accept as part of their responsibility the continuing counselling of the mother after she has released a child for adoption.
60. Babies and children being placed for adoption should be subject to detailed medical screening at birth; a social and medical history of the natural parents should be ascertained and recorded, so far as is practicable, and should be made available to the adoptive parents.
61. An adopted person on reaching 18 years of age should be permitted to apply to the department or agency in his State or Territory and should be entitled to obtain social information about his parents and their background from the relevant department or agency.
62. Upon the request of an adopted person aged 18 or over, or the natural parent of such a person, the department or the agency should endeavour to contact the other party and, if contact can be made, should inquire if that other party wishes to meet the requesting party; if so the agency should help to effect a meeting.
63. Adoption agencies, government and private, should contact adoptive parents from time to time to ensure that the adoptive parents inform and help children in their understanding of their origins; counselling services should be available to assist parents in this respect.

64. Adoptive parents should produce a certificate of physical and mental health including a certified medical history before they are admitted to the lists of prospective adopting parents.
65. Departments and adoption agencies should ensure that adoptive parents have a basic knowledge of child development patterns and that they receive adequate preparation for parenting; where necessary adoptive parents should be referred to a suitable agency for pre- and post-adoption education and counselling.
66. Government authorities and adoption agencies should collaborate in developing group learning programs and counselling programs for adopting parents.
67. Adoption agencies should accept as part of their responsibility the counselling of infertile couples who seek adoption, both pre-adoption or after failure to adopt; in appropriate cases infertile couples should be referred to other agencies for continuing counselling.
68. Health departments should alert health professionals to the need to develop a community acceptance of both infertility and childlessness.
69. The criteria for the selection of adoptive parents should be based on such factors as the ability to provide a suitable environment and to contribute to the welfare of the child. A person or couple should not be automatically excluded from consideration on the ground that the person or couple is or are unmarried or without religious affiliation.
70. Parties to an Aboriginal tribal marriage should be considered as persons eligible to adopt if they satisfy the general criteria.
71. Government authorities and adoption agencies should make every effort to employ Aboriginals to arrange adoptions of Aboriginal children, or develop special adoption agencies manned by Aboriginals for this purpose. Agency practice should recognise and respect the family customs of the Aboriginal people.
72. The Department of Aboriginal Affairs should make grants to Aboriginal welfare agencies to develop specialised adoption and fostering services.
73. Research should be undertaken into:
- (a) infertility and its social effects;
 - (b) the psychological effects of adoption on the natural mother;
 - (c) the sealed record provision in relation to adolescent identity.
74. Regulating government agencies should subsidise fostering families to the extent of their costs, and include adequate recompense for the mother or a subsidy for the voluntary organisations which provide cottage care.
75. Successful foster families should be encouraged to share their experience through foster parent self-help organisations, so that other families are encouraged to undertake this activity.
76. Where long-term fostering is considered appropriate because of the need to keep large families together, or because of the difficulties of placing atypical children, cottage homes should be encouraged with natural parents retaining access at all times. Community acceptance of such homes should be encouraged through local involvement and public education.
77. Members of Aboriginal communities should wherever possible be involved in the placement of Aboriginal children for fostering.

78. Training in childhood development should be available for foster parents and they should have constant access to professional counselling and support.
79. Family centres should be available throughout Australia, well publicised, widely distributed and open 24 hours a day.
80. The government should continue to fund womens refuges; the level of funding should be substantially increased until such time as there are sufficient refuges, appropriately distributed to answer community needs.
81. Funding for womens refuges should be flexible and should cover all costs, including salaries.
82. Housing authorities should provide half-way houses and flats, located near refuges, as a second stage in a woman's rehabilitation.
83. Housing authorities should waive regulations prohibiting women from setting up co-operative households.
84. The undergraduate and post-graduate education of health professionals and others likely to be involved should include information about marital conflict and how to deal with it.
85. People in health and other social services who encounter cases of family violence should be educated to deal with such cases and should have knowledge of local agencies able to assist.
86. Mental health emergency teams should be provided to attend serious cases of domestic violence as an alternative to police intervention.
87. Government child care services should specially provide for child care needs at womens refuges.
88. The needs of men in situations of domestic conflict should be researched and a pilot remedial program should be instituted and evaluated.
89. Public education programs about community resources, social services and legal remedies in cases of domestic violence should be organised at times and places convenient to women.
90. Information booklets should be written and distributed to women seeking help and should also be available in the main ethnic languages.
91. Police should have an understanding of domestic conflict and of how to deal with it.
92. Human relationships programs in schools should include discussion about conflict and violence, particularly in the family setting, and of the roles and relationships of men, women and children in family life. Programs should also provide information about community, social and legal services.
93. Parent education programs and school programs should help adults and young people learn constructive ways of dealing with anger and frustration rather than erupting into violence.
94. Parents and schools should help girls understand the possible consequences of dependency and their need for job skills.
95. The government should enact legislation to provide a national child protection centre within the Office of Child Care, which should receive adequate long-term fund-

ing to initiate programs for the management of child abuse, to conduct research, to convene national seminars, to act as a leader and co-ordinator in the field and to sponsor programs of community education.

96. National studies should be initiated concerning the extent and nature of child abuse in Australia.

97. Whenever a child has been diagnosed as abused, or is considered at risk of abuse, long-term follow-up procedures to safeguard the well-being of the child should always be implemented.

98. Abused children should receive long-term remedial programs especially designed for their individual needs.

99. Families of abused children should receive counselling, advice and long-term rehabilitative assistance.

100. Where there is a conflict between the needs of the child and the needs of the family, those of the child should come first.

101. Every effort should be made to initiate and support self-help groups throughout Australia, by way of government subsidies, professional assistance, research and evaluation.

102. The government should encourage the use of lay workers in the field of child abuse by providing training programs and subsidies.

103. The government should support community-based services, particularly voluntary ones. Long-term financial assistance is required and also research and evaluation.

104. The government should initiate and fund a conference, similar to the first national Australian conference on the battered child, to investigate the issue of the older abused child.

105. Child abuse services should be extended to cover the adolescent child.

106. Twenty-four-hour family crisis services should be established, both for parents and for young people.

107. Agencies (government and voluntary) concerned with adoption or fostering should, without fail, tell adopting or fostering parents if children have had a history of abuse. Such parents should be given professional advice and support.

108. Maternity hospitals throughout Australia should exert their maximum effort to ensure that parent-child bonding is fostered within the hospital setting.

109. Hospitals should evolve programs to identify those parents likely to need extra support, and call on all possible appropriate agencies for help. Such programs should involve evaluation.

110. The Department of Health should convene a national conference to discuss ways of implementing recommendations nos 108 and 109.

111. The National Health and Medical Research Council should allocate funding for research into the relationship between parent-child bonding experiences and child abuse.

112. Health visitor schemes should be piloted, evaluated and introduced if successful.

113. The government, through the Office of Child Care, should convene discussions between State and Commonwealth Attorneys-General and other appropriate child protection agencies (government and voluntary) in order to frame common definitions of child abuse, for both legal and research purposes.

114. The government should initiate and encourage parent education programs in a wide variety of settings including schools, local communities, the workplace, maternity hospitals, baby health clinics and via the media. Such programs should foster constructive non-violent ways of dealing with family conflict and discipline.

115. Schools and child care agencies should relinquish the use of physical methods of punishment; education of teachers and child care workers should teach constructive disciplinary techniques that are not based on physical punishment.

116. All professional and community workers likely to come into contact with child abuse (e.g. doctors, nurses, teachers, social workers) should be educated to understand the nature of the problem and how to help. Programs should be at both undergraduate and adult education level, as well as through special courses for people already in the field. Programs should include information about family support services.

117. Police officers and police trainees should receive education and skills to deal with cases of child abuse, and should be aware of all those community agencies likely to be of help.

118. The government should acknowledge the profound effect alcohol has on human relationships and should develop and announce a national policy on alcohol.

119. The government should sponsor a nation-wide education campaign on alcohol use and abuse, and develop suitable programs.

120. Education for health and welfare professionals should cover problems related to alcohol, with special attention to human relationships.

121. The government should consider means by which some of the revenue obtained from liquor could be diverted into education, prevention and treatment programs.

122. The government should encourage the development of programs in industry and commerce about alcohol and should show the way through programs in the public service.

123. The government should encourage and assist self-help and community groups which offer support to alcoholics and their families

124. Alternatives to short terms of imprisonment should be further developed, including weekend work and community services.

125. Efforts should be made to reduce the period of remand before trial.

126. Provision should be made adjacent to a prison for spouse and family visits maintaining the privacy and dignity of the parties; where possible prisoners should be allowed weekend visits home.

127. Prisoners should have more liberal permission to write and receive letters and more liberal access to phone calls and newspapers.

128. Where a parent is in prison and children are in care of a department, provision should be made to ensure that contact is maintained with the children, e.g. by arranging for them to be brought on visits; custodial rights should not be disturbed unless necessary for the welfare of the child.

129. Special visiting leave should be granted in cases of serious family illness.

130. Provision should be made where appropriate for transfer of prisoners (including interstate transfers) or for fare subsidies (e.g. free rail passes) to ensure that a prisoner can maintain contact with the family.

131. Prison counsellors and interpreters should be concerned to assist in maintaining family ties and passing on family information to the prisoner.

Annexe V.A

Extract from J. Harper & D. Worrell, *Young mothers and the workforce*, Commission research report, no. 12, 1976

The story with respect to child care and its relationship to choice seems to be that lack of acceptable arrangements do have a part to play in limiting the options of women. However, the barrier was not so much that *no* care was available, although this was sometimes the case, but rather that the mothers who had remained at home generally did so from a strong belief in the superiority of their own care. If their standards could not be met, and they could only be met, in many cases, by close friends or relatives, then the mother chose to continue with the care herself.

General indications are, as we saw in the chapter on perceptions of choice, that most of these mothers would prefer to be home with their young children. Certainly, once they were restricted from working because the ideal solution for child care was not available, they came to see their mother role as a very important one. Working mothers sometimes shared with the non-working the belief that their own care was superior, because they were prepared to restructure their own working hours, and often their own careers (as for example with teachers) in order to avoid having people other than themselves or their husbands in charge of the children. However, generally the working mothers were more than happy to see their children establishing other contacts, and few saw them as deprived in any but the mildest sense.

The high proportion of working mothers who relied on informal care is duplicated in the solutions which the housewives saw for child care, if they should wish to enter the workforce. The blue collar wives had many more friends and relatives available, who did in fact help with care, and who would be able to in the hypothetical case.

Few of the housewives saw crèches as a solution, or considered the possibility of after-school or school holiday centres; that is, until these were brought to their attention later in the interview. Nor did those mothers currently working frequently use crèches. But those that did were very positive about them, and other working mothers would have preferred them if they were not so expensive or scarce.

One fact stands out like a rock, and it is not surprising in view of the beliefs and values about motherhood which have played such a large part in our culture. The fact is that it is the mother who is seen by herself, her husband and seemingly most other people as the one who is ultimately responsible. If she can make arrangements for care, or can adjust her own work schedule to fit in with the care of children, well and good. If she cannot do this in a manner satisfactory to her, then it is *she*, and not her husband, who stays at home.

Annexe V.B

Extract from E. Cox and J. Martin, *Stress amongst migrant women*, Commission research report, no. 13, 1976

6.8 *Summary of child care needs*

Child care is a scarce resource, unevenly distributed throughout the community. The migrant groups who occupy poorer areas are less likely to share in those services available. They are therefore forced into private minding and expensive commercial centres. The hours of care they require are also not provided by centres and they are all the more dependent on informal minding. The results are that many children are receiving inadequate care and their need for special programs, particularly in the area of language, are not being met.

Migrant parents express constant anxiety about the standards of child care, particularly physical care. They would seem generally to prefer government-sponsored and supervised care, as they see this as guaranteeing a reasonable level of care. They are not happy about informal care, but would obviously prefer care-givers with whom they could communicate. There is a need to set up flexible multi-purpose centres, staffed by multilingual and Australian staff, operating at hours that meet the needs of the area and the children. This means very early starting hours or even overnight operations. There is a need for more communication on child rearing practices with attempts on each side to understand the various concepts of the roles of parents. 'Carers' must understand the migrants' emphasis on physical well-being; and migrants must be led to understand, and not feel so threatened by, Australian customs.

Lack of child care programs to discourage women from entering the workforce is not feasible. There is a need for the extension of maternity leave provisions and the possible provision of on-site care with parent-controlled centres for the very young child. However, the problems of child care should be met generally by providing adequate family support services, so that children and parents can establish themselves adequately in Australia.

Annexe V.C

(i) Fourteen case histories from the 'unwanted pregnancy phone-in'

1. NSW resident, was raped in WA approximately 1971, now married. She had the baby adopted, and considers it was for the best.
2. Seventeen-year-old in 1967, now married with another child. Her parents took control and organised the baby's adoption. 'All I had to do was sign the paper.' She said:

It is a terrible emotional experience. I gradually overcame the effect of hearing a baby cry by purposely going to the baby ward at a hospital. I still wonder constantly about the child. It seems more special to me than the child I now have.

She had nightmares that her present child would be taken from her. When asked if she ever had another unwanted pregnancy she replied:

I don't think I would ever think of it as an unwanted pregnancy. I would never adopt my baby out.

3. Single 16½-year-old in 1970, now married with two children. Her parents pressured her to have the child adopted. The home for unmarried mothers was 'terrific'. She tried to revoke her consent to the adoption. When she phoned the 'government agency' she was refused as the baby 'was out to a very happy family for 3 weeks'. Afterwards, she came close to a nervous breakdown as it had been her parents' wish, not hers. She 'still gets upset now and again' but not as bad as in the first year. She still questions herself. Her present children are a constant reminder and are not compensation, though they are a constant pleasure to both her and her husband.

[She hates] hearing these people who complain about there not being enough babies to adopt. They don't realise the suffering of the natural mother.

4. Single 22-year-old in 1973, now married with one child. Her parents and her brother pressured her to have the baby adopted. She wanted to keep the baby 'but owed it to her parents and brother'. She was going to keep the baby right up to the birth but 'the natural father would have walked out'. She herself contacted the Catholic Adoption Agency, who were quite sympathetic, not censorious. She felt they knew their job. She concluded 'I have no regrets', but she feels there is a need for:

. . . women who have had children adopted to discuss the process with mothers about to give up a child. These women need support. They need to know that you get over it. They need to have somewhere to go: a group to go to while pregnant and afterwards.

Through the adoption agency she received two letters and a photo from the adoptive parents; ' . . . beautiful letters. I did really well.'

5. A 25-year-old laboratory technician, Queensland. She was divorced at the time and living with a man, who left her when she was 5 months pregnant. She was pressured by her father to have the baby adopted. By the end of the pregnancy she had met her present husband, who would not accept the child. She was quite satisfied with the 'businesslike arrangements made by the Queensland State adoption authorities'.

6. A 25-year-old teacher in 1963—then unmarried. A Catholic home for mothers and babies both housed and counselled her. She was not pressured but it was assumed that the child would be adopted. The nuns did the paper work and she was told little about the adopting parents. Counselling by the head of the home was non-judgmental, with no recrimination or reinforcement of guilt. She was counselled to

accept what had happened and to get on with life. She had a lot of family support throughout. She regretted the adoption but felt it was in the child's interests. She wanted him to have 'a happy home and not be branded'. Her main source of distress now is that her husband doesn't know and she wishes she had told him earlier, and she has 'many sorrowful thoughts'. She would like contact with the child at 18 if possible.

7. Unmarried 16-year-old in 1960, in fourth form at school. She was raped 'by a fellow who followed her home and used force'. No one believed it was rape. She didn't want to have the baby adopted but was told she couldn't leave hospital till the papers were signed, nor could she keep the baby because she was under age. She was not counselled, only pressured. 'They wanted the baby.' She cried a lot afterwards. She said 'I don't think about it much now but it still upsets me'.

8. A 19-year-old student in 1974, unmarried. She was not pressured by the agency or the father, but her parents pressured her to have the baby adopted. Feels very 'deprived, tense, nervous, feels something is missing'. She feels that if it happened again she would keep the baby.

9. Eighteen-year-old in 1968. She said the hospital social worker was 'fabulous, really marvellous' and helped her come to terms with how she felt. She was not pressured by her mother to have the child adopted. She was put into the maternity ward after the birth and saw everyone feeding their babies. She cried for the first 2 days, then she was 'OK' and hasn't regretted it. She said 'It is definitely a good idea not to see the baby because you can't put a face to it'. She feels she really never had a child. She would be glad to see the child at 18 if the child wanted to ask questions. She doesn't yearn for the child.

10. Thirty-six-year-old in 1971. Had a 4-year-old daughter adopted, after her husband's suicide when the child was 2, and after her own unsuccessful battle to regain her sanity after breaking down on his death. The deciding factor was that the child's home, where the child resided, refused her permission to see the child when it was ill. The child had previously pressured her to take her away but she was unable to do so. The child's home had also pressured her to give up the child. She sought the help of a church adoption agency and her child was placed, as she was told, in a 'well-to-do home with two big brothers'. She often wishes to know how she is, whether she 'hasn't run under a car', saying also: 'I couldn't bear to know if she were badly treated', and:

I don't know if I would be fit to see her when she is 18. I'd just like to know she is all right.

She does feel she would like to see her daughter at 18 to see for herself how she is. She feels that if a woman gives up a child for adoption she needs to know about the life of the child, about its well-being.

11. Now aged 46. At the time she was 20 and unmarried, but subsequently married. She had the child adopted. She still wonders about it. She looks at young men in the street wondering if they are her child. Recently she went to a nightclub with her husband and danced with a young man and said she could not put it out of her mind that he was just the right age to be her son.

12. Unmarried 20-year-old in 1959. The adoption was arranged by her doctor and the hospital. It was taken for granted that she would have the baby adopted, by her parents, the child's father and her medical adviser. After the adoption she had no one to talk to about it. She was inhibited from talking about it. She felt the need to talk to someone. She had no money and no help following the adoption.

13. Married 44-year-old. Total eight pregnancies, five during her first marriage, all aborted except the fourth, and this child was adopted out, with the aid of the hospital, in 1962. Her husband didn't want children and pregnancies were the result of failed contraception. She was advised of the economic status of the adoptive parents and quite happy with the procedure.

14. Unmarried 19-year-old in 1968, a trainee nurse. Her hospital advised her about adoption, as did the home to which she went. She was very despondent after the adoption. She is now married with another child but still gets very upset about the adopted child.

(ii) Notes of cases from the 'phone-in'

The following are brief extracts of histories given by other women who phoned in on unwanted pregnancy and who had their child adopted.

1. Now aged 50. Carried child to term—adopted it out. Feels it is all right for people to talk about adoption but you suffer all your life. She had the child at 25 and it was a difficult birth followed by adoption. She was then unmarried—feels it should be a personal choice.

2. Anonymous, a teacher aged 23 in 1973. At the time she was financially broke and never told her parents. There were no pressures, her parents never knew and she got no help. She later had hepatitis and cirrhosis of the liver and can no longer have children. She was able to put it out of her mind at times but regrets it now.

3. Now married with two children and 35 years old. It was in 1958 and her first sexual experience. Her parents were very religious and she could not discuss it with them. She got advice from girlfriends as to where to go for an abortion, but could not get into the house (backyard). All other attempts failed. Eventually she told her parents (at 6 months) and went through with the pregnancy. She was pressured by her parents and church to adopt the child out although she desperately wanted to keep the baby. The church and welfare department gave lots of help, but abortion was not available. After the baby was born she felt frustrated because she could not afford to keep her own child and she is still making an effort to locate her.

4. Now aged 30, was 21 at the time. It was not exactly rape but the situation got out of hand. There was no contraception—she was not intending intercourse. Contraceptive advice was only available from a doctor. She looked into the position of having an abortion, but was glad she didn't. The baby was adopted immediately. It was a new life for her and security for the child. She had wanted to keep the baby but put this aside for the child's sake; there had been no pressure, it was her own decision.

(iii) Notes of five case histories from written responses to the 'phone-in'

1. Age not stated. She was 15½ at the time, quite ignorant, unaware of the consequences of intercourse; she thought pregnancy could not result from having intercourse only twice. She was 4½ months before she realised she was pregnant. There was subtle pressure to go away from home, and this was her own choice also. Until the birth she stayed with her brother and sister-in-law. There was no counselling, but she didn't miss out on help and understanding. She would have had an abortion if she had known where to go.

2. A single social worker, aged 23, wrote of her opting for abortion rather than adoption thus:

The idea of having the baby and then having it adopted out was very obnoxious. I did not want to become a brood mare for someone else, although I feel sorry for people who want children and can't have them.

3. A separated mother, supporting two children, having had three pre-marital abortions, attributed to lack of knowledge and availability of suitable contraception, concluded by saying:

I could never go through 9 months of pregnancy and labour, then give away my child! Yet there was no way then, and no way now, that I could keep that child. So abortion was and now is my only choice. I would be one of the many women who would look at every child of appropriate age and wonder 'Is this child adopted? Could it be mine? Today my child will be X years old. Is my child happy, is it well loved?' The trauma would rip me up. For me, no trauma in an abortion.

4. A mother of three found in 1974 that she was pregnant after an interval of 10 years from the third child. She wrote:

I did not consider adoption a possibility. I could not have gone through a full pregnancy only to have the child adopted.

5. A single mother spoke of her experience 3½ years ago, saying it was:

. . . very difficult and emotionally traumatic. I found that ministers, doctors, social workers and strangers all tried to persuade me towards adoption. I can also speak for another single mother, who also experienced the same persuasion. I am greatly concerned about this, especially with the great demand for babies for adoption.

The correspondent wrote a further letter telling of the pressures applied by parents and stating that she saw such pressures resulting in adoptions as an unrecognised crime that will remain with the victim for the rest of her life.

Annexe V.D

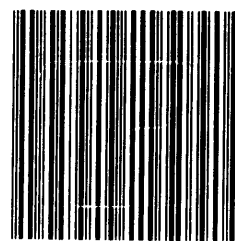
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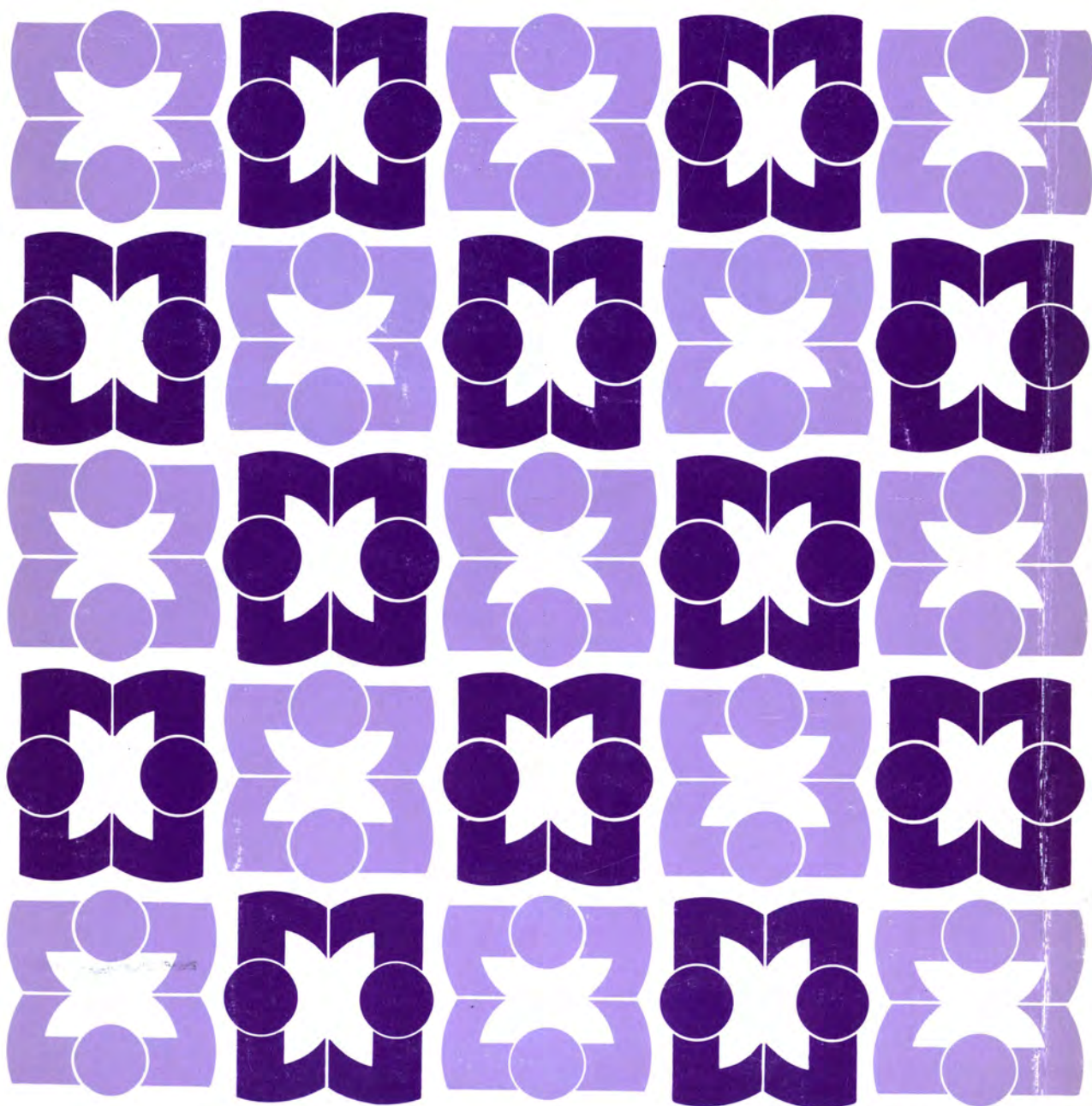
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