Reply by Cameron Horn, member of Origins Inc
(from the perspective of a father whose child was removed by adoption)

Reply to
Australian Institute of Family Studies final report into
Impact of past adoption practices (Higgins – March 2010)

> **Executive summary**
>
> Although reliable figures are not available, in the decades prior to the mid-1970s, it was common for babies of unwed mothers to be adopted. Estimates of the number of women, children and families affected by the relinquishment of babies by unwed mothers are considerable. However, there is limited research available in Australia on the issue of past adoption practices. The purpose of the attached

The fact that reliable figures are not available, must surely be the first indication that past adoption practices have been subject to serious mismanagement. The report then describes adoption as a 'common' event. If such an event is so commonplace, then why were records not kept in a systematic way by adoption workers going about their day-to-day commonplace business? The birth of a baby is a 'common' event, yet agencies are perfectly capable of registering the overwhelming number of such occurrences. The death of an individual is a 'common' event and yet, likewise such events are methodically and accurately recorded *en masse.* Similarly, with marriage, divorce, name-changes, tax and income records etc. How appalling has adoption record keeping been that the first conclusion the AIFS's review must come to is that "reliable figures are not available"?

The registration of a motor vehicle is a 'common' event. If agencies are capable of keeping track of every motor vehicle bought and sold, registered, deregistered, written-off, motor changed etc, then why are there not accurate records of the movement of babies from their biological mothers to biological strangers?

If, in a review of motor vehicle registrations we were forced to come to the conclusion that "reliable figures are not available" then we would automatically and rightly assume criminal activity, or slack industry work practice with the likelihood of criminal activity – it would be a major scandal and prosecutions would surely follow.

If then, we would judge so harshly the slack handling of records associated with an inanimate possession like a motor vehicle, a boat, a firearm or a home, why then are we not similarly alarmed by the fact that no accurate records exist pertaining to the custody of a human being?

There is great consternation regarding the lack of accurate life records among the Australian Indigenous population. Why then is there not an equal reaction in this report regarding the same situation when it pertains to a certain class of whites?

Why does this report summarily skim over this lack of accurate record-keeping with barely a mention, rather than heralding this as the scandal that it is?

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Again – why the secrecy? Why is there little available research? There is sufficient research available on similar topics such as Aboriginal removal, or on types of births (eg: caesarean sections or breach etc). Research has been done into various birthing practices and those

practices improved. Strangely, there are more reviewed papers on the results of medical experimentation performed on newborns awaiting adoption, than on the ethics of conducting those experiments. A Dr Burnard of Paddington Women's Hospital has been named by Patricia Farrar during the NSW Adoption Inquiry (1999), yet no investigation into his activities has ever been held. (1)

Similarly, Michael O'Meara has submitted an enormous amount of evidence to AIFS by way of emailed response to the Higgins report, wherein he presents a huge list of references to experimentation on newborns marked for adoption. Please refer to his submission and his references to evidence available in Parliamentary Hansard Senate Inquiry - Mens Health Inquiry 2009 Senate Hansard, "The Allars Inquiry" Senate 1994, and Senate Affairs Reference Committee 1998.

Executive summary

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The above highlighted section merely repeats something that has been blindingly obvious for decades – that no-one has been game to look at past adoption work practices in an analytical, professional and impartial way. One of the main problems with any Australian adoption research is that, by and large, it has been left to the adoption practitioners themselves. So, if there is anything untoward in how these practitioners have carried out their practice, they are hardly likely to expose their own impropriety. The best that one would expect is that they would seek to minimise such exposure.

One abundantly clear example of this is the book *The Many Sided Triangle* by Macdonald and Marshall, which is little more than two perpetrators' longwinded attempt at justifying their own illegal and unethical practices during extensive adoption-based careers. It is disappointing that this AIFS report relies so heavily on this hugely flawed and self-serving book.

Regrettably, in the absence of anything else, it is understandable that Prof Higgins would turn to it in the mistaken belief that it might offer some insight into past adoption practices in this country. But how useful can those insights be, in an academic sense, if they are written up by the very people who would probably be the subject of criminal investigations should all the evidence be brought to light? Naturally, such a work is hamstrung by the authors' conscious and unconscious desire to limit scrutiny of their own malpractice. Such a work has virtually no academic value due to the fact that it represents the accused standing as judge and jury in their own trial. Yet, unfortunately, it seems Prof Higgins was unable to find much else to quote for his report.

Executive summary

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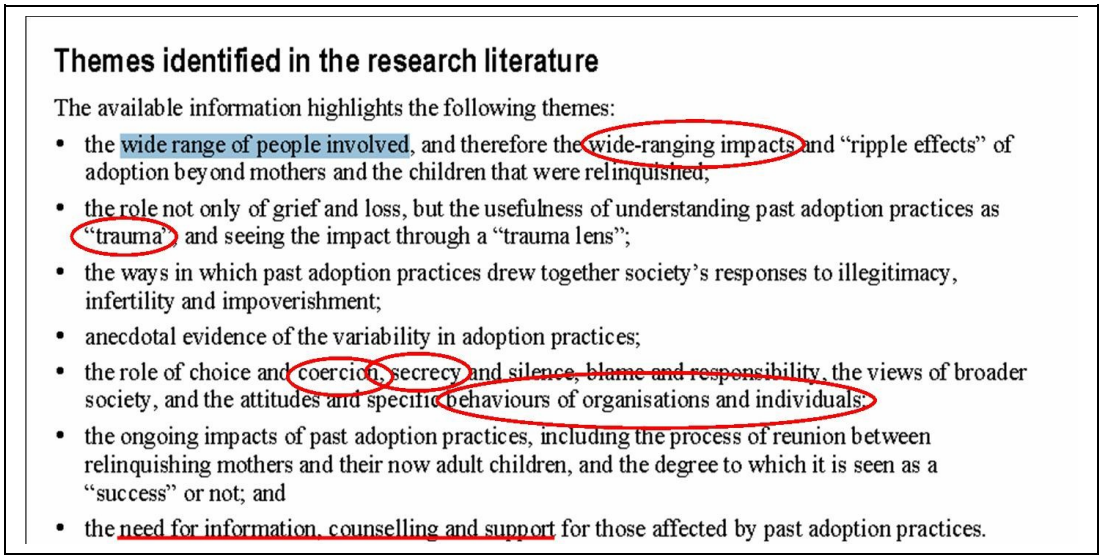
(from the perspective of a father whose child was removed by adoption)

It seems from the above highlighted statement, that AIFS has been given a very limited and inadequate brief. The above executive summary first states reliable figures are not available – indicating a lack of research and in fact a lack of data upon which to base research. It then states outright, that there is limited research – an obvious point. It then says that the brief was to 'review existing research'. One is left wondering exactly what the purpose is, of even proceeding beyond this point? If it is common knowledge that there is virtually no impartial research and it is acknowledged right from the start that even the available research is fraught with unreliable data, what then is the objective of limiting the brief to a review of already acknowledged flawed information? The only possible outcome is to highlight the dearth of information. Prof Higgins seems to be indicating that his mission is already doomed.

If the object of this report is to ascertain whether or not a Senate Inquiry is warranted, then it seems the answer is already patently clear from the Executive summary. There is no reliable data, there is no impartial research, the literature Prof Higgins is forced to rely upon is little more than hearsay, or demonstrably biased. The case is made in the opening passage – impartial investigation is long overdue.

The need for impartial investigation is reinforced in the sentences that follow the Executive Summary:



Themes identified in the research literature

The available information highlights the following themes:

- the wide range of people involved, and therefore the wide-ranging impacts and "ripple effects" of adoption beyond mothers and the children that were relinquished;
- the role not only of grief and loss, but the usefulness of understanding past adoption practices as "trauma", and seeing the impact through a "trauma lens";
- the ways in which past adoption practices drew together society's responses to illegitimacy, infertility and impoverishment;
- anecdotal evidence of the variability in adoption practices;
- the role of choice and coercion, secrecy and silence, blame and responsibility, the views of broader society, and the attitudes and specific behaviours of organisations and individuals;
- the ongoing impacts of past adoption practices, including the process of reunion between relinquishing mothers and their now adult children, and the degree to which it is seen as a "success" or not; and
- the need for information, counselling and support for those affected by past adoption practices.

Prof Higgins states that in his investigation, what little literature he did find was themed by issues of coercion, secrecy, blame, trauma, questions over behaviour of organisations and individuals, and a lack of information, counselling or support for those traumatised. He also states that the impacts of these issues are "wide ranging". There could be no clearer set of circumstances than this to indicate the need for an equally wide-ranging inquiry. The list provided here by Prof Higgins touches on social and political issues of great importance, such as ongoing physical, emotional and intellectual health of individuals affected, matters of grave criminality, political and institutional corruption, and all of these across a significant percentage of the Australian population.

How significant? It has been estimated that there have been around 300,000 adoptions in Australia since the second half of the 20th century. (2) There are also a huge number of adoptions coming from overseas. Taking the lesser figure of 300,000 – that's 300,000 adopted people, 300,000 surrendering mothers, 600,000 adoptive parents, 600,000 surrendering maternal grandparents. 1.2 million adoptive grandparents. Estimates are that around half the natural fathers face ongoing issues due to the loss of their offspring to adoption. (3) Then there are these fathers' parents.

We can also include the impact on 450,000 spouses of surrenderers, around 900,000 of their subsequent children, and at least 30,000 natural-born children in adoptive families. That's 4.4 million people in a country of 20 million – over one fifth of the population. And as a person who works under a manager who is adopted, I can safely say, that there are effects on work colleagues, friends and other associates of all these people. The carnage of this plague never ends.

The numbers associated with the Stolen Aboriginal Generations and the Forgotten Australians, pale by comparison. Yet, the Senate did the right thing by these groups and formed wide-ranging inquiries to document their history and treatment, producing reports that created healing and national acknowledgement. This is incredibly important to people who have been disempowered by the gravity of their separation from biological kin. Those separated by adoptions, whether legal or illegal, ethical or unethical, deserve the same standing before the Senate and the Australian population at large, especially when this particular group suffers under some of the most appalling societal misinformation of any of these like groups.

> **Key messages**
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> There is a wealth of material on the topic of past adoption practices, including individual historical records, analyses of historical practices, case studies, expert opinions, parliamentary inquiries, unpublished reports (e.g., university theses), as well as published empirical research studies. They include analyses of both quantitative and qualitative data, gathered through methods such as surveys or interviews.

Prof Higgins seems to contradict himself here by saying that there is a wealth of information available on adoption, where previously he had bemoaned its lack. One can only conclude that he regards the available material as unreliable. Prof Higgins throughout this document reflects a typical academic low-view of anything less than peer-reviewed publication. This attitude is somewhat worrying in that it is self-serving (Higgins being an academic), elitist, nepotistic and opens this particular topic of adoption to further misrepresentation, as it tends to be former perpetrators who clamber for limited research dollars. The allocation of research dollars to former adoption-workers-turned-university-lecturers, or indeed the former-social-worker-turned-academic, runs the risk of merely producing papers that have the appearance of academic independence but serve nothing more than the dual role of perpetuating social worker bias, and re-abusing adoption's victims.

Academics need to cast their net wider than peer-review, to include the perhaps less regimented, but in most cases, more honest, personal history and legislative inquiry. At least with personal history, bias is either obvious or predictable, and therefore more easily filtered. Bias in peer-reviewed writings is by nature far more difficult to predict, but nevertheless, equally real. The reason peer-review is called peer-review is because it is by nature, professionally nepotistic. Bias and favouritism in peer review is both legion and well documented in every field of academia. In an area as nefarious as social sciences, where novices enter their chosen tertiary courses with no necessity of a pass in their final schooling and little more than a hankering to masquerade as part of the intelligentsia, the opportunity for pseudo-intellectual pontification is practically limitless.

Certainly, peer reviewed publication of adoption related papers might fill a niche but it is not the total answer to the dearth of reliable information on past adoption practice.

> Despite this breadth of material, there is little reliable empirical research. To have an evidence base on which to build a policy response, research is needed that is representative, and systematically analyses and draws out common themes, or makes relevant comparisons with other groups (e.g., unwed mothers who did not relinquish babies, or married mothers who gave birth at the same time, etc.).

The implication of the above from Prof Higgins is that those pieces of information that currently exist are not representative. There is something worrying when an academic review of the available information comes to this conclusion after all the parliamentary inquiries, the 30 or 40 years of lobbying and unwavering determination on the part of the dispossessed mothers to get those inquiries, the testimonies of hundreds of surrenderers, adoptees, adoptive parents and even some social workers who all independently come to the same conclusion – that gross abuse and illegalities occurred in the Australian adoption industry. How can there not be easily-seen common themes after literally hundreds of testimonies given to the New South Wales and Tasmanian inquires all said the same thing? Does Prof Higgins believe all these witnesses colluded? Does he believe they are victims of mass hysteria or some sort of group delusion that has somehow travelled across state and even international borders?

His attitude of dismissal belittles those brave enough to testify, lets the perpetrators off the hook yet again, and re-abuses the abused by negating their testimonies. The evidence of abuse by adoption workers against surrenderers is plentiful and unequivocal despite the secrecy that was imposed to keep the abusers safe from exposure. Again, this is Prof Higgins' low view of anything not written by in a peer reviewed publication. If Prof Higgins believes those who have testified under oath of adoption abuse are unrepresented and self-selected, then he needs to remember that so too are those who seek academic kudos through peer-review publication. In adoption, everyone has an axe to grind – it's unavoidable.

In some ways, Prof Higgins is right to say that current information probably needs to be more rigorously collated. But to say that testimony given under oath to legislative inquiries is either unrepresentative or remains classed as anecdotal, is tantamount to re-abuse, especially when there is consistency in the testimonies without any evidence of collusion.

Prof Higgins mentioning here of unwed mothers who kept their babies, is interesting. There is probably a real need to make this comparison as currently available evidence from this group does border on the exclusively anecdotal. However, even here there is remarkable consistency in the evidence. Unwed mothers who kept their babies seem to fall into two groups – the first are those who had family support and never came into close or repeated contact with the adoption industry and its minions. The second much smaller group consists of those who were placed on the adoption conveyor belt but for some reason, escaped. Among this group there is also a common refrain – that they were earmarked for surrender every bit as much as those who eventually lost their babies, but this group commonly had a child with some perceived defect. It is a very common story among this group that a cleff palate, a hole in the heart, or sometimes even mere red hair, rendered their child less than perfect adoption product, particularly during the 'glut' period of adoption in Australia, namely 1967 to 1972. Upon revelation that a child was less than perfect, all manner of previously unavailable helps were found to enable a mother to keep her child. This is a very common theme in these particular histories. In fact, women who lost their babies to the Australian adoption industry, commonly report that they would pray their child would have a defect in order to give them a chance of escaping with their child.(4)

There is nothing secret about these testimonies – they are publicly recorded and available, just not in peer reviewed publications and I suspect that is so, because those who self-select to write peer reviewed articles on this topic, do so with a view to limiting their own culpability.

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There is scope for new research to provide information where there are current gaps:

- conducting archival research on individual hospital records, administrative data and other historical documents, which could be used to answer questions around the extent of practices, variability between practices in different locations, factors that might have affected this, and the impact on individuals involved;
- supplementing such historical research with qualitative in-depth interviews with key informants from the time, such as relevant professionals and organisational leaders;
- conducting a systematic, representative study of the experiences of relinquishing mothers, their adopted children, the families who adopted them, and others involved in past adoption practices;
- examining the reasons why not all unwed mothers relinquished their illegitimate babies and what distinguished these mothers from the others;

- using surveys or interviews to understand more about the value of reunions and "what works" to assist with the reunion process; and
- conducting surveys or interviews with men about their experiences as a father of a child relinquished to adoption, as well as the experiences of partners of women who relinquished babies in the past.

Much of the research or surveying that Prof Higgins has suggested here has been done, albeit in a somewhat *ad hoc* manner. Certainly, exposure of hospital record archives and agency administrative data has played a large part in parliamentary inquiry and individual documentation of histories. A more rigid collecting procedure applied to much of this already existing exposure of previously hidden documentation, would certainly serve a purpose – the exposure of such documentation during state parliamentary inquiries and individual attempts to raise law suits, has shone a light under Australian adoption's cosy doona, and the view is not necessarily all that pretty.

This writer welcomes the suggestion of a more disciplined collection of these existing evidences, particularly the final point listed by Prof Higgins above. Probably the most neglected aspect of adoption inquiry is the surrendering father's story. From one who lives it let me say – we hurt. And we hurt every bit as much as anyone else in the equation. We were abused, threatened and blamed every bit as much as our girls. We lost something every bit as precious. We are rejected every bit as often. We are mocked, judged, misrepresented and misunderstood just as much as anyone else. I believe that up until now, we have been ignored probably more so than others affected by adoption. And all the while we are expected to carry on less damaged than all others in the equation. It is well past the time that those fathers who did care and continue to care were given their voice.

As previously stated the testimonies of those unwed mothers who escaped the adoption industry, would be of great comparative interest, as long as their experiences were not used to minimise the experiences of those separated from their babies or to overshadow those who were caught up in adoption's clutch.

Conclusions

This review has shown that relinquishing a child to adoption has the potential for lifelong consequences for the lives of these women and their children, as well as others, such as their families, the father, the adoptive parents and their families. Although there is a wealth of primary material, there is little systematic research on the experience of past adoption practices in Australia. In many areas, the information needs of those developing policies or services to support those affected by past practices cannot be addressed by the existing research base.

There can be no clearer statement than the one highlighted above to indicate the need for both a full Senate Inquiry and systematic academic research, done as far as is possible, in a fully impartial way. The adoption industry has created an army of psychological time bombs, each of whom is detonating in their own time, in their own space. Prof Higgins here has stated unequivocally, that we are completely ill-equipped to deal with the shockwaves. We need information, we need it now. The raw materials to that information exists in an *ad hoc* form. A Senate Inquiry would go a long way to centralising much of that valuable information and would make future investigation into the effects of adoption, much easier, in turn making the formulation of policy and delivery of services much more streamlined.

As I said, there are time bombs ticking – we do not have the luxury of time to decide on the necessity of a Senate Inquiry. The necessity is obvious.

> In hindsight, it is believed that if knowledge of the emotional effects on people was available during the period concerned, then parents may not have pushed for adoption to take place and birthmothers may not have, willingly or unwillingly, relinquished their children. (p. 11)

The above statement is a prime example of why a Senate Inquiry is needed. No hindsight is needed in the case of adoption. There is no excuse for the adoption workers for what they did. Let it be said without equivocation:

THEY BROKE THE LAW.

The laws of the day reflected the knowledge of the day. In the days of the great adoption harvests, there was a mountain of knowledge about the impact of adoption on all parties. In the 1940s, Clothier described the impact of adoption as “irreparable damage.” (5) The NSW Adoption Act (1965) and similar Acts in other states reflected the mores of the time, by providing opportunities for fathers and others to oppose the pending adoption, had a consent been signed. The Children (Equality of Status) Act 1976 (NSW) and similar in other states, granted full guardianship rights to fathers – yet not once that anyone has been able to find, did an adoption agency ever inform an opposing father of his rights. Not once in decades of adoption practice did a consent taker fully inform a mother of her numerous options. Not once! In thousands of adoptions over several decades.

THEY BROKE THE LAWS OF THEIR DAY.

There is no “hindsight” required to understand the laws of one’s own period of practice.

There is no “hindsight” required for a social worker to keep abreast of the knowledge of the day – in fact, it is a professional duty to keep up-to-date. Prof Higgins places so much stock in peer reviewed literature. Well, even a scant perusal of the peer reviewed writings of the day, show that adoption workers were either deliberately ignorant or wilfully overriding the wisdom and legislation of their time.

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Even a casual glance at the social worker's practice manuals (6) of the day show the standards – and the testimonies from both surrenderers and the practitioners themselves, in various investigations(7), show the gulf between what was required and what was done.

Let's bin this idea that adoption workers conducted their trade in some sort of information vacuum. There was and is, a veritable forest of available information on the impacts of adoption, on the legislative ramifications of each practice and on the minimum professional standards expected during each era. Furthermore, it was all quite easily found back then, and it is quite easily discovered even now. Adoption workers simply turned their backs on all of it, for the sake of career expedience. That is the truth. Statements such as the above quote from the Tasmanian Inquiry actually inject further abuse into the veins of surrenderers and adoptees. Prof Higgins' reliance on such a statement here is mystifying for someone who is supposed to have conducted a review of the literature. The implications of the statement are demonstrably untrue and a Senate Inquiry would go a long way to laying open the real nature of adoption practice. Even the Catholic Adoption Agency had to admit, albeit in carefully worded euphemisms that "there was a bias towards adoptive parents."(8) By implication then, even they must admit that, upon review of their own documents, they could see a 'bias against surrendering parents.' There is no other conclusion.

We are not talking about the Dark Ages here. Or even the 1920s. We are talking about the supposed 'enlightened' times of the 1960s, 70s, 80s and yes, even the 90s. Perhaps even in the 21st Century, still, these kinds of abuses and ignorant behaviours continue because we are dithering about not exposing and dealing with errant and abusive adoption practice in a sufficiently public manner. Instead, we are rehashing old news, commissioning the good professor here to do little more than make a list of previous work *("it is beyond the scope of the current document to do anything beyond identifying and reviewing published literature"* – page 4) – literature which has proven inadequate in the light of revelations coming forth through various parliamentary and media inquiries.

Prof Higgins claims in footnote 3, page 4 that "past [adoption] practices where relinquishment of children was rigorously promoted **accompanied by levels of coercion** … is the particular focus of this report."

So on one hand he claims he is bound by his brief to investigate only academically published documents, yet on the other hand claims the illegal (coercive) practices are his focus. The result is that the perpetrators of illegalities once again, get to set the agenda, as it is those who 'rigorously promoted relinquishment accompanied by coercion' who also wrote or influenced the papers Higgins is briefed to review.

Therefore the illegalities of past adoption practices – the very issues that created the pain in the first place – are sidestepped once again, due to the inadequate brief handed to the reviewer. The illegalities are not in the reviewed papers – they are in the personal histories and records unearthed in various inquiries.

Those dispossessed of their babies, probably appreciate Prof Higgins conclusion that "the very existence of this material (historical and personal records) – and the lack of systematic analysis of such records – contributed to the formation of the author's conclusions about the (in)adequacy of the research base, and opportunities for further research to inform policy." (Page 4, footnote 3).

All well and good. But to be honest – we have film of girls being handcuffed to bed-heads while giving birth. Think about that. The practitioners were so barbaric they didn't just secretly manacle a mother to her bed while she gave birth – they actually thought to film the theft of her baby … as a *training* film.

Such films do not turn up in academic papers. They do, however, serve as *prima facie* evidence in parliamentary inquires and probably belong in police investigative files. It has

been 30 or 40 years for some dispossessed women fighting for exposure of what was done to them. We don't need yet another pleasant and carefully worded review. We need to lay out all the evidence, and start calling this phenomenon by its proper name: the Forced Adoption Generations, and the children taken as the Forcibly Adopted Australians.

It is interesting that Prof Higgins uses the similar expression, "The Stolen White Generation" (page 5). I wonder if he realises where this expression "The Stolen White Generation" comes from. The first time I heard it used was by Mr Bill Johnson, who at the time (1999) was head of social policy research at Centrecare Sydney. "The Stolen White Generation" was how he described children taken by Centrecare's agency for adoption. Mr Johnson reached this conclusion after reviewing the agency's files from the 60s, 70s and 80s, in response to a request from the NSW Parliamentary Inquiry Committee. I repeated the phrase as the theme to my address to that Inquiry (9). Subsequently, the media started using the phrase (10) and now it seems it has taken on a life of its own.

The fact is, the phrase comes from the adoption industry itself – this is how they describe their own practices. As Prof Higgins states, "stolen implies illegal practices" (page 5).

Isn't it time we took the adoption industry at their word? We don't need to waste anymore time with review. The time is right. The evidence is there. A Senate Inquiry is the very least this deserves. The industry itself confesses that these children are stolen – what more is needed to suggest an investigation is warranted?

I look forward now, to what surely now must be the unavoidable Senate Inquiry into the Forced Adoption Generation and the babies who we can now comfortably call The Forcibly Adopted Australians.

Terminology

A range of different terms is used in the literature to refer to both adoption practices, and the women affected by them. These include:

- relinquishing mothers;
- parents who relinquished a child to adoption;
- birth mothers;
- natural mothers;
- genetic parents;
- adoption of ex-nuptial children;
- mothers affected by past adoption practices;
- mothers of the "stolen white generation" (analogous to the Stolen Generation of Aboriginal children removed from their parents, which occurred at roughly the same time period) (Cole, 2008);
- real parents (Grafen & Lawson, 1996);
- losing a child to adoption (McGuire, 1998);
- reunited mother of child/ren lost to adoption (Farrar, 1998);
- separation from babies by adoption (Lindsay, 1998); and
- rapid adoption (the practice of telling a single mother her baby was stillborn, and the baby being adopted by a married couple).

It is acknowledged that some of the terms are perceived as "value-laden", either because of their acceptance of a particular point of view (e.g., "stolen" implies illegal practices), or because their attempt at neutrality (e.g., "relinquishing mothers") potentially hides what are alleged as immoral or illegal practices. For the purposes of the current document, where possible, the terms used by the authors of the reports being reviewed will be used to describe their findings.

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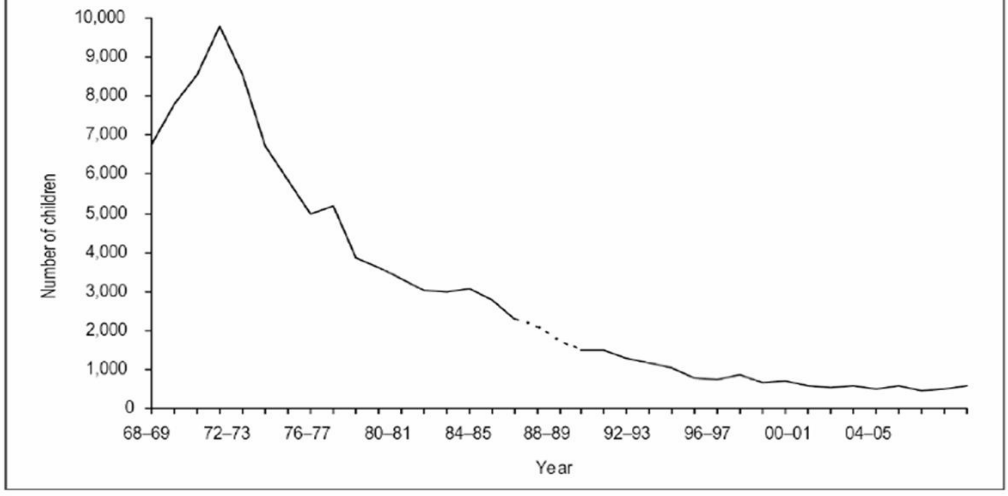
Prof Higgins' list of terminology is interesting for one particular word that is conspicuous by its absence. He notes that much of the above list is rather 'value-laden'. Perhaps the word that is left out is *too* value-laden. It is a highly technical and rather archaic word which few in 21st century western culture understand.

The word is "father" – habitually expurgated from most discussion about adoption, probably because it carries an emotional depth charge that even this subject matter can't withstand.

Oh – and if "fathers" are to be included, can we drop the derisive "putative"?



Note: National data were not collected between 1985–86 and 1986–87.
Source: AIHW, 2005, Table 3

Figure 1: Number of children legally adopted in Australia, 1968–69 to 2004–05

Attention here is drawn to the legend applied to figure 1 in Prof Higgins' review. Strictly speaking, if we are going to use the words "legally adopted" to describe the graph, then the graph should be a single flat line approximating the vertical scale at zero.

This is the crux of the entire issue: the fact that it is difficult to find a single Australian adoption in the years 1960 to 1990 (and probably beyond) which has proceeded with due application of all relevant laws. Throughout that entire period unmarried mothers had a raft of rights and helps available to her to keep her baby – were they informed? If not, then she has not given informed consent. How many consents were signed by girls under the age of 16? In which case a minor has signed a legal instrument. How often were fathers informed of their rights? How often were the mothers denied basic access to their babies over whom they had legal custody? How often were these mothers unlawfully detained, or had their freedom of association and freedom of movement violated? How often were they assaulted, coerced, manipulated or brainwashed into surrender? Was there a clear conflict of interest on the part of the consent taker? How often were the documented cocktails of drugs given to unmarried mothers administered without their consent? How often were consents signed under the influence of such drugs? How often were documents falsified to enable 'rapid adoption'?

Does one really need to continue listing the myriad of legal breaches that have been documented? These things are not hidden – they are clearly documented, just not in many peer reviewed discourses authored by the perpetrators.

The application of the word "legal" to this graph is another example of value-laden terminology employed to minimise the impact of what really happened.

1.2 History of adoption laws and policies

It is beyond the scope of this research literature review to conduct an in-depth analysis of past laws and institutional policies in Australia, and the changes that have occurred over time. However, these issues have been addressed in detail in a couple of major books, particularly Swain and Howe (1995) and Marshall and McDonald (2001). Some of the key milestones, as described by these authors, are outlined below:

- Legislation on adoption commenced in Western Australia in 1896, with similar legislation in other jurisdictions following.
- Before the introduction of state legislation on adoption, "baby farming"[4] and infanticide was not uncommon.
- Legislative changes emerged from the 1960s that enshrined the concept of adoption secrecy and the ideal of having a "clean break" from the birth mother.
- The Council of the Single Mother and her Children (CSMC) was set up in 1969, which set out to challenge the stigma of adoption and to support single and relinquishing mothers.
- The status of "illegitimacy" disappeared in the early 1970s, starting with a *Status of Children Act* in both Victoria and Tasmania in 1974 (in which the status was changed to "ex-nuptial").
- Abortion became allowable in most states from the early 1970s (the 1969 Menhennitt judgement in Victoria and 1971 Levine judgement in NSW).
- Further legislative reforms started to overturn the blanket of secrecy surrounding adoption (up until changes in 1980s, information on birth parents was not made available to adopted children/adults).
- Beginning with NSW (in 1976), registers were established for those wishing to make contact (both for parents and adopted children).
- In 1984, Victoria implemented legislation granting adopted persons over 18 the right to access their birth certificate (subject to mandatory counselling). Similar changes followed in other states (e.g., NSW introduced the *Adoption Information Act* in 1990).
- By the early 1990s, legislative changes in most states ensured that consent for adoption had to come from both birth mothers and fathers.

It seems somewhat incongruous that Prof Higgins would be so adamant that only legitimate 'literature' should be reviewed in this report, and yet there is a fairly repetitive reliance on 'Marshall and MacDonald 2001'.

It needs to be put on record that 'Marshall/Macdonald 2001' is nothing more than the memoirs of two career adoption offenders. There blatant disregard for adoption law and accepted work practice is well documented – often from their own testimony. Suffice for this analysis to lay open their selective memory and demonstrable incompetence in regards to their selective list of adoption law.

This list becomes more fascinating when one considers the adoption law highlights that are conspicuous by their absence. The following truths about the above list, should lay open without ambiguity, the unmistakable agenda of Marshall and MacDonald's 2001 adoption malpractice diary.

The first thing we see in the list above, is M+M 2001 trying to justify their practice by diverting attention to supposed atrocities of the 1800s: around 100 years before M+M were practicing. Assuming evidence is available, these occurrences from Australian adoption's ancient history neither nullify nor justify M+M's scant disregard of the pertinent adoption legislation of their day. The illegalities of one era do not justify the malpractice of the next. For example, it is amazing how between them, M+M can come up with this ramshackle list of adoption legal milestones, yet between them they could not even once inform one of the unfortunate girls to pass through their adoption agencies, of the long list of rights and assistances available to enable them to keep their babies from being adopted.

Reply by Cameron Horn, member of Origins Inc
(from the perspective of a father whose child was removed by adoption)

Moving beyond the first entry in the list, M+M's selective memory loss becomes even more interesting. To list their omissions in chronological order:

1. South Australian Adoption Legislation 1925:
First of all, the genesis of adoption law in Australia was not in the 1960s. South Australia enacted adoption legislation in 1925.

2. Child Welfare Act 1939:
The Child Welfare Act came into being in 1939 and the principles enshrined in it were supposed to guide adoption practice from that point. Amongst the legal requirements within the Child Welfare Act were a long list of benefits due to the destitute mother, a list of responsibilities aimed at ex-nuptial fathers and a raft of checks and balances to protect the unity as best possible, of biological kin. It is these clauses in the Child Welfare Act 1939 which the adoption industry regularly ignored.

Yet Marshall/Macdonald 2001's list fails to pay even passing regard to the one legislative act which governed most state's adoption practice for 25 years, and which provided the basis of the 1960s adoption acts in the various states. Since Marshall/Macdonald are on record through their own testimony (11) that they regularly ignored the basic principles enshrined in both the Welfare Act and subsequent Adoption Acts is it mere coincidence that they expunge the Child Welfare Act 1939 from their reporting of history?

3. The Single Mother's Pension 1973
Marshall/Macdonald probably don't want to remember the 1973 Act by which the Federal Government took back the authority to dispense financial assistance to single mothers. This financial assistance had always been available through the Child Welfare Act but was never administered by the States who preferred to keep the allowance for other use in consolidated revenue. It took a surrendering father, Bill Hayden, to finally make sure the money was delivered to single mothers. The result was that the adoption industry's supply of perfect product was turned off over night.

4. Family Law Act 1975
While the adoption industry, and its chief perpetuators in New South Wales, Marshall and Macdonald, were plying their trade breaking up real families in order to create artificial ones, the Federal Government at the time, set about redesigning family legislation through the Family Law Act. One notable clause in the Act is the legislative conference of guardianship rights on married fathers. This becomes pivotal as we look at the next legislative milestone.

5. NSW Children (Equality of Status Act) 1976:
In the above Marshall/Macdonald legislation list, the Children (Equality of Status) Acts for Tasmania and Victoria are mentioned, yet, M+M refuse to acknowledge the passage of the New South Wales Act which basically turned the legality of adoption upside down – I say, the 'legality' for in practice, the likes of Marshall and Macdonald simply decided to completely ignore the clear legal implications of the Children (Equality of Status) Act.

In law, the Children (Equality of Status Act) conferred a formal legal relationship between an ex-nuptial father and his ex-nupital children, such that he was automatically assumed a guardian of the child, and certainly could have that guardianship formally declared by the courts. This meant that all adoption consents from that time on should have been signed by the father of the child as well as the mother.

Can any adoption industry opinion be found that agrees with that analysis? Funnily enough, yes. The McLelland Committee Review of Adoption which sat in 1974, considered the Attorney-General's then proposed new Equality of Status Law and agreed that this new law would create a further impediment to a smooth adoption – that impediment being the requirement of the father to sign the consent.(12) Margaret Macdonald was a signatory to that McLelland Committee statement.(13)

6. Nov 10 1977 – Social Security Amendment Act
In discussing the NSW Children (Equality of Status) Act, the McLelland Committee, with Margaret Macdonald seated at the right-hand of Mary McLelland, felt that a good yardstick for social acceptance of a father's right to veto an adoption consent, would be the expansion of the single mother's allowance to single fathers. And behold, the single parent's pension was indeed extended to single fathers, on November 10, 1977. Once again, Macdonald was a signatory to the McLelland Committee statement – but did the Social Security Amendment Act 1977, change her practice? With all the legislative and social indicators lining up, did Ms Macdonald and those in her charge avail fathers of their right to consent or withhold consent to an adoption? Hardly. In fact, quite the opposite.

7. G v P, Gorey v Griffith, Youngman v Lawson, F v Langshaw, Hoye v Neely
At this time, the courts were actively interpreting this new relationship between ex-nuptial kin, with a variety of precedents formally affirming the guardianship and custody rights of fathers over their ex-nuptial children. These included *G v P 1977, Gorey v Griffith 1978, Youngman v Lawson 1981, F v Langshaw 1983* and *Hoye v Neely 1992.* By affirming an ex-nuptial father's guardianship and custody rights over his ex-nupital child, these decisions therefore confirmed a father's right of consent or veto over an adoption by virtue of his clear legal relationship with the child.

Maybe Marshall and Macdonald are simply ignorant of these legal precedents? Well, curiouser and curiouser: Margaret Macdonald was the defendant in *F v Langshaw.* In this case, Macdonald's adoption agency was challenged on this very point – a father's right to challenge a signed consent. Macdonald was the second witness for the defence, and Macdonald's agency lost the case. To make the point clear – Macdonald was personally challenged to defend her right to ignore a father's guardianship position in adoption proceedings undertaken by her agency. It was Macdonald versus father's rights of veto. The father won. No wonder she doesn't want to remember.

But Macdonald's selective memory loss gets even more mysterious.

8. 1980 NSW Adoption Act Amendments
In February 1980, Ms Macdonald reportedly wrote to every parliamentarian in the New South Wales chamber requesting certain amendments be put into the Adoption of Children Act. NSW Hansard of March 1980 shows Ms Macdonald being named in debate by members Clough, Jackson, Grusovin, MacIlwaine and Maher. (14) This is an unprecedented act of adopto-zealotry, yet it seems to have completely fallen out of Macdonald's memory.

And this is the woman, upon whose memoirs Professor Higgins wishes to rely?

The result of Macdonald's letter-writing activities was that numerous amendments did in fact go into the Adoption Act, most of which derived from the McLelland Review's recommendations. However, one of the amendments does not appear in the McLelland Review. This amendment became known as clause 26(3A) of the *NSW Adoption Act 1965 (as amended 1980)*. The effect of this amendment was to put paid to the necessity for a father to sign a consent, by expressly declaring him to not be considered a guardian for the purposes of applying the State Adoption Act, until such time as a Commonwealth Act declares him to be a guardian. The mere existence of the amendment shows the need for clarification in the Adoption Act regarding father's right of veto.

And here is the question: if there be no right for fathers to veto and adoption, and if there be no requirement for fathers to sign an adoption consent, and if there be no existing legislative imperative that grants an automatic legal relationship between ex-nuptial fathers and their children, then what is the need for this explicit amendment aimed directly at the guardianship rights of the unwed father?

Reply by Cameron Horn, member of Origins Inc
(from the perspective of a father whose child was removed by adoption)

If there was no fatherhood right, and no grey area that might be 'exploited' by fathers to nullify a signed adoption consent, then why all the frantic activity from Macdonald to influence the NSW parliament to legislate against it?

We start to get a picture as to how reliable Marshall/Macdonald 2001 really is as impartial adoption history. Professor Higgins' reliance on it further underlines the need for unfettered Senate investigation into Australia's adoption past. The likes of Marshall/Macdonald cannot be trusted to give full and frank exposition of their career practice.

9. De Facto Relationships Act 1987
The effect of the Federal De Facto Relationships Act 1987 was to declare all ex-nuptial fathers as full guardians of their children, unless expressly revoked by the courts. This satisfies the test of guardianship required by clause 26(3A) in the NSW Adoption Act, because the De Facto Relationships Act is a Commonwealth statute, exactly as stipulated in the 26(3A) amendment. Since the enactment of this Commonwealth legislation a biological relationship has automatically equated to a legal relationship such that guardianship is now assumed, effectively reversing the effect of NSW Adoption amendment clause 26(3A) and from 1987 on, all adoptions have legally required the father's consent. However, even in the post 1987 era, it is difficult to find an adoption consent that has both mother and father's consent. In fact, up until very recently, the consent form still only had one space for a signature …

From the above summarised analysis of even something as innocuous as a legal milestone list, it becomes obvious just how tenuous Higgins' review is, when it relies so heavily on the writings of the likes of Marshall/Macdonald. The problem is that self-serving tomes like M+M seem sound until subjected to adequate scrutiny from those who were there and experienced their treatment all those years ago.

- Further legislative reforms started to overturn the blanket of secrecy surrounding adoption (up until changes in 1980s, information on birth parents was not made available to adopted children/adults).

One statement in the Marshall/Macdonald legislative list that simply cannot be allowed to pass without comment, is that highlighted above. Legislative changes to the sharing of information between adoptive and natural families did not start in New South Wales until the mid-90s. The above statement however, implies that information was flowing from the adoptive side to the natural side during the 1980s. While adoptions started to be euphemistically termed 'open' from the mid-80s, (although this was rare in practice), the actuality of adoption information flow was quite the opposite to what is implied here, especially within Macdonald's own agency.

To introduce my own experience, information regarding my daughter taken for adoption by Macdonald's agency in April 1980, was kept firmly under lock and key even into the early 21st Century. In fact, even now, (2010) I would have difficulty getting documents out of said agency. By contrast, my daughter's adoptive family were in possession of page after page of information on me, my family and the life details of my daughter's mother – even down to my mother and father's professions, my mother's height, a fully physical description of both me and her mother, our hobbies, our Christian names, the name given to our daughter by us at birth, including middle name, a full description of the foul treatment of both of us by her mother's family, our religious beliefs, negative description of my temperament, and a paragraph of lies as to why she was adopted.

An almost identical list of information was given to the adoptive family regarding a subsequent adoption. Equally, the agency was in possession of progress reports on the adopted children that extended to around ten years after birth.

By contrast, in the late 1990s, after information legislation had changed to allow dispossessed parents access to similar information, I had to invoke three letters from my solicitor, a written plea from my daughter's natural mother, and finally a terse letter from the Minister for Community Services, in order to elicit a few menial scrapes of incorrect and incomplete information carefully edited and typed onto a single page – a meagre total of about 35 words.

Adoption agencies' disregard for relevant legislation continues unabated.

Perhaps the final word on Higgins' reliance on Marshal/Macdonald can go to Higgins himself:

> these perspectives. It is important to note that in drawing any conclusions about the events of the past, consideration must be given to whose "eyes" through which the events are seen, and the emotional investment they have in their perspective.

In Conclusion

One could continue to analyse the remainder of Higgin's review in detail, but much of this would be repetitive and overlap significant responses from other interested parties. For example, I am aware of extensive information given to Professor Higgins by the women of Origins Inc, both prior to, and in response to, Higgins' written review. While there may be some overlap I trust that I have delivered a different perspective to other responses and that the particular issues raised herein are properly considered as decision makers move forward on the unveiling of Australia's adoption history.

The key issues for me, in summary are:

- First and foremost an investigation into adoption practice illegalities. These are the source of the ongoing trauma for the dispossessed. It is the trauma of the original illegal practice, (the reason why they were made illegal was due to the traumatic fallout of such practices), it is the trauma of discovering that the forces applied to remove one's child were against the law and therefore should never have happened, it is the trauma of being a victim of crime, it is the trauma of seeing the perpetrators not only getting away with it, but being permitted and encouraged to rewrite history such that they transfer blame to the victims and sidestep accountability for their crimes, it is the trauma of the dispossession in the first place, and the fact that those who should have known better and who had been entrusted by the legislatures to protect the vulnerable, instead chose to take advantage for the lining of their own pockets, the appeasement of their own pyschoses and the annihilation of their targeted victims.
- Secondly, the correction of errant history for the sake of our children, who currently live with the intolerable myth that they were summarily discarded by the womb that bore them. This is an unconscionable lie that places an unbearable burden on both the dispossessed parent and the displaced child.
- Thirdly, there needs to be a correction of attitude among academia towards the documentation and who is permitted to comment on it, through funded research and subsequent publication. The current pseudo-intellectualism of those involved in academic social 'sciences' is not conducive to open and honest debate on the subject of adoption – it restricts access to publication and unacceptably favours those most likely to gain from subjugating adoption's truths. This mirrors the conditions which created the problem in the first place – secrecy, and a closed shop of cronies all committed to one particular philosophy and outcome, primarily the survival of their industry as a means to maintain their careers.
- Fourthly, there is a need for broader societal recognition, understanding and acceptance of both the true history of adoption and the effects of that history –

recognition similar to that given to the once suppressed but now generally accepted revelations surrounding Australia's Stolen Aboriginals.

- Fifthly, while Higgins' Review is one step along the process, it basically fails to really deliver anything particularly valuable to the debate, due mostly to an inadequate brief, but also due, within that brief, to an inadequate literature search, a jaundiced view of available documentation and a self-imposed and unnecessary disqualification of perfectly valid information given under oath (testimonies to parliamentary inquires for example). Such information would be deemed admissible in a court of law and in the formulation of debate in the legislature, but is apparently unable to satisfy the narrow definition of evidence acceptable to Prof Higgins. Coupling this with his inconsistent acceptance of utterly substandard documentation that, even by Higgins' own words, does not make the grade (the reliance on Marshall/Macdonald for example), makes Higgins' review at best, tainted, at worst, utterly meaningless. It is, however pleasing to see Higgins' subsequent statements in the press, and elsewhere (during the post-review conference call for example) that seem to acknowledge the complete inadequacy of his review and his seeming support for a proper Federal Parliamentary Inquiry into Australia's adoption history.

Perhaps the Higgins Review's greatest worth is as a tool to demonstrate the utter inadequacy of Australia's currently recorded adoption history, and to highlight, albeit accidentally, the overwhelming need for a hugely overdue public investigation into this sordid chapter of our nation's social narrative.

Footnotes:

1. Trish Farrar to the NSW Parliamentary Inquiry into Past Adoption Practices, Interim Report of Testimonies given on June 16, 1999 page 44.
2. Higgins own report (page 6) sites Inglis (1984) as estimating "more than 250,000." Origins Inc's associated website http://www.dianwellfare.com/id22.html estimates 300,000 plus a similar number of unregistered adoptions, but does not give a source. http://www.originsnsw.com/originsqueensland/ also quotes the 300,000 figure adding that 250,000 of those were post-WWII. Again, no source is given. Trish Farrar has collated exact figures for the State of New South Wales, totalling 101,204 from 1924 to June 1994. See: http://www.nla.gov.au/openpublish/index.php/aja/article/viewPDFInterstitial/1179/1453
3. Higgins' own report acknowledges that around half of the fathers to lose a child to adoption, "were involved in the adoption process" (page 22). Informal survey conducted by Origins indicates that around 70 to 80% of their members report being in an "ongoing, stable relationship with the father" of their removed child at the time of conception and/or the adoption.
4. See testimonies of mothers caught in this 'lie-in home' system, given to the NSW Parliamentary Inquiry into Past Adoption Practices.
5. Florence Clothier MD 1943: *The Psychology of the Adopted Child;* The National Committee for Mental Health Journal on Mental Hygiene. New York.
6. ***Child Welfare in New South Wales*** **1958, written by the Child Welfare Department and used as the standard child welfare and adoption practice manual throughout the 60s. The full quotes are as follows:** ***"Advice is tendered regarding the alternatives, and only when a reasoned and firm decision is made, are the necessary papers prepared."*** **(Page 58)** ***"The mother is visited by a specialist lady District Officer who fully explains to the mother the facilities which the Department can offer to affiliate the child ... When all these aids have been rejected, and the mother still desires to surrender her child for adoption, the full import of surrendering her child is explained. Only when the mother still insists does the Department's officer prepare a form of surrender."*** **(Page 30) See also** ***Children in Need*** **(1956) by Donald McLean. Endorsed by Deputy Premier**

Heffron, page 54. Again, a standard work practice manual for adoption and social workers throughout the 60s. The full quote is as follows: *"If there is any sign of uncertainty or vacillation the officer will insist that the mother consider the question further before signing the surrender. A consent is never accepted from a mother until she is quite firm in her decision."* Emphasis added.

7. Various testimonies to NSW Parliamentary Inquiry into Past Adoption Practices, indicate adoption consent takers failed to avail mothers of any alternatives to surrendering their babies. Adoption consent takers' own testimonies prove conclusively that they failed to avail fathers of their rights regarding the proposed loss of their child to adoption. The Macdonald-Marshall testimony in particular, showed without doubt, that adoption workers struggled to even know what the legal requirements were, let alone act on them.
8. ***Report of Proceedings before Standing Committee on Social Issues Inquiry into Adoption Practices* at Sydney on Wednesday 16 June 1999, page 6, line 3.**
9. Testimony given to NSW Parliamentary Inquiry into Past Adoption Practices, 2nd Interim Report, page 140.
10. The word "stolen" is now commonplace in media headlines on Australian adoption. See for example these, all dating just after Bill Johnson's admission in April 1999 and my speech to the Inquiry on October 18, 1999: *Daily Telegraph,* Saturday December 9, 2000, page 1: "Babies stolen for adoption". *Sydney Morning Herald,* 19 October, 1999, page 5: "Tears shed over new stolen generation." *Newcastle Herald,* 19 October 1999, page 4: "Forced Adoption babies." *Sun Herald* May 6, 2001, page 10: "They stole my little girl twice". *Newcastle Herald* 26 July 1999, page 4: "Inquiry into white stolen babies." *Practical Parenting* magazine, May 1999, highlighted the phrase, " a generation of Forced Adoption babies." The *Central Coast Sun* 15 December 2000 page 2, uses the headline, "A stolen white generation". *The Seven-Thirty Report* ABC television, 8 December 2000, used the terms "kidnapping, in the non-technical sense … unauthorised taking of a child." *The Sun-Herald-Tempo* April 1, 2001, page 8 uses the headline, "Kidnapped at birth" and included descriptives such as, "single mothers' holocaust", "mothers whose babies were stolen".
11. For example, Macdonald stated to the NSW Parliamentary Inquiry that she would regularly take consents from girls who intended revoking. See ***Inquiry into Adoption Practices: Interim report - transcripts of evidence*, 27 August 1998 to 19 October 1998, page 82, 5th paragraph, last sentence.** This contradicts the adoption work practice requirement as outlined in footnote 6.
12. **Page 43 & 44 of *McLelland Review Report.***
13. ***McLelland Review Report.* List of committee members.**
14. ***NSW Assembly Hansard* 18 March 1980 pages 5387, 5389 and notably page 5392. Ibid. page 5402. *NSW Council Hansard* 26 March 1980 page 5918.**