

PARLIAMENT OF NEW SOUTH WALES  
LEGISLATIVE COUNCIL

STANDING COMMITTEE ON LAW & JUSTICE

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REPORT ON THE INQUIRY INTO THE

- FAMILY IMPACT COMMISSION  
BILL -

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## Terms of Reference

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The Standing Committee on Law and Justice has received a reference to inquire into and report on:

- (a) any public comments on the Family Impact Commission Bill; and
- (b) any proposed amendments to the Bill.

# Committee Membership

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THE HON BRYAN VAUGHAN, MLC, AUSTRALIAN LABOR PARTY  
**CHAIRMAN**

THE HON HELEN SHAM-HO, MLC, LIBERAL PARTY  
**DEPUTY CHAIRPERSON**

THE HON JANICE BURNSWOODS, MLC, AUSTRALIAN LABOR PARTY

REVEREND THE HON FRED NILE, MLC, CALL TO AUSTRALIA GROUP

THE HON PETER PRIMROSE, MLC, AUSTRALIAN LABOR PARTY

THE HON JOHN RYAN, MLC, LIBERAL PARTY

THE HON JANELLE SAFFIN, MLC, AUSTRALIAN LABOR PARTY

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### **APPENDICES**

*The appendices have not been reproduced here. For a copy, please contact the Secretariat on Telephone: (02) 9230 3311, or Fax: (02) 9230 3371, or Email: law.justice@parliament.nsw.gov.au*

1. Family Impact Commission Bill 1995
2. Second Reading speech: Reverend the Hon Fred Nile, MLC (23 May, 1996)
3. Proposed Amendments
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  - Opposition
4. Parliamentary Debate on reference to the Committee (10 April, 1997)
5. Correspondence between Committee and Premier concerning the consideration of the impact on families of Cabinet proposals and the establishment of the Office of Children & Young People within The Cabinet Office.
6. Submissions received
7. Minutes of Proceedings of Committee meetings at which the Family Impact Commission Bill was discussed

# Chairman's Foreword

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This report is the result of the second inquiry during which the Standing Committee on Law and Justice has been required to act as a Legislation Committee. Unlike the first such inquiry [into the Crimes Amendment (Mandatory Life Sentences) Bill 1995], the Committee was given a reasonable time in which to conduct the inquiry and consult with the community. Furthermore, the terms of reference for this inquiry were quite specific in setting out the nature of the inquiry to be conducted by the Committee. That is, the Committee was required to inquire into and report upon:

- any public comments on the Family Impact Commission Bill; and
- any proposed amendments to the Bill.

The Family Impact Commission Bill was referred to the Standing Committee on Law and Justice during the detailed consideration of the clauses of the Bill in the Committee of the Whole. Speakers in the brief debate leading to the reference noted that, following the Committee's report, the Legislative Council would resume its consideration of the Bill and deal with the proposed amendments. In view of the terms of reference and the intention of the speakers in the debate leading to the reference, the Committee has not sought to conduct any analysis of the submissions received. Neither has the Committee sought to test any of the comments made in submissions through inviting the authors of submissions to give evidence at hearings.

However, rather than merely presenting copies of the submissions received to the Legislative Council, the Committee has sought to summarise the main issues raised in the submissions. This report therefore includes chapters which contain:

- a brief overview of the Bill;
- a summary of the main points made in the submissions arguing in favour of the Bill;
- a summary of the main points made in the submissions arguing against the Bill;
- a summary of the comments contained in the submissions concerning the proposed amendments; and
- a summary of the comments contained in submissions suggesting greater recognition of children or that the Bill be recast as a Commissioner for Children Bill.

The Committee has deliberately not drawn any conclusions or included any recommendations in this report. Rather, the Committee has left it to the Legislative Council to decide what to do with the Bill when the Committee stage resumes. It is the Committee's hope that this report will be of assistance to all members in their

consideration of the Bill.

In reporting to the Legislative Council upon the nature of the submissions received on the Bill, without drawing conclusions or making recommendations, the Committee is following the practice adopted by House of Commons Standing Committees generally and NSW Legislative Assembly Legislation Committees during the Fiftieth Parliament (1991-1995). It is the Committee's view that this is the appropriate way for a Standing Committee of the Legislative Council to operate when acting as a Legislation Committee. Ultimately, whatever legislation is under review by a Standing Committee, it is for the Legislative Council itself to determine the fate of the legislation.

I would like to thank the members of the Standing Committee on Law and Justice for the constructive and non-partisan manner in which they have approached this inquiry.

On behalf of the Committee I would like to thank the staff of the Committee Secretariat for their work in the preparation of this report. Ms Sian Apter, a postgraduate student in Macquarie University's Master of Public Policy program conducted the initial review of the submissions received and prepared the first draft report. The Committee Director, Mr David Blunt, and the Senior Project Officer, Ms Louise McSorley, used Ms Apter's work as the basis for further drafts of the report, through to the production of the Chairman's draft which was adopted by the Committee as the Committee's report on 19 November 1997. The presentation and formatting of the report, and the compilation of the appendices was handled by the Acting Committee Officer, Ms Sian Ford.

**Most importantly, I would like to thank all of those organisations and individuals who took the time to make submissions to this inquiry.** It is those submissions which has made this inquiry worthwhile and it is the points made in those submissions, which are summarised in this report, which make this report a useful document.

**Hon Bryan Vaughan MLC**  
**Chairman**

# Chapter One

## Introduction

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### 1.1 Background to this inquiry

1.1.1 The Family Impact Commission Bill (the Bill) was originally introduced into the Legislative Council by Reverend the Hon Fred Nile MLC (Rev Nile) on 26 October 1995. The Bill is reproduced as Appendix One. Rev Nile began his second reading speech on 26 October 1995. However, due to the prorogation of the Parliament in January 1996 the Bill lapsed.

1.1.2 Following the reopening of Parliament in April 1996 the Legislative Council resolved that the Bill be restored. On 23 May 1996 Rev Nile completed his second reading speech and debate on the Bill commenced. Rev Nile's second reading speech is reproduced as Appendix Two. Debate on the Bill continued on 12 September, 26 September and 24 October 1996. On 24 October 1996 the Bill passed its second reading in the Legislative Council.

1.1.3 On 10 October 1997 the Legislative Council began its consideration of the Bill in Committee. The Leader of the Opposition referred to a series of amendments that the Opposition had proposed in relation to the Bill. Reference was also made to a number of amendments proposed by the Hon Richard Jones MLC. The amendments proposed by the Opposition and the Hon Richard Jones MLC are reproduced as Appendix Three.

1.1.4 During the Committee stage of the consideration of the Bill on 10 April 1997 the Leader of the Opposition moved that the Bill, and the proposed amendments, be referred to the Standing Committee on Law and Justice for inquiry and report. Upon the report of the Standing Committee on Law and Justice, the Legislative Council would resume its consideration of the Bill and proposed amendments in Committee.

1.1.5 Following a brief debate about the time frame for the proposed inquiry by the Standing Committee on Law and Justice, the following resolution was passed by the Legislative Council:

That [the Family Impact Commission Bill 1995] be referred to the Standing Committee on Law and Justice for inquiry and report on:

- a) any public comments on the Bill; and

- b) any proposed amendments to the Bill.

That the Committee report by Tuesday 25 November 1997.

The brief debate upon the reference to the Committee is reproduced as Appendix Four.

## **1.2 Conduct of inquiry**

1.2.1 The Committee resolved to advertise for public submissions in relation to the Bill, with a closing date of Friday, 29 August 1997. On 14 June the Committee placed advertisements calling for submissions in the major metropolitan and regional newspapers.

1.2.2 The Committee Secretariat prepared an Information Pack in relation to the Bill, consisting of:

- Parliamentary Debate on reference to Committee, 10 April 1997;
- Second Reading Speech (Rev Hon Fred Nile MLC), 23 May 1996;
- Family Impact Commission Bill 1995; and
- Amendments proposed to the Bill.

The Information Pack was sent to members of the public who telephoned the Committee Secretariat expressing an interest in making submissions. Copies of the Information Pack were also distributed, with a covering letter, to a range of interest groups, including religious organisations and groups with an interest in family welfare or family research, with an invitation to make submissions.

1.2.3 The deadline for submissions to be received was extended on two occasions, with the final deadline being 31 October 1997. By 31 October the Committee had received 42 written submissions. A full set of the written submissions is reproduced in Appendix Six.

1.2.4 Of the 42 written submissions received, 23 were from organisations and 19 from individuals. 31 of the submissions were in favour of the Bill and 11 were opposed to the Bill. Many of the submissions in favour of the Bill are relatively brief. The submissions opposed to the Bill are generally more lengthy.

1.2.5 In addition to written submissions, the Committee Secretariat also received 11 telephone calls from individuals who expressed their support for the Bill in its current form.

1.2.6 The Committee met to consider the Chairman's draft report and complete its deliberations on this inquiry on 19 November 1997. The Minutes of Committee meetings at which this inquiry was discussed are reproduced in Appendix Seven.

### **1.3 Nature of this report**

1.3.1 As set out above, the terms of reference for this inquiry required that the Committee report on "any public comments on the Bill" and "any proposed amendments to the Bill". Speakers in the brief debate leading to the reference noted that following the Committee's report upon these matters the Legislative Council would resume its consideration of the Bill and deal with the proposed amendments.

1.3.2 In view of the terms of reference and the intention of the speakers in the debate leading to the reference, the Committee has not sought to conduct any analysis of the submissions received. Neither has the Committee sought to test any of the comments made in submissions through inviting the authors of submissions to give evidence at hearings.

1.3.3 However, rather than merely presenting copies of the submissions received to the Legislative Council, the Committee has sought to summarise the main issues raised in the submissions. This report therefore includes chapters which contain:

- a brief overview of the Bill;
- a summary of the main points made in the submissions arguing in favour of the Bill;
- a summary of the main points made in the submissions arguing against the Bill;
- a summary of the comments contained in the submissions concerning the proposed amendments.

1.3.4 A further brief chapter has also been included which summarises the view put forward in a number of submissions suggesting greater recognition of children or that the Bill be recast as a Commissioner for Children Bill.

- 1.3.5 The Committee has also included in Appendix Five a copy of correspondence between the Committee Chairman and the Premier, concerning the consideration of the impact on families of Cabinet proposals and the establishment of the Office of Children and Young People within The Cabinet Office.
- 1.3.6 The Committee has deliberately not drawn any conclusions or included any recommendations in this report. Rather, the Committee has left it up to the Legislative Council to decide what to do with the Bill when the Committee stage resumes. It is the Committee's hope that this report will be of assistance to all members in their consideration of the Bill.
- 1.3.7 In reporting to the Legislative Council upon the nature of the submissions received on the Bill, without drawing conclusions or making recommendations, the Committee is following the practice adopted by House of Commons Standing Committees generally and NSW Legislative Assembly Legislation Committees during the Fiftieth Parliament (1991-1995). It is the Committee's view that this is the appropriate way for a Standing Committee of the Legislative Council to operate when acting as a Legislation Committee. Ultimately, whatever legislation is under review by a Standing Committee, it is for the Legislative Council itself to determine the fate of the legislation.

# Chapter Two

## The Bill

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### 2.1 Overview

#### 2.1.1 The object and principles of the Bill are set out in clause 2:

The object of this [Act] is to provide for the establishment of the independent Family Impact Commission to study and report on the moral, social and economic impact on New South Wales families of existing laws and proposed laws and Government expenditure, for the purpose of ensuring that the following principles are recognised and upheld:

- The family, consisting of those individuals related by blood, adoption or marriage is the foundational social unit of the nation.
- The family is to be given the widest possible protection and assistance as the natural and fundamental unit of society, particularly where it is responsible for the care and education of dependent children.
- The family has primary responsibility for the welfare, education and property of its members.
- The sanctity and unique sphere of authority of the family is to be recognised and preserved.
- 
- Optimum conditions for maintaining the integrity of the family unit are to be preserved and promoted.

#### 2.1.2 In summary, the Bill provides for the following:

- the establishment of a Family Impact Commission;
- the preparation of Family Impact Studies and Assessments of Bills introduced into Parliament and for all expenditure or programs of expenditure of public money;
- the preparation of those Studies and Assessments for other matters considered appropriate by the Commission;
- the principles to be taken into account when preparing such Studies and Assessments;
- the publicising and review of Studies and Assessments; and
- the establishment of an Advisory Committee with powers to investigate and report on matters and to provide advice to the Commission and to make recommendations for appointment to the statutory offices created under the Act.

## **2.2 Definitions of the family and marriage**

### **2.2.1 Clause 3 of the Bill defines the family as:**

an organic unit composed essentially of a man and a woman related by marriage and the children of either or both of them by blood or adoption, whether or not in a wider relationship of grandparents, aunts, uncles and cousins.

### **2.2.2 Clause 3 of the Bill also defines marriage as:**

the union of a man and a woman to the exclusion of all others voluntarily entered into for life.

## **2.3 Family Impact Studies/Assessments**

### **2.3.1 Part 2 of the Bill explains the proposed operation of Family Impact Studies and Assessments. Clause 5 sets out the matters for which Study and Assessment are required:**

- any proposed legislation or expenditure (or expenditure program) that is the subject of an application for a Study by the responsible authority,
- all enacted laws in force in the State at the commencement of this section,
- any law enacted or proposed to be enacted by the Parliament of the Commonwealth or of another State or Territory or of another country, that the Commission thinks has or may have particular impact (whether direct or indirect) on the families of New South Wales.

### **2.3.2 Clause 6 requires all primary legislation tabled in Parliament to be accompanied by a Family Impact Assessment. The clause specifies the powers of the Family Impact Commission if an Assessment is not tabled :**

- When a Member of either Houses of Parliament introduces a Bill into that House, the Member must also table a copy of the Family Impact Assessment for the Bill.
- If a copy of an Assessment for a Bill is not tabled (but has been issued) when the Bill is introduced, the Commission may direct the responsible authority for the Bill to table a copy of the Assessment within a specified time or by a specified stage of its passage through the House.
- If an Assessment has not been issued for a Bill when it is introduced, the Commission may direct the responsible authority for the Bill to apply within a specified time for a Study and Assessment for the Bill

and to table a copy of an Assessment issued for the Bill within 3 sitting days of the House after it is issued.

- The responsible authority for a Bill must comply with a direction by the Commission under this section.
- A responsible authority complies with a direction by the Commission to table a copy of an Assessment in a House of Parliament by presenting a copy of the Assessment to the presiding officer of the House. A copy of the Assessment is then for all purposes taken to have been laid before the House.
- A copy of the Assessment for a Bill need not be tabled if the Assessment states that it need not be tabled (whether it was issued before or after the bill was introduced).

2.3.3 Clause 7 states that Government expenditure requires a Family Impact Assessment. There should be no expenditure of funds by a public authority until at least seven (7) days after the Commission has issued a Family Impact Assessment for the proposed expenditure or expenditure program. The Commission can reduce the period of seven days if the circumstances so justify.

2.3.4 Clause 8 sets out the content of a Family Impact Study. The Family Impact Study is to consist of:

A full description of the subject-matter of the study.

A statement of the objectives of the matter being studied.

An analysis of the likely moral, social and economic effect of the matter on the family.

A full description of any action to be taken in conjunction with the matter and an analysis of the likely moral, social and economic effect of those measures on the family.

An analysis of feasible alternatives to the matter which, wherever possible, are not inconsistent with its objectives and which would be likely to have a more positive effect on the family.

An analysis of the consequences of not carrying out the matter.

2.3.5 Clause 9 sets out the content of a Family Impact Assessment. The Family Impact Assessment is to contain the following:

A clear description of the proposal to which the Assessment relates.

A summary of the impact on the family of the proposal to which it relates, under the heading "Summary".

A qualitative rating of the proposal in terms of its effect on the family. (A rating of +10 means that the proposal is extremely beneficial to the family and a rating of -10 means that the proposal is extremely destructive to the family. A rating of 0 means that the proposal will have neither a positive nor negative effect on the family.)

A recommendation as to whether or not the proposal should proceed.

The period for which a proposal of an identical nature in the future would continue to be covered by the Assessment.

- 2.3.6 Under the provisions of clause 10, to prepare a Family Impact Study the Commission is to consider the moral, social and economic effect on the family and whether that effect contradicts or adversely affects the “Judeo-Christian ethic”.

In preparing a Study, the Commission is to take into account the experience of other Australian States and overseas jurisdictions, the series of questions set out in Schedule 1 and any other matters that the Commission thinks are relevant.

- 2.3.7 Parts 3,4,5 and 6 detail administrative provisions relating to the development of Family Impact Assessments and Studies.

## **2.4 Family Impact Commission**

- 2.4.1 Part 7 of the Bill provides for the establishment of a Family Impact Commission. The Commission’s functions are to be those conferred or imposed on it by or under the terms of the Bill “or any other Act and such other functions as may be necessary or convenient to enable it to give effect to the object of this [Act]”.

- 2.4.2 The functions of the Commission are to be exercisable by the Commissioner. The Commissioner cannot be appointed unless recommended by the Advisory Committee. The Advisory Committee cannot recommend a person for appointment as Commissioner “unless satisfied that the person is supportive of the principles set out in [section] 2 and is experienced in and knowledgeable about issues which concern the family”.

- 2.4.3 Part 7 of the Bill also contains provisions relating to the appointment of Assistant Commissioners and staff of the Commission.

## **2.5 The Advisory Committee**

2.5.1 Part 8 of the Bill provides for the establishment of an Advisory Committee. The functions of the Committee are as follows:

- to make recommendations for appointments to the offices of Commissioner and Assistant Commissioner,
- 
- to refer matters to the Commission for study and report,
- 
- to give advice to and consult with the Commission on any matter referred to the Committee by the Commission and on such other matters as the Committee thinks fit,
- 
- to investigate and report on matters referred to the Committee by the Commission.

2.5.2 The Committee is to consist of 15 members as follows:

- the Director-General of the Premier's Department or an officer of that Department nominated for the time being by the Director-General;
- the Director-General of the Attorney General's Department or an officer of that Department nominated for the time being by the Director-General;
- the Director-General of the Department of Health or an officer of that Department nominated for the time being by the Director-General;
- 12 members appointed by the Governor, each being a person nominated by, or by a body that the Minister is satisfied represents, one of the following organisations, churches or faiths:
  - Institute of Family Studies
  - Salvation Army
  - Anglican Church
  - Catholic Church
  - Uniting Church
  - Jewish Faith
  - Greek Orthodox Church
  - Presbyterian Church
  - Assembly of God Church
  - Australian Federation of Festival of Light Community Standards Organisation - NSW Branch
  - Australian Family Association - NSW Branch
  - NSW Council of Churches.

# Chapter Three

## Submissions Arguing in Favour of the Bill

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### 3.1 Principles Underpinning the Bill

3.1.1 A number of submissions received by the Committee express strong support for the principles underpinning the Family Impact Commission Bill.

3.1.2 The submission from His Eminence Cardinal Clancy gives full support to the principles underpinning the Bill. Cardinal Clancy suggests that, because of the “special place of the family in society”, it is appropriate for the Parliament to give specific attention to the impact of legislation and government policy upon families.

The support for... this proposed legislation, lies in an acceptance of the special place of the family in society.

... the natural links which are established in human relationships provide a secure basis for providing the much needed support which each individual needs to find personal fulfilment. While it is true that there is a variety of such personal relationships in modern society, of more or less lasting significance, it needs to be recognised that the ideal place for the nurturing and education of children is within a stable family.

I repeat the terms of article 16(iii) of the United Nations *Declaration on Human Rights*: The family is the natural and fundamental group unit of society and is entitled to protection by society and the state.

The proposed Bill provides a mechanism for bringing information before the Parliament. The Parliament can then, in the light of the information available, more prudently assess the matters before it in the light of the impact on families. I do not, in these comments, make any judgment as to whether this particular proposal is the only mechanism that might be available. My concern is with the principles involved. I commend the principles underpinning the legislation to the Committee.<sup>1</sup>

3.1.3 The submission received from the Chairman of the Festival of Light Community Standards Organisation states that the Bill is a step in the right direction, expressing the view that with “enlightened, imaginative

legislation, focussed on the family, this State could become a world leader as a champion of the family.<sup>2</sup>

3.1.4 The submission received from the Faulconbridge Residents Association Inc also supports the Bill arguing that it is “fairly constructed”<sup>3</sup>.

3.1.5 The submission received from the Catholic Women’s League, Australia (Inc) New South Wales expresses support for the Bill on the basis that it is a timely recognition of the effects of Government decisions upon families.

It has long been recognised that the Family is the basic unit which ensures the survival of society but in recent years the support provided has been less than satisfactory so it is timely that recognition be given to the effects of any Government decisions on the welfare of families.<sup>4</sup>

3.1.6 The submission received from Mr John Kingsmill endorses the use of the “Judeo-Christian ethic as a reference standard” for “a high quality society”. He submits that the values of the ethic are ones which are wanted by the majority of citizens, “even if they do not subscribe to the Jewish or Christian faiths”.<sup>5</sup>

3.1.7 The submission received from Mr Derek Barker claims the Family Impact Commission would operate as a “safety net” for families ensuring that Parliamentary actions do not have a detrimental effect on families<sup>6</sup>.

3.1.8 Brief submissions received from various churches and religious organisations, such as the Assemblies of God, NSW Council of Churches, Christian City Church, Christian Info and the Presbyterian Church of Australia - Church and Nation Committee, also express strong support for the principles underpinning the Bill.

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<sup>2</sup> *Submission S 18.*

<sup>3</sup> *Submission S 3*

<sup>4</sup> *Submission S 22.*

<sup>5</sup> *Submission S 9.*

<sup>6</sup> *Submission S 39*

- 3.1.9 Numerous submissions from individuals writing in a private capacity also express support for the principles underpinning the Bill, focussing on the support they see the Bill providing to the “traditional family”.<sup>7</sup>
- 3.1.10 Towards the end of the public comment period, the Committee Secretariat also received 11 telephone calls from individuals who expressed support for the Bill in its original form. Most of these callers expressed similar support for the principles underpinning the Bill and for the definition of the family included in the Bill.

### 3.2 Definition of the Family

- 3.2.1 A number of the submissions received which argue in favour of the Bill, base their support upon the definitions of the family and/or marriage included in the Bill<sup>8</sup>.
- 3.2.2 The submission received from the Women’s Action Alliance (NSW) expresses strong support for the definitions of the family and marriage included in the Bill:

The objects and principles of the Bill are clear, concise and all encompassing. The unambiguous definition of a family and marriage make it easier to measure the impact of proposed and enacted laws...

To use strong, concise definitions ... is to promote stability and consistency for families in NSW.<sup>9</sup>

- 3.2.3 The submission received from the Presbyterian Women’s Association of Australia expresses strong support for the definitions of the family and marriage included in the Bill. The submission states that as this Bill is really concerned with families with dependant children, the Bill does not in any way reject other family models - rather, they are irrelevant for the purposes of the Bill. The submission argues that families with dependant children have often been economically disadvantaged, and the Bill “could go some way to rectify this”.<sup>10</sup>

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<sup>7</sup> See for example *Submissions S 1, 12, 13, 19, 26, 31, 33, 34, 35, 36, 37 and 38*

<sup>8</sup> See for example *Submissions S 16, 26, 30, 31, 32, 32, 33, 34, 35, 36*

<sup>9</sup> *Submission S 4.*

<sup>10</sup> *Submission S 20.*

3.2.4 The submission received from the Chairman of the Advisory Committee of the Festival of Light Community Standards Organisation expresses strong support for the definition of the family contained in the Bill.

After life itself, God's greatest gift to humanity is the traditional family as defined by the Hon FJ Nile in his Second Reading Speech ....<sup>11</sup>

3.2.5 The submission received from the Presbyterian Church of Australia, General Assembly of NSW, Church and Nation Committee, expresses strong support for the definitions of the family and marriage included in the Bill as recognising "the ideal for family life". Without these definitions the submission suggested that the Bill could not "properly assist all families by upholding that ideal".<sup>12</sup>

3.2.6 Two of the submissions received which argue in favour of the Bill include suggestions for amendments to the definition of the family included in the Bill.

3.2.7 The submission received from the Catholic Women's League expresses a preference for the description of the family contained in clause 2 of the Bill, (which simply states that a family consists of "those individuals related by blood, adoption or marriage").<sup>13</sup>

3.2.8 The submission received from the Religious Freedom Institute Inc. rejects any "alternative family definition that may include defacto or any homosexual relationship". The submission recommends that the definition of the family included in the Bill be extended to include:

- (i) the family unit as previously defined but in circumstances where there has been a formal dissolution of the marriage or a permanent separation of the spouses or where one of the spouses has died;
- (ii) a single parent who has the custody and care of a child or children if such a parent no longer lives in a defacto relationship.<sup>14</sup>

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<sup>11</sup> *Submission S 18.*

<sup>12</sup> *Submission S 27.*

<sup>13</sup> *Submission S 22.*

<sup>14</sup> *Submission S 14.*

# Chapter Four

## Submissions Arguing Against the Bill

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### 4.1 Underlying Assumptions and Philosophy of the Bill

4.1.1 Most of the submissions opposing the Bill focus their concern on the definition of the family and the impact this would have on social policy. Other concerns relate to potential conflict between preserving the integrity of the family and the need to protect children and others from family violence, and the membership of the proposed Advisory Committee. A number of submissions raise concerns about the underlying assumptions and philosophy of the Bill.

4.1.2 The submission received from the Uniting Church in Australia (NSW Synod) Board for Social Responsibility, criticises the Bill as “fundamentally flawed in its origins, assumptions and mechanisms”.

While we support the view that public policy should support, or at least not damage family life, we do not support other assumptions on which the Bill is based.

The Bill has not been developed through consultation with the relevant church and community organisations. The theological assumptions are wrong, and it is not appropriate for legislation to define or assume a particular expression of religious belief and ethics. All families are valuable, a bias towards two parent families in public policy would be contrary to human rights and especially to the rights of children in other families.

The submission also expresses reservations about what it sees as an assumption underpinning the Bill that the “Judeo-Christian ethic” has provided the “basic historical moral ethic of Australia”.

The Uniting Church cannot support [this] assumption... It is at best meaningless, and at worst dangerous and destructive. The recent report of the Human Rights and Equal Opportunity Commission *Bringing them Home* shows that government policy that appears Christian, and is supported by the Christian churches, can be profoundly, destructively wrong. While there are many initiatives in public policy of which Australia should be proud, and which might well have their basis in a Christian understanding of ethics, there is no morally unambiguous history of Australia... [This assumption] is morally dangerous, since it encourages an uncritical and unreflective attitude towards past policy and history, a confusion of the Kingdom of God with particular

public policies and actions. The claim is historically and theologically incorrect.<sup>15</sup>

- 4.1.3 The submission received from the Women’s Electoral Lobby also expresses concerns about what it sees as the underlying assumptions of the Bill.

Only those families which fit the stereotype of a nuclear family are worthy of concern. As nuclear families form only a percentage of family types in New South Wales this assumption is to be opposed at all costs. To marginalise other family structures is to deny a large percentage of the population of NSW.<sup>16</sup>

- 4.1.4 The submission received from Burnside also expresses concerns about the focus of the Bill, suggesting that legislating to recognise the primacy of the role of the family in the provision of welfare, education and property for its members, “could be interpreted as lessening the community’s responsibility to support and assist families and children”.<sup>17</sup>

- 4.1.5 The submission received from the Women’s Issues Officer, Diocese of Grafton (Anglican Church), Ms Jane Markotsis, takes issue with the philosophy of the Bill. The submission suggests that the Bill adopts a narrow and patriarchal interpretation of “Christian family values”.

The language of “Christian family values” is open to wide interpretation. I fear that the interpretation intended by this Bill is somewhat narrow, and patriarchal particularly terms such as “hierarchical authority”... [In the New Testament] the strongly patriarchal and hierarchical family prior to the Christian era is replaced by a family which primarily recognises God’s authority, defies social status, accepts children and affirms women and men as equal partners.<sup>18</sup>

- 4.1.6 The submission received from Mr Gerold Bosch expresses a shared concern with Rev Nile about the disintegration of values within society. However, the submission argues that rather than providing a solution the Bill would further exacerbate these problems through its focus upon, and promotion of, the nuclear family.

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<sup>15</sup> *Submission S 25.*

<sup>16</sup> *Submission S 24.*

<sup>17</sup> *Submission S 21.*

<sup>18</sup> *Submission S 15.*

It is a fact that the family unit, as we know it, since the Industrial Revolution is failing. This, I believe, is a logical result of the loss of the wider family structure, the extended family, which had been the base of society until the Industrial Revolution. With the advent of industrialisation, the family unit has been increasingly fragmented to the extent that, from a traditional three-generational family and tribal situation, we have developed into nuclear families; just the mum, dad and the kids. The results of this disintegration of the basic support structure (the wider family and the village/tribe type situation) has contributed - in my opinion - to the increase in tension, the increase in family violence and the increase in break ups with all the unfortunate consequences for society.<sup>19</sup>

## 4.2 Definition of the Family

4.2.1 The submission received from the Youth Action Policy Association discusses the findings of a number of recent research studies into the nature of family structures conducted by organisations including the Australian Institute of Family Studies, the Australian Bureau of Statistics, the NSW International Year of the Family Secretariat and the Australian Youth Policy and Action Coalition. The submission concludes:

What these figures and definitions reveal is that any piece of legislation that attempts to provide a definition of the family must ensure that its definition is broad enough to allow for the cultural and social diversity of family structures within NSW. If the definition of the family is as narrow as that proposed in this Bill, then there will be substantial numbers of adults, children and young people who will not gain the benefits of any piece of legislation that takes into account the needs of families.<sup>20</sup>

4.2.2 The submission received from the Family Support Services Association (FSSA) of New South Wales also makes reference to reports of the National Council for the International Year of the Family and the NSW International Year of the Family Advisory Committee which discussed the nature of family structures. The submission states that,

A major concern is the definition of "family" in the Bill. This Association is greatly disappointed that the Bill demonstrates a very narrow and exclusive approach to "family". Our Association was very involved in committees and consultation that took place during 1994, the International Year of the Family. At that time there was considerable public debate as to the definition of "family". It was our hope that since then, and in the light of those discussions, our society had moved beyond a focus on the narrow definition in this Bill...

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<sup>19</sup> *Submission S 10.*

<sup>20</sup> *Submission S 7.*

The FSSA supports the concept of examining the social impact of legislation on families, but strongly urges that, should this be done, an inclusive approach to “families” be adopted, not the narrow definition of the Bill.<sup>21</sup>

- 4.2.3 The submission received from the Council of Social Services of New South Wales (NCOSS) expresses support for the assessment of the social impact of legislation. However, NCOSS cannot support the “narrow framework” of the Bill, which results from the definition of the family included in the Bill.

Government policy and legislation affects all members of our society in a range of ways - as individuals, as members of households, as family members, as communities of various kinds. We cannot accept the proposition that the family alone, especially as it is defined in the Bill, deserves the special consideration that is being argued for. We need to look at the social, rather than the family impact of legislation.<sup>22</sup>

- 4.2.4 In a similar vein, the submission received from the National Children’s and Youth Law Centre (NCYLC) expresses support for legislation which “seeks to inquire into the impact [of legislation] on people ahead of economic or bureaucratic advantage” and which promotes consideration by decision makers of the impact of their decisions and policies upon children and young people. However, the submission expresses disappointment at the “narrow conception of family” in the Bill.

The reality is that families exist in many different forms outside of the traditional Judeo-Christian model, and the NCYLC could not support any legislation that attempts to proscribe a “correct” model of family. The Bill would do better to recognise the diversity of culture, religion and family in NSW, and seek to improve family life regardless of how it is constituted.<sup>23</sup>

- 4.2.5 The submission received from Burnside raises concerns about the definition of the family included in the Bill. The submission states that the effort to define the family in the Bill would merely have the effect of excluding a huge proportion of the population from the protection afforded by the Bill.

The most fundamental problem with the Bill is its attempt to define and limit the family and thus preserve the protection afforded by the Bill’s provisions only for those families approved of by the authors of the Bill... This excludes a

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<sup>21</sup> *Submission S 11.*

<sup>22</sup> *Submission S 6.*

<sup>23</sup> *Submission S 2.*

huge proportion of the population... Burnside does not see the exercise of the defining “the family” as useful...

The definition of the family is much too limited. It would exclude from the purview of the Commission any child or young person living with foster carers, single parents, same sex couples, or in any kind of community or alternative household.<sup>24</sup>

### 4.3 Protection of those in Unsafe Families

4.3.1 The submission received from the Women’s Electoral Lobby points out that the majority of violent crime against women and children takes place in family settings. The submission therefore expresses concern that the recognition in the Bill of the “unique sphere of authority of the family”, could make it more difficult for those who offer protection to women and children at risk of family violence.<sup>25</sup>

4.3.2 The submission received from the Uniting Church in Australia (NSW Synod) Board of Social Responsibility also refers to the incidence of family violence and the risk of the policies underpinning the Bill being used to “discourage victims of family violence from leaving the family that has betrayed and damaged them”.

The Christian ethic ... does not use public policy to force people to stay in violent, painful or otherwise inappropriate family situations against their will. To do so would violate the dignity and human rights of those who are forced to stay. In contrast to this, the Family Impact Commission Bill seems geared to using public policy to force people to remain in families, through bias towards two parent families...<sup>26</sup>

4.3.3 The submission received from the Family Support Services Association also raises concerns about the potential for the Bill to maintain a situation where an unsafe family situation is maintained to the detriment of the safety of some family members, particularly children.

We also have a concern about [the statement] “the sanctity and unique sphere of authority of the family is to be recognised and preserved”. This statement could support conditions where a family situation which is unsafe for one or more of its members, is maintained at all costs. In the work of Family Support Services we are all too aware that families are not safe places, particularly for

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<sup>24</sup> *Submission S 21.*

<sup>25</sup> *Submission S 24.*

<sup>26</sup> *Submission S 25.*

many women, and for many children. Although we believe that support for families should be fundamental in society and a high priority of governments, we do not believe that a family is inviolate. There are certain situations in which it is better for a family to break down, if this is the only way to ensure safety for its members.<sup>27</sup>

#### **4.4 Family Impact Study/Assessment**

4.4.1 A number of submissions raised concerns about the content of Family Impact Studies/Assessments proposed under the Bill and the consultation mechanisms to be followed in their preparation.

4.4.2 The submission received from Burnside states that the questions required to be addressed in Family Impact Studies/Assessments as set out in schedule 1 to the Bill are unduly proscriptive. The submission also voices concerns about Part 2, clause 7.1. The Bill requires that public money should not be expended until seven days after the Commission has issued a Family Impact Assessment. The submission states that this could lead to hardship on the part of families in need, without a provision for emergency expenditure provisions.<sup>28</sup>

4.4.3 The submission received from the Uniting Church of Australia (NSW Synod) Board of Social Responsibility, raises concerns about the absence of a provision which would differentiate when Family Impact Assessments are crucial.<sup>29</sup>

4.4.3 The submission received from the Youth Action Policy Association expresses concerns about the scope of issues that could require a Family Impact Study. The submission also raises questions about the funding of the Commission, and arrangements for consultation with interest groups, including young people.<sup>30</sup>

#### **4.5 Family Impact Commissioner**

4.5.1 The submission received from Burnside expresses concern about the provisions in the Bill for the choice of the Commissioner. The Bill states that the Commissioner should be a “person that is supportive of the

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<sup>27</sup> Submission S 11.

<sup>28</sup> Submission S 21.

<sup>29</sup> Submission S 25.

<sup>30</sup> Submission S 7.

principles set out in section 2". Burnside sees this as problematic, as it requires a potential Commissioner to meet a religious or political test.<sup>31</sup>

#### 4.6 Structure of the Advisory Committee

4.6.1 The submission received from Burnside raises "substantial and fundamental difficulties" with the provisions of the Bill relating to the membership of the proposed Advisory Committee. Part 8, clause 39 of the Bill provides that the Advisory Committee is to be made up of twelve groups, nine of whom are to be Church groups representing the Christian religion.

Burnside, as an agency of the Uniting Church, would welcome Church representation on any Committee. However, the Churches do not have a monopoly of wisdom or knowledge about families, children and young people. Other groups and individuals in the community also need to be represented. The concerns of any Commission should be the rights and interests of children, young people and families, not a narrow view of the "family".<sup>32</sup>

4.6.2 The submission received from the NSW Ecumenical Council raises a number of specific questions about the structure of the proposed Advisory Committee. For instance, while the Jewish faith is listed for inclusion, why are the Muslim and Buddhist and other faiths excluded? Why is only one of seven Orthodox Churches included, and how would a single representative of the Anglican Church be chosen from the seven dioceses in NSW. Finally, the submission also raises concerns about the inclusion of the NSW Council of Churches.<sup>33</sup>

4.6.3 The submission received from the Youth Action Policy Association states that the composition of the Advisory Committee, as proposed by Rev Nile is "totally unacceptable". The Association recommends inclusion of representatives from various interest groups or communities such as the aged, children, sole parents, young people, women, non-English speaking backgrounds, Aboriginal and Torres Strait Islander, people with a disability, a family organisation, a parents organisation, a representative

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<sup>31</sup> *Submission S 21.*

<sup>32</sup> *Ibid.*

<sup>33</sup> *Submission S 29.*

of the gay and lesbian community, as well as a representative of the religious community.<sup>34</sup>

# Chapter Five

## Submissions Commenting on Proposed Amendments

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### 5.1 Amendments Proposed by the Hon Richard Jones, MLC

#### 5.1.1 Amendment No 1, Page 2, clause 2, lines 12-14

The Amendment proposes to omit the following:

The family consisting of those individuals related by blood, adoption or marriage, is the foundation social unit of the nation.

#### Amendment No 2, Page 2, clause 3, lines 25-32.

The Amendment proposes to omit the words :

Family means an organic unit composed essentially of a man and a woman related by marriage and the children of either or both of them by blood or adoption, whether or not in a wider relationship of grandparents, aunts, uncles and cousins.

And insert instead :

**family** includes an organic unit living together in the community as a household and composed of one or more adults having legal charge of one or more dependent children.

5.1.1.1 Mr John Kingsmill rejects the amendments because the definition of the family is vague and could include groups that are not the natural building blocks of a secure community<sup>35</sup>.

5.1.1.2 The submission from Mr Eric Jones does not support the amendments and states :

The proposed Key Definition amendment does not reflect the community view of the family as set out in the Family Law Act and what I believe most/or the majority of people hold as to what constitutes the family.<sup>36</sup>

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<sup>35</sup> Submission S 9

<sup>36</sup> Submission S 5

5.1.1.3 The submission received from Christian Info opposes the amendments stating that:

very important principles should definitely not be omitted.<sup>37</sup>

5.1.1.4 The submission received from the Salvation Army also opposes the amendments and expresses “strong support” for the original wording of the clauses.<sup>38</sup>

5.1.1.5 The submission received from the Presbyterian Women’s Association, disagrees with the amendments proposed by the Hon Richard Jones MLC, and is supportive of the Bill in the form introduced by Rev Nile. The Association submits that such a definition does not reject single parent families or infringe the right of other groupings, but notes for the “purposes of the Bill they are not relevant”. The Association does recommend that the Bill should contain a statement acknowledging:

A widow, widower or lone parent who is a mother or father of children are absolutely a family.

The Association, also expresses some concern for the elderly and their families, commenting that the focus of the Bill as proposed by Rev Nile “may not be a broad enough section of the community”. The Association recommends including in the definition of the family, older families where the children may be supporting and caring for their parent/s.<sup>39</sup>

5.1.1.6 The submission received from the Women’s Issues Officer, Diocese of Grafton (Anglican Church) shared the concerns of the Presbyterian Women’s Association for elderly parents. The Women’s Issues Officer, whilst supporting the Hon. Richard Jones MLC’s amendments to the definition of the family, suggested the definition should also include adult children looking after elderly parents, and adult children living in the parental home.<sup>40</sup>

5.1.2 Amendment No.3 Page 16, clause 39, line 15.

<sup>37</sup> *Submission S 8*

<sup>38</sup> *Submission S 28*

<sup>39</sup> *Submission S 20*

<sup>40</sup> *Submission S 15*

Omit “15 members”. Insert instead “12 members”.

Amendment No.4, Part 8, clause 39, lines 25 on page 16 to line 10 on Page 17.

The amendment seeks to omit all words on these lines and insert instead the following:

- 3 members appointed by the Governor, each being a person nominated by, or by a body that the Minister is satisfied represents, a major Christian church, faith or religion;
- 3 members appointed by the Governor, each being a person nominated by, or by a body that the Minister is satisfied represents, a major non-Christian church, faith or religion;
- 3 members appointed by the Governor, each being a person nominated by a secular organisation
- Making 12 members in all.
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5.1.2.1 The submission received from the Women’s Issues Officer, of the Diocese of Grafton, whilst supporting most of the amendments proposed by the Hon Richard Jones, MLC, expresses concerns about the composition of the Advisory Committee. The Women’s Issues Officer is ambivalent about whether the Advisory Committee should comprise 12 or 15 members but is definite that the Department of Community Services should be represented on the Advisory Committee and commented :

it appears highly irregular to have a committee responsible for assessing the family impact of legislation which does not include the department which is mandated to protect the family.<sup>41</sup>

5.1.2.2 The submission received from Burnside also comments on the membership of the Advisory Committee, which they believe is “too narrow and is in no way representative of the wider community of NSW”. Burnside welcomes Church involvement on the Committee, but also feels that other groups and communities need to be represented as

the Churches do not have a monopoly on wisdom or knowledge about families, children and young people.

In the view of Burnside the

concerns of any Commission should be the rights and interests of children, young people and families, not a narrow view of “the family”.

Burnside considers the amendment by the Hon Richard Jones, MLC, to be an improvement. However, Burnside believes that the term “secular organisation” is still too broad. They consider that for an organisation to be represented on the Advisory Committee it must meet the criteria of having an “interest in and experience of child and family welfare.” Burnside also recommends that the Department of Community Service should be included as a Government representative on the Committee.<sup>42</sup>

5.1.2.3 The submission received from the Salvation Army, although generally supporting the Family Impact Commission Bill, states that the structure of the Advisory Committee “is somewhat unrepresentative and unrealistic”. The Salvation Army does not support the amendment proposed by the Hon. Richard Jones, MLC, because it is too broad. The Salvation Army considers that the Advisory Committee should consist of fifteen members as follows:

- the Director-General of the Premier’s Department or an officer of that department nominated by the Director-General and appointed by the Governor;
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- the Director-General of the Attorney General’s Department or an officer of that department nominated by the Director-General and appointed by the Governor;
- 
- the Director-General of the Department of Health or an officer of that department nominated by the Director-General and appointed by the Governor;
- 
- the Director-General of the Department of Community Services or an officer of that department nominated by the Director-General and appointed by the Governor;
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- eleven members appointed by the Governor, each being a person nominated by members of the following organisations:
  - > One from the institute of Family Studies,
  - > Two members from established non-governmental organisations which provide welfare to families as defined in the *Family Law Act*,
  - > five members from major Christian Churches or faiths,

- > three members from major non-Christian faiths.

The Salvation Army suggests addition of the phrase “appointed by the Governor” to encourage regular attendance and to formalise appointments. The Army also recommends that the non-government representatives on the Advisory Committee should be representative of the religious beliefs of Australians, suggesting a composition of one-third non-Christian and two-thirds Christian, in line with the most recent Census information.<sup>43</sup>

5.1.2.4 The submission received from the Presbyterian Women’s Association agrees in part with the amendment proposed by the Hon Richard Jones, MLC, in that the words should be omitted. However they suggest that the following should be inserted instead:

- 5 members representing a major Christian church,
- 1 member representing a major non-Christian church,
- 3 members representing secular organisations.

The Presbyterian Women’s Association recommend this representation because of the numerical strength of the Christian faith in Australia, which represents more than half the population.<sup>44</sup>

5.1.2.5 The submission received from the National Council of Women NSW Inc, suggests that the clause could be simplified, but does not support the amendment proposed by the Hon. Richard Jones, MLC. In its view it would be better if the :

NSW Council of Churches be invited to provide representatives rather than each of the mainstream religions. Non-Christian faiths should also have representation.

The National Council of Women NSW Inc recommends inclusion of the Council of Social Service of New South Wales (NCOSS) as a member of the Advisory Committee, rather than individual community groups. This would allow for a smaller Committee, whilst maintaining the diversity of interests.<sup>45</sup>

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<sup>43</sup> *Submission S28*

<sup>44</sup> *Submission S 20*

<sup>45</sup> *Submission S 23*

- 5.1.2.6 The submission from the Catholic Women's League also supports simplification of the clause and the inclusion of NCOSS and the NSW Council of Churches as members of the Advisory Committee. This would enable membership of the Committee to be small, yet representative.<sup>46</sup>

## 5.2 Amendments Proposed by the Opposition

- 5.2.1 Amendment No.1, Part 1, clause 3, Page 2. Omit lines 25-32:

Family means an organic unit composed essentially of a man and a woman related by marriage and the children of either or both of them by blood or adoption, whether or not in a wider relationship of grandparents, aunts, uncles and cousins.

Marriage means the union of a man and a woman to the exclusion of all others voluntarily entered into for life.

- 5.2.1.1 A submission received from Mr John Kingsmill fully endorses the definition of the family in the Family Impact Commission Bill and opposes the Opposition amendment, reasoning that :

Since it is the family as defined in the Bill that needs protection from the vagaries of some politicians, it is important that that definition remains for the welfare of the State.

However, he does suggest extending the definition to include elderly parents. He also suggests that the definition of the family contain reference to the "necessity of suitable evidence that confirms the union and its lifelong nature". Mr Kingsmill feels there is confusion amongst people as to what is a family, therefore it is necessary for the Bill to define the family and through definition, provide protection.<sup>47</sup>

- 5.2.1.2 A submission received from Mr Eric Jones states that by removing the definition of the family and marriage the Opposition is :

perhaps here seeking to accommodate everyone but not standing for anything.

Mr Jones submits that all the Opposition amendments:

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<sup>46</sup> *Submission S 22*

<sup>47</sup> *Submission S 9*

by and large water down the legislation to a feel good type of position.<sup>48</sup>

5.2.1.3 The submission from Christian Info also rejects the amendments and considers that it is important for the Bill to define the family in its original form.<sup>49</sup>

5.2.1.4 The submission received from the Catholic Women's League, Australia (Inc), NSW agrees with the Opposition amendment that lines 25-32 should be deleted. In their view the previous explanation in clause 2 is sufficient.<sup>50</sup>

5.2.2 Amendment No.3, Part 2, clause 5, lines 5-6. Omit words "or expenditure" (or expenditure program). Lines 5-6 state the following:

Any proposed legislation or expenditure (or expenditure program) that is the subject of an application for Study by the responsible authority.

5.2.2.1 The submission received from Christian Info disagrees with this proposed amendment. They consider that the Commission needs to be able to investigate expenditure because of its impact on families.<sup>51</sup>

5.2.2.2 The submission received from Mr John Kingsmill also disagrees with the proposed amendment and states that it is important for the Bill to compulsorily apply to all Government legislation and expenditure.<sup>52</sup>

5.2.2.3 In a similar vein, the submission from Mr Eric Jones, states that "this is the one that counts – money". In the view of Mr Jones, by amending this clause the Opposition is trying to make the Government unaccountable to the Commission.<sup>53</sup>

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<sup>48</sup> Submission S 5

<sup>49</sup> Submission S 8

<sup>50</sup> Submission S 22

<sup>51</sup> Submission S 8

<sup>52</sup> Submission S 9

<sup>53</sup> Submission S 5

5.2.3 Amendment No.6, Page 5, clause 8, line 22. Omit all the words on this line. In this clause the Act states that the content of a Family Impact Study should consider, in part, the following:

An analysis of the likely moral, social and economic effect of the matter on the family.

5.2.3.1 The submission received from Mr John Kingsmill states that it is necessary to specify a minimum effect to be assessed. He goes on to state that :

A failing of Parliament in recent years has been its attempt to remove morality from legislation. A society without high moral standards is a society of low quality.

Mr Kingsmill contends that the phrase “moral, social and economic effect” is an appropriate set of minimum guidelines.<sup>54</sup>

5.2.3.2 The submission from Christian Info also disagrees with the proposed Opposition amendment stating that not only should it be retained but it should be extended by adding the words “any other possible affect”.<sup>55</sup>

5.2.3.3 The Women’s Electoral Lobby, although opposed to the passage of the Bill, supports this amendment should the Bill proceed.<sup>56</sup>

5.2.4 Amendment No.10, Page 6, Part 2, clause 10, line 23. The Family Impact Commission Bill uses the term “Judeo-Christian ethic” in describing how the Commission is to prepare a Family Impact Study. It states that:

To prepare a Family Impact Study of a proposal or other matter, the Commission is to consider its moral, social and economic effect on the family unit whether that effect contradicts or adversely affects the Judeo-Christian ethic or any of the principles set out in Section 2.

The amendment proposes to insert instead of Judeo-Christian ethic, “community religious principles”.

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<sup>54</sup> *Submission S 9*

<sup>55</sup> *Submission S 8*

<sup>56</sup> *Submission S 24*

- 5.2.4.1 The submission received from Christian Info rejects this amendment, supporting the original form of the clause, as they claims there is a need to promote Australia's Christian heritage and foundation.<sup>57</sup>
- 5.2.4.2 The submission received from the Salvation Army supports the removal of the phrase "Judeo-Christian ethic". However, they disagree with the amendment proposed by the Opposition which would see "Judeo-Christian ethic" replaced with "community religious principles", as the Army feels it is "too broad" The Salvation Army suggests replacing the phrase with the term "religious principles".<sup>58</sup>
- 5.2.4.3 The submissions received from both the National Council of Women, NSW Inc, and the Presbyterian Women's Association support substitution of the term "Judeo-Christian ethic" with "community religious principles".<sup>59</sup>
- 5.2.5 Amendment No.30, Page 16, Part 8, clause 39, Lines 27-28. The Family Impact Commission Bill in this clause describes how the Advisory Committee is to be made up of "one of the following churches or faiths". The Opposition proposes amending this to:  
"a religious or community organisation in New South Wales".
- 5.2.5.1 The submission received from the Women's Electoral Lobby (WEL) does not support the clause in its original form, nor the entire amendment proposed by the opposition. WEL proposes omitting the words "one of the following organisations, churches or faiths" and inserting instead "a community organisation in New South Wales".<sup>60</sup>

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<sup>57</sup> *Submission S 8*

<sup>58</sup> *Submission S 28*

<sup>59</sup> *Submission S20 and S 23*

<sup>60</sup> *Submission S24*

# Chapter Six

## Submissions Suggesting Recasting the Family Impact Commission Bill

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### 6.1 Submissions suggesting greater recognition of children or that the Bill be recast as a Commissioner for Children Bill

6.1.1 A number of submissions received by the Committee suggested that the Family Impact Commission Bill should provide greater recognition of children. Two submissions suggested that the Bill be recast as a Bill for the establishment of a Commissioner for Children.

6.1.2 The submission received from the Uniting Church of Australia (NSW Synod) Board for Social Responsibility argues that there are better mechanisms for protecting the rights and needs of families. Such a mechanism would be the implementation of the Convention of the Rights of the Child in legislation and the establishment of a Commissioner for Children.<sup>61</sup>

6.1.3 The submission received from Burnside suggests that the Bill be recast as a Commissioner for Children Bill. Burnside states that trying to define the family is not a useful exercise and that it would be more worthwhile to establish a body “to examine the impact of legislation and policy on children”. It considers that the establishment of an independent body with the authority to look at how policy affects young people and children is necessary. Burnside suggests recasting the Bill with a primary focus on children, because

Putting primacy on children, regardless of the nature or structure of their families, avoids the limiting effects of attempting to define family structures.<sup>62</sup>

6.1.4 The submission received from the National Children’s and Youth Law Centre (NCYLC) also called for a focus on children, rather than the structure of the family. The NCYLC submits that,

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<sup>61</sup> *Submission S 25.*

<sup>62</sup> *Submission S 21.*

The interests of children and young people are so often and so systematically ignored in political decision making it is regrettable that this is not a Bill for the establishment of a Children's Commissioner in NSW.

The Centre hopes that the proposed Family Impact Commission would focus its deliberations on children. The NCYLC notes that the United Nations Convention on the Rights of the Child recognises the primacy of the family as the optimal environment in which to raise a child. The Convention, which has been ratified by Australia, should be used by the Commission:

as a benchmark to apply to decisions which may or will impact on children and young people.<sup>63</sup>

- 6.1.5 The submission received from Mr Gerold Bosch expresses concern about the impact on children of modern society, raising the issues of child abuse and homelessness. Mr Bosch suggests allowing children more personal power within the present system to make choices for themselves.<sup>64</sup>
- 6.1.6 The concerns expressed by Mr Bosch are shared by the Family Support Services Association of NSW Inc, whose submission notes that the rights of children, as individuals within a family, are not recognised in the objects and principles of the Bill.<sup>65</sup>

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<sup>63</sup> *Submission S 2.*

<sup>64</sup> *Submission S 10.*

<sup>65</sup> *Submission S 11.*