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Secretary: [REDACTED]

8th August 2003

Committee Secretary
Standing Committee on Family and Community Affairs
Child Custody Arrangements Inquiry
Department of the House of Representatives
Parliament House
CANBERRA ACT 2600
Australia

Sir/Madam

I wish to make a submission to the Inquiry.

I am the second wife of [REDACTED], a divorced father of three children who are now grown up. I have known him and his first wife [REDACTED] since the 1960's.

Firstly, I wish to discuss the consequences for [REDACTED] and his children of having "Open Access". Secondly, I want to discuss the way in which the child support formula worked unfairly for my husband and the taxpayer.

As an employee of the Child Support Agency I checked with my superiors about my wish to make a submission to this Inquiry. Nothing that I say in this submission is said on behalf of the CSA. My aim is to describe effects on my husband, his relationship with his children and with me.

OPEN ACCESS

Reasons for Open Access

[REDACTED] occupation was as a navigator/camera-operator in aerial survey. He was the managing director of their company; she was a director who did the invoicing, paid suppliers and staff, working only at home, in the registered office of the company.

He had to be on standby to fly every day of the year except for a very few, because cloudless skies were required but usually not in evidence. In the long run he flew 2 days out of 7 but had to be at the airport ready to fly early on most mornings. If cloud formed, the flight would be diverted to another target area or cancelled.

After the separation in 1990 between [REDACTED] and C she asked in the Family Court of Australia for custody of the children, with which [REDACTED] agreed. She also asked for the standard every-other-weekend access for [REDACTED], with set start and finish times. He asked for Open Access because of his occupation, and the court granted Open Access.

Outcome of Open Access

Open Access worked fairly well until it was clear to [REDACTED] and C that reconciliation was not going to happen. After that, in another hearing, C said that she wanted [REDACTED] to ask her when he wanted to see the children; she said she would say "yes" but she wanted him to ask her, rather than merely asking the children. [REDACTED] started off asking her, but it was almost always the case that she had an excuse why he couldn't see the children.

After the separation [REDACTED] rented a flat not far from the family home, close enough for the children to be able to ride their bikes to his flat. Not even once did the children ride to his flat.

By 3 months after separation she was going out with B, who eventually became her new husband. C would go out every Saturday night with B. Sometimes she would have her mother mind the children, but more often than not she left the children home by themselves. The eldest was 14. She would not permit the children to spend that time with their father.

There were few times when the children were "allowed" by their mother to stay with him for the weekend. After that, for a couple of years, access consisted of [REDACTED] going to Sizzler for dinner, where the two older children had part-time jobs as waiters. Then [REDACTED] got angry about having to pay to see his own children.

[REDACTED] used to see the youngest one by going to a basketball stadium where the boy played basketball on a Saturday. The children would say a few token words to him at interval, acknowledging his presence, but otherwise sat with their mother and B.

The daughter played netball on a week-night. Sometimes I would go with him to watch. C had a neighbour drive the daughter to and from the netball stadium. [REDACTED] was just an onlooker. C would not permit him to pick up his daughter or drive her home. This was profoundly humiliating.

When the daughter accidentally let slip the fact that she was making her debut, [REDACTED] said he wanted to go. The daughter got tickets for him, but after that the children became more adept at keeping secrets from him.

When the youngest child asked [REDACTED] to go to a parent-teacher interview [REDACTED] eagerly said "yes". But within two hours C phoned him to forbid him, specifically forbid him, from going to that school function or any other. I heard [REDACTED] say to C on the phone, "You've got custody, not ownership." [REDACTED] told me that C replied, "It *is* ownership."

Because [REDACTED] did not ask the FCA to award him contact with the children on every second Christmas Day, or birthdays etc., he has not had Christmas Dinner with his children on Christmas Day since 1989. All three children have graduated, are working and are in stable relationships of their own, yet not one of them has ever dared to cross their mother's wishes by having Christmas Dinner with their father on Christmas Day.

When the eldest, a boy, started first-year engineering at university he decided early in the year that he wanted to defer a year. He told that to his mother, and she forbade him. She made an appointment with someone in the faculty, where she found out that the boy had already signed to defer that year. She went home, and told the boy that he had until 11 a.m. the next morning to move out of the house. Initially he went to stay with a friend and kept it quiet. When we found out we invited him to live with us, and we gave him a free choice about that. Almost immediately C talked him into moving back with her, but after a week with her he came to live with us. He almost had Christmas Dinner on Christmas Day with his father that year, but C talked him out of it on Christmas Eve. That is a fact. We gave him a 21st birthday party just with his siblings and his uni friends at a restaurant in the city.

When the daughter was due for her 21st birthday party C and B gave her a big night at a function centre, and [REDACTED] was forbidden from attending. When the youngest child, a boy, turned 18 he moved out of home and into a flat with his girlfriend.

Significance of [REDACTED] Contact Arrangements for Separated Families in General

Although [REDACTED] children had a right to a relationship with their father, there was no power that would make C refrain from doing her best to destroy that relationship. (In 1987 she had rung me at home at midnight to ask me if [REDACTED] was at my place. I was astonished because he wouldn't have been, and it was to be years before we ever said anything personal to one another. As far as everyone at the airport knew, [REDACTED] was an utterly faithful husband who didn't drink, smoke, gamble, party, get violent or womanise. She told me that if [REDACTED] ever left her she would "tear the company to shreds" and "destroy his relationship with the kids." She proved to be true to her word.)

C didn't *need* a right to contact with her children because she had custody.

While it is right for family law to put the best interests of children first, it is necessary in my opinion for legislation to be changed so as to make it far harder, preferably impossible, for a vindictive mother to be able to "disenfranchise" the children's father.

I have heard talk on the ABC to the effect that children need "a father figure" in their lives. The practical reality of things as they are now permits a mother to decide who that father figure will be. In other words, a mother who wants to install a new father for the children can do so with impunity. I would prefer to hear politicians and commentators such as Prue Goward saying that children need *their own father* in their lives. If that father is violent or on drugs, then it is time to consider each case on its merits.

On ABC radio I heard Bettina Arndt taking a call from a father who had gone to court twice to try to get access to his children. Both times the judge awarded him access, yet the mother continued to deny access to him. He didn't have any more money to go to court again, and even if he did, it wouldn't be a remedy. There was no power in Australia which would ensure that those children had a relationship with their father. Bettina talked to fathers by saying that one day their children would grow up and seek their fathers out. Yes, they probably will, but by then their fathers will be like

strangers to them. She urged them to pay their child support because when the children grow up they will know that their father cared enough to do that.

In [REDACTED] case it really was a fact that if he took steps to see more of his children C would retaliate. He would end up with even less contact than he already had.

Now the children are grown up, but they are so brainwashed by their mother they don't know any better. I believe the answer is to dispense with the old ideas of allocating custody automatically to the mother. Many fathers agree to giving mothers custody, as [REDACTED] did, until they find out that they are powerless to continue their relationship with their children.

Both parents are the children's parents.

Both parents have a responsibility to contribute financially to raising the children.

Both parents, I believe, have a responsibility to contribute to the raising of the children in moral, educational, sporting, religious, civic, social, ethical ways etc., and no-one (including judges) should be allowed to prevent a parent from exercising that responsibility unless there are reasons such as drug-taking which warrant otherwise.

A functional relationship cannot be sustained on the every-second-weekend system.

I fear for the kind of world there will be, given that so many children of separated parents grow up seeing their fathers treated as though they are nothing more than a biological fact, someone less than a family member, hurt, crushed, broken; while everyone they know accepts it as if it is OK. Children are learning to be emotionally disconnected with reference to their fathers. Children are learning double standards.

CHILD SUPPORT FORMULA – FINANCES

The formula took no account of the fact that C had a financial advantage from living in the company's registered office. The company paid directly (not through her wages) for the following for her, in full, legally:

Council rates and water rates

Home insurance

Electricity and gas

Car, petrol, servicing, registration and insurance (and sometimes petrol for her boyfriend)

Typewriter and office equipment

Telephone

Drinks, lunches etc. ("representation")

School stationery for all 3 children.

(The house was paid off; there was no mortgage.)

She had a part-time job as a masseur but said that her income from that was "hobby money" that she didn't have to declare.

She was in receipt of a pension. That is a fact.

She got legal aid but Lance didn't.

He and she took the same gross wage from the company, but only he had to pay for rent, gas, electricity, telephone, etc. out of his wage.

She kept the company books, and [REDACTED] didn't see them for two years. He didn't see them until *after* he signed the property settlement. She was very partisan in the way she paid creditors. Those who sympathised with her were paid 7 days. Several genuinely impartial creditors who tried to carry on "business as usual" would be paid 90 – 180 days. Lance's solicitor said C "would be doing a bad job of the books" but the company's accountant just went along with her. She had her solicitor write to all the creditors, directing them to deal with her alone and not discuss the business with its managing director. People complied. Some were very embarrassed.

After the property settlement [REDACTED] went through the books and found that there were bills like hangar rent, council rates, water rates, and numerous accounts of an aviation nature which were 6 – 12 months or more in arrears. The company was, in effect, already torn to shreds, and C had succeeded in making victims of innocent creditors.

At the first FCA hearing after the separation [REDACTED] told C, in front of the registrar, to take child maintenance out of his net wages, and send him a cheque for the balance. As far as Lance knew, she was doing that. But she didn't supply him with pay slips, and [REDACTED] solicitor didn't write out the agreement that day in court. In Nov 1991 [REDACTED] received letters in the mail from the CSA. C had opted in with *17 months* arrears, all payable immediately. (He received these letters soon after the divorce.) [REDACTED] would not speak to the CSA but I contact them twice, and an officer admitted to me that C had told the Agency that Lance had not paid her any child support since their separation. Late payment penalties began to accrue immediately and he paid it all as soon as he could. I have been told that it was never legal for a payee to opt in with 17 months arrears, but we have the documents that prove that it happened.

In the week before settlement day C emptied the company bank account with cash cheques for herself (up to the overdraft limit), and *then* drove to the bank to get permission to pay herself her holiday pay, long service leave pay, and final wages, cashing the cheque over the counter, pushing the bank balance thousands over the overdraft limit, and then delivered the company books to the company's accountant's office.

I believe we need new laws for cases when a couple, who are also co-directors, separate. If the company book were kept *by law* on the firm's accountant's premises, instead of being kept by one of the parents, the other director would have the opportunity of looking at and/or working on the company books.

I believe that child support assessments for separated company co-directors should be automatically done by the Change of Assessment Team who can take into account things like the family home being the registered office, benefiting one parent and not the other financially, and make variations accordingly.

[REDACTED]

[REDACTED]