

Senate Inquiry into “Commonwealth contribution to former forced adoption policies and practices.”

Preamble to Submission

**I KIM MENTA am a citizen of the Commonwealth of Australia resident in the State of
Victoria.**

**As a citizen of the Commonwealth of Australia I have an inalienable right to protection
under the Australian Constitution and the Common Law of this country**

**As an Australian citizen, the Commonwealth affords me protection from the unlawful and
harmful actions that threaten my right to life, liberty and justice from those who would deny
me these rights, within and without, the borders of Australia**

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1 Introduction

The impact of past adoption practices has been recognised as having lifelong consequences for women and their children. The damage that has been caused can not be understated. Refer:

http://fahcsia.gov.au/sa/families/pubs/past_adoption/Documents/sec_1.htm#1
and Primal Wound written by Nancy Verrier.

My pain is compounded as I am not a legal Adoptee rather a child that was taken. In 1958, or thereabouts, a nurse willingly sought out and found a couple that was prepared to take a baby regardless of their adoption eligibility. Arrangements were made, prior to its birth, to place that child with this couple after its birth. This invitro baby was me.

In the meantime, the infertile couple feigned a pregnancy, the wife wearing pillows/material up her clothes. The reasoning was that it would be difficult to explain the sudden arrival of “baby” to neighbours & friends.

I was born, taken, given an illegal name.

I ask “how can a mother truly know how she will feel before she has given birth, seen her child, held it in her arms and nursed it?” I can only make an assumption on how my mother could be coerced into relinquishment. By law, a mother had the right to change her mind within 30 days after the birth of her child. This **did not** happen.

I do know that “if” any documentation was signed it was never followed-up.

I find it amazing that throughout my childhood years, no one in authority ever questioned my legal status or required a copy of my “Birth Certificate. This is unfathomable. Also, knowledge of my status “not a child of the marriage” was

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was known in 1976 by the barristers/solicitors. At that time no one in legal authority made provision for my health or wellbeing. **“I was nobody’s child”**

My birth has been based on lies, deceit and pain. Whether I was stolen or kidnapped, perhaps I will never know.

I have no proof of who I am. I have been denied the right to know my mother, father and extended family. I have been denied my biological history and heritage. I have been denied the truth.

These acts are beyond my comprehension.

Based on this information, a breach has occurred of the following:

Adoption of children Under the Adoption of Children Act 1958 No. 6192,
(Adoption of Children Rules 1957 as amended by this Act). IF RELEVANT

Maintenance Law - Victoria

Children’s Welfare Act 1958 No. 6219
Part VII.—Infant Life Protection.

Crimes Act 1958. No. 6231.

Hospitals and Charities Act 1958
An Act to consolidate the Law relating to Hospitals and Charities.

Marriage Act 1958

The Hague Convention

(Being a lay person, these are the Acts I’m aware of)

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MY TAKING STORY

2. It is with great sadness and relief that I have the opportunity to tell my story. It is emotional and triggering to the past however, I will make the attempt to try and do it justice. This is about my welcome to the world and the strangers that took me.

My story is based on the limited information provided to me by the infertile couple that raised me. (amother born in Tasmania and afather born in NSW). I will call this couple my aparents and subsequent family members names will be preceded by the letter "a". In some adoption circles the "a" depicts "Adoption". However, as you read on, I was never really adopted. I realise now that I was illegally taken at worse stolen or kidnapped.

ASiblings & The Deception of How I was Born

At the time of my taking my aparents had custody of a 10 year old boy born in 1949. I'm told his parents were part of a travelling troupe of boxers that toured Australia. He was found by my aparents in a neglected state aged approximately 2yo. They offered to look after the child whilst his parents went travelling Australia working. Upon their return to Melbourne, my aparents refused to "give him back" saying that the child considered my aparents "his parents". His mother demanded return of her son and a court action was taken and my aparents were granted custody. He was raised as (...) however I do not know if this was his legal name and have never sighted any court or legal documentation confirming this story.

My asister was born in 1956 and was legally adopted. I have sighted a 6th Schedule Birth Certificate and no adoption documentation.

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In 1959, my 33yo afather had a criminal record and my amother was aged 43yo (cut-off age in 1959 advised by VANISH, 36yo). For all intents and purposes my aparents would not be eligible under the laws at the time to adopt a child.

I'm told by my aparents that they did not actively seek another child to adopt. Rather, they received a phone call from a nursing sister that they remained friends with after adopting my asister in 1956. Apparently, it was thought that my asister would like a sibling and my aparents agreed.

When my aparents received the initial phone call to ask them if they wanted another baby, I was not born as yet. As my amother was quite friendly with the next door neighbour who was pregnant at the time, she felt that it would be difficult to explain the arrival of another baby without being pregnant. It was therefore decided that pillows or material be worn underneath her clothing to make out she was having a baby. Arelatives including my aauntie have confirmed that this happened.

Obviously, my amother was quite anxious for my arrival and to bring me home from Winston Private Hospital in Malvern. My amother had to leave her home and stay with her sister when I did not arrive on the "time-line" given to friends and family for my birth. Although I was a late delivery according to my amother's fake "pregnancy" I was, in fact, born premature and weighed 4lbs according to my Infant Welfare Book. The matron of the hospital has confirmed this.

I'm told my mother's Private Hospital expenses were paid by Mr & Mrs (...)

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After the anxious wait and constant harassment of the Matron at the hospital, my Aparents finally picked me up. When I was “collected” apparently my another saw a name on my bassinet and the name said “Shelagh Collins”.

To the delight of friends and family, my aparents brought their newborn home and gave her the name Kim (...) . Me.

Finding out I was Taken

I discovered I was taken at 15yo during the throws of a very upsetting divorce and subsequent legal fight of my aparents. It was argued that I did not belong to either of them. Hence, questions from me.

They explained to me that I was adopted. (I was to later find out that this was not the case).

My memories of that day are a blur except to say that I was told that my name was really “Shelagh Collins” and that my mother was a nurse. My heart was broken to think that my sister might not consider herself my sister anymore and that now I was alone without a “real” family.

At 15yo, I chose to commit a lot of the emotions of that day to that part of my brain where nothing is felt or consciously remembered. It was my way of coping with the lies and deceit committed against me. Unfortunately, I have discovered that past memories have a way of surfacing when least expected. It is part of the primal wound that is experienced by children taken away from their parents after birth. My pain was very real and has been imprinted in my subconscious.

3. Searching for the Truth

(a). Aprarents - (...) :

I tried without success to obtain any skerrick of information from my aparents to assist me in my search for my mother. As for my father, no information **at all**. Their so called failing memories and attitude was to let "sleeping dogs lie". Afather would say amother arranged the adoption and vice versa. This has added to my frustration over the years.

Needless to say, my relationship with both my aparents deteriorated over the years.

My narcissistic afather and amother are now both dead. They did not help my search in any way and chose to take any information with them to their graves.

***(Note:** An Infant Welfare Book was used when I commenced school. I went overseas with my aparents when I was 14yo with a passport in the name of Kim (...) . A solicitor was used to help with the application for Passport. (I have sighted this file and there is nothing of note in it.)*

(b) Am I Shelagh Collins?

The surreal experience of obtaining a Birth Certificate for Shelagh Collins can't be understated.

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Proof of my identity was a piece of paper with a strange name on it. How did I know this was me? It is based on hearsay information seen on a basinet by my amother in 1959.

(c) Adoption Information Service (AIS) –

My initial contact was with the Victorian government Adoption Information Services (AIS). This department held the Adoption of Children Register established and maintained by the Office of the Government Statist at the time of my birth.

I was told that they could not help me because I was not adopted and they had “no records” regarding (...)’s adopting a baby Collins. I argued that through no fault of my own the “system” had let me down. Something had gone terribly wrong. How could this happen? I needed help and this department finally agreed.

(d) Searching for Shelagh

According to the Birth Certificate obtained in Melbourne, Shelagh Collins date of birth is 14th July 1959 born at Winston Private Hospital, East Malvern. The mothers name on this Birth Certificate is also Shelagh Collins and she lived at (...), born in the UK and 25 years old at the time of my birth. Baby is not present. Signature of informant, (...). (not Shelagh Collins). Attending Doctor: (...), Father: listed as unknown.

Based on the above information:

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(1) Australia

- (i) Electoral records of the time have no record of Shelagh Collins living at (...) . It was a stable. This has been confirmed by residents in (...) Street and Real Estate Agents in the area.
- (ii) Searches/investigations in Australia have included:
1. Death Searches – no result.
 2. Marriage – no result.
 3. Electoral Rolls – no result.
 4. RTA (Motor vehicle license) – no result.
 5. Police Records – no result.
 6. Australian Taxation Office – no result.
 7. Red Cross Tracing Agency – no result.
 8. Criminal Records – no result.
 9. RSL Records – Australia & UK. (Birth Certificate UK. states Shelagh's father in army) – no record.
 10. Nurses Registration – Shelagh not a nurse. But original nurse who made telephone call to aparents listed, Sister (...) – now deceased.
 11. (...) (doctor who delivered Shelagh Collins baby) – now deceased.
 12. Door knock residents in (...) Street – resident remembers stable.
 13. (...) , Matron of Winston Private Hospital found. Remembers aparents, in particular another who harassed her and mother (brown hair and stocky). Alleges that consent signed however, "Shelagh" is not my mother's name. Advised mother chose to have the

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baby and leave the hospital immediately. “Shelagh Collins is not my name. Affidavit can be supplied regarding conversations that have taken place.

14. Registrar of Births Deaths & Marriages – I have been advised that Initial application for Birth Certificate is destroyed.
15. Request to Alloway Solicitors, Melbourne (used by Winston Private Hospital) to search for consent order **DENIED**. This firm is unable to search their records without an authority. Under Freedom on Information I am not entitled to this information.
16. Law Institute approached in 2011 requesting information regarding Alloway solicitors. Advised that Henty Jepson & Kelly Pty Ltd may be able to assist.
17. Henty Jepson & Kelly Pty Ltd email dated 15th December. “no file record exists (if it ever did)” Referred to the County Court.
18. County Court advised in email dated 6th January 2011 “unfortunately the physical records at the County Court don't go any further back than 1987. All records prior to that are stored with Births Deaths and Marriages”
19. Births Deaths and Marriages department advise that they only have completed files. I have requested that enquiries be made to ascertain if and where “partially” completed files are held. No response to date.

(2) UK Search

Some 30 years ago, I directed the search to the UK. According to the Birth Certificate, this is where Shelagh Collins was born in 1934. With the help of a Travel Agent that went to the UK, they searched 10 years

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either side of this date. ONLY one Birth Certificate for a "Sheelagh" Collins was found.

The information found on this Birth Certificate gave details of where Sheelagh was born, her parent's names, residence and occupations.

I then went to the International Telephone Directory here in Melbourne to find every Collins in the surrounding areas of the parents residential address listed on the Birth Certificate.

Approximately 70 letters were sent to Collins' in the Dagenham/Barking areas of London asking them to contact AIS here in Australia. A group of Collins' went to the local paper and "The Search for Shelagh" was published.

No success.

On-Line Search

The internet is now a valuable tool used for searching as I have discovered. This year the above "Sheelagh Collins", born in 1934 was found. She has NEVER been to Australia. On-line shipping/migration records have confirmed this.

It has been extremely frustrating not being legally adopted. I have no paper trail to follow. This has also meant that I have had to fight for the same rights as those adopted to gain assistance from many government departments.

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4. Criminal Investigation Unit/Further Information

Although I am a lay person and not formally trained in legislature or legal practice and procedure, I have come to the realisation that something terribly wrong took place when I was taken. To the extent that my case warranted closer inspection by the relevant authorities to ascertain/prove that breaches in the law have in fact taken place.

My initial contact with Victoria Police in East Malvern suggested that I come in for an interview either locally or at East Malvern. I chose to speak to the relevant authorities locally over the telephone and consequently was interviewed by them. I was then referred to the Criminal Investigation Unit who have interviewed me on numerous occasions in person and over the telephone.

To be acknowledged as having a story worth listening to that would result in enquiries being made has been empowering.

I have also recently reviewed a Family law solicitor's file that was uncovered in my long search for the truth. It is relating to the divorce of my aparents (I was 16 years old at the time). Information:

- (a) Solicitor's note that states "Kim (about to be adopted)" dated 10th December 1975.
- (b) Two Applications for Dissolution of Marriage – Form 4 M12084 of 1976.

- **One unstamped**

11. (a) The following are the children of the marriage under 18 years.

Full name: Kim (...) Date of Birth: (.../7/1959

Where residing: (...)

- **One "stamped"**

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11. (a) The following are the children of the marriage under 18 years.

Left blank.

- (c) Unstamped Form 6 Application for Maintenance and custody of “Kim (...) ”
- (d) Statement of Financial Circumstances – Form 19
Child care and education expenses. Signed and witnessed.
- (e) Copy Affidavits that state:
 - (i) we have through the marriage fostered two other children known as (...) and Kim (...) ”
 - (ii) My husband and I have cared for a child since birth namely Shelia Collins who is now known as Kim (...).
- (f) Memorandum of Advice from Counsel dated 6th April 1976.

3. “Unfortunately, it is not within the ambit of the provisions of Section 5 of the Family Law Act to claim maintenance for Kim (...) who has not been adopted and is not a child of the marriage.”

Ethically, I ask whose responsibility was it to ensure that my rights and entitlements were protected? Clearly, the Family Law Act did not make provision for me.

It is now 52 years since my taking and many people connected this enquiry are now deceased and records are difficult to find.

5. **UNKOWN INFORMATION:**

I do not have unequivocal proof of:

1. My name.
2. Date of birth.

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3. Age.
4. Names of my mother/father.
5. Where I was born.

Questions that need answers:

6. Did my mother ever sign an informed consent to adopt?
7. What happened to the consent?
8. What happened to legal process?
9. What Government Department or person in authority gave my aparents the right to take me?
10. Were my aparents eligible to adopt?
11. Who was responsible for following through proper policies and practices?
(refer pages The Law was to Protect my Rights)
12. Was (...) authorised to register my birth and by whom? There is no signature of Shelagh Collins on the Birth Certificate.
13. Was Winston Private Hospital a registered hospital?
14. What is my medical history? (Note: I have special needs as do my two children).
15. What is my heritage?
16. Am I considered taken/stolen/kidnapped?
17. What government department or person in authority can now can help me?
18. Where are the hospital's records?

6. **The Law was to Protect my Rights**

I am a taken **infant** and respectfully request the Commonwealth of Australia take note that I have no knowledge or proof that the following Acts of Legislature protected my rights under:

Adoption of children Under the Adoption of Children Act 1958 No. 6192,
(Adoption of Children Rules 1957 as amended by this Act).

Maintenance Law - Victoria

Adoption of Children

Procedure –

Before an adoption application is made, it is essential to consider:-

(a) the applicants;

(b) the parents;

(c) the child,

and ensure that in respect of each of these matters the provisions of the *Adoption of Children Act 1958* and the Rules made thereunder have been or can be complied with.

The actual application for an adoption order is made by means of a Summons (Form 1). In practice the Application is made to the County Court rather than the Supreme Court. Where there are “special circumstances” the County Court judge may refer the matter to the Supreme Court (rule 27), or where the Country Court has refused to make an order, the applicants may apply further to the Supreme Court (rule 28). The adopters are the applicants and the judge may direct any other person or institution to be respondent. In the normal case this is not done. The summons must be filed **immediately** (rule 5). It is supported by an affidavit in the form set out in Form 3 and dealing with the matters set out in paragraphs (a) to (i) of rule 7, and exhibiting the birth

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certificate of the child where the birth has been registered. The following further points should be noted in relation to the applicants' affidavit:

- (i) If the male applicant is born outside Victoria he should state when he came to Victoria and that he intends to reside here permanently.
- (ii) Applicants should state whether they have or have not any adopted children. Particulars of prior adoptions, if any, should be given.
- (iii) The history of the adoption should be fully stated, including the date when they obtained **possession** of the infant, from **whom and where**.

The following documents are to be **filed in support** of the application

1. Summons (Form 1)
2. Affidavit of Applicants (Form 3)
3. **Birth Certificate** and other exhibits.
4. Consent of parent (Form 4).
5. Affidavit verifying consent (Form 5).
6. Affidavit of qualification of Guardian *ad litem* and date of hearing if he is a Minister of Religion.
7. Order appointing Guardian *ad litem* and date of hearing (form 12).
8. Notice of Appointment of Guardian *ad litem* and date of hearing (Form 13).
9. Adoption Order (Form 15) in duplicate, or in triplicate if infant born in another State.

As to fees in the Country Court see *Victorian Government Gazette* of 26th August 1959, No. 77; as to fees in the Supreme Court see *Government Gazette* of 25 November 1959, No. 103.

These documents should be lodged in the following order – with the Summons on the outside:

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1, 9, 7, 8, 6, 5, 4, 3 2,

There is no fee required on the filing of the affidavit of service, but a fee of 2/- (outside) is required on the affidavit of the Guardian *ad litem* embodying his report, and also a fee of 2/- (outside) on any supplementary affidavits which may be filed.

Immediately after the documents are lodged the Registrar checks through them and then forwards them for consideration of the judge who signs the **preliminary order** and indicates any further material he may require. The Registrar then notifies the **applicant's solicitor** by notice in writing of the date of the hearing and informs him of any further requirements of the judge.

Guardian ad litem

The **only** persons now qualified to act as guardians *ad litem* are:-

1. The Director of Children's Welfare or some other responsible officer of that Department.
2. A representative of **some body** or organization approved generally for that purpose by the Attorney-General.
3. Any other person **approved** generally for that purpose by the Attorney-General.
4. A Minister of Religion qualified under Part I. of the *Marriage Act 1958* to celebrate marriages.

The duty of such guardian is to safeguard the welfare of the child

(s. 11 (3)).

If the proposed guardian is a Minister of Religion it is necessary to file with the original papers an affidavit by such Minister, stating he is a person authorized under Part I. of the *Marriage Act 1958* to celebrate marriages of Victoria (see additional Form 1). Further, the following clause should be added at the end of the Order – “and that a copy of Rules 21 and 22 of the

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Adoption of Children Rules be served on the Guardian *ad litem* together with a Notice of Hearing.

The rights of the mother: (*Origins, NSW*)

"A mother giving an adoption consent must be fully aware of the import of her action and, must be emotionally and mentally able to appreciate all the implications of such consent. A consent should not be taken if there is any suggestion of indecisiveness or that she has not given sufficient consideration to the matter".

"To avoid any misunderstanding or any suggestion that the mother was misled or uninformed. District Officers are instructed to explain fully to the mother, before taking the consent, the facilities which are available to help her keep the child. These include homes licensed under the Child Welfare Act for the private care of children apart from natural parents, financial assistance to unmarried mothers under section 27 of the Child Welfare Act, admission to State control until the mother is in a position to care for her child, and assistance to affiliate the child and obtain a maintenance order against the putative father, when all of these aids have been rejected, the officer is expected to explain to the mother the full implications of the act of surrendering her child. (this included warning her of the risk of dire future regret if she considers adoption). Only when a mother has considered these, and still wishes to proceed with the surrender for adoption, should the consent be accepted."

The law was very clear in stating how a mother had to insist upon adoption before it could proceed.

IF NO DOCUMENTATION WAS FILED IN THE COURT

Children's Welfare Act 1958 No. 6219

PART VII.—INFANT LIFE PROTECTION.

In this Part unless inconsistent with the context or subject-matter—

" Registered house " means a house registered under this Part.

" Registered person " means a person registered as the occupier of a registered house under this Part.

The provisions of this Part shall not apply to or in relation to—

- (a) any hospital within the meaning of the *Hospitals and Charities Act 1958 or any private hospital within the meaning of the Health Act 1958;
- (b) any institution or establishment conducted solely for educational purposes;
- (c) any institution wholly maintained by the State;
- (d) any house institution establishment or private home so far as relates to any ward of the Department placed or boarded out therein pursuant to this Act;
- (e) any house occupied by a relative of an infant in whose charge the infant is received or retained in circumstances where the Minister is satisfied that it is unnecessary or undesirable that the provisions of this Part should apply;
- (f) any house premises institution or establishment exempted for the time being by the Minister.

60. (1) No person shall in consideration of any payment or reward at any time made or given or to be made or given to such person or any other person on behalf of such person retain in or receive into her charge in any house any infant under

the age of five years for the purpose of rearing nursing or maintaining such infant apart from its parents unless—

- (a) such person is registered as the occupier of such house under this Part; and
- (b) such house is registered under this Part.

(2) No male person shall be so registered.

61. (1) Application for such registration shall be made to the Director who upon being satisfied as to the character and registration, fitness of the applicant and the suitability of her house for the purpose shall register the applicant and the house.

(2) Every applicant for such registration shall afford the Director or any officer authorized by him for the purpose all reasonable facilities to inspect the house sought to be registered and to make such other inquiries as are considered by the Director to be necessary.

(3) Every such registration of a house shall be subject to the following conditions:—

- (a) That a greater number of children than a number specified by the Director shall not be accommodated in the house at any one time;
- (b) That any consideration payment or reward for rearing nursing or maintaining any child shall not be made or given except by way of periodical instalments which shall not be paid for more than four weeks in advance;
- (c) Such conditions as are prescribed.

(4) Every such registration shall unless cancelled as hereinafter provided remain in force until the thirty-first day of December next following the making thereof and may on application in that behalf be renewed by the Director as from the beginning of each year thereafter for a further period of twelve months.

62. (1) Where the Director is of opinion that the conditions Cancellation of registration of a house have not been complied with or that a registrations. registered person has been guilty of neglecting or is incapable of adequately

maintaining the child received into her house he shall submit a report of the circumstances to the Minister who if he is satisfied that it is in the public interest to do so may direct that the registrations be cancelled and the Director shall thereupon cancel the same.

- (2) Upon such direction by the Minister the Director shall with respect to each child received into the house of such person and still in her care at the time of cancellation of the registrations—
- (a) restore the child to the custody of a parent; or
 - (b) transfer the child to the care of a registered person upon the parent entering into an agreement with such registered person for the payment of maintenance; or
 - (c) remove the child to a reception centre upon an application being made to a Children's Court to have the child admitted to the care of the Children's Welfare Department and the Court may grant or refuse such application and make an order accordingly.
63. (1) Every registered person shall keep a roll in the prescribed form in which she shall enter forthwith the names sex and date of birth of each child received into her care and such other particulars as are prescribed.
- (2) Within seven days after receiving any child into her care such registered person shall furnish the Director with such details from such roll in relation to the child as are prescribed.
- (3) Forthwith after the removal of any child from a registered house whether before or after attaining the age of five years the registered person shall enter in such roll the time of removal the names addresses and occupations of the person or persons by whom such child was removed and, if any such person is a married woman, the address and occupation of her husband, and shall forthwith forward a notice in the prescribed form of such removal to the Director.

UNREGISTERED HOUSES

65. (1) Where in contravention of any of the provisions of this Part any infant under the age of five years has been received into a house which is not registered under this Part the Director shall—
- (a) restore the child to the custody of the parent;
 - (b) transfer the child to the care of a registered person upon the parent entering into an agreement with such registered person for the payment of maintenance; or
 - (c) remove the child to a reception centre upon an application being made to a Children's Court to have the child admitted to the care of the Children's Welfare Department and the Court may grant or refuse the application and make an order accordingly.
- (2) The Director is hereby authorized to enter any premises, to take the child into his custody and to take such other action as is necessary or expedient to enable him to carry out his duties under this section.
68. (1) If any person takes over the entire care and charge of any infant under the age of five years from its parents or guardians such person shall within fourteen days after so doing give or send notice thereof to the Director and such person shall in such notice state his or her name and place of residence and occupation and the name and age of such child.
- (2) Every person who fails to comply with the provisions of the last preceding sub-section shall be liable to imprisonment for a term of not more than three months or to a penalty of not more than Fifteen pounds.
- (3) Nothing in this section shall excuse any person from making any registration required by any other provision of this Part or from any penalty for omitting so to do.

RESPONSIBILITY OF PRIVATE HOSPITALS (refer above)

- (a) any hospital within the meaning of the *Hospitals and Charities Act 1958 or any private hospital within the meaning of the Health Act 1958;

HEALTH ACT 1958. No. 6270.

An Act to consolidate the Law relating to Public Health.

DIVISION 3. PRIVATE HOSPITALS.

178. (1) In this Division if not inconsistent with the context or subject-matter—

"Private hospital " means any building house tent or place (other than an institution supported in whole or in part by or receiving aid from the State) in which cases of any prescribed class or classes are received or lodged or in which it is intended that they shall be received or lodged for medical or surgical treatment and for attendance or care and for which a charge is made and includes any hospital which is under the *Hospitals and Charities Act 1958 or any corresponding previous enactment declared by the Governor in Council to be exempted from the operation of that Act or enactment.

" Proprietor " of a private hospital includes the owner the occupier or any person having the management or control thereof.

THE LAW FOR PRIVATE HOSPITALS

HOSPITALS AND CHARITIES ACT 1958. No. 6274.

An Act to consolidate the Law relating to Hospitals and Charities.

PART III.—ESTABLISHMENT AND REGISTRATION OF INSTITUTIONS AND BENEVOLENT SOCIETIES.

37. (1) No institution or benevolent society shall be established without the previous consent in writing of the Commission.
- (2) Every person or body of persons (whether incorporated or not) proposing to establish any institution or benevolent society shall make

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application for such consent to the Commission in such manner as is prescribed and in the application shall set forth the nature and purposes of the institution or benevolent society and all such matters as are prescribed.

- (3) The Commission shall consider every such application and shall make due inquiry into—
- (a) the proposed constitution and management of the institution or benevolent society;
 - (b) what provision (if any) already exists for effecting the proposed objects and purposes thereof;
 - (c) the suitability for the purposes thereof of any land buildings or premises proposed to be used in connexion therewith; and
 - (d) all matters (whether or not of a like nature with the foregoing) as to which it considers inquiry is desirable in order to deal with the application.
- (4) The Commission may refuse any such application or may grant the same either absolutely or subject to such conditions as it thinks fit.
- (5) The Governor in Council may upon appeal by any person or body of persons aggrieved by any decision of the Commission under the last preceding sub-section review that decision, and in reviewing that decision the Governor in Council may by Order approve the decision of the Commission or disapprove the decision of the Commission, and may make any determination in the matter which the Commission might have made, and every such Order shall be given effect to as soon as may be by the Commission.

38. Every institution and every benevolent society shall be registered under this Act.

39. The committee or managers of every institution and benevolent society shall upon demand in writing by the Commission furnish to the Commission such information as the Commission requires in relation to registration.

40. (1) The Commission shall cause to be made and kept in the prescribed form a register of all institutions and benevolent societies registered under this Act.
- (2) The Commission may alter amend add to or revise the register as required; and subject to this Act may cancel any registration.
- (3) The Commission shall publish in the *Government Gazette* a copy of the register as soon as practicable after the first compilation thereof and thereafter a revised copy thereof at such intervals as the Minister directs.

- (4) A copy of the register so published or a certificate in writing under the hand of the chairman of the Commission that any institution or benevolent society is or is not registered or was or was not registered shall be *prima facie* evidence in all courts of law and in all legal proceedings of the facts therein set forth.
41. (1) If after the first publication of a copy of the register any institution or benevolent society (whether established before or after the commencement of this Act) is not registered as required by this Act or ceases to be so registered it shall not be lawful for that institution or benevolent society—
- (a) to share in the Fund; or
 - (b) to receive any moneys or other grant or aid of any kind from the Consolidated Revenue or from any municipality; or
 - (c) in any manner to appeal or apply to any person or body of persons for or to hold itself out as willing to receive any contributions towards its funds.
- (2) If after the first publication of a copy of the register any unregistered institution or benevolent society or the committee or managers thereof in any manner whatsoever whether directly or indirectly and whether by itself or themselves or by any person on behalf of such institution benevolent society committee or managers—
- (a) appeals or appeal or applies or apply to any person or body of persons for any contributions to the funds of such institution or benevolent society; or
 - (b) holds itself or hold themselves out as willing to receive any such contributions—
such institution or benevolent society and every member of the committee and each of the managers thereof (as the case may be) and every person acting on behalf as aforesaid of the institution or benevolent society or of the committee or managers thereof shall for every such offence be liable to a penalty of not more than Fifty pounds.
42. (1) The Commission may with the approval of the Governor in Council cancel the registration of any institution or benevolent society—
- (a) in the case of any subsidized institution or benevolent society—
 - (i) for the purpose of giving effect to any determination of the Governor in Council made pursuant to this Act that the institution shall be closed or that the benevolent society shall cease to exist or that any two or more institutions shall be amalgamated; or (ii) for any cause for which the Governor in Council is authorized to determine that any subsidized institution shall be closed or that any subsidized benevolent society shall cease to exist;
 - (ii) for any cause for which the Governor in Council is authorized to determine that any subsidized institution shall be closed or that any subsidized benevolent society shall cease to exist;
 - (b) in the case of any unsubsidized institution or benevolent society—for any cause for which the Governor in Council would (if the same were subsidized) have power to determine that the institution should be closed or that the benevolent society should cease to exist.

(2) The Commission shall not cancel the registration of an institution or benevolent society unless—

- (a) the Commission has made careful inquiry into the matter, and has heard the committee or managers of the institution or benevolent society or has given them an opportunity of being heard; and
- (b) the Minister at least twenty-eight days before submitting the resolution to the Governor in Council for approval has given to the institution or benevolent society to which the resolution relates notice in writing setting forth the substance of the resolution and stating that he proposes to submit the same to the Governor in Council for approval.

43. Where the Commission cancels the registration of any institution or benevolent society it shall cause a record of such cancellation to be made in the register; and such institution or benevolent society shall thereupon cease to be registered.

NOTE: Winston Private Hospital is not listed below

SCHEDULES.

FIRST SCHEDULE.

Number of Act	Title of Act.	Extent of Repeal.
5300 ..	<i>Hospitals and Charities Act 1948</i>	So much as is not already or otherwise repealed.
5986 ..	<i>Hospitals and Charities (Liability of Patients) Act 1956</i>	The whole.
6035 ..	<i>Nurses Act 1956</i>	Clauses 2 and 3 of Part II. of Schedule

1. After Care Hospital.
2. Airlie Maternity Hospital.
3. Alexander.
4. Alexandra District Hospital.
5. Alfred Hospital.
6. Apollo Bay and District Memorial Hospital.
7. Ararat and District Hospital.
8. Association for Advancement of the Blind.
9. Austin Hospital—Heidelberg.
10. Bairnsdale District Hospital.
11. Bacchus Marsh and District War Memorial Hospital.
12. Ballarat and District Base Hospital Incorporated.
13. Ballarat Orphanage.
14. Beaufort District Hospital.
15. Benalla and District Memorial Hospital.
16. The Bendigo and Northern District Base Hospital.
17. Bendigo Benevolent Home.
18. Bethany Babies Home, Geelong.
19. Box Hill and District Hospital.
20. Burwood Boys' Home.
21. The Camperdown District Hospital.
22. Casterton Memorial Hospital.
23. Castlemaine District Community Hospital.

24. Claremont Home for the Aged, South Melbourne.
25. The Clunes District Hospital.
26. Cobram District Hospital.
27. Cohuna District Hospital.
28. Colac District Hospital.
29. Colac and District Eventide Hostel.
30. Corryong District Hospital.
31. The Creswick District Hospital.
32. Dandenong and District Hospital.
33. Daylesford District Hospital.
34. The Dental Hospital of Melbourne.
35. Donald District Hospital.
36. The Dunolly District Hospital.
37. Echuca District Hospital Incorporated.
38. Edenhope District Hospital.
39. The Elizabeth Fry Retreat.
40. Footscray and District Hospital.
41. Foundling Hospital and Infants' Home.
42. Frankston Community Hospital.
43. Geelong and District Hospital. (Kitchener Memorial).
44. Geelong and Western District Ladies' Benevolent Association.
45. Geelong and Western District Protestant Orphanage.
46. Gippsland Benevolent Home.
47. The Gippsland Hospital.
48. Gladeswood Home.
49. Glenelg Base Hospital.
50. Gordon Institute for Boys.
51. Healesville and District Hospital.
52. Heathcote District Hospital.
53. The Inglewood Hospital.
54. Kaniva District Hospital.
55. Kerang and District Hospital.
56. The Kilmore Hospital.
57. Koroit and District Memorial Hospital.
58. Kyneton District Hospital.
59. Lyndoch.
60. Maffra District Hospital.
61. Maldon Hospital.
62. Manangatang and District Hospital.
63. Mansfield District Hospital.
64. Maryborough and District Hospital.
65. Melbourne City Mission Incorporated
66. The Melbourne Convalescents' Home for Men.
67. Melbourne Convalescent Home for Women.
68. Melbourne Ladies Benevolent Society.
69. Melbourne Orphanage.
70. Melbourne Home and Hospital for the Aged.
71. The Menzies Home for Boys.
72. Mildura Base Hospital.
73. Mooropna and District Base Hospital.
74. Mordialloc-Cheltenham Community Hospital.
75. The Mortlake District Hospital.
76. Mount Royal.

77. The Nhill Hospital.
78. Norah Cosgrove Terang and District Community Hospital.
79. Numurkah and District War Memorial Hospital.
80. Oakleigh District Community Hospital.
81. Omeo District Hospital.
82. Orbost and District Hospital.
83. Ouyen and District Hospital.
84. Ovens and Murray Home.
85. Ovens District Hospital.
86. Port Fairy Hospital.
87. Portland and District Hospital.
88. Preston and Northcote Community Hospital.
89. Prince Henry's Hospital.
90. The Queen Elizabeth Home.
91. The Queen Victoria Memorial Hospital.
92. Robinvale and District Hospital.
93. Rochester and District War Memorial Hospital.
94. Royal Children's Hospital.
95. Royal Melbourne Hospital.
96. Royal Talbot Colony for Epileptics (subject to section 7 of this Act).
97. Royal Victorian Institute for the Blind.
98. The Royal Women's Hospital.
99. Rutherglen District Hospital.
100. Seymour Soldiers' Memorial Hospital.
101. South Gippsland Hospital.
102. Southern Memorial Hospital.
103. Southern Peninsula Hospital.
104. Springvale and District Community Hospital.
105. Stawell District Hospital.
106. St. Arnaud District Hospital.
107. St. George's Hospital.
108. Swan Hill District Hospital.
109. Tallangatta Hospital.
110. Tawonga District General Hospital.
111. Timboon and District Hospital.
112. Traralgon and District Hospital.
113. The Upper Goulburn District Hospital.
114. Victorian Children's Aid Society.
115. The Victorian Eye and Ear Hospital.
116. Victorian School for Deaf Children.
117. Wangaratta District Base Hospital.
118. Werribee District Hospital Society.
119. The Warrnambool and District Base Hospital.
120. The Warracknabeal District Hospital.
121. West Gippsland Hospital.
122. Westernport Memorial Hospital.
123. William Angliss Hospital.
124. Williamstown and District General Hospital.
125. Wimmera Base Hospital.
126. Wodonga District Hospital.
127. Wonthaggi and District Hospital.
128. Woorayl District Memorial Hospital.
129. The Wycheproof Hospital.

- 130. Yarram and District Hospital.
- 131. Yarrawonga District Hospital.
- 132. Yea and District Hospital.
- 133. Yooralla Hospital for Crippled Children.

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THIRD SCHEDULE.

SEPARATE INSTITUTIONS[^]).

- 1. Abbotsford Female Refuge, or Magdalen Asylum.
- 2. Caritas Christi Hospice for the Dying.
- 3. The Grey Sisters' Mother and Child Care Centre.
- 4. House of Mercy, Cheltenham.
- 5. Melbourne Jewish Philanthropic Society.
- 6. St. Augustine's Orphanage and Industrial School.
- 7. St. Catherine's Girls' Orphanage, Geelong.
- 8. St. Joseph's Receiving Home (Carlton).
- 9. St. Vincent's Hospital.
- 10. St. Vincent de Paul's Boys' Orphanage.
- 11. St. Vincent de Paul's Girls' Orphanage.
- 12. Salvation Army (Abbotsford Prison Gate Home and Brunswick Rescue Home).
- 13. St. Joseph's Foundling Hospital, Broadmeadows.

Sections 48, 55.

FOURTH SCHEDULE.

The municipalities of:—Box Hill, Braybrook, Brighton, Broadmeadows, Brunswick, Camberwell, Caulfield, Coburg, Collingwood, Dandenong, Doncaster and Templestowe, Eltham, Essendon, Fitzroy, Footscray, Hawthorn, Heidelberg, Kew, Malvern, Melbourne, Mordialloc, Moorabbin, Mulgrave, Northcote, Nunawading, Oakleigh, Port Melbourne, Prahran, Preston, Richmond, Ringwood, Sandringham, South Melbourne, Si Kilda, and Williamstown.

(a) As to Fairfield Hospital, see definition of " Institution" in section three, and subdivision 1 of Division one of Part X. of the Health Act 1958.

END OF THIRD VOLUME.

7. CRIMES ACT 1958. No. 6231.(9) Child Stealing.

63. (1) Whosoever unlawfully either by force or fraud leads child or takes away or decoys or entices away or detains any child under the age of sixteen years, with intent to deprive any parent or guardian or any other person having the lawful care or charge of such child of the possession of such child or with intent to steal any article upon or about the person of such child; and whosoever with any such intent receives or harbors any such child knowing the same to have been by force or fraud led taken decoyed enticed away or detained, shall be guilty of felony, and shall be liable to imprisonment for a term of not more than **five years**.

No person who has claimed any right to the possession of such Proviso as to child, or is the mother or has claimed to be the father of an illegitimate child, shall be liable to be prosecuted under this or the next succeeding sub-section on account of the getting possession of such child or taking such child out of the possession of any person having the lawful care or charge thereof.

- (2) Whosoever unlawfully takes decoys or entices away any child under the age of sixteen years out of the possession and against the will of the child's parent or guardian or of any other person having the lawful care or charge of the child shall be guilty of a misdemeanour, and shall be liable to imprisonment for a term of not more than **two years**.

(15) Falsification of Accounts by Clerk Servant &c.

153. Whosoever being a clerk officer or servant, or any person employed or acting in the capacity of a clerk officer or servant, wilfully and with intent to defraud destroys alters mutilates or falsifies any book paper writing valuable security or account which belongs to or is in the possession of his employer, or has been received by him for or on behalf of his employer, or wilfully and with intent to defraud makes or concurs in making any false entry in or omits or alters or concurs in omitting or altering any material particular from or in any such book or any document or account, shall be guilty of a misdemeanour.
154. Every person guilty of a misdemeanour under the last preceding section shall be liable to imprisonment for a term of not more than **seven years**.

(8) Forging Records Process Instruments of Evidence SLC.

274. Whosoever forges or fraudulently alters or offers utters disposes of or puts off knowing the same is forged or fraudulently altered any record writ return panel process notice bill petition answer pleading rule order decree report warrant interrogatory deposition affidavit affirmation recognisance or any original document whatsoever of or belonging to the Supreme Court or any court of record, or any document or writing or any copy of any document or writing used or intended to be used as evidence in any court in this section mentioned, shall be guilty of felony, and shall be liable to imprisonment for a term of not more than **five years**.

(14) Falsifying Entries of Births Deaths Marriages &c.

284. Whosoever unlawfully destroys defaces or injures & causes or permits to be destroyed defaced or injured any register of births baptisms marriages deaths or burials now or hereafter by law authorized or required to be kept or any part of any such register or any certified copy of any such register or any part thereof, or forges or fraudulently alters in any

such register or certified copy any entry relating to any birth baptism marriage death or burial or any part thereof, or knowingly and unlawfully inserts or causes or permits to be inserted in any such register or certified copy any false entry of any matter relating to any birth baptism marriage death or burial, or knowingly and unlawfully gives any false certificate relating to any birth baptism marriage death or burial, or certifies any writing to be a copy or extract from any such register knowing such writing or any part thereof is false in any material particular, or forges the seal of or belonging to the office of the government statist or of any registrar, or offers utters disposes of or puts off any such register entry certified copy certificate or seal knowing the same is false forged or altered, or offers utters disposes of or puts off any copy of any entry in any such register knowing such entry to be false forged or altered, shall be guilty of felony, and shall be liable to imprisonment for a term of not more than **five years**.

(As a lay person , these are the Acts I'm aware of)

7. Conclusion

All that is necessary for the triumph of evil is that good men do nothing.

Edmund Burke

Irish orator, philosopher, & politician (1729 – 1797)

It is an atrocity to not have rights to your identity, heritage and kin based on the actions or non-action of those in authority. Those who, in some cases, knowingly and willingly did not follow correct policies and practices under the laws of this land.

Whilst it is understood that the premier of WA has apologised to those affected by past adoption practices in that State and NSW and Tasmania have conducted an inquiries, adoption practices in this land have no boundaries. They are endemic in every State & Territory of Australia.

To not feel worthy in the community or belong to anything in the true sense of the word can affect ones psyche for life. Part of the healing process is to speak my truth and be heard and acknowledged.

Therefore, as I do not have a legal identity, nor any legal documents pertaining to my removal or any statutory documents under either Commonwealth or State Acts, any assistance from the committee is appreciated to unravel the status of my “illegal removal”

Note:

It has been extremely difficult to write this Submission both on myself and my family.

Emotions from despair to anger have sent me into a spin at times. Other times I have ground down to an emotional halt not wanting to be part of the outside world.

How is it possible to explain what it means to not know the truth behind my existence.

To find the words to express myself has been difficult.

I wished to write my whole truth however, my “real” truth of being has been denied. I have been denied a basic human right to know my identity.

The most overwhelming emotions I have felt are fear followed by rejection.

To not be worthy of love or afraid to express oneself in fear of rejection is self-defeating. Over the years I learnt to become a chameleon and change shape to fit into the world around me. I was a lost soul looking for redemption with the people that raised me. It never came.

I was never good enough. Driving myself forward to prove to society that I was worthy.