Submission of Origins Inc regarding the

SOCIAL ENGINEERING

of the

Australian Association of Social Workers

Circa 1953 – 1982

In response to part (a) of the
Inquiry of the Community Affairs References Committee
into the Role of the Commonwealth, if any, its practices and policies
in contributing to 'forced adoption'

INTRODUCTION

This submission is made in refutation of arguments of former members of the Australian Association of Social Workers (AASW) in defence of 'forced adoption', despite that not only did they solicit mothers to sign consents to the adoption of their children. Quasi-legal officers of the law, ASFA members took adoption consents from mothers in full knowledge of the duress they were under as subject to the unauthorized removal of their children at birth on behalf of childless couples circa1940s-1980s.

The marking of the antenatal files of unwed mothers predestined such unauthorized removal. Crown Street's notorious Policy on Adoption, for example, as signified by the code "UB-" (Unmarried, baby not keeping), indicated[1]:

> that the mother was not permitted to see her baby in the delivery room but there would have been occasional exceptions to this. In the days after the birth the mother did not see the baby. The Policy Manual would reflect these procedures. The policy regarding putting a pillow over the chest of the mother during the birth had been aimed at preventing the commencement of bonding between mother and child, by obscuring the child from view after birth. (Affidavit of Mrs Pamela Thorne (Nee Roberts) has been submitted by Origins to this inquiry).

Clean Break Policy

In Victoria, "A" for Adoption meant that the baby would be removed at birth; "BFA" (Baby for Adoption) indicated the same practice but in NSW. Known as the 'Clean Break' policy, the latter practice in theory was intended to discourage unwed mothers bonding with and keeping their newborn babies.[2] The removal of the child at birth, as indicated by such codes, had the

[1] As abstracted from the Affidavit of (...) . It is also known that Crown Street's "UB-" also indicated a drug regime, including the carcinogenic Stilboestrol as well as lytic cocktails (used medically to obliterate feelings). Lytic cocktails consisted in combinations of Phenobarbitone, Pethidine, Sparine, and Largactyl. Post-Hypnotic memory altering barbiturates such as Phenobarbitol, Sodium Amytil, Methadone, Heroin and Chloral Hydrate were also the order of the day. The following Youtube video features Consultant Psychiatrist to the NSW Parliamentary Inquiry into Past Adoption Practices (1950-1998), testifying to the latter: Youtube video: <http://www.youtube.com/watch?v=S1_ZYIzvoKQ&feature=mfu_in_order&list=UL>

[2] See attachment "A" at the end of this document, which is a true copy of the minutes of a meeting in August 1975, of representatives of unmarried mother's hostels (held at the Queen Victoria Hospital in Annandale). These minutes note that those representatives who attended this meeting felt they had a right to decide how much contact a mother should have with her own baby and discussed the trend of allowing unmarried mothers to "see" or "cuddle" or "bottle feed" their babies and decided that "girls should be allowed to see their babies and nurse it if she wished, and

effect of readily conveying especially to the younger, inexperienced mothers, that they had no right to their offspring. Hence, in large numbers young mothers failed to assert rights they believed to be non-existent.

The Standing Committee on Social Issues for the NSW Parliamentary Inquiry into Past Adoption Practices (1950-1998) dismissed all rationale for the Clean Break policy, finding it "unlawful and unethical":

> 'Mothers argued that the practice denied their legal rights as guardian of the child. As explained above, the Health Commission stated that the mother was the legal guardian of the child until the signing of the consent form. Justice Richard Chisholm agreed that the mother remained guardian of the child until she gave consent and that preventing her from having access to the child prior to the consent would not have been authorized.
>
> 'The Committee therefore believes that the practice of denying a mother access to her child prior to the signing of consent was unlawful. Those professionals who contributed to the process where access was denied were clearly acting unlawfully.
>
> 'Whatever the rationale for the practice, the Committee believes that in all cases women should have been consulted about this issue prior to the birth and that a woman should not have been denied access to her child if she requested it. Therefore, failure to grant access constituted an unlawful and unethical action.[3]'

Regardless of the latter findings, the practice of 'forced adoption' continues to be defended, even most recently on the alleged basis that the child was removed in the best interests of the mother.[4] Nevertheless, during this period, Social work professionals were well versed with the mental-health consequences of the permanent separation of mother and child.

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this was often helpful to the girl and did not necessarily cause her to change her mind." The final sentence indicates that the previous practice of not permitting the mother to see her baby at all, was based on their belief that if she did see her baby she would be less likely to give it up. This record gives evidence that mothers prior to 1975, who were residents of Carramar, Bethesda, Pittwood, St Anthony's or Queen Victoria Hospital, were not permitted any access to their offspring, while after August, 1975, they were permitted some but limited access. The minutes of this meeting also pertain specifically to me, as I am one of the 20 "girls" who were then residents of St Anthony's. The meeting is dated 11th August 1975; I gave birth to my son on 29th September 1975.

[3] "Releasing the Past", Paras. 7.61, 7.62. 7.63, accessed 14th February 2011 from <http://www.parliament.nsw.gov.au/prod/parlment/committee nsf/0/56E4E53DFA16A023CA256CFD002A63BC>

[4] See video link at 06:24, featuring Minister Hames claiming that the unauthorized removal of the child at birth was an act thought to be in the best interests of the mother.
http://www.abc net.au/news/video/2010/10/15/3040056 htm

However, the standard explanation of Social workers in regarding the sudden decline in the numbers of babies available for adoption circa 1940s-1980s has been that adoption is a past social *mōs* (Latin pl. of mores).

Argument on the basis of social mores

The social mores argument implies that 'unwed' mothers willingly relinquished their babies, due either to shame on account of illicit sexual relations or for want of parental support. Nevertheless, the parents of the unwed mother did not remove her baby at birth, bind her breasts, drug and then force her consent to the adoption of her child – their grandchild – while the plan of the Australian Association of Social Workers, as the reader will see witnessed the aiding and abetting of such cruelty.

The following media consist in examples of social mores/best interests of the mother apologetics from agencies implicated in past unlawful removals of 'illegitimate' babies at birth:

- the Anglican Adoption Agency, Carramar[5];
- the Benevolent Society's Post Adoption Resource Centre, describing Rapid Adoption as an action "seen in those days as a kinder way of taking the baby"[6];
- the Crown Street Women's Hospital[7];
- the Catholic Adoption Agency, as per video submitted to this Inquiry under parliamentary privilege.

WA State Government Apology

On the day of a world-first apology to unwed mothers who have children to 'forced adoption' practices, Mr David Templeman MLA, instigator of the same, refuted arguments in defence of 'forced adoption' from social mores and the "best interests of the mother." Such was paramount to a criticism of the official terms of the WA State Government apology (see italicized, below), as the italicized sections of what follows, highlight:

> The language of this apology is crucial if we seek to right a great wrong of the past. During the period mentioned in this apology, state-sanctioned practices and policies, which we now know and acknowledge to be wrong, were often brutal and, in many cases, illegal. *In the past those practices and policies have been explained as one of the social mores of the day. The broader Australian community would never have accepted that myth. That is no excuse.*

[5] http://www.youtube.com/watch?v=8Y2KtPxx1x4&feature=player_embedded
[6] http://www.youtube.com/watch?v=FuYLSFu0ub0&feature=player_embedded
[7] http://www.youtube.com/watch?v=p-VmCI9aMh0&feature=player_embedded

> What happened was wrong. We need to acknowledge and state that it was wrong. Those practices involved the removal of babies from their mothers after birth. In many cases the separation of a mother and her baby happened illegally and immediately after birth. It was an attempt by the state to sever the most sacred of relationships—that between mother and child. As has often been detailed in personal stories, at times that separation was carried out in the most inhumane of ways. Numerous mothers have reported that they were prevented from touching or seeing their newborn before he or she was taken away. Many were told that their child had died only to find out years later that their child was alive and that he or she had been looking for them. Others were heavily drugged or sedated during and after the birth of their child. *This apology motion should acknowledge that that practice was never in the best interests of the child or the mother*.[8]

The object of what follows is to provide an overview of an historical period that does not bear the marks of mores, kindness, or of mothers choosing adoption as a means to escape the scorn of society. Rather, it describes the execution of a plan by the AASW in provision of newborn babies for infertile or otherwise childless couples.

The meaning of social mores

What is executed according to a plan does not equate with mores, as mores are values embraced by a community over time. That which offends against and harms humanity in the family as smallest unit of society – as did the unauthorized removal of 'illegitimate' babies from their families of origin – cannot, therefore, be described as mores. Mores do not suddenly appear, furthermore, but are valued as proven of benefit to family and community. It did not take sixty years for Australians to recognise that 'forced adoption' is harmful; to the contrary, adoption wreaked havoc during the sixty years of its institution. Most importantly, however, the argument in defence of 'forced adoption' on the grounds of social mores is a red herring, in flying in the face of its illegal prevalence in a liberal democracy espousing Rule of Law. Federal and state governments of the day not only had *a priori* knowledge of associated major breaches of common and human law rights and entitlements which perpetrated across that passage of sixty years – as proven at by that passage of time – but were directly involved in regard to the same.

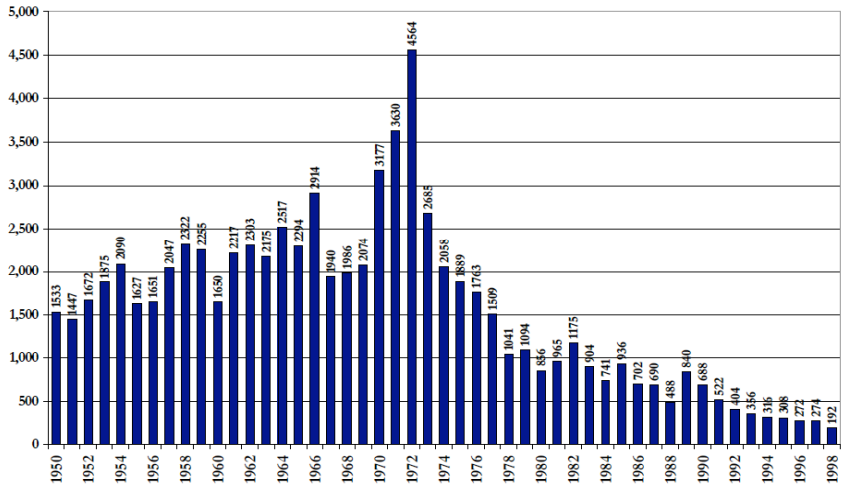
The pages that follow provide an analysis of the historical period of adoption in Australia circa 1920s – 1980s. Cited articles up to 1954 are retrieved from Trove, which is a project of the

[8] Hansard, WA Staye Government, p. 7, Retrieved March, 2011, from <http://www.parliament.wa.gov.au/Hansard%5Chansard.nsf/0/fff526da4cf39505482577c900279425/$FILE/A38%20S1%2020101019%20p7881a-7889a.pdf>

NSW State Library; though Trove has few articles regarding adoption post 1954, from 1959 reports regarding federal and state government involvement in adoption fill in the gaps, detailing a series of annual conferences of the ministers of state child welfare departments (see Origins principal submission, for details) in an effort toward uniformity of the policies, practices, and procedures of privately run and, mostly, charitable agencies which, prior to the ACT Adoption of Children Act 1965, facilitated adoption under child welfare ministers and the Director General. Hansard is also full of discussions proving the influence on governments, of the Australian Association of Social Workers as it conducted conferences and submitted reports of its own.[9]

Formed in 1946, the Australian Association of Social Workers began an experiment based on very little research, which culminating in a period boasted of by its members – according to Dian Wellfare – as the Bumper Adoption Era[10] (See chart below; 1966-1972). The plan was to realize the adoption of every 'illegitimate' newborn child as a solution to "the problem of the unwed mother" – as implied in newspaper articles of the day – as the figure of 60% did not satisfy the demand of the Australian Association of Social Workers on behalf of their market.

Graph 1: Number of adoptions registered per calendar year



Source: NSW Registry of Births, Deaths and Marriages, October 2000

In an article published in the Woman's Day in 1988, titled "Adoption in the 80s", the motive of the AASW in seeking the latter objective, was the avoidance of the moral offence of 'illegitimacy and ex-nuptial pregnancy' – 'sources of disgrace and scandal.' According to McDonald, illegitimacy and ex-nuptial pregnancy were a 'problem' for which 'adoption was a neat solution, providing at the same time for the needs of infertile couples.'[11]

[9] Govt. To Consider A Report On Unwed Mothers. (1954, August 13). *The Sydney Morning Herald* (NSW : 1842-1954), p. 4. Retrieved March 19, 2011, from http://nla.gov.au/nla news-article18439860

[10] http://www.originsnsw.com/civilrights html

[11] http://www.originsnsw.com/id42 html

Historical Background Disproving Argument from Social Mores

The following overview of events from 1928 provides key themes of adoption during the period leading up to the early fifties, by which time adoption had devolved from its original object of means to end in itself[12], having become a service for infertile or otherwise childless couples. As noted by Farrar,

> Until the early twentieth century practice was for babies to remain with their mothers because, after all, the primary function of mothers was to care for their children. However, when, owing to mothers' impoverished circumstances, the care of children devolved to the State, another solution was found – the removal of their children for a better life than that which their mothers could provide.[13]

Confirming Farrar's claim of adoption as a solution of the State in response to poverty, evidence given before the Child Endowment Commission in 1928 presented adoption as a money-saving measure:

> Nearly 1,000 children had been legally adopted by childless couple. The majority of this number had been dealt with within recent years. The yearly average for past seven years was 70. Last year 100 were put through the Supreme Court. This constituted a record for the department, and the estimated saving effected in future maintenance was £25.000. The placing out of young children for adoption was considered a most important function of the work of the department. It was believed that in this State more had been done in this direction in proportion to the population than by any other similar public authority in an part of the' world…Miss Rich, for the Feminist Club, stated they wanted for married mothers the same right to their children as was at present possessed by unmarried mothers.[14]

Prior to the legal institution of adoption, humanitarian endeavors sought to alleviate the plight of the unwed mother, in the expressed belief that the child's welfare would best be served under the care of its mother.[15]

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[12] Farrar, P., Relinquishment and abjection: a semanalysis on losing a baby to adoption (p. 7), Pandora Web Archive, accessed 30 November 2010 from <http://pandora nla.gov.au/pan/98265/20090416-1320/www.nla.gov.au/openpublish/index.php/aja/article/download/1179/1450.pdf>

[13] ibid

[14] CHILD ENDOWMENT. (1928, February 3). The West Australian (Perth, WA : 1879-1954), p. 20. Retrieved February 24, 2011, from http://nla.gov.au/nla news-article32088231

[15] See Origins submission titled, 'Australian History Timeline of Adoption,' for examples of the wide array of attitudes toward 'the problem of the unwed mother.'

The Devolution of Adoption

Factors associated with the devolution of adoption from means to end, are to be found in newspaper advertisements of the day.[16] On account of such public promotion of adoption, a demand for babies grew and gained momentum, outstripping the supply created by child welfare authorities, social workers and the administrators of maternity homes.

This demand was not only for physically fit[17] offspring, as efforts were made to allay fears of the 'illegitimate' child as Bad Seed of its origin. In support of the latter, in 1933 an article titled "Woman's Interest: Adopted Children", reported that:

> Babies available for adoption are advertised periodically by the Child Welfare Department…In most cases a blood test assures the intending parents, of a healthy, normal child. Beautiful babies come under departmental control. Many years' experience have convinced officers and doctors that environment is the big factor in character-building, and that an adopted baby in good and happy surroundings is sure to be a success.[18]

Furthermore, declining birth rates were also a significant factor in increasing the demand for babies for adoption:

> Details of Australia's rapidly declining birthrate are given in figures released by the Commonwealth Statistician (Dr. Roland Wilson) yesterday. The natural increase per 1000 of population in 1921 was 15.1 per cent. This had fallen to 7.1 in 1935 and in 1938 was 7.8.

In 1941, an article titled 'Fewer foundlings or adoption – where have all the foundling babies gone' reported that 'babies homes (had) few or no children available for adoption.' The article quoted Mrs H McGain, the matron of Berry St Foundling Hospital and Infants' Home (Victoria), stating she had received 200 applications for just one baby. The cause for the decreasing supply was suggested as being because:

> (S)o many mothers have obtained remunerative positions in war industries that they are now in a position to keep their babies. Many mothers in these positions can afford to leave their children at the home to be cared for while they are at work.[19]

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[16] ADOPTION OF CHILDREN. (1932, August 3). The West Australian (Perth, WA : 1879-1954), p. 14. Retrieved February 24, 2011, from http://nla.gov.au/nla news-article32542344

[17] A History Timeline of Adoption in Australia, submitted by Origins Inc, provides dozens of examples of an adoption eugenics trend whereby less than perfect babies were considered "unadoptable".

[18] WOMAN'S INTERESTS. (1933, November 17). The West Australian (Perth, WA : 1879-1954), p. 6. Retrieved February 24, 2011, from http://nla.gov.au/nla news-article32794678

[19] FEWER FOUNDLINGS FOR ADOPTION. (1941, June 19). The Argus (Melbourne, Vic. : 1848-1954), p. 8. Retrieved February 23, 2011, from http://nla.gov.au/nla.news-article8167778

Those opposed to the division of labour promoted the idea that mothers should not work under any circumstances, contributing to the poverty and powerlessness of the unwed mother. For example, Mrs. Quinton claimed that 'the 80,000 women who would be wanted for war work by the end of the year should be taken from 750,000 unmarried women in Australia between 15 and 45…(as h)omes were being neglected because many mothers with young children were voluntarily entering war work.'[20] At the same time, unmarried mothers did not rate a mention by the federal government in calling for workers from the pool of available females:

> It will be the policy of the Directorate to place them as far as practicable in groups similar to those operating in military call-ups--unmarried women first, married women without children next, and, finally, married women with children. He said he had every confidence that the ranks' would be filled in the main by younger unmarried women.[21]

The unwed mother was finding work in wartime industries, however, yet against the tide of a growing demand for her offspring. A reactionary movement was at work among the married childless, as well as among those who regarded them as more deserving to parent the offspring of unwed mothers than unwed mothers themselves, while the QLD Child Welfare Department continued to promote the supply of 'illegitimate' babies. In 1944, an article promoting adoption reported:

> In these days there are few risks in adopting a child, for family histories are investigated, blood tests are made to ensure that babies have no hereditary diseases, and special tests in standards of behaviour are given to ensure that they are of normal intelligence. During the first two or three year of war, child welfare authorities were increasingly concerned at the numerous instances of the desertion and neglect of children by mothers lured by the attraction of high wages in industry and munitions work. Children's homes were then full of children neglected in such circumstances. Cases of that kind have diminished considerably in the last l8 months, but the homes are still hard pressed to find accommodation for the many children committed to their care. War has made further demands on these organisations, for though parents have not the acute financial problems of prewar days, the housing shortage and sickness among mothers, apart from the inevitable increase of illegitimacy that wartime brings, all make the problem of child care more complex…Reports from overseas and the opinions of child welfare officers here seem to indicate an almost world-wide desire just now to adopt children. Most foundling homes have had in the past long waiting lists of "parents" wanting to adopt…[22]

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[20] PLACE FOR MOTHERS HOME NOT FACTORIES. (1942, September 9). *The Courier-Mail* (Brisbane, Qld. : 1933-1954), p. 4. Retrieved February 24, 2011, from http://nla.gov.au/nla.news-article50128268

[21] WORKING MOTHERS. (1942, October 12). *Cairns Post* (Qld. : 1909-1954), p. 4. Retrieved March 18, 2011, from http://nla.gov.au/nla.news-article42363723

[22] Adoption of Children In Wartime. (1944, August 29). The Argus (Melbourne, Vic. : 1848-1954), p. 7. Retrieved February 23, 2011, from http://nla.gov.au/nla.news-article11358658

In 1945, a QLD publication described lengthening queues for babies by those approved to adopt:

> In a recent article in Sydney "Sunday Sun" it was stated that many women in NSW have waited in vain…Would-be foster-mothers have had nurses, cots, furnishings, wardrobes of dainty clothes and even toys prepared for months…women waiting to adopt babies said that they had their names down for periods ranging from eight months to four years.

In 1948, Mr Hefforn, Minister for Education and Child Welfare in NSW, was quoted as claiming 'that 3,939 applications for adoptions had been received but…only 625 adoptions could be arranged.'[23] So great was the demand for babies that Mr Hefforn 'feared a black market would be created.'[24]

Demand continued to exceed the supply post WWII, while infertility rates soared not only due to an epidemic of Chlamydia and complications of botched abortions.[25] It was also a time of continuing decline in population.[26]

In 1950, an administrator of a maternity home revealed that her work in helping unwed mothers to care for and keep custody of their 'illegitimate' children ('the largest adoptable group'), had caused them to be 'fiercely determined not to part with (their babies).'[27] In contrast, an article published in 1950, titled "Should we deprive unmarried mothers of a baby's love", expressed a punitive attitude in support of the separation of the unwed mother from her child, reporting that: 'The pain of parting with the baby after eight weeks or more may help to keep the unmarried mother straight in her future life,'[28] revealing common knowledge of the suffering of a mother in losing her child to adoption.

[23] TRAFFIC IN BABIES. (1949, January 25). The West Australian (Perth, WA : 1879-1954), p. 8. Retrieved February 23, 2011, from http://nla.gov.au/nla news-article47640337
[24] BABIES FOR ADOPTION IN DEMAND. (1949, January 26). The Mercury (Hobart, Tas. : 1860-1954), p. 21. Retrieved February 23, 2011, from http://nla.gov.au/nla.news-article26495765
[25] UNIFORM LAW ON ADOPTION OF CHILD PLANNED. (1941, October 24). The Courier-Mail (Brisbane, Qld. : 1933-1954), p. 5. Retrieved February 23, 2011, from http://nla.gov.au/nla.news-article41936786
[26] AUSTRALIA'S POPULATION QUEST. (1944, July 15). The Sydney Morning Herald (NSW : 1842-1954), p. 2. Retrieved February 23, 2011, from http://nla.gov.au/nla.news-article17913608
[27] Wanted—A Baby. (1950, May 25). Western Mail (Perth, WA : 1885-1954), p. 31. Retrieved February 21, 2011, from http://nla.gov.au/nla.news-article39103357
[28] Edited by BETTY LEE Woman and the Home. (1950, July 18). The Argus (Melbourne, Vic. : 1848-1954), p. 8. Retrieved February 22, 2011, from http://nla.gov.au/nla.news-article22913146

An Emboldening Judgment

In 1934, a judge reluctantly ordered a prospective adoptive couple to return a child to its unwed mother, approving of an 'application to the Supreme Court for a writ of *habeas corpus*' in noting: 'the law, as he understood it, left (him) no alternative.'[29] Twenty years later, another judge rejected a writ of *habeas corpus,* setting a precedent in exercising a discretionary power to dispense with a mother's consent to the adoption of her 'illegitimate' child.

The Judge based his decision on:

(1) 'The child's welfare, as refusal to grant the Mace's application would not be in the child's best interests…Miss Murray had 'proved to be a person of low moral character, unfit to have the child';
(2) to prevent Miss Murray 'going from Judge to Judge claiming custody of the child under writ of habeas corpus';
(3) Miss Murray's 'original consent to the adoption';
(4) 'Lack of bona fides on the part of Miss Murray in the withdrawal of her consent to the adoption.'[30]

This judgment passed despite public knowledge that Miss Joan Murray had signed away her parental rights only after they had been usurped by staff of the now, notorious Crown Street Women's Hospital. Significantly, the Murray v/s Mace case proved to be a catalyst for debate concerning 'the custody of a child between the consent and the adoption order,'[31] provoking hundreds of adoptive parents to ask, "Is our baby safe?"[32]

The Murray v/s Mace case was said to have occurred due to an 'anomaly in the law' which allowed 'the Child Welfare Department to pass a child into the care of foster parents before the natural mother had given *final* consent and an adoption order made in the court.'[33]

An article of the period reported that Mrs Vaughn of the Feminist Club predicted a repeat of Murray v/s Mace case[34] if changes in adoption policy were not forthcoming.

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[29] Fate of a child born out of wedlock. (1934, April 18). The Advertiser (Adelaide, SA : 1931-1954), p. 14. Retrieved February 22, 2011, from http://nla.gov.au/nla.news-article47552007
[30] ibid
[31] Adoption of Children. (1953, October 2). The Sydney Morning Herald (NSW : 1842-1954), p. 3. Retrieved February 22, 2011, from http://nla.gov.au/nla news-article18391156
[32] Hundreds of parents are asking IS OUR BABY SAFE?. (1954, May 15). The Argus (Melbourne, Vic. : 1848-1954), p. 11. Retrieved February 21, 2011, from http://nla.gov.au/nla news-article23414692
[33] ADOPTION OF CHILDREN. (1953, October 2). The Sydney Morning Herald (NSW : 1842-1954), p. 3. Retrieved February 23, 2011, from http://nla.gov.au/nla.news-article18391156

In 1953, it was reported that Miss Margaret Thornhill, 'in Australia on a Fullbright scholarship studying the unwed mother and her child'[35] addressed the Feminist Club, sharing her view that:

> The unmarried mother…needs more help than medical care and accommodation. She needs a skilled case-worker who can help her to examine her own situation and decide not only what is best for her child but, just as important, best for her…This help should begin as soon as the girl becomes known to a social agency-it should not wait for the arrival of the baby, nor should it end there…Adoption of illegitimate children, she said, had not only become acceptable, but very popular. There were now many more would-be parents than unmarried mothers.'[36]

The adoption of the 'illegitimate' child had in fact become so popular that eligble Australian citizens were encouraged to place their names on waiting lists at the time of adopting a first baby, even as the promoters of adoption scorned unmarried intercourse.

On the 1st October 1953, an article appearing in the Sydney Morning Herald, titled, "Should the Adoption Law be Changed" reported:

> 'A deputation from Sydney Women's organisations will ask the Minister for Education, Mr. R. J. Heffron, today to amend that part of the Child Welfare Act which governs the adoption of children. Members of the deputation believe these amendments would eliminate from adoption proceedings the situation that arose in the recent Murray-Mace baby case. Many child welfare workers, however, are satisfied with the wide discretion given them by intentionally vague legislation.
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> 'Specifically, the women's deputation will suggest that: documents necessary for the adoption order should be completed within one month of the mother's initial consent to the adoption of her child; the child should not be delivered to the adopting parents until agreement is final; and the Government should appoint a committee of social workers to examine and report on the Child Welfare Act.
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> 'The deputation will consist of representatives from the Feminist Club, the Australian Women Voters' League, the Y.W.C.A., the Salvation Army, the N.S.W. Housewives' Association and the Progressive Housewives' Association. The Child Welfare Act does not, as might be supposed, lay down explicit instructions for the adoption of children. Part XIX of the Act, the part dealing with adoption, fills only five of the Act's 106 pages. Briefly, part XIX states: which persons may apply to the Supreme Court for an adoption order; the form in which the Court, in its Equity Jurisdiction,

[34] Should The Adoption Law Be Changed?. (1953, October 1). The Sydney Morning Herald (NSW : 1842-1954), p. 2. Retrieved February 21, 2011, from http://nla.gov.au/nla.news-article18390934
[35] SHOULD UNWED MOTHER GIVE UP HER CHILD?. (1953, July 15). The Sydney Morning Herald (NSW : 1842-1954), p. 9. Retrieved February 23, 2011, from http://nla.gov.au/nla.news-article18388329
[36] ibid

may make an adoption order; the matters which must be proved before an order is made; and the legal effects of the order.

‘The Act says nothing about time limits or the delivery of the child to its foster-parents. There is only one adoption agency in New South Wales: the Child Welfare Department, which is controlled by the Minister for Education. Adoption, of course, is a legal process. But important social and psychological factors are also involved, and the department is often grateful for the latitude granted by the Act.

‘The department's procedure in negotiating an adoption rests on flexible principles evolved from experience, not on the Act. Broadly speaking, the Act governs only the department's dealings on behalf of the prospective foster-parents, with the Court.

‘The adoption work of the Child Welfare Department begins when a mother, or prospective mother, indicates that she wishes to surrender her child. An office from the department, before taking this consent, makes sure that the mother fully appreciates the significance of her action.

‘Before Consent: Consent is not taken if there is any suggestion of indecision or any doubt as to whether the mother has fully considered the matter. In any case, before a consent is taken, the department offers to help the mother to keep her child if she wishes to do so.

‘If consent is taken the department examines the child's background; the age, intellectual level, general type, and physical characteristics of the natural mother, and, if possible, the father. The department then turns its attention to the prospective adopting parents. Their application and its accompanying references are carefully investigated. These references include a doctor's certificate, stating that they are unable to have children of their own, and two character references from witnesses who know the applicants personally and have visited their home. The department sends a representative to interview each character witness, and a district officer interviews the applicants in their home. This officer's report accompanies the application to the Supreme Court when the order is made.

‘When an officer of the department has selected a child which may suit a particular couple, the applicants are called to the hospital where the baby is waiting. Foster-parents usually take the baby within a few days of its birth. But they cannot be sure that they will be allowed to keep the child until their application has been dealt with by a Judge in Equity.

‘The application may come before a Judge in four weeks' time; but there is a long waiting list, and, especially if the Court is in recess, three or more months may sometimes pass before the case, is heard. This delay is naturally distressing for foster-parents because, until the adoption order is signed in Court, the natural mother may change her mind about allowing the child to be adopted.

‘Such a combination of circumstances – the foster parents' possession of the baby for six weeks before the signing of the adoption order, and the natural mother's change of mind in the meantime – produced the Murray-Mace dispute. The women's deputation which will meet the Minister for Education today believes that amendment of the Act would avoid any repetition of such circumstances.

‘The process of adoption concerns three sets of people-the mother, the baby (almost always illegitimate) and the prospective foster-parents.

‘Three Dangers: It is the duty of the Child Welfare Department and the Court to protect the child. But the other two parties should, so far as is compatible with the welfare of the child, be protected also. There are, then, three dangers to be avoided:-

(1) The danger that the child will be deprived, if only temporarily, of a continuing relationship with a mother;
(2) The danger that the natural mother, through a hasty decision subsequently regretted, will be deprived of her own child;
(3) The danger that foster parents, through legal delay and the natural mother's change of heart, will be deprived of a child for whom they have developed love.

‘In the last 8,000 cases of adoption through the department, about 50 natural mothers have withdrawn their initial consent. The women's deputation will suggest that the time between initial consent and completion of documents should be limited to one month. Theoretically, the arguments in favour of early adoption – and the earlier the better – outweigh those against it. Nothing is more important for the future mental health of a baby than the continuing mother-child relationship. At present the policy of the department is to deliver the child to the foster-parents as soon after birth as possible.

‘First Few Weeks: If the foster-parents are to be protected from the disappointment of losing a foster-child at the last moment, where should the child spend the first few weeks of his life?

‘Obviously, he cannot stay with his natural mother who, in all probability, has not been allowed to see him. If he is not sent immediately to the adopting parents, he most certainly should not be placed in an institution where he will be deprived, at an important period in his life, of a relationship with a mother

‘Dr. John Bowlby, in his 1951 report to the World Health Organisation on "Mental Care and Mental Health" said: "If during the waiting period the baby is not cared for by the mother, it is preferable for him to be cared for in a temporary foster-home rather than in an institutional nursery

> 'Mrs Preston Stanley Vaughan, who will lead the deputation to the Minister for Education, believes that the child should be kept at the maternity hospital, although not with the mother, until the adoption is final. Another suggestion, offered by an American expert on child welfare, Miss Margaret Thornhill is that the child should be placed in the care of an approved guardian. But would the department be able to find sufficient guardians who would be willing to take children into their care, knowing that the children would pass on to foster-parents before long?'[37]

Miss Joyce Cox of the National Council of Women quoted psychologist Dr Sebire, maintaining that in order to prevent 'psychological disturbance in the child…the transfer (of the child) should be made without waiting for the ratification by the Equity Court of the agreement between the parties.'[38]

Ultimately, a deputation of the Feminist Club presented an argument in defence of the rights of unmarried mothers, rejecting the motive of Miss Margaret Thornhill as per the following statement:

'The most able, competent and better-adjusted unmarried mothers are the ones who give up their babies for adoption.'[39]

The deputation of the Feminist Club offered the following, less radical recommendations, including:

- that a clinic for unmarried mothers be set up;
- that a mother come under the care of a social worker three months prior to giving birth;
- that the ideas of the unwed mother should be moulded towards mothering rather than adoption (as Miss Thornhill had recommended).[40]

The Australian Association of Social Workers consulted with Miss Thornhill as she worked out of Sydney University, from May 1953,[41] adopting her opinion that the 'illegitimate' child should

[37] Should The Adoption Law Be Changed?. (1953, October 1). The Sydney Morning Herald (NSW : 1842-1954), p. 2. Retrieved February 21, 2011, from http://nla.gov.au/nla.news-article18390934
[38] Time-Lapse Before Adoptions. (1953, September 25). The Sydney Morning Herald (NSW : 1842-1954), p. 11. Retrieved February 22, 2011, from http://nla.gov.au/nla.news-article27524182
[39] SHOULD UNWED MOTHER GIVE UP HER CHILD?. (1953, July 15). The Sydney Morning Herald (NSW : 1842-1954), p. 9. Retrieved February 25, 2011, from http://nla.gov.au/nla.news-article18388329
[40] ADOPTION OF CHILDREN. (1953, October 2). The Sydney Morning Herald (NSW : 1842-1954), p. 3. Retrieved February 23, 2011, from http://nla.gov.au/nla.news-article18391156
[41] GUARDIANSHIP AGENCY URGED BEFORE ADOPTION. (1953, September 24). The Sydney Morning Herald (NSW : 1842-1954), p. 2. Retrieved February 23, 2011, from http://nla.gov.au/nla news-article18379458

be placed in a 'guardianship agency', as then in America, prior to the final consent of its mother. Thornhill's plan, outlined in precise detail as follows, overshadowed changes that would come into effect in 1967, after the Adoption of Children Act 1965 replaced the earlier Child Welfare Act (1937):

> 'Miss Margaret Thornhill, who has been in Australia for five months on a Fullbright scholarship to study child welfare said, the Murray Mace baby case (in which judgment was given by Mr. Justice McLelland in the Equity Court on Monday) had exposed the need in this State for the people and the Parliament to reexamine the whole question of child adoption...There are few exceptions where the unmarried, pregnant girl does not have serious emotional problems. True, she can receive here, the advice and assistance of almoners in hospital. But she goes there primarily because she needs medical care...There should be a place where she can go, where the people are trained and have plenty of time to concentrate on her particular problems (which) should be straightened out before the birth of the child or the question of adoption arises...
>
> 'There is need in Sydney to combine the necessary work with the mother, the child and adoptive applicants, into one agency so that the responsibility for total handling comes under one organisation. Nor is there any machine here for the transfer of guardianship other than from the natural mother to the foster parents. In the U.S. we have an interim step to transfer guardianship to an agency, where the child would be cared for until transfer to the foster parents. Thus in the United States three steps, not two, are taken. I think it is important that, until the guardianship or legal rights of the natural mother have been terminated, the child should not be placed in the adoptive home. The job of determining the future of a child released for adoption by its Natural mother or parents should be the specialised task of trained social workers in a separate agency where adoptions are the major responsibility. Society should protect the interests of children who are not able to speak for themselves.[42]

Reiterating the advice of Miss Thornhill, in 1953 Miss Wilga Fleming representing the Australian Social Workers Association, suggested pre-conditioning of the unwed mother:

> 'If an unmarried woman is given guidance throughout her pregnancy by a trained social worker or agency, as is the case in America, she will have made up her mind about the child's future by the time it is born.'[43]

[42] ibid
[43] Time-Lapse Before Adoptions. (1953, September 25). The Sydney Morning Herald (NSW : 1842-1954), p. 11. Retrieved February 22, 2011, from http://nla.gov.au/nla.news-article27524182

Mrs Vaughn's Forecast Comes to Pass

As predicted, a Murray v/s Mace scenario was repeated with similar legal outcome despite, again, that newspaper articles of the day had reported even more blatant usurpation of the rights of the unwed mother.

The following extracts of one such article – detailing the circumstances surrounding and subsequent to the birth of baby Fry – are of particular significance in reiterating subsequent claims by hundreds of unwed mothers that they were:

- denied access to their newborn infants prior to the signing of adoption consent papers;
- prevented from leaving hospitals prior to the signing of adoption consent papers;
- that they lacked knowledge of their rights, including how to retrieve their babies; and
- a denial of their entitlement at this time to be notified of adoption proceedings in the court was denied.[44]

Miss Joan Murray outside the equity court on the day the judgment was delivered

[44] "Susan was adopted without my consent" Housemaid mother asks for her baby back. (1954, April 7). The Argus (Melbourne, Vic. : 1848-1954), p. 3. Retrieved February 21, 2011, from http://nla.gov.au/nla.news-article26601640

"A Neat Solution"[45]

A Social Experiment Begins

It was reported in 1954 that the Australian Association of Social Workers had 'interviewed more than 300 unmarried mothers, and for three months in 1953, questioned every unwed mother who approached hospitals or institutions catering for them.'[46]

The convenor of a committee set up by the AASW for the purpose of conducting the latter study, Mrs J Gore (Sydney Almoner), reiterated the views of Miss Thornhill, stating, 'One theory strongly backed by social workers overseas is that although it is hard for the mother to give her child up, it may be better in the long run for the baby to be adopted into a family.'[47]

In another article of the period, Mrs J Gore revealed the theory behind advocating for the removal of 'illegitimate' children before mothers had a chance to prove themselves competent or incompetent in parenting them: 'We wonder how these unmarried mothers are going to manage, and whether they will find themselves eventually forced to have the child adopted. A surprising large number of girls – about 40%, in fact – left hospital with their babies and intended to keep them.'[48]

The article also reported that 'only a small proportion of NSW girls who become pregnant out of wedlock seek the help of social agents during pregnancy.' Mrs J Gore, regarding the latter, stated: 'This is to be regretted" – recommending a plan 'that doctors, nurses and clergymen who come into contact with the girls should encourage them to seek our help.'[49]

Former head Social worker of Crown Street, Mrs. Elspeth Brown referred to the 40% statistic above, during a TV interview in 1997, in an attempted rebuttal of the claim of the systematic adoption of 'illegitimate' children.[50] Providing evidence to account for the 40% of unwed

[45] M. McDonald, "Adoption in the 80s", Woman's Day, 1988, Retrieved 18th March, 2011, <http://www.originsnsw.com/id42 html>
[46] SURRENDER HER BABY? (1954, September 8). *The Australian Women's Weekly* (1932-1982), p. 26. Retrieved February 21, 2011, from http://nla.gov.au/nla news-article46448400
[47] ibid
[48] Govt. To Consider A Report On Unwed Mothers. (1954, August 13). The Sydney Morning Herald (NSW : 1842-1954), p. 4. Retrieved February 21, 2011, from http://nla.gov.au/nla news-article18439860
[49] ibid
[50] http://www.youtube.com/watch?v=p0Rvvlv7GfA&feature=channel_video_title

mothers who kept their baby, Consultant Psychiatrist to the NSW Parliamentary Inquiry into Past Adoption Practices (1950-1998), in contrast stated:

> Women who know I am interested in adoption have told me their experience when they nearly had their baby adopted out. The outstanding theme of their stories is not that of professional advice about adoption alternatives, but one of being rescued by a senior relative or partner giving them support, or stubborn refusal to sign documents and of calling the bluff of those who tried to separate them from their baby. I am not impressed for this reason either of the statistics of single women who kept their baby or the sophistry around the issue of alternatives for the single mother. Nor have I had any account from an original mother from the late 60s to the early 70s relinquishment period of a professional directing her to consider one of these alternatives, only the relentless push toward adoption using a variety of promotional alternatives and the abusive tactics described in the earlier section.

Setting the record straight

In 1955, the Full Court of the State of Victoria witnessed Justice Herring[51] declare that the unnecessary promotion of adoption was in contravention of the adoption legislature. Accordingly, the Judge stated: 'An adoption order may be discharged under the section even after the child ceases to be an infant.' The Judge explained that:

> In the case of fraud on a Court leading to the making of an adoption order, any person injured by the fraud may sue by action in the Supreme Court to set aside the adoption order apart altogether from sec. 13. Section 13 (1) means that the infant's condition must be improved or bettered in some way for the requirement to be satisfied. *(Here, the Justice was alluding to the indiscrete invocation of the clause, 'best interests of the child')*

The Judge then went on to extol the state of natural maternity, describing it as superior to adoptive parenting:

> 'The love of a mother for her child has been recognized from the days of Solomon, if not before, as one of the strongest of all human instincts. It is one that in the ordinary course can be relied upon to endure throughout life, whatever may befall, and so assumes an added significance when one is considering the welfare of the child on the long view of its whole life…adoption is from the nature of things only a second best to be put into operation only when the first best is for some reason not available…

> ‘And it has to be borne in mind that adoptive parents may not prove as long suffering as natural parents might be, nor as the years go by as ready to put up with the frailties of the children they adopt. The Legislature in sec. 8 has recognized the need in some cases for a probationary period of two years, presumably because it was realized that the early enthusiasm of would-be adopters for a child does on occasion cool.

Justice Herring noted that, ‘in general an adoptive home is rarely as satisfactory for a child as a home with its real mother, even though superficial circumstances appear superior in the adoptive home.’ Defining the principal reason for adoption, he upheld:

> ‘The main objective of the legislation (as) to enable kindly-disposed persons to adopt children who, by reason of neglect by their parents or guardians or because they have neither parent nor guardian, or for some other good reason, are condemned to live in an institution or with a person or persons who have no legal obligation to them or who may use a de facto guardianship to exploit them…
>
> ‘But the Legislature has also recognized that the chief claim to bring up a child rests with the parents and that the relationship of the parent and child *prima facie* renders the parent the most suitable of all persons to rear the child…
>
> ‘Indeed, I should like to express my misgivings as to whether the secrecy with which the Courts have been at such pains to surround adoption proceedings…is in many cases either necessary or wise. There is a certain amount of false modesty about the attitude of many people to adoptions, which after all, are not truly comparable with childbirth; and, while there are cases such as the adoption of illegitimate babies, where secrecy is thought by many to be desirable, the Courts ought in general to do their work in public wherever possible…
>
> ‘Furthermore, it might be considered valuable to include a provision in the Act or the rules that every consent should be verified, as to its genuineness and as to whether it is fully understood, by an independent solicitor, so that such matters should not be left, as at present they apparently almost invariably are, to the applicant’s solicitors or other advisers to handle…
>
> ‘Such a wise provision might well, if adopted here, prevent such painful and unfortunate litigation as has been a good deal before the Australian courts in recent years; see Re Murray, High Court, 2nd March 1955; R. v. Biggin; Ex parte Fry, [1955] V.L.R. 36…
>
> ‘The broad policy of the Act is to provide the lot of children who are unfortunate and lack a happy home. But it is a mistake, as this case in my opinion shows, to suppose that all adopters are actuated entirely by pure altruism. In many cases, perhaps in most cases, they are actuated by a substantial measure of self-interest, and it is important that the balance be justly maintained between their interests and those of the natural parents. Experience in the courts shows that prospective adopters

will not consult the interests of the natural parents; the Legislature and the courts must do so. There are, I believe, always many more prospective adopters than children available for adoption, so that there is always likely to be some pressure for the relaxation of just and proper safeguards…

'For the plain truth is that this appellant, who has lost her child while she was ill, and without her own knowledge or consent, ought in any common sense community to have got it back at once, independently of any preponderance of advantage to the child...

'Nothing which may affect the infant's future, moral, spiritual, intellectual, and material, can by any a priori reasoning be said to be relevant…Most definitely (the Court) is not prevented from considering, in the light of the particular facts of the case, the possible advantages of retaining the natural ties created at birth, the chances of those more enduring affections which humanity from long experience has come to believe those ties in a majority of cases to ensure, and the possible effect of their destruction. Certainly the fictional status conferred on the child by sec. 7 (as amended) does not forbid the court to use its common sense knowledge or to have regard to human experience…

'The impressions gained by the learned Judge of the litigants by personal observation of their appearance and demeanour cannot be set out in an appeal book, and so cannot be weighed by us – though I should like to record my protest against any notion that eccentricities in the mother's character, or mere naiveté, or immaturity or judgment, even within wide limits, should be regarded as necessarily disadvantageous to her child.'

Institutions with an original history of rescue and mothercraft – originally places of refuge for unsupported mothers and their children – became, as per the advice of Miss Margaret Thornhill, guardianship agencies after the Adoption of Children Act 1965. Due to government eugenics policies, those agencies would continue, however, to facilitate the adoption only of babies who had passed stringent medical tests. Rejected babies remain institutionalized, while those in demand awaited collection by childless, married Australian citizens at the end of the legally required, thirty-day cooling-off period. Many 'adoption rejects' are today known as the Forgotten Australians.

Statistics show that seldom in practice did unmarried mothers manage to retrieve their taken, healthy newborns – even within the cooling-off period. The judgment of Murray v/s Mace appears to have emboldened Social workers to be judge and jury toward those mothers, when they attempted to retrieve their taken babies, as most were turned away without hope of legal

redress, for want of knowledge of their legal rights. No unwed mother has ever reported to Origins[52] that she was given even a copy of the adoption contract.

Social workers in contempt of the law appear to have preempted dispute, applying the judgment metered out to Miss Murray Fry in 'the best interests of the child' as best served with the married strangers with whom they had been placed. No unwed mother has ever reported to Origins that she was informed she could attest the adoption of her child prior to its ratification in the court; rather, unwed mothers were typically informed "it is too late – the baby has already gone to adoptive parents" (which was, unlawfully, often within the cooling-off period), though, in reality the baby was only in an interim arrangement which was not legally binding.

As pointed out in the affidavit of Dian Wellfare (submitted to this Inquiry), this was also implied by Form 9, titled "Permission to Make Arrangements for the Adoption of a Child":

> The copy of FORM 9 provided by the Department of Community Services did not comply with the Adoption Statute. Section 4 of FORM 9 omitted the word "Order" from the explanation of the mothers right to revoke her consent within 30 days or until an Adoption 'Order' was made, thereby bringing about an entirely different and ambiguous meaning to the right to revoke had that form been read to (mothers) or had (they) been allowed to read it for (themselves) as the Statute required.

Despite public knowledge of the denial of the rights of unwed mothers, as well as many warnings to and from those in the Social welfare profession to desist from such denial, unwed mothers continued to be solicited for their offspring (see Origins Submission titled, History Timeline of Adoption in Australia)

According to Farrar:

> In 1967, (it was) in response to the panic of adoptive parents that they might "lose their children", (that) the Adoption of Children Act 1965 replaced the earlier Child Welfare Act (1937), thereby removing the stigma of illegitimacy through an amended birth certificate and outlawing private adoptions. The intended effect was to widen the gap between the mother and her child by a strict secrecy provision. At the end of the 1960s, an adoption "boom occurred"…with the peak in 1971-1972 9,798 Australia-wide...[53]

[52] Origins SPSA Inc, http://www.originsnsw.com/
[53] P. D. Farrar, Media Discourse on Adoption: Construction of/by the Symbolic Order, 2009

During the Proceedings of a Seminar to proclaim the Adoption of Children Act 1965, no mention was made of the legal rights of the natural mother, or of the alternatives that were legally available to her to enable her to keep her child.

Miss (...) (...) had exposed the true purpose of promoting infant adoption by divulging that the Social Worker's concern was with resolving the conflicts of infertility and childlessness within marriage when she said:

> The Social workers concern is with childlessness or infertility, but the particular area of competence is, not in it's treatment, but in assessment or resolution of the effects on the marital relationship of the couple...The ultimate objective of Adoption is such a planned change, through helping to make a family where before one did not exist...But before the placement can be made there are other minor or contributory changes in the social functioning of various individuals where the social worker's part is well defined...and that is...The natural parents must resolve, if possible, conflicts about the surrender of the child.[54]

The minor concern of the Australian Association of Social Workers had been helping the unmarried mother accept the surrender of her child. In order to provide a service to childless couples, the unmarried mother's inalienable and legal rights to her own child had to be ignored. The Seminar focused solely on newborn adoptions and showed scant interest in the adoption of older children.

On 3rd February 1967 the Proceedings of a Seminar to proclaim the Adoption of Children Act 1965, no mention was made of the legal rights of the natural mother or of the available alternatives that were available to her to enable her to keep her child. Miss (...) (...) had exposed the true purpose of promoting infant adoption by divulging that the Social Worker's concern was with resolving the conflicts of infertility and childlessness within marriage. Their minor concern was helping the unmarried mother accept the surrender of her child. In order to provide their service to childless couples the unmarried mother's inalienable and legal rights to their own children had to be ignored. The Seminar focused solely on newborn adoptions and showed scant interest in the adoption of older children, regarding that neither the unwed and her offspring, nor the childless married couple define family:

> The Social workers concern is with childlessness or infertility, but the particular area of competence is, not in it's treatment, but in assessment or resolution of the effects on the marital

[54] For source, see Origins principal submission to this Inquiry

> relationship of the couple...The ultimate objective of Adoption is such a planned change, through helping to make a family where before one did not exist...But before the placement can be made there are other minor or contributory changes in the social functioning of various individuals where the social worker's part is well defined...and that is...The natural parents must resolve, if possible, conflicts about the surrender of the child. (Mary McClelland, spokesperson for the Australian Association of Social Workers, 1967[55])

In 1971 the Australian Association of Social Workers (AASW) published its Manual of Adoption Practices In New South Wales. Compiled by the Child Care Committee the Manual reiterated the recommendations made by Sister (...) in 1967 when the Committee outlined the procedure that was supposed to be followed to protect the mother's rights and, on page 4 declared how: "It would be morally and ethically indefensible to refuse an unmarried mother opportunity to see nurse and nurture her child if she so chooses. Parental rights should never be subjugated by hospital or institution routine. Page 5 referred to the psychological and legal implications to the mother if the consent is not properly taken.[56]

All three publications, written in 1965, 1967, and reiterated in 1971, are material evidence to show that members of the Australian Association of Social Workers (AASW) employed within the adoption profession as hospital Almoners/Social Workers whose responsibility was to counsel the mother prior to birth on her available options other than adoption, and to warn the mother of the potential risk of grievous future regret if her decision was adoption, were aware that the practice of preventing the mother from seeing and having access to her child prior to signing an adoption consent, was in breach of the mother's parental rights.

In 1976, during the First National Conference on Adoption, organized by the Standing Committee on Adoption and Social Issues, and headed by (...) Father (...) (Catholic Social Welfare Commission (NSW) reiterated the same warning his colleague, Social Worker (...) (...) had made a decade earlier about protecting the mother's rights, when he presented his paper titled, Decisions About Adoption: Uses And Abuses Of The System:

> She is powerless and particularly vulnerable to abuse, and that abuse is not an uncommon feature. She has, for example, the same rights as any other patient in a hospital. She has the right to be told what has been prepared for her by way of physical and medical treatment, and she has the same

[55] ibid
[56] ibid

> right as any other patient to refuse such treatment. She has the right to name her child and the right to see her child with no more restrictions than any other patient in the hospital, and even those restrictions are subject to her final decision. She can sign herself out of the hospital as can any other patient not subject to a committal for psychiatric reasons. She has the right to see anyone she wishes, including the putative father, and he has the right to see the child as much as any other father has the right. Many of these rights are not being recognised, apparently on the grounds that restrictions are in the interest of the mother or her child. Not only is there no evidence to support restrictions on such grounds but there is an abundance of evidence that this type of repression is damaging to mother and child and can seriously jeopardise the realism of the decision that the mother is endeavouring to make about whether or not she should surrender her child.

Presented in 1959 and published in 1960, the Medical Journal of Australia published a paper by Dr (...) titled the (...) (...) in which Dr. (...) reiterated the need to punish the unmarried mother. While (...) words served as a warning of what was to come as a result of that demand for babies, (...) had instead invited the medical profession to ignore the law when it came to adoption when he announced that, "The last thing the obstetrician might concern himself with is the law in regard to adoption." Dr (...) had instigated the involvement of the medical profession into the adoption process by referring to it as "social medicine" and by his promotion of infant adoption at all costs by the medical profession, based on his eugenics mindset that believed the unmarried mother and her child were of bad genes and the mother should be punished by being removed from the "parenting club" and recommended that they be deprived of their rights.

In her book titled the "Many Sided Triangle: Adoption in Australia", prefaced by Justice Richard Chisholm, Mrs McDonald and co-author Mrs Audrey Marshall, who together had 70 years of adoption experience between them, provided the link between the recommendations of Dr (...) and the Catholic Adoption Agency's unauthorized adoption policy when the authors acknowledged on page 3 of their book that the views of the author of the (...) (...) were shared by professional workers in the health and welfare systems which administered the policies relating to adoption.

During an oral submission to the Law Reform Commission regarding the opening of records, on the 13th April 1992 Mrs. (...) (...) contradicted her former stance of Adoption as a destigmatizing measure (a neat solution of the disgrace and shame of exnuptial intercourse), when she stated, in regard to the release of identifying information, that: 'One thing that must be counted as a major gain has been the destigmatising effect of the legislation. The birthmother

who says I've been able to join the human race, and the young man who has always with shame concealed his adoption but who reports now that he is able to talk about it with his friends would both attest to this.'

Health Commission Policy Circular on Adoption File No.1081

In 1976 the New South Wales Adoption Legislation Review Committee released the McLelland Report. The following is the preamble to the same:

> In the early 1960's the view was commonly held that it was in the mother's interest that she not see the child she was planning to surrender for adoption, and policies were thus followed which prevented her seeing the child. The hospitals themselves did not doubt that they had a legal right to adopt such policies which were rarely questioned by the staff and by the mothers themselves. A single mother whatever her age is the sole legal guardian of her child and remains so until a consent to adoption is signed. She therefore has the rights of access to her child and cannot legally be denied this. An adoption consent may be proved invalid under the terms of the Adoption of Children Act, 1965 (section 31 (b) if the mother has been subject to duress or undue influence. Refusing the mother permission to see or handle her child prior to signing the consent, or putting obstacles in the way of her asserting this right, may readily be interpreted as duress if the validity of an adoption consent is being contested. One challenge to the validity of a consent on these grounds has already been heard in the New South Wales Supreme Court. In the same context any comments or actions by staff members which the mother could see as pressure to persuade her to place her baby for adoption run the risk of later bearing the legal interpretation of duress.

The purpose of that Committee was 'To inquire and report on what changes are necessary to the law on adoption.'

Although it had always been an offence under the Adoption of Children Act 1965, those professionals employed by the Catholic Adoption Agency who were members of the McLelland Committee declared that 'It is now an offence for a person to exercise undue influence or restraint to persuade a person to consent to adoption' - citing s57 of the Adoption of Children Act 1965.

The McLelland Report had also admitted that the true purpose of the Adoption of Children Act 1965 was based on the premise that a couple not unsuitable to adopt had an inalienable right to a child when their name on the adoption register came up.

The Committee had also acknowledged its own professional negligence in having conducted very little research into the field of adoption although paradoxically the Department had provided one of the largest adoption services in the world.

It was various members of the McLelland Committee, and more specifically Mrs. (...) (...) ((...) social worker of the Catholic Adoption Agency in 1975) who were instrumental in the process of putting an end to those illegal hospital procedures by drafting up the Health Commission Policy Circular on Adoption File No.1081, one year later in 1977.

The NSW Standing Committee on Adoption and Social Services was established in 1967 with the introduction of the Adoption of Children Act 1965. The Committee comprised of representatives of the Department of Child Welfare Adoptions Branch, members of the Australian Association of Social Workers, representatives of private adoption agencies, a member of the medical profession, and members of adoptive parent organizations.

Under the new chairmanship of Mrs. (...) (...) and in collaboration with the N.S.W. Obstetrics Committee, the NSW Standing Committee on Adoption and Social Services drafted the NSW Health Commission Policy Circular 1081 in 1977. The paper presented by Mrs (...) at that conference is titled Has Adoption A Future?

In 1978, the NSW Standing Committee on Adoption and Social Services then presented that draft policy circular to the Health Commission who waited four years to distribute it to all hospitals within NSW on the 1st September 1982.

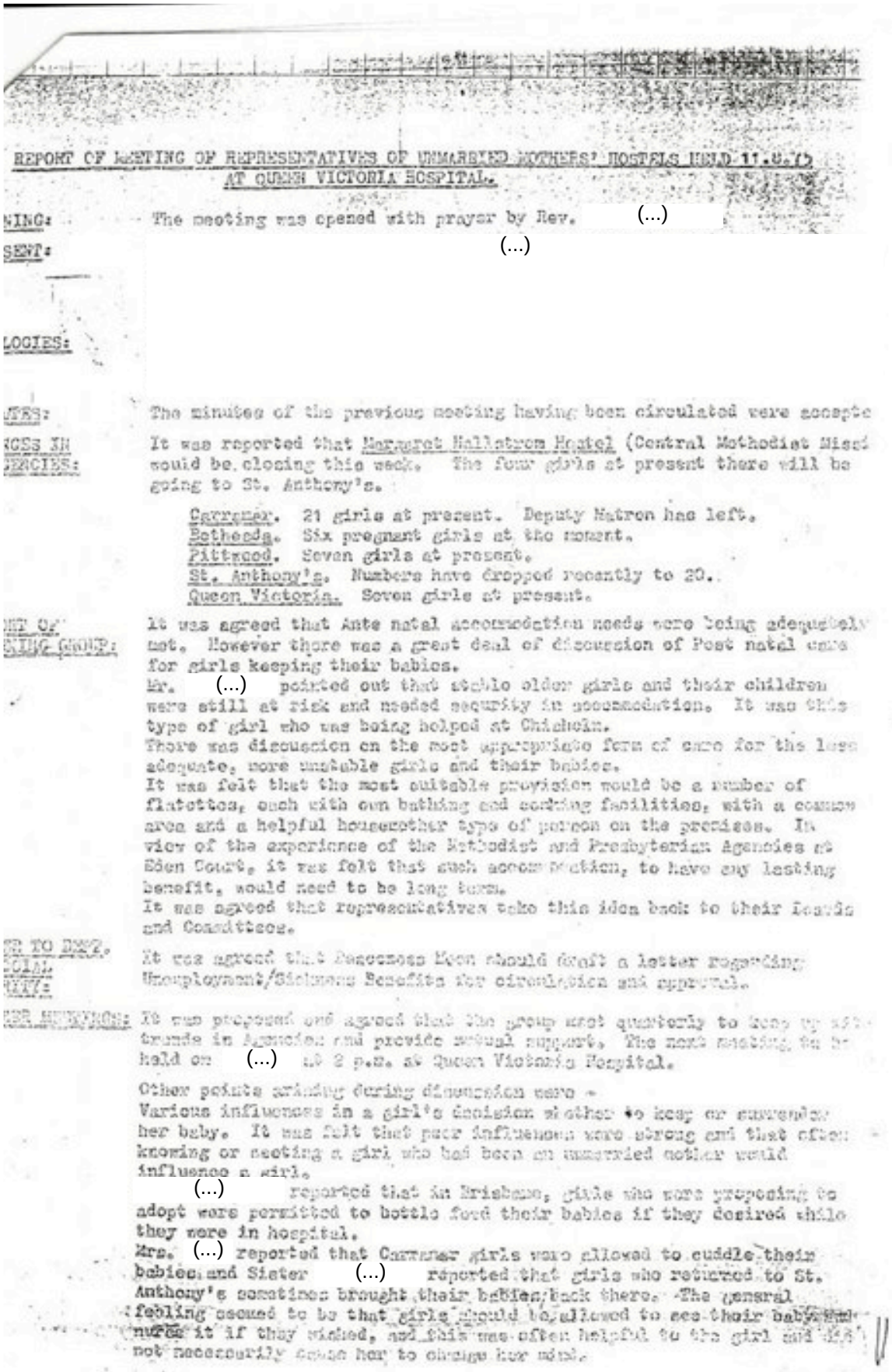
The Health Commission distributed its Policy Circular to warn all medical staff that the practice of preventing unmarried mothers from seeing their babies, or putting obstacles in their way of asserting that right prior to a consent being signed was in breach of the Adoption of Children Act 1965 on mental health or legal grounds as well as being in breach of the mother's common law rights as a parent.

That same Policy Circular had identified the practice of preventing the natural mother from seeing her child or putting obstacles in her way of exerting that right as constituting a breach of s31 (b) of the Adoption of Children Act 1965 and, thereby, had defined those established hospital procedures as obtaining a consent by fraud, duress or other improper means within the meaning of the Adoption Act.

'Doctors advocate that illegitimate children should be taken from their mothers at birth and put out to adoption at a fortnight old.[57]

[57] Edited by BETTY LEE Woman and the Home. (1950, July 18). *The Argus* (Melbourne, Vic. : 1848-1954), p. 8. Retrieved February 26, 2011, from http://nla.gov.au/nla.news-article22913146

ATTACHMENT "A"



REPORT OF MEETING OF REPRESENTATIVES OF UNMARRIED MOTHERS' HOSTELS HELD 11.6.(illegible) AT QUEEN VICTORIA HOSPITAL.

NING: The meeting was opened with prayer by Rev. (...)

SENT: (...)

LOGIES:

UTES: The minutes of the previous meeting having been circulated were accepte

GES IN PECIES: It was reported that Margaret Hallstrom Hostel (Central Methodist Miss would be closing this week. The four girls at present there will be going to St. Anthony's.

Carramar. 21 girls at present. Deputy Matron has left.
Bethesda. Six pregnant girls at the moment.
Pittwood. Seven girls at present.
St. Anthony's. Numbers have dropped recently to 20.
Queen Victoria. Seven girls at present.

NT OF SING GROUP: It was agreed that Ante natal accommodation needs were being adequately met. However there was a great deal of discussion of Post natal care for girls keeping their babies.
Mr. (...) pointed out that stable older girls and their children were still at risk and needed security in accommodation. It was this type of girl who was being helped at Chichelm.
There was discussion on the most appropriate form of care for the less adequate, more unstable girls and their babies.
It was felt that the most suitable provision would be a number of flatettes, each with own bathing and cooking facilities, with a common area and a helpful housemother type of person on the premises. In view of the experience of the Methodist and Presbyterian Agencies at Eden Court, it was felt that such accommodation, to have any lasting benefit, would need to be long term.
It was agreed that representatives take this idea back to their Boards and Committees.

R TO EET. CIAL: TY:

It was agreed that Deaconess Keen should draft a letter regarding Unemployment/Sickness Benefits for circulation and approval.

ER MATTERS: It was proposed and agreed that the group meet quarterly to keep up with trends in Adoption and provide mutual support. The next meeting to be held on (...) at 2 p.m. at Queen Victoria Hospital.

Other points arising during discussion were -
Various influences in a girl's decision whether to keep or surrender her baby. It was felt that peer influences were strong and that often knowing or meeting a girl who had been an unmarried mother would influence a girl.
(...) reported that in Brisbane, girls who were proposing to adopt were permitted to bottle feed their babies if they desired while they were in hospital.
Mrs. (...) reported that Carramar girls were allowed to cuddle their babies and Sister (...) reported that girls who returned to St. Anthony's sometimes brought their babies back there. The general feeling seemed to be that girls should be allowed to see their baby and nurse it if they wished, and this was often helpful to the girl and did not necessarily cause her to change her mind.