

25 October 1999

Room 814/815, Parliament House, Sydney

RICHARD COLIN CHISHOLM, Judge of the Family Court, Family Court, affirmed and examined:

CHAIR: You have received a summons?

Justice CHISHOLM: Yes.

CHAIR: And you are conversant with the terms of reference?

Justice CHISHOLM: Yes.

CHAIR: Do you wish your submission to be included as part of your sworn evidence?

Justice CHISHOLM: Yes.

CHAIR: Do you want to briefly elaborate on your submission or make a short statement?

Justice CHISHOLM: Well, the situation is this: I handed in a submission some time ago and I have the questions. I have given some thought to the questions and I would be quite happy just to respond to the questions, if you would like to proceed in that way.

CHAIR: Yes, and you can then elaborate on anything that comes out of those.

Justice CHISHOLM: Yes. Could I just say by way of general introduction that I did some work on this subject most recently in connection with the Law Reform Commission's inquiry into the Adoption Act and we have published a big fat report about that and basically everything I know is in that report and I have not done any research since then, so it is not a continuing activity for me. It is a continuing interest, but not research activity.

It seems to me, when looking at the questions, that they fall into a number of categories. Some of them are fairly straightforward legal questions which I think can be answered reasonably simply; some of them are deep philosophical questions which we could discuss for months. If you are happy, I might start with the easy ones, the technical legal questions, and then we can move on to the more challenging ones.

CHAIR: Yes.

Justice CHISHOLM: Could I start with question 12?

CHAIR: Yes, this is where we asked you to explain the requirements for the signing of consent as determined by the Adoption of Children Act? In particular, could a mother sign a consent while still a minor and, if not, could anyone else sign a consent on her behalf?

Justice CHISHOLM: Yes.

CHAIR: And you would realise that, in many cases, these questions have arisen out of evidence given to the Committee where people have argued one way or another or talked of their experience.

Justice CHISHOLM: Yes.

CHAIR: So there is usually a history behind some of these questions.

Justice CHISHOLM: Yes. I do not know the details. Some of the details about what is required are contained in regulations and forms and I do not have a detailed knowledge of that. In terms of the actual forms, all I can say is that consent was a formal thing. There was a form to be signed and there was a requirement, the details of which I do not know, for a person, usually I think a DOCS officer, to explain things to the person giving consent or perhaps someone from a private adoption agency. I do not know those details and I suspect that those details would have changed over the period of time.

However, I can answer I think what might be the heart of the question, which is: In particular, could a mother sign a consent to adoption whilst still a minor? I am very confident that the answer to that is Yes. That is, the Adoption Act requires the consent of people who are parents and it does not say anything about age and I think, on an ordinary statutory interpretation, that means that the mother of the child, whatever age she is, is required to give consent. There are various bases on which consent can be dispensed with, but they do not include anything about the age of the mother. I do not know of any case that has actually decided that point, but my reading of the legislation is that the mother's consent was required no matter how young she was.

Question 10 is: The Committee has heard evidence that in the 1950s, 1960s and 1970s a mother giving up a child for adoption was not permitted to have contact with the child in the days after birth to prevent bonding and to enable the mother to "get on with her life". Could you comment on whether or not the mother was still the legal guardian of the child prior to giving the consent? Could the refusal to allow access, despite possible good intentions at the time, be considered illegal or unethical or both?

My view is that the mother remained guardian of the child until she gave consent. That is, till then she had all the rights of a parent over the child. I think that means that, in theory, any actions in relation to the child by somebody else would have had to be with her consent. So my answer to the question would be that if somebody, a social worker or someone at a hospital or somebody else, prevented the mother from having contact with or access to the child prior to her giving consent, that would not be authorised. That would be as unauthorised as if any other person stopped a parent having contact with their child. The only exception I can think of would be where there was some medical emergency which required urgent intervention, but the situation, I think, is exactly the same as it would have been with any other parent and a child.

In terms of specifics, if you said, well, was a wrong done and, if so, how could it be remedied, that is a rather tricky question I think. But can I give an example: If a stranger takes a child and puts the child in a room without authorisation, that is the tort, the legal wrong, of false imprisonment. I would think that if an unauthorised person, which could include a social worker or someone working in hospitals, took the child into a room and refused to let the mother see the child, that might well be technically false imprisonment of the child, or some other civil wrong. Whether it would be a criminal wrong I am not sure. I do not think it would. I cannot think of any crime that it would be

But there is no doubt, in my mind anyway, that the mother had exactly the same rights to the child as any other parent, and anything done to the child without her consent would have been just as wrong as if it was done to any other parent. So the fact that adoption was looming and that inquiries had been made and that the mother was, let us assume, unmarried, young, all that stuff, makes no difference. I do not think there is any doubt about that.

The Hon. Dr A. CHESTERFIELD-EVANS: Can I ask why is it not kidnapping? I mean you would say it was kidnapping with mitigating circumstances if it was indicated that adoption was coming but the forms had not yet been signed and it was preparation for an inevitability. That would be a mitigating circumstance rather than changing the nature of the situation, would it not?

Justice CHISHOLM: I cannot remember whether there is a separate crime called "kidnapping" and, if there is, whether it contains something like "for gain" or something like that, but, subject to that qualification, if one wanted to describe it as kidnapping in a non-technical sense, that seems to me to be pretty right. It was certainly an unauthorised taking of the child.

CHAIR: Is not being permitted to have contact the same as unauthorised taking? There is a range of events and actions here.

Justice CHISHOLM: Yes. I suppose the precise legal analysis might depend on the actual situation. For example, if the hospital authorities stopped the mother going into a room, you might say, well, it is not the mother's property, the hospital belongs to someone else and the nursing staff are not committing any offence or civil wrong by stopping the mother from going into a particular room. That is a very artificial sort of technical analysis. On the other hand, if the mother said, "Give me my child", and was told, "No, you can't have the child", that is clearly a violation of the mother's parental rights.

The Hon. Dr A. CHESTERFIELD-EVANS: When you say that kidnapping is not a crime on the books, it is called something else, is it not, like rape is called something else?

CHAIR: I think I will have to ask those in the gallery not to interject. We have had this experience before and sometimes this can be a very emotional inquiry. This is a formal hearing and we are taking formal evidence.

The Hon. Dr A. CHESTERFIELD-EVANS: Is it an item under the Crimes Act, for example?

Justice CHISHOLM: I did not come along prepared for that question and I am not really an expert in criminal law. I just cannot answer that without notice. The only point that I would make is that, as far as I can see, it is no different to the situation with any other parent. I suppose that is the point that I would make. Whatever the law is about somebody coming along and taking someone's child without authority, that is the law that would apply in this situation. I have not checked the law to see whether that would constitute kidnapping or some other specific criminal offence.

The Hon. Dr A. CHESTERFIELD-EVANS: That is up to?

Justice CHISHOLM: Up to the giving of consent.

The Hon. Dr A. CHESTERFIELD-EVANS: After consent, assuming it was given freely and without duress, which might be thought to invalidate it, it is like you have handed over the situation?

Justice CHISHOLM: Yes, legally, once consent is given, the whole picture changes and the key legal thing is that guardianship of the child, which previously resided with the mother, is transferred to either the Minister or the Director General (I forget which). Basically legal guardianship is transferred to DOCS, and from then on the legal authority to determine where the child should be, what the child should wear, who the child should have contact with, everything, is, from that point on, in the hands of DOCS. But my view is before that, the mother's rights are not in any way less than anybody else's rights.

The Hon. H. S. TSANG: I am not a lawyer but I am just exploring what rights they have. When a mother is going to the hospital and going through the pre-natal stage, staying in the home, it is almost as if it was a verbal consent by the mother of the child. So, does that sort of alleviate the authorities of the hospital because that was the norm? Does that sort of help? Given that the Committee is going to do a report, I have to be sure in my own mind. Today that practice is completely illegal but in those days it was the norm and the way of life.

In terms of law, would that seem to be a consent, a verbal consent, when you go to stay in the in the home and the priest says, "You can't keep the child now. You stay here. It is good for you not to see the child when it is born; it is good for you", and you never raise a protest and you accept that this is the norm? Does that mean that it is not all right but all right?

Justice CHISHOLM: It may well be. That would depend on a careful, factual analysis of each case, but if it were the case that, say, a mother came into a hospital or a nursing home or whatever and appeared to consent to everything and did not protest and these things just happened and when the nursing staff said - let us assume a situation which may or may not have ever existed, where the relevant people, the nursing staff and the social workers all said to the mother in advance, "This is what is going to happen. You are going to come in when the child is born. For your benefit and for the child's benefit we are going to take the child away. You won't see the child. Do you understand that?". Supposing everything worked as well as you could imagine, and assuming, then, that in this particular case the mother did not protest or argue or indicate anything other than consent and stayed there, it may well be that the correct analysis would be that she consented to everything.

However, that factual analysis, I think, is an extremely sensitive and tricky one, because whether the mother really consented to all that would depend on what she thought about all sorts of very difficult questions, like how much pressure she was under, what she understood about the situation, what alternatives she felt she had, and whether she was misled. So that factual analysis, which I am sure is very familiar to you people, would be required to reach that sort of conclusion.

But if all the facts went the right way, so to speak, then the correct analysis might be that all those people, although they had no independent authority, would be acting lawfully in the same way as a babysitter would be acting lawfully by looking after the child when you leave the child with the babysitter.

These easy little questions turn out not to be so easy. Now that was No. 10. Can we go now to question No. 15 which is

--

CHAIR: Do you have any comments on the rights of a mother to have custody of the child and make decisions in relation to the child's medical treatment prior to signing the consent?

Justice CHISHOLM: That is really consistent with what I have said so far. I think the mother has the same rights in relation to medical treatment and everything else as any other parent prior to giving the consent. I think that falls within that general principle.

I might just add that there were some cases in which two separate legal things happened in relation to these babies. One was the adoption process and the other was the ward of State process. I do not know about the numbers or the quantities, but there were some cases in which the child was made a ward of State very soon after birth and, also, procedures were put in train for adoption.

I have no idea how common that was, but I know it happened in one reported case. In that situation, of course, the parental rights would be transferred to the department *because the child had become a ward of State* if that happened under the child welfare laws, but subject to that, the mother has all the rights of a parent until she gives consent.

CHAIR: The Committee would be grateful if perhaps later you could provide us with a reference to the case you are referring to.

Justice CHISHOLM: Yes, I can certainly do that. So that is question 15. Now questions 7 and 8.

Question 7 says, "Section 31 of the Adoption of Children Act gives the court discretion to refuse to make an order if a consent was not properly given, for example, given under duress, yet the court was unaware of this fact and subsequently made an order for adoption, would that order be valid? If not, what would be the status of the adoptive parents" and so on.

I think the answer to that is very, very clear, and that is that the orders we are talking about are orders of the Supreme Court. That is a superior court and the rule is that orders of a superior court, even if they are made without jurisdiction or if there is something wrong with them, remain in force until they are set aside. So even if the court should not have made that order because the consent was no good, the adoption would still be valid. It would not be a nullity.

Now, it would have been vulnerable to appeal at the time, but let us assume there never was an appeal and now the time for appeal, let us assume, has gone by, so all these adoptions would be legally valid in my view even if the consent was wrongly given because orders of a superior court remain in force until they are set aside.

CHAIR: Question 8 is related.

Justice CHISHOLM: Yes, "Was it possible under the Act for a valid adoption to occur without consent, or against the wishes of the mother." Technically, for the same reason, the order would be valid until set aside. "If so, are you aware of whether

or not this took place?" I wonder if we could leave that question because I think that issue is really better dealt with in some of the other questions.

CHAIR: Yes.

Justice CHISHOLM: All right, that is questions 7 and 8. Now there is only one more easy one, which is question 14, which is, "Could you briefly explain to the Committee about the processing of the adoption in the Supreme Court? How was this undertaken? Who was present?" I did not have any practice experience in adoption. I was only an academic so I never saw it happening, but my understanding is that you really have to distinguish between cases that were uncontested, which were a tiny minority.

Not many cases of adoption were legally contested in terms of a battle in court. The vast majority were uncontested. I am not thinking at the moment of step-parent adoptions or ones like that, I am thinking about adoptions run either through a private agency or the department. I think the process was that the department and/or the private agency would prepare all the papers, and those papers would go in a bundle to a judge every second Friday or something like that. The judge would deal with them in chambers, that is in his private room, going through the documents and making the orders without any formal court appearance in the majority of cases. It is just possible I am wrong about that, but I have always understood that to be the situation.

Now, the case might get into court in either of two situations: One is if the case is contested, if somebody says, "Do not make the adoption, consent is invalid" or something like that or if the department wants to dispense with consent where a mother, say, is refusing consent and the department says to the court, "Dispense with the consent" for whatever reason. That is a contested adoption and that would be in open court.

Secondly, sometimes the judge when he looks through the papers comes across some problem or perceives the case as raising an issue and then the judge might take it into court and deal with that issue in open court, perhaps calling on people for submissions.

But broadly speaking, in the vast majority of cases, as I understand it, it all happens - it is very difficult to avoid using the phrase "rubber stamp" but if rubber stamp means the judge is doing it in chambers, privately looking at the papers and signing it, that is what happens and neither the natural parents or the adopters went into court for anything. There was nothing visible that happened. Then the adoption order would be made and the certificate would be sent out. So people would, I think, learn because they get something in the mail that the adoption order has been made. I do not have a detailed knowledge of that process but that is my understanding.

CHAIR: You mentioned cases where the department would go to court where the mother had not given consent. Were there many of those, do you know?

Justice CHISHOLM: I just do not know, and I do not know whether those statistics have ever been collected.

CHAIR: I know this is a generalisation, but would the court normally grant an adoption in that case?

Justice CHISHOLM: The Act has always set out a list of situations in which consent can be dispensed with. It is all in the book, but they include, for example, cases where a parent has abandoned a child or abused a child or where the parent cannot be found. There are some others. The situation is that --

CHAIR: I am wondering what the attitude of a court would be to a case where a young women, like the ones we have been talking about, refused to give consent. We have heard evidence of children going into foster care. I am just wondering what the attitude of the court would be in those cases.

Justice CHISHOLM: There is only a small number of reported cases on these questions and so it is dangerous to predict from those what the court's attitude generally is because often the reported cases are the exceptional ones so one has to be very careful. Some of the older cases suggest that courts which were not adoption specialists tended to take quite a strong parental rights view and to be suspicious of adoption. There are not many cases, and I could dig them up and I would be happy to send them to you, but there are some cases in which sometimes, to the fury of social workers and adoption people, the court would insist on the rights of the biological mother, as it usually was, and be quite resistant to the adoption.

I think that that attitude, which was probably fairly strong, say, in the 1950s, gradually became less strong as adoption became increasingly specialised. There would be, in the Supreme Court, a particular judge who would do most or all of the adoptions. That judge, especially as the number of adoptions built up, would be constantly exposed to the work of adoption and to reports about the kids and those reports would set out the social work wisdom of the time. The adoption judge, as the numbers got bigger, would be very exposed to the thinking of the times by the department and by the adoption agencies. So my guess is that, if you ask that question about the Supreme Court judge who does the adoptions, the answer would be that he would have been quite sympathetic to adoptions and would have taken seriously and, broadly speaking, accepted the wisdom of the social workers and the people who write the reports that come to him in case after case.

If you ask that question about other judges who did not know about adoption, I think they would start off with a strong parental rights approach and sometimes - I think this is true, although there are quite a small number of cases - when you get an appeal from the adoption judge to a generalist appellate bench, maybe the Court of Appeal in New South Wales or the High Court,

the generalist judges tend to take a stronger parental rights line than the judge who has been most exposed to the adoption literature and practices.

The Hon. Dr A. CHESTERFIELD-EVANS: Would you say that it is a kind of regulatory capture, which is a phrase that the Trade Practices Act might use, where you have a sub-culture which captures a section of the legal system so that then the legal system sanction, if you like, the rubber stamp of the judge in chambers, reinforces that behaviour on the department and agencies?

Justice CHISHOLM: Well, I would hope that that is too strong a term. "Regulatory capture" is a phrase that I have heard most commonly in relation to the regulators who are administrative people. I do not want to go into this at length, but I would hesitate to use that term about Supreme Court judges because I do not think that they are so easily captured, but with that possible reservation I think the essence of your point, if I may say so, is quite right.

Judges work best where they have two competing sides. I mean that is the way that the system has been set up. In almost all the adoptions, what the adoption judge gets is the pro-adoption case. They get the bundle of papers prepared by the people who want the adoption processed. Normally there is nothing from the other side, the judge does not hear any opposition, so that the adoption judge would be constantly exposed to material coming from one side only. Judges are just ordinary people, of course. What is special about judges is the *process* and the process works best if there is something to be said on each side and when something is not said on each side then the process tends not to work very well, so regulatory capture is perhaps another way of putting that.

The Hon. D. F. MOPPETT: If a person, a mother, had experienced this process and it had gone through basically uncontested and was stamped by the Supreme Court, but then the mother, on reflection, decided that she was unhappy with the current status and felt that the consent was invalid, for whatever reason, would it be necessary for her to approach the Supreme Court directly or would a complaint to community services automatically initiate a review of the judicial process, given that it was so much a process rather than a proper evaluation of pros and cons, particularly where no cons were offered. Would you comment on that?

Justice CHISHOLM: Well, first of all, of course, there was a period of 30 days within which consent could be revoked. I am assuming that you are talking about a period after that?

The Hon. D. F. MOPPETT: Yes.

Justice CHISHOLM: I am not sure if it was always 30 days. I mean we are talking about a period of time and the legislation might have changed a bit, so I am not absolutely confident that everything I say would be true at all points during that period.

CHAIR: From 1967 it was 30 days.

Justice CHISHOLM: Right. Well, in fact I think in the very early days, in theory, consent was revokable up until the time that the order was made. Anyway, I think that was the starting point and I know that it was 30 days under the Adoption of Children Act 1965. Whether there was some different position at other times I am not sure, but I will assume for your question that, whatever that revocation time, it has now gone and the adoption order has been made.

The Hon. D. F. MOPPETT: Yes.

Justice CHISHOLM: It has been extremely difficult to set aside an adoption order and in fact there is now a provision in the Act along the lines - and I would have to check the details - that you need the Attorney General's consent to set aside or to revoke an adoption order. Again, that is something which could be easily checked. I think that is the situation. If that is right, then the mother in your example would be faced with the, on the face of it, fairly hopeless task of persuading the Attorney General to consent to proceedings to set aside the adoption and, unless the case was very special, you would not expect that to happen.

The purpose of that section is very much that adoption orders should be for keeps. That was quite clear. There is a 30 day revocation period but, once that is up and once the order is made, the adoption is very, very difficult to dislodge, much more difficult than appealing against other orders of a court.

The Hon. Dr A. CHESTERFIELD-EVANS: The people who were consent takers, who in a sense have come to us as apologists, for want of another word, for the process, have said that they were cogs in wheels; that they were the mores at the time. The mother did not support her daughter; there was no money for the child's upbringing; the family and the State would not pay for it; there was no choice. The church people have said they were just smoothing the path, it was already determined.

Justice CHISHOLM: Yes.

The Hon. Dr A. CHESTERFIELD-EVANS: If the judges were reinforcing that by, as you say, effectively having one-sided cases, would you say that they were the mores at the time and was this part of the rights of the child movement; that because adoptive parents were assumed to be superior to unsupported parents, the rights of the child movement has given rise to this social movement and it was very widespread at the time? Do you think that it really was that the adoption system was an expression of a social morality at the time, or should I ask a sociologist?

Justice CHISHOLM: Well, yes, that is true, I am just a lawyer.

The Hon. Dr A. CHESTERFIELD-EVANS: But you were practising at the time.

Justice CHISHOLM: I was interested in the field as an academic, yes.

CHAIR: Question 5 probably raises these questions in relation to the factors and circumstances which should be considered.

Justice CHISHOLM: Yes. Could I give a short response to that question. Obviously that is a huge sort of question. I think there is a lot of truth in that general picture. I think that there were a lot of - and I use the phrase "a lot" because I think one thing I have learned in my present job is not to generalise and every case is potentially very different - social factors of the kind that you have mentioned pushing in the direction of adoption over much of this period. I think that is true. The alternatives that many of the mothers faced, I think, were pretty few and grim, particularly if they did not have family support, they did not have money and so on.

On the other hand, I think there were also some other strands in the picture. One strand was the question of illegitimacy and the stigma associated with illegitimacy. Early on, the big thing about adoption was that it was seen as the solution to illegitimacy and the stigma of illegitimacy attached not only to the child but also to a large extent, I think, to the mother. Adoption was seen as, in a sense, something like a purification exercise, putting things right in the sense of getting rid of the stigma of illegitimacy. It seems hard to conceive of it now, but I think it was part of the story.

It is a very difficult question and I really do not know what the answer is, but it is possible that one part of that was a condemnatory or blaming attitude to the mother. Some of the practices that one hears about seem difficult to explain unless there were some sense of anger or hostility towards the mother (probably not to the children). So I do not think that there is any doubt that most of the people, most of the time, thought it would be best for the child to be adopted, rightly or wrongly. I just wonder whether, going along with that, as an undercurrent that might have been there some of the time, was a fairly punitive attitude towards the mother.

As I say, some of the practices can be explained, like the pillows and the sheets and all that stuff, by a belief that a clean break would be best and the mother would grieve less if she never saw the child and all that. But some of them seem so cruel that one just thinks that that is perhaps not the whole story. I am not sure. In some ways it is a difficult task that I, as a lawyer, sometimes have to deal with in specific cases, but I do not know how you would answer that question. It is an important one.

Can we deal with question 11. That is really the end of the more technical ones. The next set of questions I think deals with the application of legal principles. I may have already answered question 11 but I will just say something about it. It is: - The Committee understands that as social attitudes change so do the attitudes of judicial officers. We are aware of the paramount consideration principle. Do you feel that judicial understanding of what would constitute the welfare and interests of the child may have changed over the period? For example, do you think there would be a bias in ensuring that the child is cared for by the adoptive couple rather than the single biological parent? - I really think I have answered that in what I said about the adoption judge and other judges, but the question goes on to say: - In your experience, what factors does a court now examine to determine the best interests of a child? -

All I can say about that - of course there are far fewer adoptions now - is that I think the range of factors looked at is now fairly wide and the judge currently in charge of adoption, whoever it may be, would be aware of the literature and the issues and so on. The reports that normally form part of the application would cover, I think, a wide range of things. I imagine you could get hold of some recent reports which would illustrate it. In the Family Law Act there is quite a long list of relevant factors, which include things like the wishes of the child, the child's relationship with the parents and other people, whether anybody has abused the child, protecting the child against various kinds of problems - a long list - and once you see the list you think, well, of course, they are things that should be taken into account.

There is not any equivalent list in the Adoption of Children Act, but I would think that reports to the court would follow a similar pattern and I think that all the matters that would be relevant, for example what alternatives there were, would be taken into account. I cannot really give a detailed answer about how that is currently done.

Question 5 is: - In your view, what factors and circumstances should be considered in deciding whether a particular adoption practice was unlawful? In particular, could you comment on what types of action would constitute fraud, duress or other improper means when taking consents? -

Then question 6 says: - The Committee has heard that there was significant social stigma attached to single motherhood. Alleged examples of treatment received by mothers include, and then there are some examples. -

It is probably best to answer the question by reference to the examples first. The first one is failure of adoption agencies, hospital staff and social workers to provide advice about alternatives to adoption in circumstances where the mother was dependent on the agency for advice and support. The question under the Act was whether the actions would constitute fraud, duress or other improper means. As a matter of law, I would say, of course, that it is terribly important that the advice should have told those mothers what the alternatives were and present those alternatives in a neutral fashion. It is an obviously correct practice. Whether failure to do so would count as fraud, duress or other improper means I am not sure. I do not think it would be fraud. I do not think it would be duress. Whether it would be other improper means is a bit hard to say.

Looking back, it might be better if the Act had said that the people taking consent should tell the mother of all the alternatives. If it had said that, it would be clear. So whether as a matter of law it would be regarded as improper means to fail to outline those alternatives, I have some doubt about that, just because - improper - is a fairly strong word in the law. The courts take phrases like

that fairly seriously and they do not readily include all sorts of things that they happen to disagree with under a phrase like "improper means". So I think failure to provide information probably would not of itself fall within those words.

The next one is, forcefully reminding expectant mothers about the difficulties they would face as a single parent. It seems to me that is a classic example of something where you would really need to know the details to form a judgment. I do not have any doubt that forcefully reminding expectant mothers of the difficulties could, in some circumstances, constitute duress. If you think about mothers who are in the very difficult situations they were in for all sorts of reasons, quite apart from the physical effects of child birth, they are obviously extremely vulnerable. To forcefully remind them of the difficulties they would face as a single parent, in those circumstances it seems to me that could quite easily constitute duress, depending on how forceful it was.

My own view is that in interpreting duress, certainly today the courts would try to take a holistic picture. Obviously a forceful suggestion that might not be duress in one situation could be duress in another because it is applied to a particularly vulnerable person. It is hard to imagine anybody in a much more vulnerable position than these mothers. So I would think that it would depend on the facts, but I would think that forcefully pointing out to these mothers one side of the story, and really pushing it, could easily amount to duress in my view.

The next one is informing mothers that they would face criminal sanctions as vagrants if they did not consent to adoption. That is an easy one because it seems to me that is fraud, assuming that it is untrue. I assume that it is just not true that the mothers would be likely to face criminal sanctions as vagrants if they did not consent and, if it is untrue, then it is unquestionably fraud, trying to get something by a deceitful proposition. If it means that the consent takers were actually going to ensure that the mother did face such criminal sanctions, then it would be duress. So, I think either way, that particular dot point would fall within those words and the consent would not be valid.

The last one, refusal to discharge mothers from hospital until they either signed the consent form or decided to keep the child, I think that is duress, no question, and, indeed, depending on what counted as refusing to discharge them from hospital, I would think that would be false imprisonment. I think that is outrageous, but it certainly falls within those words.

The Hon. Dr A. CHESTERFIELD-EVANS: One other not on this list but which has been mentioned in evidence is that they cannot see their babies until they have signed the consent.

Justice CHISHOLM: Duress; next case please. I would think that is appalling. I mean the Act does not say appalling. It is impossible not to be moved by this topic, but I think the technical analysis is that that would be quite improper. In fact, I think there is the phrase, "other improper means". No question that it would be other improper means.

If I can digress for a moment, my impression is that the whole situation was such a power laden one with so much power of various kinds on one side and the power would include being controlled by people other than the mother, the people other than the mother knowing the system and the mother not, the people other than the mother not going through a life crisis and all sorts of other things and a whole lot of ideology. The mother, I assume, would often be feeling a tremendously strong mixture of emotions which might include guilt, shame, despair, confusion, anger or anxiety about her family perhaps not supporting her, all kinds of things and the other people are not presumably going through those experiences, so in terms of a power relationship it must have been just overwhelming.

And so in that context, I think, you can understand how the mother's rights would be lost sight of, but then if you look at the law and see their rights, some of the practices you described quite clearly are wrongful.

The second last category of questions is seeking information about how much things happen. I have just lost track of which questions they are. Question 9, "Are you aware of any evidence to suggest that the actions of government and non-government bodies in relation to adoption practice between 1950-1998 were (a) unlawful (b) unethical? If so, are you able to provide some brief examples?" Essentially I do not have anything to add to the Law Reform Commission report. We did put lots of stuff in there. The Commission received a lot of submissions which included other examples, and they would be on file. I am not with the Commission any more. I imagine they would be happy to make those available to you.

I suspect that most of the material of the kind that we got, you have got too, probably from lots of the same people and to some extent I think the sort of exercise that you are going through now we went through then. So I would be surprised if you did go and look at the Law Reform Commission's collection of material, that it did not look rather like your own collection of material. So I simply just do not have anything new to say about that topic.

That leaves a set of questions which are all about two things. One is the relationship between law and ethics in this area and that is questions 1 and 2, and the other one is the question of time frame, that is, do we judge those people then by our values now or do we try to judge them by their own values at the time. Can I say something very brief about those large topics and then I will be happy to take it further if you would like.

As to the first, I am not a moral philosopher or an ethicist (if there is such a thing) but it seems to me that the relationship between the law and ethics is easy to state in a sense, and that is, it is easy to see that they are two different things. The easiest way to illustrate that is that you can change the law by passing a piece of legislation and it changes the moment that legislation comes into force, whereas you cannot identify a change in ethics in anything like the same obvious way. So, on the face of it, I would say that laws are things that you can pin down, identify and point to an Act of Parliament or a case and say that is the law and if somebody says, "How do you know it is the law" you can say, "Well, there it is". Whereas if something is put forward as an ethical

proposition and somebody says, "How do you know that is right?", you cannot point to any authoritative source in the same straight forward way as you often can with law.

Now, of course, within a religious belief set you might be able to point to an authoritative source. With Christians you might be able to point to the Bible or with other religions you might be able to point to other accepted moral authoritative text. But subject to that it seems to me that ethics is something on which you just cannot identify with precision and state with authority what the ethical answer is. So people differ and people do not differ crazily, but they differ in all sorts of ways and there is lots of common ground and there are ethical views that most people would agree with, so it is a sort of a messy, fluid kind of area.

So, in terms of these questions, if I can sort of shift on to the other topic, it seems to me that it is possible to identify in a fairly rough and ready way things that are unethical and you just have to say, well, we are people who live in the world, we read a lot, we have talked to people, we have looked at this and we all agree that it is unethical. For example, to lie to a woman when taking consent, to deliberately mislead her. Probably everyone in this room would agree that is unethical, whatever the law says, so there are quite a lot of matters on which it is not very difficult to work out what is ethical and what is not.

In terms of the time frame question, it is a wonderfully difficult question, to what extent one should blame people in earlier generations, using a standard of our own values and ignoring the values that they started with. Ultimately it seems to me that is, in a sense, a choice that the blamer has to decide. If you are wanting to blame somebody, you can choose whether to blame that person by reference to your own standards or the standards of 1860, 1967 or whatever the period was.

I note your terms of reference in the sense of reporting are that you are asked to *describe* things. You are not asked to decide who is to blame as I read the terms of reference. I would have thought that if you were able to identify whether particular practices infringed the ethics, (a), of today, b), of contemporary ethics, if I may say so, you would have done your job. So in a sense I do not know that you have to really raise that question of whether one should judge people by today's standards. It is always difficult to work out what the standards of the time were, but you would have heard evidence no doubt, and there would have perhaps been guidelines or social work texts or other sources of guidance as to what were accepted as ethical standards at the time.

That is all I can say initially about those difficult questions. I would be happy to take that further if anyone would like.

CHAIR: Question 16 is the question of whether the consent of the father, when known or acknowledged, was required in order for the adoption to be valid.

Justice CHISHOLM: Until the 1980s everyone would have said that the answer to that question is simple, that is, is the father's consent required, and the answer was No, unless he is married to the mother. Under the previous law, the mother was the guardian of the child and the unmarried father was not, full stop. So the sections requiring consent, the exact words of which I forget, made it quite clear that, in the case of a child whose parents were married, you need both parents' consent. In the case of an illegitimate child, to use the earlier terminology, you only needed the mother's consent.

There is a slight complication to that, at least up to a period, namely that if, after the mother gave consent, she married the father and the adoption order had not yet been made then the father's consent became necessary. That has actually since been changed, but there was a period when that was the law. Basically the answer was mum's consent is needed; dad's is not, unless they are married.

In recent times - certainly since the Children (Equality of Status) Act in 1976 - there has been a tricky legal argument about whether the father's consent really was required since that time under the Adoption Act. It is a tricky argument because the Adoption Act speaks of people who are parents or guardians and, as a matter of law, it is arguable that the father was a guardian.

Now whether the father was a guardian within the meaning of the Adoption Act is a very tricky question. You can argue that, if you read the Adoption Act, the word "guardian" does not include unmarried fathers. On that subject there were some amendments to the Family Law Act in the 1980s which also affected the position. It is a topic which at university is always set as a moot topic for the students just because it is wonderfully tangled and there are a couple of cases going in different directions on it. In practice, however, my understanding is that the adoption industry proceeded on the basis that the father's consent was not required and that was basically the way the game was played and against that there was this highly complex and technical legal issue about whether, as a matter of law, the father's consent was required, but broadly speaking, as I understand it, the practice was that his consent was not required.

There were some amendments, and I really do not have the details in my head at the moment, in the 1980s, requiring the father's consent in certain limited circumstances. I think they were, in a nutshell, where he was living with the mother and the child after the child was born. I think in those circumstances, even if he was not married, his consent was required, but, of course, they were not the typical case.

It is quite a tangled and tricky area as a matter of law, but I would not want the legal tangles to deflect you from the basic proposition that during this period the mother's consent was required and everyone forgot about the father. That is, broadly speaking, true.

The Hon. D. F. MOPPETT: You are free to choose however you care to answer the last question, but it would be important to us for you to address it at least: Do you believe there is evidence, from all your experience in this field, to suggest that at any time during the period from 1950 to 1998 there was systematic and/or organised abuse in the delivery of adoption and related services?

Justice CHISHOLM: The word "abuse" is a strong one and I suppose it is a word that is a bit explosive because people who feel very angry about what has happened would seize on it and say, yes, that is just what I want to say about it, "abuse" precisely captures what I want to say. And the people who are being attacked would feel themselves unfairly attacked precisely because of the same loaded nature of the word "abuse". In a sense, it is a polarising way of stating the problem.

If one substituted more technical language, for example if you asked the question, has there been a widespread practice of improper methods being used in the taking of consents, it may be that everyone would agree: Yes, there has been. If you use a word like "abuse" in the question perhaps it tends to polarise people, so some people say yes, yes, yes, and other people say, no, no, no. If you try to disentangle the language a bit and ask questions such as were there improper practices relating to consent, I would have thought almost everyone would say yes, there were, and lots of them.

The Hon. D. F. MOPPETT: In other words you feel that, if you were going to attribute terms like "systematic" or "widespread", you would like to use more dispassionate language than "abuse" and "illegal practice" and that type of terminology?

Justice CHISHOLM: Yes. I do not for a moment suggest that we should try and remove from the topic the strong emotions which are associated. That is part of the picture, and it would be silly to try and pretend that they did not exist or whatever. But it seems to me analytically it is probably quite a good idea not to start off with a word like "abuse". You could start off with a more precise description of what happened and then you look at that and say, - Well, if we agree that that is what happened, what do we think about it? - Some people may well say that that is abuse and they may be entitled to their opinion. But if you start off with the word "abuse" then one misses the chance of identifying the common grounds of agreement on facts.

"Systematic abuse" also, if you put those two words together, suggests that the people who did these things had some ulterior motive: They were really intending to punish the mothers or harm the children or something like that. Again I would not rule out the possibility that there might be some part of that in some cases, but, broadly speaking, it seems to me that most of the people who did these things were honourable people doing the best they could as they thought. Now that is not a view that everyone shares, but it seems to me that that is the case and, as to whether these things are systematic, I think that they were widespread rather than systematic, that is I do not think that they were practices that necessarily were cunningly designed as part of an attempt to do X.

The Hon. D. F. MOPPETT: Hierarchical structure.

Justice CHISHOLM: Yes. I think they were more a whole set of practices that flowed from some of the factors we have talked about. The word "systematic" does not sound quite right to me.

The Hon. D. F. MOPPETT: Sometimes followed blindly perhaps.

Justice CHISHOLM: Indeed. I think it is the case that quite a lot of people who were working in those times, now looking back, would say: Heavens, how could I have done such a thing? If that is right, those people are looking back and saying, as I suppose most of us in our lives can look back and say, how could I have done something like that? If that is the response then to describe the things that were done as "systematic abuse" --

The Hon. Dr A. CHESTERFIELD-EVANS: Systemic certainly.

Justice CHISHOLM: "Systemic" I would be happy with. "Systemic" is exactly right. I think "systemic" is a very good word because it was built into the system, but "systematic" suggests that everyone in the system was --

The Hon. Dr A. CHESTERFIELD-EVANS: Calculating.

Justice CHISHOLM: Yes.

CHAIR: Assuming the question is framed in reference to the actions of government, taking the word in that sense, then people address it somewhat differently.

Justice CHISHOLM: Indeed.

CHAIR: You have talked about individuals looking back and saying: Why did I do those things?

Justice CHISHOLM: Yes.

CHAIR: But there is also the question of whether the system was abusive or had improper methods or whatever language we are using.

Justice CHISHOLM: Yes.

The Hon. D. F. MOPPETT: Even the use of the word "systemic" depends on excluding the fact that there were many other practitioners who did not do these things. If that was the evidence, one would be reluctant to use the word "systemic", I imagine. Maybe what we are dealing with is a group of people who were the victims of practice which we, without any hesitation, look back on as unacceptable today, but we have had evidence from other people who have been through this experience and did not feel that in any way they were disadvantaged by what they experienced. "Systemic" would mean that it was widespread and almost universally the experience of people who came forward and became enmeshed in the process.

Justice CHISHOLM: Yes. That is interesting. I wonder whether it might be systemic in the sense that the sort of pressures that we have talked about might press all of the people working in adoption to the kind of pro-adoption methods which would lead to some of the abuses, but some of them were able to resist that more than others. It might be that the word "systemic" is right because that is the way that these pressures were pushing and so the people who did behave well perhaps would deserve double credit for having actually resisted the pressures. If they just went with the flow - and perhaps going with the flow meant engaging in some of these practices and the ones who did not might have resisted things --

The Hon. Dr A. CHESTERFIELD-EVANS: The medical system has a very difficult relationship with the legal system in the sense that, if you help someone who is in pain to die, you are a murderer. The legal system became very invasive with psychiatric cases in that, if they have not committed a crime, they are not mad. In this case, the mores were presumably one thing but the practices were another. I suppose within the medical system my view was, well, the lawyers think this, but they are just a bunch of wallies anyway. How dare they tell us how to do our job almost was the view. Do you think that that is important in the sense that some of these systems felt that they were above the law? Do you think that that is true or do you think it is too strong?

Justice CHISHOLM: I think it is fairly true in this area because this is an area in which there were not, for better or worse, a lot of lawyers around. It was an area of almost no legal activities. All the things that happened were done within a legal framework, but by basically the adoption people, the hospital workers and people taking consent. Those people prepared all the papers. It went to the judge in chambers. The first lawyer appears on the scene and he does not even appear on the scene, he is in chambers signing things. So it is not as if there was a flurry of adoption people doing one thing and a flurry of lawyers fighting them or doing other things. It is a legal framework almost devoid of activity by lawyers.

The Hon. Dr A. CHESTERFIELD-EVANS: When the law changed, it may then have been slow to be implemented because of that tradition?

Justice CHISHOLM: I think the law was there. I suppose the only people who knew much about the law would have been the social workers and the people running the system. The unmarried mothers or mothers probably did not know much about the law at the time and they were not represented by lawyers. It was a very legal framework, not subject to any real legal scrutiny but being used by non-lawyers. It was a very uneven playing field, if one wants to use that expression.

(The witness withdrew)

JUDY McHUTCHISON, Social Researcher, sworn and examined:

CHAIR: In what capacity are you appearing before the Committee?

Ms McHUTCHISON: I am appearing before the Committee as a mother and a former co-ordinator of the Association of Relinquishing Mothers.

CHAIR: You have received a summons, you are conversant with the terms of reference and you wish your submission to be included as part of your sworn evidence. Do you want to elaborate on your submission or make a short opening statement?

Ms McHUTCHISON: I might make a concluding statement later.

CHAIR: You say in your submission that the establishment of groups such as Jigsaw and the Association of Relinquishing Mothers in the 1970s and 1980s brought about a revolution in the position of mothers in this State. What factors led to the establishment of these groups? For instance, who started them and for what reasons?

Ms McHUTCHISON: The advancement in the position of mothers came about because we were able to come together and focus on common goals. Before this, mothers were silent, invisible and had no legal rights to any knowledge of her child. Mothers were, over all, suffering on their own, isolated without support and understanding from others who had been through the same experience. In the 1970s, if a mother approached the department for information on her child, she would be told that as far as she was concerned her child was dead and sent away.

Jigsaw was the first support group for people affected by adoption in New South Wales. Established in 1976, it was the first opportunity people in the same predicament had to come together. Jigsaw was established primarily by adoptees angry about the situation which denied them identifying information on their parents. The situation was that before 1967, adoptive parents were given the name of the mother which was on the adoption order, but quite often these were lost or destroyed or the adoptive parent did not want to share with the adoptee the information.

Jigsaw was successful in lobbying for the establishment of the department's adoption contact register. However, adoptees, whatever their age, were required to have the permission of the adoptive parents to place their details on the register. This was the situation for a number of years and then it changed. The adoptees did not need the adoptive parents' permission to register, but if there was a match between an adoptee and a natural mother, then they had to seek out the permission of the adoptive parents

before they could have a reunion. Some of these adoptees were 40, 50 or 60 years of age, so it was a situation that caused them a lot of concern.

Uncomfortable with the aggressive, strident style of Jigsaw, Gloria Rizzon, a mother, and Margaret Barton, an adoptive mother, established Adoption Triangle in 1979. Jigsaw folded. Adoption Triangle attended to a huge unmet need in the community and assisted thousands. They managed their birthday book, which was like the department's contact register, only they had far more registrations than the department because you could register on Adoption Triangle's birthday book without seeking the permission of the adoptive parents. They advised adoptees how to search for their natural parents.

Members of the committee of Adoption Triangle would act as intermediaries when the natural parents were located by the adoptee and make the contact on behalf of the adoptee. By this time, mothers had achieved a number of successes in lobbying. I and other mothers lobbied for a policy change so that we could have a copy of the original birth certificate, and that was achieved in 1981. That is the birth certificate that has the mother as the parent of the child.

In 1982, non-identifying information was gained from the department regarding the family situation of the adoptee. This was taken from the adoptive parents' application to adopt. The adoptive parents were not contacted. It was just taken from existing information. However, in 1982 at least in the public domain, mothers were still silent and invisible. ARMS was formed at the 1982 conference on adoption in Adelaide. This was the commencement of networking between mothers from different States. I agreed to be coordinator of ARMS in New South Wales for a short while. I had no dissatisfaction with Adoption Triangle. I considered that if large advances were to be made for mothers, they needed a higher profile than merely being a component of another group.

ARMS provided support for mothers. Long-term members of our committee were Dorothy Mittas and Jan Griffiths but the contribution made by many mothers involved in ARMS was absolutely crucial to our success. ARMS worked towards gaining a legal right to identifying information for mothers. We tried to provide protection to pregnant single women so they would not lose their children to adoption unnecessarily. There was a very close working relationship between ARMS and Adoption Triangle. The main achievements in policy and legislation by ARMS during the 1980s were that in 1984 the department was willing to contact adoptive parents if the mother provided a letter from her doctor, so to provide some knowledge to the mother about the progress of her child. After the mid 1980s the department became willing to do this without the requirement of a doctor's letter.

In 1990, after years of lobbying, ARMS was successful in achieving for mothers the legal right to identifying information on their child at 18 years, with the passing of the Adoption Information Act.

CHAIR: May I interrupt for a second. I think it may well be that some of the detailed information may be better given to the Committee in writing because some of what you are saying in your chronological account also probably overlaps some of our questions. I think you have probably answered the question in terms of the factors leading to the establishment of the groups and who started them and so on, but we would be more than happy to get that information from you. Given that we have a time problem, can we go on to question 2, about your research study for your honours degree?

Ms McHUTCHISON: I just want to say that since ARMS withdrew in 1990, many mothers have been quite active and have been making excellent submissions in the area of adoption and certainly, Jenny Burrows, who is the chair person of mothers for contacts was one of those. The second question --

CHAIR: Is about your honours degree. We are interested in the methodology of your research and major findings, in particular about the changes in adoption practices in the period we are talking about.

Ms McHUTCHISON: Other Australian research, the Winkler and Van Keppel study and the Condon study had established that the psychological health of mothers was impaired compared to a controlled group of women of similar characteristics. My study was conducted by way of questionnaire sent to all mothers who had made contact with ARMS. The aim of the study was to investigate the emotional responses of a mother to the adoption of her child. My study found that mothers responded to the adoption of their child with grief and stress.

Because of the connection grief and stress have with impaired psychological health, it was considered that this provided some explanation for the impaired psychological health of mothers. Of course, my study, as was the case with the Winkler and Van Keppel study and the Condon study could be criticised by those concerned with scientific method that the samples used in the studies may not be representative of mothers in general.

Other results were that the study, in common with other studies, has found evidence which implicates relinquishment not only as a precipitating factor in impaired health, but a factor that may impede the relationships of relinquishing mothers with their subsequent children, their partners, and also affect their sexuality and their ability to conceive further children.

My study also found that there was no evidence that mothers who had their children adopted differed psychologically from the rest of the population before they relinquished. Therefore it appears that it is the loss of the child to adoption which has caused the impaired psychological health of mothers.

Regarding practice between 1950 and 1998, practice changed markedly between the 1950s and the 1960s. In the 1940s and 1950s both St Anthony's, run by the Catholic Church, and Bethesda, run by the Salvation Army, required mothers to breastfeed and care for their children for several months before relinquishing them for adoption. Also, as we know from Robert Dessaix's autobiography, even mothers at Crown Street cared for their children for several weeks after birth. I do not know why practice

changed so markedly in that short period of time to the situation in the 1960s where the mother was parted from her child at the moment of birth, a very severe change in policy, and it seemed to happen across the board.

The only material that I have read from overseas regarding such treatment is that it is contra-indicated on mental health grounds and that it denies the mother the opportunity to make a decision based on reality.

Over the 1970s less and less were mothers separated from their babies at birth.

During the 1980s there was marked reduction in overt coercion, but mothers were still signing adoption consents in the hospital and not told about the long-term effects of adoption on themselves, and the process whereby the hospital social worker made contact with the agency without seeking the mother's consent and the adoption agency would come to the mother's bedside as well, which I thought was unethical because it was not allowing the mother to take action herself if she was still seriously considering adoption.

CHAIR: We have a series of questions about the research work you did, firstly about the taking of consent. Did any of the women you interviewed give examples of illegal or unethical practices?

Ms McHUTCHISON: Yes, they did. Through my research in 1986 and my discussions with mothers since 1976 I am aware of practices which could be defined as undue influence, duress, breach of duty of care and breach of the human rights principles. This is available in my thesis. I will not itemise that here because much of it has already been brought before the Committee in the first-hand accounts of mothers.

CHAIR: Did any of the women you interviewed tell you that adoption was the only alternative available to them at the time and that they felt that they were doing the right thing for the child or for themselves?

Ms McHUTCHISON: Yes, this is what the system led mothers to believe. They were not told about other alternatives, they were not told about the negative effect on the child or themselves. They were told by adults, holding themselves out as professional, that they were doing the right thing by continuing with adoption. Some of the mothers had attained the belief that they could not do anything else. However, they were in a system which brought about the situation.

If the social workers and medical profession had behaved differently, in a neutral manner or an encouraging manner rather than in an aggressively pro-adoption manner, the mothers who relinquished their children may have proceeded to keep them.

There certainly was a need for permanent care for some children. Not all mothers would have kept their children in a period in which ex-nuptial pregnancy was heavily stigmatised, but certainly these mothers should have always been treated with respect and sensitivity.

Somewhere along the line, the child became a consumer item. There was an over-supply of couples wanting to adopt and the network of social workers involved in this area sought to meet the needs of these couples, so children were adopted, whereas, but for the interference of social workers, they would have been retained by their mothers.

CHAIR: You say in your submission that practices in the 1960s and the early 1970s were designed to achieve an outcome: adoption. In your academic studies have you come across anything that suggests that this is the case?

Ms McHUTCHISON: Yes, all the experience mothers relate suggests that. You just have to look at the way mothers were managed. Institutions which held themselves out as providing support to pregnant young mothers, such as homes for unmarried mothers and major public hospitals, did all they could to manage mothers in a manner that ensured that adoption of their children was the most likely outcome of the pregnancy. They were so efficient at this, it is not possible it occurred by chance. There must have been some level of planning and agreement which extended across the institutional level.

There was no information in the public domain to warn mothers of the effects of having their children adopted and there was no information in the public domain to warn pregnant women of the extent to which the agencies from which they would be seeking assistance had an agenda towards adoption. Adoption was misrepresented in the media and by the professionals involved. Mothers were led to believe that adoption was the end of the trauma for themselves, not the commencement of lifelong trauma.

Mothers presented to these places at a time of enormous vulnerability. The network took advantage of the mother's demoralised mental state, her vulnerability, her denial of her pregnancy, the fact that she had never been a mother before. Alternatives were not explained. Nothing was said or done to assist her out of her demoralised state and certainly nothing to empower her. No written information on adoption was made available. It was not emphasised before birth that, once the child was adopted, the mother would never see it again in this lifetime. Her freedom was curtailed within the homes, within the waiting patients. If her parents did not know of the pregnancy, she was not encouraged or assisted to tell them. Her files were stamped without her knowledge to ensure the separation of her child at birth. She knew nothing of being a mother. She was separated from the child at birth. The only thing she knew about being a mother was the pain of birth.

After birth it was not the mother who contacted the adoption agency, the hospital social worker did. The adoption agency social worker came to the mother's bedside and presented papers for her to sign that she had never seen before. The social worker came usually in the minimum time legally allowable. Very likely the mother was still deeply shocked from giving birth, she was likely still sedated. The mother was not given copies of the papers she signed; she was not told about the revocation period and some

mothers were only told about the revocation period because they refused to sign the consent, so it was an inducement to sign the consent. The mother was led to believe that she would have to go through the adoption agency if she was to revoke. Everything was done in haste and in a manner which prevented her from making an informed consent.

If you compare the treatment of mothers overseas, in England and Scandinavia, you will see marked discrepancy between the treatment of mothers in this jurisdiction and those jurisdictions.

We have, from time to time, come across material which suggests bias by the people involved. In the 1967 conference, which was brought together to mark the proclamation of the 1965 Act, it was stated:

The responsibility for considering the interests and needs of the child is often beyond the capacity of the frequently immature, frightened and confused pregnant girl.

One of the themes that I see coming up again is that the social worker's view is that it was their decision to make.

The Hon. D. F. MOPPETT: In your submission you stated that ARMS in the 1980s moved on to try to provide some protection to pregnant single mothers so that they would not lose their child to adoption unnecessarily. How did you attempt to do this?

Ms McHUTCHISON: Once ARMS was established in 1982 we viewed as our most urgent task the provision of some protection to pregnant single mothers. They would not lose their children to adoption unnecessarily. We tried to do this by devising a pamphlet for mothers, to which I will return. We made the adoption agencies aware that we were willing to speak to mothers and we lobbied for changes in legislation which would allow a greater time period before an adoption consent could be signed.

Further evidence of the bias in the whole system of adoption is illustrated by the fact that there was no written information for mothers and the problems ARMS had in attempting to produce a pamphlet for mothers.

When ARMS commenced in the early 1980s there was a range of information available to prospective adoptive parents, such as a glossy pamphlet and a step by step guide to inform adoptive parents what was happening at every stage of the adoption process, yet nothing was available for pregnant single mothers. ARMS was forced to seek cooperation from adoption agencies and obstetric social workers in order to provide a pamphlet to mothers because these were the bodies that had access to pregnant single women. The ARMS phone counselling service was in the front of the Sydney phone book. However, pregnant single women would not necessarily know the number was there or understand the importance of contacting ARMS. ARMS produced a one page information sheet available to mothers considering adoption.

I cannot tell you what a long frustrating task it was to draft a pamphlet which this Committee would approve. This is the New South Wales Standing Committee on Adoption. The process went on year after year after year. The main sticking point was that ARMS wanted mothers advised that they could experience long-term negative effects from the loss of their children, that mothers experienced long-term effects was the experience of ARMS and Adoption Triangle. It was also the results of rigorous research undertaken by Winkler and Van Keppel released in 1983. In South Australia also, even in the early 1970s there was a pamphlet available to pregnant women on adoption. This pamphlet stated that some women never recovered from the loss of their child.

In order that common sense prevail and the pamphlet include information on the long-term consequences of adoption, ARMS sought assistance from many bodies. A lot of this work was undertaken by ARMS member, Anne Jukes, and this activity brought a lot of response, and there is a whole list of people we contacted, including the Human Rights Commission, Dr Rigby, Victorian Standing Committee on Adoption, the Women's Advisory Council, Women's Legal Resource Centre and ARMS Victoria, and they all supported inclusion in the document that mothers be informed of the possibility of them suffering long-term negative effects in having their child adopted.

The Hon. D. F. MOPPETT: You have mentioned to the Committee that previously no copy of the completed consent form was provided to relinquishing mothers. Would you care to comment on that whole process, why you think that was the case and whether you consider that to be outside the law?

Ms McHUTCHISON: Right. It appears to me routine that mothers were not given a copy of the consents they signed. A disadvantage to pregnant single women was there was no information available to them in written form. It is hard to believe that this was not done deliberately. Even form 9, the adoption consent, could have been made available to mothers to peruse while mothers were still pregnant. This form states the legal effect of signing. It states the processes mothers were to follow to revoke their consent, yet mothers did not even get a copy of this document, not only before they signed but after they had signed it.

It would not have been difficult to provide mothers with a copy of form 9, a single page. By the mid 1960s, photocopy machines were a common feature within commercial offices. Alternatively, a carbon copy of the signed consent could have been given to the mothers. It was common for social workers from adoption agencies to approach the mother a couple of days before signing the consent and I think this had something to do with if they were going to witness the consent, they were supposed to have known the mother.

It would seem sensible to have brought the papers at this time so that the mother had a day or two to absorb the meaning.

I have never heard of this happening. When mothers signed form 9, either the part on the process of revocation must have been covered or mothers were not in a fit state to sign because they did not absorb or remember the information on the process of revocation.

I have never had a mother tell me that the process to revoke was on the form until recent times when mothers have been able to access that form through freedom of information. So all through the 1980s, those who were active in the area had no knowledge of what was on that form, and one of the malpractices that we put to Parliamentarians earlier on was that we were not told about the revocation period and we were not allowed to revoke in that time. That displays our level of knowledge even at that point. We did not know it was on the consent.

Not providing mothers with a copy of the consent they signed was not against the law. There was no requirement in the Adoption of Children Act or the regulations that a mother be provided with a copy of the consent. However, it is a convention in our society that when people sign a legal document they are given a copy of the document as confirmation of the legal proceedings they have been part of.

Mothers needed a copy of form 9 because it contained information on how to revoke and, importantly, it contained the date the mother had signed, so she was able to work out from that date when the 30-day revocation period was due to expire. So it deprived her of information. Because mothers were not given copies, they had no material evidence that they had had a child, contributing to the unreality of the experience for the mothers. It was apparently adoption agency policy not to provide mothers with copies. You would have to ask them why this did not occur but I find it strange matter that it did not.

What possible reason would they have not to provide copies? It created extra workload for the agencies. Mothers who knew about the revocation period and wished to revoke believed they had to go back through the agency, whereas they could have gone straight to the supreme court, so this was creating an extra workload for the agency which one would think they may have wanted to avoid.

As Anne Jukes said at the open forum last Monday, it was the judge's responsibility to ensure all the legalities were complied with, yet with regards to the consent of the mother and the suitability of the adoptive parents, the judge has to rely on information before him. This information is provided by the department supporting the placement of the child in a specific home. There is no independent advice to the court. It is clear to me that the judges could not undertake their role competently, fairly and impartially because they relied on information provided by a body that was corrupt and biased towards meeting the needs of one group over another.

I would expect that the judge in Equity would assume that the mother was given a copy of what she had signed because that is what is normal in legal practice. It is likely that the complacency of the judiciary in regards to the consent of the mother was because they believed she received a copy of form 9 which contained the process to revoke. This was a safeguard for mothers. Yet, as we have seen, it was a safeguard circumvented by social workers.

CHAIR: The next question is about the evidence a particular adoption worker gave us that there was a social system that was coercive. Do you think practitioners working in the field reflected the mores of their time or an individual's personal views and expectations?

Ms McHUTCHISON: Because of the social climate at the time, pregnant single women and their parents were often labouring under a great deal of stress. Because of the social climate, they sought the assistance of professionals in order to understand what would be best to do in their situation. What the social climate did was provide social workers in the network with opportunism. Those who we approached for assistance were adults. They held themselves out as professionals. We expected them to be honest and have expert knowledge. When they made claims, we expected those claims to be true. Now they claim they did not know what they were doing or it was all society's fault, yet they behaved with such certitude, such aggressiveness, such treachery.

I will just go on to society now seeing that is where social workers want to place the blame. Yes, the social conditions made women vulnerable and this provided the network with opportunism. The social climate could not have been too hostile to single mothers. Most single mothers kept their children but single mothers who kept their children were not a visible part of society because they were only single for a short period of time. They married the father or someone else. This group is now indistinguishable from the rest of society and, unlike mothers who lost their children to adoption, they are not presenting with serious health problems and serious claims against this State.

Society did not know the details of adoption. Society thought that, when a mother adopted out her child, that is what she wanted. Many in society did not understand that, once adoption occurred, the mother was not entitled to any contact with her child or knowledge of her child, no matter what her level of distress.

Who in society would have approved of a baby being taken from its mother at the moment of birth against her will, without her even being informed that this was to happen?

As my friend, Anne Jukes, reminded me last week, the politicians were representatives of that society, yet they never passed legislation that single mothers could not keep their children. Single mothers had the same rights to keep their children as anyone else in society. The politicians included provisions in the 1965 Act to prohibit duress and undue influence. They never intended that mothers be swindled out of their children. In attempting to provide some protection to mothers, the politicians refused to allow hospitals to register as adoption agencies and there was quite a lot of pressure from hospitals, particularly Crown Street, to

be registered as adoption agencies. The politicians were concerned about this, but, as we now know, and probably the Committee has formed this opinion also, the social work departments at hospitals effectively acted as branches of adoption agencies, so that protection was circumvented as well.

The behaviour of social workers in the network was not supported by society. It was not supported by the law. It did not comply with the standards of their own profession. Last year the Australian Association of Social Workers put evidence before this Committee regarding what the best practice should have been at the time. Social workers in the network have behaved contrary to their own manuals and annual reports and the practices that were outlined in these papers.

CHAIR: If we could stop there, Judy, we have Wendy McCarthy with us now and unfortunately we have to fit her in in the time she has available. Perhaps we can have a chat with you and work out whether you can table the evidence, put it in Hansard that way, or come back.

(The witness withdrew. Evidence suspended. See page 209)

WENDY ELIZABETH McCARTHY, Company Director, University Chancellor and former Chief Executive Officer of Family Planning Association of Australia, affirmed and examined:

CHAIR: You received a summons?

Ms McCARTHY: I did.

CHAIR: You are conversant with the terms of reference?

Ms McCARTHY: Yes.

CHAIR: Do you wish to start with a short statement or go into the questions that we sent you?

Ms McCARTHY: I am very happy to start with the questions.

CHAIR: Can you briefly explain your involvement with the women's movement and, in particular, could you comment on issues related to fertility, pregnancy and children?

Ms McCARTHY: Yes. I started my life as a teacher and, as a 20 year old teacher, I ran head-on into issues of pregnancy and unplanned pregnancy for young girls, because I was teaching in a girls' school in my first couple of years of teaching. During that time I also had an unplanned pregnancy and a termination myself and so I felt that I had a personal experience as well as a professional one.

Some years later, having worked in girls' schools in the US and the UK, with exactly six years' experience of working with young women, when I came back to Australia and was pregnant with my first planned child, I became very quickly involved in the affairs of the Childbirth Education Association. I think, without knowing the word "feminism" then, I was already a person who believed in the rights of women and I thought that the fundamental issue for women was fertility. I became an active member of that and I became very involved with the dignity and control of women over childbirth and I suppose I used that pregnancy and that experience to reflect a lot on the condition of women in pregnancy and certainly I was aware when I was giving birth that there were other women in 1968, when I had my first birth, giving birth in circumstances far less fortunate than my own, but it was not until really a couple of years later when I became the founding member of the women's electoral lobby in New South Wales and became very active in the women's movement that I began to understand the full implication of fertility for women.

As a childbirth education representative, I joined the Abortion Law Reform Association and I remember very clearly the discussion: If you are crazy about childbirth, why would you be going to abortion law reform? It seemed to me that that was the spectrum. If you were lucky enough to choose to birth with dignity and you had support around you, you were really one of the lucky ones, but, if the choice was not there, there ought to be a choice to be able to terminate the pregnancy, and I have never ever deviated from that view.

The early platform of the Women's Electoral Lobby was certainly very quickly and closely connected to fertility and, of course, independence of women was about fertility, it was about child care, it was about education for women and it was about equal pay and the sorts of things I suppose we have been working on for the last 30 years. My involvement from day one was really most of all centred around the fertility issue and the education issue.

As a teacher and as a new mother, and a mother at that stage of two or three children, I think I was really interested in how women fit into that and how women survive through pregnancy. It seems amazing that at that stage there was a cosmetic tax, the same as applied to lipstick, on oral contraceptives and, as undoubtedly someone has told you before, there was very little contraceptive advice for young women. Even when I was engaged to be married, as one was in those days, I found it really interesting that when I went for a consultation with a prominent obstetrician and gynaecologist he never suggested that I would use contraceptives before I was married. In fact he suggested that, as I was going overseas two days after I was married, it would

be a good idea not to use contraceptives until a couple of months after I was married because going through all those tropical climates might interfere with the value of the oral contraceptive. Thank goodness I did not heed his advice or I would have been quickly pregnant, as were other friends who took that advice.

For me, that was always the important issue, so I think I am grounded in fertility and feminism and that is certainly the perspective I want to bring to today.

During that period of time too, in the early 1970s, I started teaching. I taught at TAFE and I taught there quite a lot of pregnant girls who were thrown out of their school and were sent to TAFE, so at least they had some rehabilitation. Some of those young women I have stayed in touch with over the years. Others sat there and denied their pregnancy, even when they were eight and a half months pregnant doing their HSC, and, as a teacher - I am not feeling sorry for myself - it was torture for me to see them being put into a different category of female already because they were having a baby. The one or two who talked about it knew that they were headed on the one road and that was, no matter what, those babies were to be adopted. For someone who was sitting there as a teacher and who already had this view of how fantastic it was to be a mother, the thought that you would give up your baby was just the most terrible thought.

Those girls used to haunt me and I would try very hard to reach out to them, but with some of them it was almost better not to talk about it and let it go, it was just: Put their heads down and concentrate on their work. I think that if I go on to question 2 about the social attitudes to single mothers, that was it: Deny it; do not acknowledge it; assume that all the system is geared towards the needs of adoptive parents rather than the mothers relinquishing the child, and the whole system was geared to that.

The weight of evidence and professional advice was biased towards those poor unfortunate people who could not have a baby, not the mothers. There was very little contraceptive advice available and almost no support for them at that time. They got nothing. A couple of the girls in my class I did not speak to about it until they came back to me 20 years later. I did not know how to engage in a conversation that would in some way alleviate the distress that they were living under and having seen them a couple of times when I met their parents and their parents' total denial that this was happening - it was like this belly growing there and it does not exist - it was a very, very terrifying thing.

One of the most powerful first members of the Women's Electoral Lobby was a young woman called Sue Thompson who at that stage was the Chairperson of CHUM (Care and Help for Unmarried Mothers). I think the importance of that group, the fact that they were brave enough to set up their own group and draw attention to themselves, should never ever be underrated. It was an extraordinarily powerful thing to do and they became very important women in the women's movement and in a way they had less resources than anyone else because, in their case, they were raising their children themselves. Now I thought that these women were wondrous creatures who could even afford to be able to do that, to make that sort of commitment against all the social attitudes.

Let me just give you a little run-down on what I see about the social attitudes. The social attitudes were that the adopting mother was to be denied an existence or humanity. She was counselled continually that it was best for her to have no contact with her baby. It is pretty hard when you have been carrying it for nine months. The baby was often wrenched away from her.

How do I know this? Because when I eventually went to work in family planning I worked in three or four - I was trying to remember this morning and I think it was four - homes for unmarried mothers and I went there to work as a sex educator some years later, like 1976, so the anecdotal information that I had already been working with as a teacher was certainly strongly reinforced when I went there as a professional sex educator. The denial I think was really difficult.

I think the other thing is that, in a sense, the child had no rights either. The child was a present for those people who were deserving, who had a good home and an income and two parents in the family. That was a kind of reward for being good citizens. Even if it was not said, the implication was that the parent on the other side who was giving up the baby, and the baby itself, almost had no rights and they could not engage in any sense of equality in any conversation. If there was any counselling - and, as I said, the counselling was far in favour of this other group - for these it was: Get over it and get on with your life, not realising that it was very difficult to get on with your life in the situation that you were in.

I do not think that those attitudes have changed a great deal even now in many ways because I think that the group of people who were giving that advice are my age, which is 58, and I think they are still often in positions of influence because, by and large, most of the professions in life in Australia are run by people in their 50s and I think it has been very difficult for some of those people to change their attitudes. I think they still want to think that, in the context of the time, they did the right thing. Well, I do not think the right thing was done. It was not done to the adopting mother and I do not think, on the most part, it was right for the child who was being adopted. I think those social attitudes are still more powerful than they ought to be.

What began to change attitudes was the availability of the oral contraceptive pill, I think that that was probably the breakthrough, and the rise of feminism and the ability of women, significantly influenced by the council of care and health for the single mother and the child and the availability of benefits to raise a child, but in my head and through my experience the benefits were far less significant than the psychic environment in which young mothers or older mothers were relinquishing their children. If you stand people up and ask them if they would have a baby for the amount of money that the benefit was offering, most people would say no, it would be impossible to live on, but it did at least legitimise the ability and the role of a woman to raise a child on her own, which I think has had a powerful impact in our community. So it was somewhere in the late 1960s and 1970s

that it began to change.

In the History of Family Planning by Stefania Siedlecky and Diana Wyndham, they talk a lot about attitudes in society to birth control and unmarried mothers and even the debate in the 1970s about whether or not oral contraceptives should be allowed. Whether doctors should be prescribing oral contraceptives was still being debated right through the 1970s and people forget that. As that began to change, what we found, in a sense, is that then people who did not use oral contraceptives were somehow seen as stupid. What was wrong with them? They were there, why were they not taking them? In fact the decision about contraception is a much more profound thing than just the availability of contraceptives. That was one part of it. You could go to a doctor who gave a moral view and would not prescribe it anyway on the grounds that it would increase promiscuity, a very common view in the 1970s. It was a random selection, as indeed was my choice of a doctor before I was married.

During the time that I was the chief executive of family planning, which was the Federation of all the Family Planning Associations in Australia, and at the time I was editing the book of contributions on Teaching about Sex, the Australian Experience, I think we saw then very clearly that, given an opportunity to use contraceptives effectively, people could make informed choices about when they wanted to be parents and the number of births, teenage births, peaked in 1971.

Family planning education programs really started to kick in in the late 1970s and I think we could see that but undoubtedly the removal of taxes on oral contraceptives helped. The Family Planning Association was also interesting in terms of its relationship with single mothers or single people. In the late 1960s it was seen to be a place where you could, if you were unmarried, go and get contraceptive advice, and it was certainly less risky than going to the local doctor. But it did not have a very clear policy for some time about whether or not it would deal with unmarried mothers. It said in 1971 it would help with birth control for everyone over the age of consent, married or unmarried, male or female. That was the breakthrough statement.

When we are looking at the experiences of relinquishing mothers, we think it was not until then, and family planning's audience was not as wide as it might have been. In terms of the number of consultations people would have had on contraceptive advice, family planning was a little drop in the ocean. It was a leader in terms of medical education, nurse education, community education, but in terms of numbers of contacts it was a very small number of people, to our regret.

I think the book, the experiences and the stories in the book also tell you very clearly that unless you have a social environment where people can make informed choices about their sexual activity, it is a very difficult world for young people to operate in. When we used to do various surveys about who people would go to for advice and referral, it was always their best friend. Parents were fairly low on the list. Doctors were fairly low on the list. It was nearly always the peer network, and it was not until we started to make films, write stories and infiltrate the peer network that people started to have less pain and agony about it and, of course, the availability of abortion.

One of my questions talked about the impact of the Levine judgment in 1971 on the acceptability of abortion. I have no doubt that it was an extraordinarily important additional service for people who faced unplanned pregnancies. I think for very many doctors who would not face up to prescribing contraception, and I always found this really interesting, they were prepared to send people off to have terminations of pregnancy if they, on speaking to the young woman or the woman, felt that it was not in the interests on all the grounds of the Levine ruling and women's health to proceed with the pregnancy. So I think that was a huge breakthrough in terms of saving a lot of pain and agony to many people who were facing unplanned pregnancies with no resources to help them.

I think I probably commented sufficiently on the introduction of the contraceptive pill. Maybe I should just add that I think that the availability of the pill changed the whole nature of male/female relationships, started to do that very quickly. It gave women a sense of independence and it gave them the means to be able to control their reproductive lives and I think it probably will go down as one of the most significant public health results this century, and that is the effect of the impact of the oral contraceptive pill on fertility.

I think to have something that was non-sex related, non-sexual act related was a very big breakthrough in terms of how people came to determining their sexuality, what kind of a person you were and whether you could have intercourse without having to run around for condoms or diaphragms, both of which I think are perfectly highly forms of contraceptive, but for women there had never been anything that they could swallow so easily and manage their sexual lives with. I think it was a euphoric thing for many women to be able to suddenly manage their lives in this way. That, plus the Levine judgment giving options for women, I think changed the landscape of women's sexual activity and reproductive position in ways we are only beginning to understand now.

I think what it probably also did, and this is, again, my anecdotal evidence, is that it caused a lot of pain to very many women who had relinquished their babies, who could see that if it had been just a little earlier they would not have to face that sort of pain. Of course, we also at that time began to talk a lot more about the choices that women could make not to give up their babies for adoption and to be able to keep their babies and to be much more accepting along the continuum of that.

I would like to go to question 6, about information on the availability of financial assistance and other social services for single mothers. I think, as I said, the benefit did make a difference, but I think it was overrated. I do not think it was an incentive. I think it was simply a support after the event happened. I used to be asked when I was a family planning educator if it was true that a whole lot of women were planning their pregnancies in order to get the benefit. It is such an absurdity, but I have to say to you I was asked it continuously.

The Hon. Dr A. CHESTERFIELD-EVANS: They still say that at workers compensation.

Ms McCARTHY: Yes, in the hope that you will break your leg in order to get a benefit.

The Hon. D. F. MOPPETT: For the sake of the record, you said it was not an incentive. I assume you meant an incentive for an unmarried mother to remain the mother rather than an incentive to become pregnant?

Ms McCARTHY: Yes. I think for young women in the country, rural women, the availability of information was very limited, indeed. I do not know what the figures are on adoptions in country as opposed to the city, but I do know that as a person who grew up in rural New South Wales and had my family there, that even a journey with an unplanned pregnancy, the tendency was not to confirm the pregnancy until the woman was four or five months pregnant and unlikely to be offered a termination, and a termination was something, for the most part, that happened in the big city, was wicked, expensive and difficult, so she was more likely to continue with the pregnancy.

In my experience, the options were usually to send her away as, indeed, happened to a friend of mine to live with someone in the city for the pregnancy to be completed, either a family or in a home for unmarried mothers and then to give up the baby and she would return as though nothing had happened to her. She was told to smarten herself up, put on her lipstick and get over it. Of course, that sort of denial is so extraordinarily unhealthy over a long period of time.

The other option, of course, was to have the baby and let someone in the family raise the baby which was another way of doing it but you never acknowledged that the child was yours, even within the family, which I think was at my age and stage in life for quite a lot of people that was quite a common occurrence, but the pregnancy was still denied and the birthing was denied which I think was extraordinarily difficult. For the women who kept their babies in the 1950s, 1960s, and early 1970s, I hope that they are now being reaffirmed in those choices, but I think life was very difficult for them, indeed.

I think for the women in the 1970s it was probably better because there was political support for them and subsequently think there has been that support, but the stigma attached to being an unmarried mother did not go away miraculously from one decade to another. It lingered on for a long time. As I said, in a sort of counterkick, as contraception became more available, people who were then seen not to be able to use it effectively were considered stupid that they had a baby in spite of themselves.

So it was a very small group who were able to put up their head high and say, "I chose to do it this way". So although I think it was better in the 1970s and single friends of mine who became mothers and would not have dreamed of giving up their babies for adoption managed extremely well, I still think it was not desirable.

In the 1950s, 1960s, relinquishing mothers had it tougher than any one. In the 1970s I launched a book about relinquishing mothers called *Living Mistakes*. It was the time that a woman called Joc Sawyer had come across from New Zealand to talk about being a relinquishing mother. It was a very political time to make statements about relinquishing mothers, and I suppose in my lifetime since then it is only the stolen generation that has made me cry in the same way. The thought that you had to give up this baby, the thought that you were often beside a peer group who kept the baby and who made bad marriages and somehow or other that that was seen to be better, I think that was one of the cruelties that people never think about in terms of whether you kept your baby.

Two girls in a country town get pregnant, one relinquishes the baby because it is meant to be good for it and it has a nice white home to go to, and the other one keeps the baby. She might be 16 and marries someone who is 17. It could be a perfect marriage but lots of evidence suggest it was a stressful marriage because of the circumstances under which it took place and I can see that for some of those women the difficulties of keeping those babies and trying to keep those marriages in place was very unsuccessful. The old shotgun marriage in my country town was alive and well and was a state of misery for usually the father, the mother and the baby. But I do not have much more than anecdotal information to back that up.

I think in terms of past adoption practices and the impact on women, I would just like to say two or three things and in a sense I think I have already said it. The first one is that having a baby is life changing. To have a baby and to be in a labour ward, deliver that baby is the moment when human resolve is at its peak. You actually want to be the best parent in the world. You want this baby to have the best chance in the world and you can make all sorts of decisions that become difficult to fulfil later in life.

When I first went to work in family planning, the classic piece of contraceptive birth control education was the experience that had been written up in Atlanta that said, "At the moment of birth, a woman is at her most highly motivated and that is the time you intervene with contraception". So if you wanted to break a cycle of poverty, if you could persuade the young women at the time of the birth that the best thing for her child was not to have a baby for at least another two years and to be able to get that baby on the track of growing into a healthy adult, that was the perfect time of intervention.

The corollary, of course, is if you have brainwashed a young woman at that time to give away her baby because that is the best for the child, she will often do that because she truly believes at that moment that she thinks she is doing the right thing for her baby and she does not really the pain will go on for ever. The professional people who should have been around helping her were sadly very often not there. I know people say they are well motivated but it was also a club. It was a club that cared for other people rather than the woman who was having the baby.

The Hon. Dr A. CHESTERFIELD-EVANS: You talk about this evidence of the long-term harm on the women. Obviously we have seen that as a fact here through this inquiry, but at what stage was that in the literature? I mean these folk

presumably read the literature in their field.

Ms McCARTHY: Which folk?

The Hon. Dr A. CHESTERFIELD-EVANS: The service providers, the social workers and so on. You are saying these women were going to get huge psychological problems later. At what stage was that known in the literature? I gather there was a change in the 1950s between the best thing for the child would be to have it adopted and then the extended family broke down and they said the best thing to do is to have the break at the time of birth. Presumably the idea was that a clean break was better than a prolonged break, so that at one stage, presumably based on some evidence, the break would be cleaner.

It took some time for the literature to then say there was psychological sequelae worse from the clean break than from the considered decision that after a couple of months the mother realised she could not support the child without money and she would then say, "It is my child. I love it. I have weaned it. You look after it" and it was at least a considered decision rather than a clean break made by somebody else at the time of birth. When did the literature that said it would be psychologically harmful come out?

Ms McCARTHY: The epidemiology of abortion practice and feminism is a curious phenomena because it was not until the 1970s when feminists began to use the powerful tool of narrative to talk about these issues that we began to collect evidence about it. You have to remember that at that time the voices of women were not heard in the medical profession. They were in social work but they were very much part of the model, and it was very much a medical model. Social workers were called hospital almoners to begin with. It was not until the 1970s when you began to get the power of that narrative about how women felt, that we began to get any literature. So you cannot have this debate on the basis of a body of literature that has been accepted in the medical profession because women were writing their own stories at this time.

Most doctors at this stage did not see birth in the same way as women saw it. Most obstetricians were, and still are, male and they do not have the same kind of perspective on the experience. Now the issue of adoption as far as I know had very little literature that was woman controlled or woman rehearsed or woman narrated. I did not see any of any significance until the early 1970s and mid 1970s. The early 1970s, or a little bit in the late 1960s when I was living in London and the US I began to read stories about the harmful effects of adoption.

I have to say as a young professional woman of 24 or 25 at that time, it had not occurred to me to think of it in that way because this was seen as non-professional business. So it is not in the literature in that way. That is why you have to have inquiries like this to get this stuff on the record. So what is the damage to women? You either have to accept the evidence of what women are telling you is the damage otherwise you will not find much in the literature.

The Hon. Dr A. CHESTERFIELD-EVANS: But for the terms of our inquiry going from 1950 to the mid 1970s, which is a 25-year period, the most conscientious consent taker could not have read that if the woman signed the consent and gave up the baby that she would have big psychological harm for a long time.

Ms McCARTHY: No, and perhaps if she was so steeped in a model of behaviour which said she did not ever express her own views about it or use her own commonsense or her own intelligence or her own perspective as a woman, she was highly unlikely to move outside that model. She would already be seen to be in that role as one of the few women who had a university education, had a professional role, and we are talking about one or two per cent of women in those positions. It is like a whole system of advice that was given where the person with the most to gain and the most to lose was the least consulted.

The Hon. Dr A. CHESTERFIELD-EVANS: Do you think then that what you have said means that the consent takers in a sense, by the mores of the time, could not be judged, which is I suppose the question that has been preoccupying this inquiry to a large extent. The few people who have come as consent takers, or their representatives, have said: We did what the society norm at the time was. What you have said does, in a sense, reinforce that point. I am not saying it is right, I am just saying that that is the reality.

Ms McCARTHY: Well, let me say this: They might have done what they thought society expected of them in their professional models, but there were voices of dissent which they chose not to hear and they were not supportive when the first round of feminism started and women's voices started to be heard and challenged their assumptions. I think we do need to remember that. It was a very complacent society at that time.

With the wisdom of hindsight we could say that it happened within the context of the time, so that is it. Also with the wisdom of hindsight we could say that there were dissenting voices and there were people in the Family Planning Association and the Rational Hygiene Association, as it was called at some stage, who were not being listened to and there were women whose voices were silenced as well.

I think also you would have to ask questions about the ethics of medical practitioners who did not ask questions about the effect on the health of their patients; did not think about the mental health of their patients subsequently and simply implemented what they thought was best at the time, because they were probably making it within the context of being a two parent married family.

I would hate to think that at the end of this inquiry we just said comfortably: Well, it happened in the context of the time, so that is it. I think we have to say: If that is the answer, well, as a society we have to learn to listen to some of the dissenting voices

and to listen to the layers of pain that are underneath those dissenting voices and start to question what it is that they are trying to say. If there had not been a women's movement we may not have heard those voices for a very long time because there was utterly no leadership coming from the other 50 per cent of the community, nor was there leadership coming from professional people, either male or female.

Now I think that some of the consent takers were people who were doing their job and they were not liberated to ask questions, but they have had opportunities since then to do something about it and I have seen no leadership or examples of people saying: Look, I did this and I was wrong. Frankly, I would actually like to hear some of that and I think that there are a lot of people whose lives would be a lot better if a whole lot of people who are slow learners could learn to say sorry.

I want to say one last thing and that is I think that the mother was silenced and I think the child was silenced. As a teacher I taught a lot of adopted children and I usually found that, around about 13 to 15, there was a restlessness, there was a sort of inquiring: Who am I really? Even if they did not know that they were adopted, often the school knew that they were adopted. Initially I thought maybe we were projecting this on kids and then I thought, no. They would be kids who would be acting out against the system for one reason or another, with parents finding it very hard - again that was the times - to tell them, and I think there was quite a lot of pain for adoptive parents about knowing how to handle this. I think that, as time went on as adoptive parents, they did not get much help either. They certainly got the most help in the first period of time, but later on I think, when they needed some help to be adoptive parents, they probably did not get it. They did have the child and they had a secret, but they did not have to carry the burden of secrecy and denial that other people did in order to be seen as proper people.

In my country towns growing up, a pregnancy, an unmarried pregnancy, was akin to social death and I think that giving up your baby and trying to keep that secret for the rest of your life is really a very difficult thing to do and I just do not want to sweep it under the carpet.

I suppose that, in a sense, by dealing most recently with the stolen generation, many of these issues have come up again, at the front of the mind, for a lot of people in the community to think about and I think that is a good and healthy thing to do and I think looking at the past adoption practice, having an inquiry into past adoption practices, is a good thing to do if people's voices can be heard. Maybe in another 20 years we will start to be able to write the story and get the epidemiology of what happened to women during that period of time.

The last thing is that one of the adopted kids that I work with a bit said to me: Nobody has ever asked me about my story. We might think about that too.

The Hon. Dr A. CHESTERFIELD-EVANS: We have had very few people who were actually consent takers at this inquiry as a percentage, or the people who were working in the adoption agencies at the time that this was going on. We have had the new PR managers who have come along since or the new CEOs who have come along 20 years later or whatever. Do you think we should demand an apology for what happened? If so, from whom and in what form?

Ms McCARTHY: Well, the institutions who ran the homes for unmarried mothers were accomplices in the adoption story. The Anglican Church, Catholic Church and Presbyterian Church, as it was then, certainly were three that I was involved in. They have been able to apologise on other issues; they should be capable of apologies on these issues. Maybe they need to have that conversation in the same way as they have had conversations about stolen Aboriginal children. Maybe they need to have that conversation to work out where they fit.

Maybe a lot of it was mindless, maybe a lot of it was just on the moving footway, delivering a service, but the places that I went to were hugely variable in the quality of what they did, how they managed young women. In some places the women worked as cheap labour; in others they were better cared for and they were certainly given access to at least some education. In one place, which I will not name but I remember going into and working, they were being trained to be mothers and housewives and at the same time the irony seemed to escape everyone that their babies were about to be taken away and they were about to be put back in the workforce, uneducated because they had dropped out of school.

It is always healthy, in my view, for institutions who perpetuated those practices, for whatever sets of reasons at the time, to work out why they did that and maybe to be able to say to some of those mothers and those children: Look, I am sorry, but maybe we did not get this right. Maybe they want to say: We did what we thought was best. Maybe they have to understand that they were part of the social story of what was happening to those women at the time, whether it is the consent takers, who were often public servants, whether that is possible, and probably it is harder for them --

The Hon. Dr A. CHESTERFIELD-EVANS: As individuals, do you mean?

Ms McCARTHY: Yes, as individuals. They would have been acting under public service rules.

The Hon. Dr A. CHESTERFIELD-EVANS: Do you think they should be asked if they want to apologise at a personal level?

Ms McCARTHY: I think so, but I think it would be more meaningful for the department to apologise at a personal level myself.

The Hon. Dr A. CHESTERFIELD-EVANS: But 20 years later, if you are a public servant who has inherited the history

that your department 20 years ago did X, it is not too difficult to apologise, is it?

Ms McCARTHY: It may not be difficult to apologise. I suspect it might be more difficult than you are suggesting for a department to admit that it was wrong.

The Hon. Dr A. CHESTERFIELD-EVANS: It has certainly been difficult for churches.

Ms McCARTHY: Well, the churches have proven otherwise in the stolen generation debate, they have proved capable of going back and addressing some of those issues. In the case of children, like the Leaving of Liverpool children coming out, churches have been able to come back and talk about the abuse of young boys in institutions, so we have seen significant apologies about the abuse of young men in Catholic institutions, we just do not seem to have addressed the issue of young women. Maybe it is time we did that and I think it would be a good thing to ask them to look at those issues.

I do not know that much is to be gained from the individual consent taker who worked in the public service because he or she would have been bound by the regulations at the time. If it is therapeutic for them, let them speak, but it is probably very high risk for them even now. The churches are different, the institutions are different. There was maybe a Benevolent Society one too, I am not sure. There probably was at the time, so that would be another one that you could look at.

CHAIR: Yes, Salvation Army, Seventh Day Adventist, Methodist, just about every church.

Ms McCARTHY: Yes.

(The witness withdrew)

FREDERICK CHARLES HINDE, Retired medical practitioner, affirmed and examined:

CHAIR: In what capacity are you appearing before this Committee?

Dr HINDE: I am not appearing in the capacity of representing any organisation, but I come here essentially to give historical data with respect to the first half of the period about which you are inquiring.

CHAIR: You have received a summons?

Dr HINDE: I have.

CHAIR: Are you conversant with the terms of reference for the inquiry?

Dr HINDE: Yes.

CHAIR: Do you want to make any statement before we start?

Dr HINDE: Yes, I think perhaps if I begin by a general statement which might paint the picture of the way in which hospital practice was conducted at that time. I graduated at the start of 1956 and did a number of terms in obstetrics up until 1959 when, for four years, I was the clinical superintendent of King George V Hospital, returning to Australia at the end of 1966 and going into private consultant practice.

May I say that I have been provided with the evidence that has been tendered to this Committee previously and I have read it and, to some extent, I have prepared my statements to you in relation to where I may be able to throw light on aspects of it from an historical point of view. I have no recent experience or professional knowledge with respect to the impact of adoption on mothers and relinquishing mothers and so on.

CHAIR: So what period are you really talking to us about?

Dr HINDE: Predominantly from about 1956 through to 1970 or a bit beyond, into the early 1970s.

From reading the submissions that have been made, I think it is important to indicate the situation that hospitals were in at that time with respect to the need to, if you like to use the word and I know it sounds unkind, process people with babies for adoption because there was enormous pressure on beds. To give you an example, I have counted up in my mind two of the wards in the hospital that were originally built to house in one 24 and the other 36 patients and in fact had extra beds put in wards, in corridors and in alcoves so that the 24 bed one had 37 beds and the one with 36 beds had 48, so as the superintendent it was important to keep an eye on how long people were staying, how long beds were being occupied, how long babies were staying, because of the immense pressure on beds.

At that time there was no major hospital west of King George V, although there were the Queen Victoria Hospital and the Bethesda Hospital nearby which were conducted by religious organisations.

I think at this time I should also point out that to my memory there was only one almoner, and I use that term because I

think it does emphasise that at that time the role of the person was in fact one who gave alms or alternatively arranged pensions and things of this nature. The concept of the social worker engaging in significant counselling was not really, to my knowledge, a phenomenon of the 1950s and 1960s and when you appreciate that King George V had a single almoner in that role at the time when overall the hospital was dealing, on the obstetrics side, with in excess of 4,000 births a year, you will appreciate that physically she just did not have much time to engage in prolonged counselling.

As a doctor, a patient would have come largely, as I saw it, with the decision made. It had been discussed with the family and the person indicated that the baby was for adoption and, as a result, it was the practice at the hospital then to label those papers BFA (baby for adoption). That would continue when the notes were taken to the labour ward.

I think you should also appreciate that that labelling did in fact involve a privacy issue in that the front hall of the hospital, the inquiry desk that normally receives telephone and personal inquiries, has a list of patients who are currently in the labour ward and a list of patients who are currently in the hospital. That labelling would have occurred there because the thrust of the management of adoption in those days, as you have no doubt heard and I have read in the submissions, was essentially one of privacy, getting it done quietly and the person then getting on with their life.

There are nosy people in this world, nosy neighbours and the like, nosy relatives who may well make inquiries of the hospital, so that the labelling, BFA, was not all bad in the sense that it did have direction to forestall inquiries which might not be welcomed by the relinquishing mother. There was no special practice at King George V with the management of relinquishing mothers. I have to say in terms of numbers, it would have been significantly less than at the Royal Hospital for Women which had the Benevolent Society, St Margaret's that had the Catholic Church and Crown Street that had a reputation for a long time of handling a large number of relinquishing mothers. So that our percentage of relinquishing mothers would not have been very great. I do not know if you want me to say something about the other two hospitals, Queen Victoria and Bethesda, where for a time after I returned from England I did visit?

CHAIR: Yes, we have actually had evidence from some of the young women who gave birth at Queen Victoria in particular.

Dr HINDE: The only input I can give you is in relation to the professional side of it. Those hospitals functioned to cater for two groups of people. One group was the women who were having their babies for adoption and the other was, as a private hospital for general practitioners in the area and to some extent specialist obstetricians to deliver private patients. From a medical point of view, they were staffed on the basis that if there was no problem with a delivery, the matron and the nursing staff conducted it. If there was some problem, they would contact one of the general practitioners who acted in an honorary capacity, and if he had problems then they would contact one of the specialists who similarly acted in an honorary capacity, and that is how those hospitals were staffed medically.

If I may, I would like in giving you this picture, to go to the question of sedation which I think features very largely in a lot of the submissions.

CHAIR: That is why we have asked you about four questions partly because the Committee has heard various things about the regime for all women giving birth and then other particular evidence about the regime for women whose cards were marked baby for adoption.

Dr HINDE: At the outset I can say to you that at King George we did not have a policy in those days of a special regime of sedation or drug giving to women whose babies were for adoption, with the exception of the suppression of lactation and I will come back to that in a minute. I think it is important to realise that in the 1950s we were evolving from a period of practices like twilight sleep where, in fact, women were given sizeable doses of Omnopon and Scopolamine and it was common for people to be given sedatives even in ordinary life, calming the nerves and that sort of approach.

I have brought along for you a three-page extract from a textbook published in 1956 called *Operative Obstetrics*. It was the 6th edition and it was edited by Professor Chassar Moir who was the professor of Oxford at that time. I will provide copies to the Committee, but if I may, I have marked two or three parts that I would like just to draw your attention and read briefly because I think they are germane to what we are discussing at the moment.

It begins under the heading of "Sedatives", and I would emphasise that this includes pain relievers rather than just drugs for sedation: "The purpose of sedative drugs in labour is threefold: to lessen pain; to bring about a drowsiness in which nervousness and apprehension are allayed; and to abolish memory," to induce amnesia. On the second of these three pages I have arrowed a chart in which studies had been done in preceding years, albeit that might have been in the 1930s and 1940s, comparing the effects of different drug combinations in inducing amnesia. I lay some emphasis on this, not to justify it but to say to you that, clearly in an era when people were told, as you have heard and I have read, have your baby, put it behind you, get on with it, a drug regime which would blot out the memory would be regarded as highly desirable, reinforcing that.

I am not here today to say that is good or bad but rather to give you an historical approach to how it happened. I think, secondly, just to emphasise to you the changes which have occurred, I will read briefly from a bit further down: "Unfortunately parturient women are sometimes "rattled" by a number of their well-intentioned sisters who exaggerate the dangers of parturition, and by a number of practitioners, obstetric specialists in particular, who "fuss" their patients by indicating the possibility of complications instead of shouldering all responsibility, saying little, and maintaining and encouraging in their patients mental robustness and physical courage."

Today, this is a fertile field for lawyers on failure to warn, and yet 40 odd years ago this was regarded as a highly undesirable practice. I think in terms of what you have heard, I brought this along just so that you have some documentary evidence that this in fact did reflect the way people thought at the time.

The Hon. D. F. MOPPETT: Dr Hinde, could I clear up in that extract that you have just quoted to us, was it specifically a recommendation for women who had been identified as unmarried, for instance?

Dr HINDE: No.

The Hon. D. F. MOPPETT: So the amnesia thing was regarded as desirable for all women?

Dr HINDE: So that it is completely clear, what I have quoted is from a text in regard to how labour should be managed for all women at the time. I think that it is important to realise, and I can well recall at that time the doses that were used and I specifically advert to this because of concern in some of the comments and submissions about the amount of sedation, that pregnant women, contrary to what you might think, in fact tolerate sedation and narcotics incredibly well in the sense that you need to give good doses, high doses often in order to get a satisfactory response of pain relief because this is long before the phase of epidurals. Therefore, you have to regard comment on the dosages used in relation to what might be recommended for the non-pregnant with some reticence because the doses used at that time were high in order to achieve an effect.

CHAIR: We have had some evidence tabled from various records that list dosages for a range of women, so the Committee has some evidence already but if you could tell us about King George V.

Dr HINDE: At King George V we only used pentobarb as a drug to help people sleep. If we were using a drug for sedation, it was more common to use amytal, and the reason those drugs progressively fell into abeyance is that amytal was commonly used for threatened miscarriages or for people with an elevated blood pressure and drugs became available more specifically useful for the control of blood pressure and it became recognised that the use of sedation in threatened miscarriage was really not a particularly helpful thing because this was the era of pre-ultra sound and you really did not know whether somebody had lost a baby in these times and it was believed that keeping them calm might help to have a favourable outcome.

Perhaps at this stage, if I could, because I am talking about drugs, I might talk about Stilboestrol. It does follow from the fact that a patient's chart would have been labelled "BFA" that Stilboestrol would have been ordered as a result, so in that sense it was a policy or practice to administer Stilboestrol. Its purpose was quite obviously to prevent engorgement, and there should not be any doubt in anybody's mind that very engorged breasts three or four days after delivery are excessively painful. The woman is careful not to bump into things and not to have anybody touch her, and you will appreciate that this in a person who was going to relinquish their baby was an experience that only made it worse rather than otherwise. So in that sense, yes, there was a practice that if the baby was for adoption, Stilboestrol was ordered.

It is important to realise that the dose of Stilboestrol required was far and away greater than you would use in a non-pregnant woman. A woman at the time of birth has very high circulating levels of oestrogen in her body. And in order to subponea present lactation, you have to give sizeable doses in order to achieve an effect. So that the evidence I read in one submission about it being many times the normal dose is quite correct, because if you gave the ordinary dose for a non-pregnant woman, nothing would happen. Secondly, there is the question of timing. Unless you start it soon after birth, and by soon I mean that day, within a few hours, then the effect of reducing the swelling falls off rapidly. You might as well not bother. So if you are going to give it, you have to make the decision to give it soon after birth.

The reason for stopping it, which is one of the questions you have asked me, is because in the late 1960s there was a preliminary report that was explored over some years subsequently showing that people taking Stilboestrol for suppression of lactation had a higher incidence of thrombosis, of clots in the legs, than women who did not. That was the main reason for stopping the administration eventually of Stilboestrol.

If I may, I would just like to comment because I am concerned about one of the submissions I read which referred to the carcinogenic effect, the cancer producing effect of Stilboestrol. When you read the burden that these women have told you about in psychological terms, I think it is to me very sad that they have an unwarranted additional burden by people saying there is a cancer risk. The only cancer risks associated with Stilboestrol are, firstly, when it was given during pregnancy. There was a vogue, not curiously in New South Wales - it was a patchy thing round the world - it was used for threatened miscarriage and in a percentage of offspring initially discovered to be female but later there were male effects noted, people had certain abnormalities in their genital tract and about 1 per cent of those women would subsequently go to develop a specific type of cancer.

I just want to emphasise that in fact the use of Stilboestrol postpartum has absolutely no relationship whatever to that cancer risk. Secondly, the use of Stilboestrol was shown in the 1970s to increase the risk of cancer after the menopause, but I would emphasise, again, that that bears no relationship to the dosage and timing of the way Stilboestrol was used afterwards. I just want to make those points, that I cannot accept the assertion that women who have taken that at this time are at cancer risk. I would like to make that strongly because I feel that it is wrong that they should have a misconception of that.

CHAIR: Was consent required for the administration of any of the drugs you are talking about?

Dr HINDE: No, people came into hospitals in those days and signed a general consent form and it was the role of the medical officer then. You normally wrote up that patient unless there was some contrary indications, I can remember doing it as

a junior resident for Pentobarb for sleeping. You may have also ordered chloral hydrate. They were ordered Aspirin and the final thing you wrote was "ward aps and ends" which was ward aperients and enemas which were at the discretion of the nursing staff.

I can well remember one of my early wards where the sister told me I could order anything else but she would look after the patient's bowels. It was the normal practice in those days to write that up and my answer is that at King George V, there was no specific consent for individual medications like that.

CHAIR: What about our remaining specific question, whether you or medical staff at your hospital had any involvement in the process of arranging adoptions and taking consents and were you asked to administer sedative drugs for stress at the time of the consent taking?

Dr HINDE: The answer to that is no. The only involvement of the medical staff would have been, having heard from the patient generally that the baby was for adoption, then you would label the papers in the way that I have said and the practices would flow on from that. To my knowledge the medical staff did not take consents. You would ask the patient what she was going to do, but it was not the practice for the doctor to take the formal consent.

CHAIR: What about in relation to being asked to administer sedatives for distress, if necessary, at the time of consent taking?

Dr HINDE: No, there was no policy or regular practice with regard to that. I can only say that it would not surprise me if, as a doctor, I may well have prescribed a sedative either before or after consent taking because the person was upset at what had happened, you know, the distress of actually putting their signature on a piece of paper, but there was no routine practice that people would be given sedation in relation to consent taking. The only thing which I can suggest is that it was, as I said, common practice to give a hypnotic at night to sleep, usually pentobarb. I have little doubt that at times the sister in charge of the ward may well have ordered more on the night before consent-taking on the basis that you have a busy day coming up tomorrow, a big decision, therefore you need a good night's sleep, but there was no hospital practice with respect to saying that, on the night before, a larger amount would be given.

The Hon. D. F. MOPPETT: I particularly wanted to address an allegation that has been made in evidence that patients were kept in hospital under some threat that they would not be discharged until they had filled out the consent form. Would you be able to enlighten us as to how this process of a person being discharged from hospital might be related to their cooperation in relation to the consent form?

Dr HINDE: Well, it would not have been formal practice to require this. I have no personal knowledge, in recollection, of that happening, but I cannot say that it might not have happened where somebody was told: Look, unless you sign you can't go home. I would not invite you to put a lot of weight on that. It is something that I can accept might have happened, but I have no personal knowledge or recollection that it did happen. You understand what I mean?

The Hon. D. F. MOPPETT: Yes, and nor would it have had any authority. It might have been an individual trying to, for whatever reason, bear some sort of weight on the individual, but if it really came to the test would you be surprised if it ever occurred?

Dr HINDE: To be frank, I do not think I would have been surprised if it did occur at a personal level between people, thinking back to the time, because you were trying to get the adoption or the papers signed and I could well imagine that somebody may have said that. I would not like to say no, I cannot conceive of that happening. Yes, I think it is possible that it might have happened, but I cannot personally confirm that it happened.

The Hon. D. F. MOPPETT: From your perspective as a person who, in your introduction, said that you were most concerned about the congestion that you had to deal with, if someone were coming back to you and saying: Well, look, I think this person ought to be retained a little longer because we have not been able to coerce them or persuade them, you would have regarded that as being a difficult request in view of the pressure to vacate the bed?

Dr HINDE: Yes, in the sense that I would not have said, well, tell them they have to sign, but yes, I feel, as the superintendent, I would have said: Well, try and get it fixed as soon as possible.

CHAIR: We have questions 2 and 8 in our written list which I think are important because they deal with whether the hospital had a policy, in particular a written policy.

Dr HINDE: I am happy to go to question 2 then.

CHAIR: Yes, because obviously they are related. Question 8 is specifically about a written policy and question 2 is about whether or not single women were treated differently.

Dr HINDE: There were no special wards for relinquishing mothers. There was not any written policy on attitude, it was just that personal of the staff. They were delivered as public patients, if that is what their classification was, and that was exactly the same as any other woman having a baby who went in under a public hospital classification and that would be that, if the birth was spontaneous, it would be done by a student doctor or a student midwife supervised by a trained midwife. If there were complications, the medical staff, the resident medical staff in the hospital - such as forceps and the like - would deal with them. If there were complex things then the honorary medical staff, the honorary consultants, would have been called in.

Certainly at King George V the management of those people was as with any other patient who was a public patient, these

days you would call them non-charged or uninsured, but as a public patient. There was no special policy allocating relinquishing mothers to any particular group, to any particular type of care.

The Hon. Dr A. CHESTERFIELD-EVANS: There was not a special policy for single women and their babies, but if the doctor wrote up a sedative it would have been PRN, would it not?

Dr HINDE: Yes.

The Hon. Dr A. CHESTERFIELD-EVANS: As required?

Dr HINDE: That is right.

The Hon. Dr A. CHESTERFIELD-EVANS: And that effectively gave a discretion to the nurses or the ward staff to use more and, in the case of single mothers, they may well have used more without the medical orders having been changed or the medical policy having been changed?

Dr HINDE: That is quite correct.

The Hon. A. B. MANSON: What does PRN mean?

Dr HINDE: It means when necessary, as necessary, with the rider that it could not be given more frequently generally than every four hours without a specific order. In the 1950s this was an era when the taking of sedatives and the like was very common. As a student, I worked in my brother's pharmacy and it was common to get people coming in asking for nerve tonics and things of this nature, people buying packets of Bex and consuming a dozen a day, all directed towards calming the nerves, so in this era that I am speaking about it would have been a natural reaction, if somebody was upset or agitated, to give them more sedation, as you have suggested, yes.

CHAIR: We have heard evidence about students seeming to be particularly involved in coming and looking at single mothers or mothers who were going to give their babies up for adoption. Do you have anything to say about that practice?

Dr HINDE: At King George V it was not the practice to specifically have more students looking at single mothers having babies. Do you want me to describe what it was like when I was a student - this is 1954 - and how it used to function?

CHAIR: Yes.

Dr HINDE: You lived in for a period of time, I think it was about four weeks, and then you came back for another two weeks. You were housed in the hospital and when there was a birth they rang down from the labour ward and everybody came running up because you had to get a certain number of witnesses or have a certain number of deliveries actually to perform. When the hospital was originally built in fact it had specific delivery wards which had, at one end, a glass window which abutted on to a verandah and on the verandah were in fact forms in three rows, rather much like you would see at a football match, where the idea was that this was for the mother, that they would not actually be in the room, the students or the student midwives would run around and sit on these and look through.

This is the way the hospital functioned in the 1940s and certainly through the 1950s it was common practice for students and student nurses to come in and witness. The description that you have had of quite a number of people coming in, ten or a dozen people, is the way it happened in those days. I have no wish to indicate to you that that is an exaggeration, that is the way it was and that is the way it continued, I think, until some time in the late 1960s.

The Hon. A. B. MANSON: Did students ever make any comments to the pregnant mother or was that done through the doctor?

Dr HINDE: I think presumably it must have happened on occasions. I cannot give you a specific answer yea or nay, I have no recollection of whether that may or may not have occurred.

The Hon. D. F. MOPPETT: I think my colleague's question is directed not so much at delivery, but at examinations that might have taken place prior to the actual onset of labour, where there was a facility for students to examine women in their late pregnancy in the hospital and that there was a preference to, first of all, make unmarried women the subject of these examinations and there was an attitude in the mind of some of these student doctors when they were approaching these women such that they sometimes expressed some degree of disdain or made discriminatory remarks?

Dr HINDE: I see the thrust of your question now. All I can say is yes, if somebody had said that that happened, it would not come to me as a great surprise because it reflected community attitudes towards the single woman having a baby at that stage. I have no personal recollection, but if somebody had said that they felt that they were treated with disdain in that way in the 1950s and perhaps into the early 1960s, yes, I think that is quite possible. I am sorry not to be able to give you specifics.

The Hon. D. F. MOPPETT: No, we are very grateful for your evidence.

CHAIR: Question 9 may be of less relevance to you, given that you are talking really about the period up to 1970, but nevertheless perhaps the last part: We are interested in the extent to which practitioners in the whole field were made aware of any

legal changes that took place and how quickly they translated into common practice?

Dr HINDE: With respect to the first half, I did read through what was said and all I would say is that on your 27 August hearing, on page 13, a Ms Smith gave you a description. I do not really have anything to add to that. I do not want to go over things which you have already heard, but say I would generally agree with the thrust of what she has said.

When the change came where the Child Welfare Department, as it was then, handled all adoptions in 1965, practitioners were quickly aware because if you were in private practice you could not arrange the adoptions yourself in the way that it was. Prior to that time, which was before I actually went into private practice, I can confirm that it was common for a specialist obstetrician and gynaecologist, who may have an infertile patient who had not been successful in falling pregnant, to say, "I will look out for a nice baby for you", and then at some stage would in fact care for a woman who relinquished her baby and that baby would be passed over, which is the way that it could be done, of course, prior to the change in the Act. I have no knowledge of what financial arrangements might have taken place with regard to that, I just make reference to it because I know it has been put before you.

CHAIR: Do you think that practitioners working in the adoption area simply reflected the mores of their time or do you think an individual's personal views and expectations influenced adoption practice?

Dr HINDE: I think that largely doctors went along with the system and reflected what were the society's views of what a woman should do if she were unmarried, having a child and unable to support it. The actual personal attitudes of doctors, obviously like anybody else in the community, may vary from one to another, but I think the vast bulk would have stood with where the system was at the time.

CHAIR: Do you have any recollection of anyone questioning the system or questioning what was happening?

Dr HINDE: That a woman should not relinquish the baby and should keep the baby in this era?

CHAIR: Yes.

Dr HINDE: No, I have no recollection of that at all at the time, not in public discussion.

CHAIR: Or amongst doctors or almoners or matrons and nurses?

Dr HINDE: No, not that I can recall.

CHAIR: It was just the way it was?

Dr HINDE: Just the way it was.

CHAIR: Wendy McCarthy's evidence would suggest that at the end of this period there was quite a lot of discussion and ferment going on, at least amongst women.

Dr HINDE: I just came in on the end of what she was speaking about, and her comments, I think, with regard to change more really relate to the second half of the 1960s onwards, rather than to an earlier period of time.

CHAIR: But were you aware of that kind of discussion that she was talking about in that period?

Dr HINDE: Not among obstetricians because as an obstetrician, you were consulted by a patient who largely at that time had already discussed it with her family, who came along and said she was having a baby and was going to have the baby adopted. I do not believe many obstetricians would have then taken the role, and I am speaking now of the early part of the period, the first 15 years or so, of then acting the devil's advocate and saying, "Don't you think you ought to keep the baby?" I doubt that would have happened very often, if at all.

CHAIR: Would you be able to say roughly what percentage of mothers relinquished their babies during your time at King George?

Dr HINDE: At King George it would have been a small percentage because as I have indicated earlier the other hospitals, in fact, for other reasons had a bigger association. If you asked me to put a figure on it I would be surprised it was in excess of 100 a year out of 4,000 and probably something less than that.

CHAIR: To what extent were the deep sleep therapies of Harry Bailey used in King George V or other hospitals? Were these therapies used more extensively on a mother who was to relinquish a child for adoption?

Dr HINDE: Personally I think the reference to deep sleep therapy is really emotive and inappropriate. My understanding of deep sleep therapy was that people were just that, deeply asleep, so that my comment on that would be that reference to deep sleep therapy gives a misleading idea of the degree of sedation that was used because this really involves extremely close to unconscious states for prolonged periods of time. I have already indicated that, certainly, I have good recollection that sedation of one sort or another, narcotic or sedative, was used in high doses in that time because it was the practice to do so. But there was no practice at King George V which laid down a protocol for the administration of drugs like this in a particular dose for women who were giving their babies up for adoption.

The Hon. D. F. MOPPETT: In relation to drug regimes, would you be aware of any discrimination that was used in the

prescribing of labour inducing drugs for either married or unmarried patients? Would there have been any bias to be more quickly use labour inducing treatment in the case of unmarried women compared to married women?

Dr HINDE: Not that I can recall, no, but the only rider that I would put to that is that the 1970s was an era in obstetrics where there were very high induction rates where, for the community at large, and arranging a date to have the baby, come in and getting it over with was a common phenomenon, and if that is looked at in the terms of a relinquishing mother then it is possible in that 1970s era there may have been the concept that you bring the person in perhaps a bit early, as we have heard, to get it all over with and put it all behind you style of thing. But in terms of earlier years, no, I would not suggest that there was a difference in the way that the labours were managed.

The Hon. D. F. MOPPETT: Do you have any reason to believe that there were systematic illegal or unethical practices at King George V during the time you were there?

Dr HINDE: No.

The Hon. Dr A. CHESTERFIELD-EVANS: You talked about the discharge process. Were the words, "socially cleared" ever used on discharge papers? Did they have to be there before single mothers were allowed to be discharged?

Dr HINDE: I do not think it was an expression that I can recall being used at King George, but certainly whether or not the person had signed the consent would be an important consideration, yes.

The Hon. Dr A. CHESTERFIELD-EVANS: So they were kept in until they were signed?

Dr HINDE: Largely because with the signing of the consent, then action could be taken with the placement of the baby. There would be obvious administrative concerns that if the mother went home, and you have heard that many came from far away, you then have a baby in the hospital for which no relinquishment has been made and obviously that, to put it in simple words, creates significant administrative problems while you get it sorted out. Yes, the fact is that you ideally wanted and, I would suggest, probably always had the signature there before the mother was discharged from the hospital.

The Hon. Dr A. CHESTERFIELD-EVANS: Theoretically you would not be able to keep the baby from the mother had not she signed the consent. Would you have a baby that theoretically belonged to somebody else. The hospital would not have legally been able to keep the baby.

Dr HINDE: If you were administering the hospital, I would suggest you have a problem if the mother has taken herself off and you have a baby for which no consent has been signed. I know it is putting it in harsh terms, but you may have difficulty chasing the mother and contacting her to find out what is happening. I realise the thrust of this is non-relinquishing, but on the other hand, occasionally people would have perhaps considered just leaving the hospital and leaving the baby as a solution to the problem. Put it this way, it was a concern that this might happen and the problems that it would generate.

I would like to make a comment on a couple of things. There was some criticism of the attitude in schools. I can only say that I have very clear recollection in the early 1970s of a girl, and I use the term girl because she was still at school and connotes the inexperience that she had, in her last year at a public girls high school who, to my surprise, where the staff went to enormous lengths to assist her to stay at school during most of her pregnancy and the staff went to great lengths to provide her with correspondence, if you like to put it that way, assistance with her studies. I would like to say that so that there is some balance in what you hear, that in fact on occasions people were very supportive.

Secondly, when in private practice I cannot comment on where the emphasis in the department would have laid between the relinquishing mother and the adoptive parents, but certainly it was my practice to warn couples who were going to the department that the major thrust of their interest was the placement of the child and its best welfare. Now, where the relinquishing mother and the adoptive parents came I cannot tell you where that balance was, but certainly I got into the practice of warning people like this because sometimes it came as a surprise to them when they were interviewed by the department to really see that the thrust of the people speaking to them was very much towards what is best for the baby. So I used to warn them in advance.

(The witness withdrew)

JUDY McHUTCHISON, on former oath:

CHAIR: We have the last two questions that we have asked so many women before you, of the measures that might assist women and others experiencing distress due to past adoption practices, and whether you have any comments particularly in the area of reunions and counselling and then further whether you have any particular comments from your experience about support groups.

Ms McHUTCHISON: I went through question 7, did not I?

CHAIR: Yes. We did questions 7 and 8, so we really have 9 and 10 which I guess are interrelated.

Ms McHUTCHISON: I went through the fact that mothers were not provided with copies of their consents?

CHAIR: Yes, and we did the next one in relation on the mores of the time versus the role of the individual's personal views. So we actually only have those last two.

Ms McHUTCHISON: This question relates to the social climate of the time --

CHAIR: No, we have done that one. We are dealing with the questions relating to the measures that might assist women and others experiencing distress and, in particular, your comments on reunions and counselling and the next question is your comments on support groups currently available.

Ms McHUTCHISON: I do not recall finishing No. 8; is that right?

CHAIR: I have it ticked and I have some notes about what you said when you were answering it, so can we go on to these last two questions?

Ms McHUTCHISON: "What measures might assist women and others who are experiencing distress due to past adoption practices? In particular, could you comment on reunions and counselling? Do you have any comments to make about the training of counsellors?" Well, as we know, PARC was established in the early 1990s. I had grave concerns about the establishment of PARC at that time. They appeared to want to give mothers a particular view of their experience. The social workers there seem to place responsibility of the mother losing the child on the social circumstances of the time and avoided any mention of their particular involvement because, despite the harsh social situation at the time, many mothers would have kept their children if they had not gone through a social work and medical environment which was aimed at inducing them to relinquish their children.

I feel, certainly, in the western suburbs and perhaps other areas of high demand like Newcastle, mothers could actually benefit by having PARC like bodies because they have over the years received a lot of experience and I feel that they are a much more valuable body now than when they were first established. Originally they found it very difficult to deal with mothers who were in anger. Anger is a normal part of the grief and many mothers were coerced to relinquish their children, so anger seems a most appropriate response to that.

I live in the western suburbs and I have never envisaged that PARC would have much to offer me. But there have been a lot of changes in PARC and they may have something to offer now, a body, office, in the western suburbs that mothers could use as a drop in centre. Also, some of us mothers, because of our long involvement in adoption, have a huge amount of material that we would like to deposit somewhere, and perhaps there could be a PARC-like service, a drop in service, where someone who had collected vast material on adoption could deposit that material instead of taking up several rooms in our homes.

Training of counsellors: I feel that there may be women who have been unaffected by adoption who may be very valuable counsellors. Recently I have been in touch with Carol Scott at the department and I found her extremely helpful, and that is coming from someone who is quite cynical about social workers and very cynical about the benefits of counselling. I feel that myself and other women who have been involved in adoption for a long time and have spoken to many mothers we could assist in training. They may be already professionally trained, but this is a unique area and we perhaps could make them aware of particular issues regarding relinquishment.

Do you have any comments to make on the support groups available to mothers in New South Wales?

Well, contact with support groups has been immensely powerful in the past. The people who instigated those support groups were very decent, ethical people, animated by putting right what they viewed as an immense wrong. Through my experience with Adoption Triangle and ARMS, I saw an enormous amount taken up by people, who were all volunteers, and some in the upper echelons of Adoption Triangle and ARMS had a very heavy workload, 20 to 60 hours a week, year after year, and I never heard one person complain. Some people came in for the long-term; other people came in to assist for the short-term, but I never heard any one of those people who made this enormous sacrifice claim any recognition for the work that they had been involved in.

There are a lot of really amazing people who were involved during the 1980s. Gloria Rizzon worked for 10 or more years and was able to reunite many hundreds of people separated by adoption. I never heard her complain; never heard her claim any recognition for what she had done. Dorothy Mittas not only worked for ARMS, she worked for Adoption Triangle, so she had a very heavy workload and I have never heard her say anything other than that being involved and having some part in the immense changes that took place has brought her a great deal of personal satisfaction.

My past experience of support groups is that they have been of enormous support for the people involved. They have assisted the people involved to push for change. It is a very validating and powerful experience to meet others who have been through a similar ordeal and I think many of us have been assisted to grow through this most horrific and debilitating experience through the support we received from other mothers.

I would like to see some sort of centre established where, whatever support groups people belong to, they can make use of the facilities; a counsellor there and a computer for people who want to write their story, and hopefully, over the next few years, a lot of people will be writing their autobiographies. I view that as a very powerful way of getting the message across to the general public. It is very hard in academic research to actually focus on and explain the depth of pain that mothers experience.

The people involved, whether as a support group or something set up by a body similar to PARC, need to have the interests

of the mothers as the highest priority. It is not to be directed to achieving some other agenda, for an individual mother who views it as a way of gaining power or status. The important people are the mothers who have survived this dreadful atrocity and whatever is available should be designed to meet their needs and not fit in with the agendas of professionals or have a timeframe set on them: Well, you know, it is 20 years now, you should be moving on. The mothers should be able to move on at their own pace. Counselling can be valuable in giving insight to mothers in relieving some of the guilt they experience, but those involved have to have very sincere motives because we are dealing with a very vulnerable group and I myself do not want to be involved in support groups, so I feel that perhaps there is a need for counselling and for mothers to come together in an independent environment, meet with a professional and benefit from what they have to offer, and also to associate with other mothers and learn to grow and develop through their experience.

You sort of sprung that on me at the last minute.

CHAIR: I did not realise that you did not have those two questions, so I am sorry about that, but thank you.

(The witness withdrew)

LINDA LESLIE GRAHAM, affirmed and examined:

CHAIR: In what capacity do you appear before the Committee?

Ms GRAHAM: As a mother and as Chairperson of Origins.

CHAIR: You have received a summons, you are conversant with the terms of reference and you wish your submission to be included as part of your sworn evidence. Do you want to start by making a statement or do you want to go straight to the questions?

Ms GRAHAM: Straight to the questions, please. Could I include the first and second questions? I have combined them.

CHAIR: Yes, that is fine. It is probably easier for Hansard and for those who have not seen if I read them, or at least summarise them. We basically asked you to briefly explain your experience as a mother whose child was adopted in 1972. For instance, how old were you, how did you feel about the pregnancy, what advice did your parents give you?

We refer to your submission where you explain that you and your boyfriend were planning for your future and made purchases for home and family. Could you explain to us how you came to reside at the Carramar Home for Unmarried Mothers?

Ms GRAHAM: My boyfriend, Stephen, and I took a long time to adjust to and accept the reality of our pregnancy. By the time we realised it was not going to go away I was about five months pregnant, I was 17 and a half, and Stephen was 18 and a half. We had been together for about 18 months and were very much in love.

While our pregnancy certainly was not planned, when the initial shock subsided we adjusted quite easily to our soon-to-be status of marriage and parenthood. This acceptance soon turned to excitement and anticipation with the first movements and little kicks from my baby. We had names chosen and we had even started preparing for our nest. We did not have the nest yet but we did start making purchases for our new family and home. We had already drawn up a guest list for our simple wedding.

There was no doubt in our minds what we wanted for the future. We were sure of each other's love. We were prepared for the future. We were under no illusion that it would be easy, but we knew we could manage it together. We were not too young for these plans to be considered unreasonable. We planned to leave school in order to get jobs immediately so we could show our parents we were responsible. We planned to matriculate later.

We thought that the difficult part was going to be telling our parents, which we did at about six months. Stephen's mother was a little shocked but extremely supportive. She was about to be married for the second time and she planned to go to the Northern Territory with her new husband to live for about two years. She offered us her house to live in for that amount of time and beyond if we needed it. So now we had the nest. It was going well so far.

My mother, on the other hand, shocked and panicked, was unable to give support except from a health perspective. She immediately took me along to Ryde hospital for an antenatal visit, where I had my first encounter with a social worker. At neither my mother's request nor mine, what started out as a routine physical became an interview situation between my mother and the social worker. I was in the room but I was never spoken to or asked my opinion.

As I have said, my mother was distressed by the news of my pregnancy and was grateful for some professional advice. After all, this social worker was an authority on such matters and this was a new experience for my mother. She was relieved to have the burden of this unwelcome dilemma lifted so willingly and efficiently off her shoulders. The social worker suggested I should wait out my pregnancy at a "very reputable Anglican home for unmarried mothers in Turramurra", where I would be well looked after and out of the way of prying eyes.

My mother took this professional advice and arranged for me to move in. By this time I was seven months pregnant. It was here that the word "adoption" was introduced to my vocabulary and, consequently, Stephen's, for the first time. It was a foreign concept and one which I never truly accepted. However, it quickly became a familiar word as it was the only offer or outcome that any member of staff at Carramar ever discussed with us.

I explained my circumstances over and again, that my boyfriend and I wanted to get married; we wanted to raise our baby; we had help; he had a job; and we had secure accommodation. However, I was discharged from Hornsby hospital without my baby. That is the end of question 2.

CHAIR: In an attachment to your submission it is said that another unmarried couple were in the ward with you and were going to keep their baby. Did you contact these people or ask the staff for advice on how you could keep your baby? Why do you think your boyfriend was repeatedly turned away when he came to see you?

Ms GRAHAM: The girl referred to at Carramar was admitted to Hornsby hospital well before her due date with dangerously high blood pressure. During that time she was visited frequently by her very concerned and increasingly supportive mother and father. Had the parents not been as supportive I very much doubt that her boyfriend would have been allowed in the ward to see her. I did not have any visitors or any family support, and I felt isolated.

In Carramar we were all in the same boat. We were all told that we could anticipate going home without our babies. The social workers created an unreality. They made me feel that my pregnancy, my baby, my motherhood, was not real. I was not encouraged to think of my baby as mine. It was indicated to me that I was just carrying him for his real parents, who were far better suited to parenting my child. They said that I would forget about this baby and get on with my life and later, when I was married, I would have my own children. I never did, though, like 50 per cent of mothers whose babies were taken for adoption purposes.

Stephen told the social worker that we had made our decision to get married and raise our baby, but it was as though he was invisible and mute. I realise in hindsight that I had been brainwashed into believing that I was unworthy, and I was made to feel disempowered. Their manipulation was subtle but potent. They used language in a way that was a very powerful tool to achieve their aim, which was to get my baby.

By the use of soft language and a caring tone of voice, they manipulated me into believing that I had come to a decision myself. One way of achieving this was by asking questions that required me to respond with the word "yes". The following example I think will strike a familiar chord with a lot of mothers here: "You love your baby don't you, dear?" Answer, "Yes." "You want what is best for it, don't you?" Answer, "Yes." "Do you want it to have the lovely things and opportunities that you cannot possibly give it?" Answer, "Yes." "You know what the right thing to do is, don't you, dear?" Answer, "Yes."

This doublespeak was constant and unrelenting. For me, it went on for two months prior to my son's birth and then again after. We at Origins have discovered that many mothers need to work through a deprogramming process to wake up to how they came to lose their baby. Did I seek contact with the people or ask the staff for advice on how to keep my baby? I did not seek contact with the couple because when I saw that the girl was allowed to keep her baby because her family was there to support her, I felt even more abandoned because mine was not. I felt my heart was breaking, and I sank further down into my own world. This despair was aided by the amount of medication I was on, and I was not capable of seeking anyone out. Also, I was afraid of hospital staff. They made it very clear to me that I had no rights, not even to see my baby.

My boyfriend was repeatedly denied access to my ward each time he tried to visit me. Hospital staff kept intercepting him before he could reach Godfrey Ward, which was the ward that they reserved for Carramar girls. On the evening of the day that our son was born, Stephen rushed to the hospital after work to be with me only to be denied access. He protested that he was the baby's father and had some right to some information. They refused to give him any information.

Neither of us at that time had the confidence to question authority. However, distressed and confused, he did contact [Matron 1] of Carramar to plead his case and ask for help. She did nothing but to use the language to placate him. She assured him it was for the best and the hospital knew what it was doing, dear. As they kept telling me, it was all in the best interests of the child.

CHAIR: Can we just get something straight? You said it was your opinion that the other couple you are talking about did not have these experiences because of the support from the girl's parents. Did either your mother or Stephen's mother ever visit the hospital?

Ms GRAHAM: No, they didn't visit me in the hospital.

CHAIR: Do you think that was a crucial difference first for him not being able --

Ms GRAHAM: I think parental support, yes.

CHAIR: From either his family or your family?

Ms GRAHAM: Yes. I do not think I was allowed visitors, or I did not get any visitors. As I said, Stephen was not allowed to visit me, but I found out recently that Stephen was allowed to view our baby through the glass. His mother was with him then, but they never came to see me, so I think, yes, parental support did make a big difference. Also, they, the other girl's parents, could be sure that their daughter's rights were being respected. I did not have anybody to do that for me.

CHAIR: From the hospital's point of view you believe that is what made the difference for the other couple?

Ms GRAHAM: Yes.

CHAIR: In your submission you say that your son was medicated for the whole month that he remained in hospital and that he was too ill to be adopted. Can you tell the Committee more about this? For instance, specifically, were you informed of his condition?

Ms GRAHAM: In 1997 I applied for and got my son's hospital records. I was devastated when I discovered for the first time that his condition at birth was described as poor. His APGAR rating score was three, and that was zero for heart rate, zero for respiratory effort, zero for reflex irritability, and his colour was very pale. I learned that my baby was born with the cord wrapped around his neck, he had a heart murmur, a urinary tract infection, jaundice, a blood abnormality, he was not feeding well and vomited almost daily, at times twice daily.

Comments by nurses registered that he was anxious and unhappy and cried a lot, very unsettled. He was given six to eight milligrams of chloral hydrate whenever he could not settle, and on one day it was administered twice and it continued to the day before his discharge. His infant chart and nurse's ward reports were coded, as were mine, with BFA. All hospital staff was alerted to the prescribed procedure for Carramar mother and baby, which was to forbid eye contact, any physical contact or for me to know anything about him. They deprived him of his right to be held, fed, comforted and loved by his own mother, me.

CHAIR: Are you saying that there was a specific policy in Hornsby Hospital to deny all that contact?

Ms GRAHAM: Yes. We were not allowed to see our babies until after we had signed the consent. That was a policy that was well-known and the matron of Carramar in the 1960s, Shirley Jones, actually stated that on a Four Corners program in the 1960s and we have that on video and we have also submitted that video to the Committee.

CHAIR: I did say earlier that we are bound by a number of rules in relation to parliamentary committees and their hearings. One of them is in relation to interjections and another is in relation to handing notes or other material to committee members. I can clear any one of or the whole gallery, I do have that power for that reason, so I would ask people not to interject. This inquiry has credibility if it conducts its procedures according to the rules.

The Hon. Dr A. CHESTERFIELD-EVANS: The superintendent of King George V Hospital gave evidence that there was no specific policy with regard to women for adoption. Are you sure that Hornsby had that as a written policy or was it merely a practice?

Ms GRAHAM: I am not sure that it was a written policy, I do not know of a written policy existing, but by their own admission, or Matron Jones' own admission, it was policy and practice.

The Hon. Dr A. CHESTERFIELD-EVANS: Many policies and practices may not have been written at that time.

CHAIR: Had you been told about this practice or policy when you were at Carramar?

Ms GRAHAM: I do not know. I do not remember. I do know that I asked to see my baby as soon as he was born and many times after that and I was not allowed to see him, so I do not know whether I knew in Carramar or not, I do not remember.

I was the sole legal guardian of my infant and it was my legal right to be informed of my baby's poor health and to have him brought to me. I had never agreed to adoption verbally or in writing to anyone. If I had not been given Stilboestrol to dry up my milk, before consent, I could have given him the nourishment and nurturing he needed.

My son remained in Hornsby hospital for over three weeks until he was discharged to foster care. He remained there for a further 45 days. Adele Elliot of Anglicare told me that the prolonged stay was due to my infant's poor health rendering him unsuitable for placement with his adopters.

I was also informed that the adoptive mother needed to give notice of leave to her employer. Hornsby District Hospital employed her as a nursing sister in the maternity and nursery wards. I do not know if she was the nurse who took my baby from me immediately after his birth or if she was the one who gave my son the chloral hydrate to stop his crying. I have been told that prospective adopters used to do community work at Carramar, like taking mothers to antenatal check-ups. This gave them the opportunity to look us over. Two decades later when I met her she referred to the Carramar girls as low-life. She got two Carramar babies.

That completes question 4.

CHAIR: What involvement did your boyfriend have in the decision to adopt your son and in your attempts to get him back?

Ms GRAHAM: He had no part in the decision to adopt our son, as the social workers did not consult him, or me, when they made it.

Stephen was very supportive of me and we wanted the same outcome: A family. We had made our decision to get jobs, get married and raise our baby. By the time I was incarcerated in Carramar, Stephen had found stable employment. He was excluded by social workers from all discussions regarding his son's future. At an interview with [Matron 1], Stephen made very clear his decision and choice for marriage and parenthood based on serious consideration, our serious consideration, of all options and an

awareness of the difficulties that may lie ahead. This decision was glossed over by [Matron 1] and discouraged and no discussion was entered into. The meeting with the matron had been scheduled for Stephen's lunch break and, as he worked quite a distance from Carramar, he arrived a little late. As a consequence, the only information our son had of his father was that he was unreliable, which was marked on the social work records.

On the eighth day I signed a document that I did not understand because it had never been explained to me. I was under the influence of eight days' worth of heavy sedatives. I assumed Stephen's name as well as mine would be on the birth certificate because no one told me any different. We named our son Ben.

Contrary to Alison Croft's evidence, I was never informed of the correct procedure for revocation. I remember being dropped off in front of the hospital by my sister about 10 days after I had been discharged. I recall jumping out of the car and running towards the main entrance to get my baby. It is a fragment memory and I cannot recall what occurred once I was inside the hospital. That is all I remember. I blocked this experience out.

Stephen has since told me that on the 30th day, as I was close to collapse, distraught and in a panic, we telephoned a number that I had been given. We had a number. We do not remember who gave it to us. We tried to get our baby back. He does not remember what was said to me, only that I was hysterical when the receiver was replaced and he had grave fears for my condition. We did not get our baby back.

I blocked the whole pregnancy and childbirth experience out and I remained dissociated and split off from that reality for 20 years.

CHAIR: When you went back to the hospital your son was still there, but you would not have known that.

Ms GRAHAM: No.

CHAIR: You said your son was in hospital for three weeks and you went back 10 days after you were discharged?

Ms GRAHAM: Yes, he would have been there then and then the second time he would have been in foster care. I have tried to find out who that was, who the foster carer was, but Anglicare have no records and cannot tell me, cannot tell me who my son was staying with for 45 days of his life.

CHAIR: Turning now to your work with Origins, as chairperson of Origins, can you please give the Committee some information on the alleged practice of rapid adoptions? For instance, can you explain the nature of rapid adoption? Are you able to give the Committee specific details of one or more cases where a rapid adoption has taken place?

Ms GRAHAM: The term "rapid adoption" was used by both the medical profession and the Department of Child Welfare to describe the need for a rapid decision to be made by a married couple who had recently given birth to a stillborn child, was unable to reproduce again and was offered the option of adopting a substitute baby to replace their own dead infant. As the couple had not intended to adopt and would therefore not have been on any adoption register, these placements would have needed to be given priority and rushed through, hence the term.

Because we have no way of knowing which adoptive mother had suffered the loss of a stillborn child, we can only respond from the point of natural mothers being told their babies had died.

Whilst Origins and many other self-support groups across the nation were inundated with inquiries from mothers who had been told their babies had died and/or were found by their so-called dead babies, after the 1996 media exposure of what was labelled the "stillborn baby scandal", many mothers sought out death certificates, coroners' reports, grave sites, et cetera. To our knowledge, either none were found or adoption papers had been signed. However, we believe, as do the mothers concerned, that they signed adoption papers in their twilight induced sleep having been led to believe that they were death certificate notifications or such.

One example we can draw to your attention is a case taken up by PIAC which in 1997 began an action on behalf of a mother who claimed she had been told her child had died at birth and was found by her dead baby some years earlier. PIAC would have to elaborate on this case.

Another mother, reunited with her daughter, explained that, as a minor in 1963, she had refused to sign a consent and was told by the almoner, [...], that her signature was unnecessary as her mother had already signed. After 29 years of bitterness, hating her mother and cutting off contact, she discovered in 1992 that her mother had been told that the baby had died and had not actually signed anything. To our member's regret, she had been punishing her mother for 30 years for something she had not done.

To further exacerbate her suffering, this woman had an O Rh negative blood group. When she was about to be injected with the anti-D injection, her doctor said, "Don't give her anti-D, she is not married". The consequences of this act of malpractice rendered the mother infertile. We have a letter here to be tabled to validate that mother's claim.

Another mother at South Sydney Hospital had been told her baby had died when she returned after nine days to revoke her consent and reclaim her child. Some years later she was approached socially by a nurse from the hospital who had remembered her face and was told that her baby had not died, that she was only told that to prevent revocation. In trauma, she put it out of her mind until she was found by her dead baby after legislative change in 1991, whereupon she began to recall that conversation many years earlier with the nurse. Her dead daughter was living in Nowra.

Additionally, page 128 of the 1992 Law Reform Commission report reports, along with a number of other illegal actions, that:

Some practices involved the deception of the birth mother: examples included concealing the words on the document of consent or misrepresenting the document, and telling the birth mother, contrary to the fact, the child had died shortly after birth. Many of these practices were illegal.

We would like to table that document as well.

The Hon. A. B. MANSON: Going on with question 7, in evidence to the Committee Ms Wellfare said that the practice was widely accepted by obstetricians. Can you tell the Committee how Origins came to understand this and do you have any figures on the numbers of cases of rapid adoption and where they occurred?

Ms GRAHAM: A general discussion on the subject of rapid adoptions can be found on pages 26 through to 28 of the Adoption Services of the Department of Child and Social Welfare of New South Wales Preceding Seminar held on Friday, 3 February 1967, to proclaim the Adoption of Children Act 1965.

Ms Pamela Roberts, head social worker at Crown Street Women's Hospital, asked for the panel's comments on placing a surrendered baby with a mother who had just lost her own baby at birth and cannot have another.

Dr Stening of the Royal Alexandra Hospital for Children replied with:

"In my experience this kind of rapid adoption has rarely, if ever, failed".

Ms Mary McLelland, senior lecturer in social work at Sydney University, explains that:

"Although rapid adoptions may be rather hit and miss, many of them are successful. A characteristic is that the parents forget the baby is adopted. This child is later not told he is adopted".

Dr Lyle Brown, general practitioner, explains:

"Adopting parents tend to be more anxious about the child than natural parents. However, in rapid adoption this is largely avoided, with consequent benefits to the child".

Additionally, although Dr Blow, consultant psychiatrist, New South Wales Department of Child Welfare and Social Services, agrees that rapid adoption seems to have much to recommend it, he claims to have reservations, as the mourning process is an important and necessary process. He also recommends that further study is needed on the question of rapid adoption.

Mr Langshaw also sees the advantages as regards the child's physical relationship with its mother (breastfeeding, et cetera), although his concern was in the time needed to make a decision to adopt.

Dr Grigor of the Royal Alexander Hospital for Children also refers to Mr Langshaw's statement of concern regarding the problem associated with the new Adoption Act's 30 day revocation period and its potential to cause the demise of rapid adoption.

Mr Langshaw, Deputy Director, Department of Child Welfare and Social Welfare NSW, states:

"Perhaps one of the most desirable adoptions, and in my opinion the most likely to be successful, can take place where the mother, who for many possible reasons is unable to have further pregnancies, has just lost a baby, all the physiological and psychological preparation for the nursing of the baby have taken place and this woman would be able to breastfeed the baby. If an appropriate baby is available for adoption I personally hope that this Act would not prevent such an adoption".

We have a document to be tabled as well. While it is unclear whether rapid adoption ceased after 1967 with the Adoption of Children Act specifically demanding that a mother be informed of the reduced revocation period of 30 days as a legal requirement of the new Act, it is our belief that rapid adoption, because of its sensitive nature, would be a potential reason why many mothers were either told that their babies had died at birth or were not being informed of the revocation period as it would stand to reason that no obstetrician would risk having to remove the replacement baby from grieving adoptive parents to return it to the rightful mother should she attempt to revoke her consent.

Another example, Jane [...], a 23-year-old mother, entered [a Sydney] Hospital to deliver her child [in] 1985*. She gave birth to a living girl. The following day two social workers came to tell her that her baby was sick. Jane asked to see her baby, and they then told her she was dead. When she insisted on seeing her baby they took her to the morgue and showed her a big baby which looked about a year old to Jane. Social workers discouraged any visitors, including Jane's own mother, who was told not to visit as her daughter needed time to grieve.

* The Committee has resolved that identifying information in relation to this allegation be removed from the transcript. The details provided by Ms Graham have been referred to the New South Wales Health Department for investigation.

Jane had to argue with the hospital's funeral director about which cemetery to use and was not permitted to see inside the coffin. There are many conflicting details on her records. Her records say her baby died intrauterine a month earlier; another states she died a few days prior to birth. The social workers told her she died a few days after the birth. She acquired a nursery card, which she still has. Nursery cards are not given with stillborns. There is no record on any stillbirth register of her baby. We would like to table Jane's hospital records.

Finally, I would like to add that in attempting to obtain more information on the process of rapid adoptions, upon phoning the Australian Association of Social Workers in Canberra, we were advised to contact either the Department of Community Services or, specifically, Mrs Margaret McDonald. In neither case was either Mr Ron Dyer or Mrs McDonald prepared to acknowledge that rapid adoptions existed.

The Hon. D. F. MOPPETT: I was for a moment confused, but I think your answer has clarified at least one point. You described the process of rapid adoption being really the placement of a baby with a mother who delivered a stillborn baby. That is the rapid adoption actually. But am I right in saying that that then encouraged the development of a practice whereby to sort of truncate the process of normal adoption, the mother of another baby was deliberately misled that her child was stillborn?

Ms GRAHAM: Absolutely. So they could just do a complete swap over and while she thought she was signing a death certificate, or whatever the certificate is that people sign with stillbirths, she was actually signing an adoption consent form, which she was never aware of. A lot of these women obviously do not know that this has happened to them.

The Hon. Dr. A. CHESTERFIELD-EVANS: In the case you were referring to of Jane [...], are you suggesting that her baby was stolen and that the baby had been adopted by rapid adoption? Has a consent form turned up with her name on it, an adoption consent form?

Ms GRAHAM: No. It is still under investigation. We have not got all the documents, the certificates. We do not know if there is an adoption form because we do not -

The Hon. Dr. A. CHESTERFIELD-EVANS: Surely that can be searched for?

Ms GRAHAM: Yes. Jane has just come forward because she was responding to some media reports that prompted her. She has never been satisfied with the information that she was given. At the time, she did make a claim that she was unsatisfied because there were too many anomalies in her situation and too much conflicting evidence on the records.

So she got the Medical Board to do an investigation. That was started, and she was waiting to be told how it was going. When she rang up to find out - I am not sure how much time transpired - they just told her, "That case has been closed and the investigation is over." She got no satisfaction, nobody explained it at all. That was in 1985, in the same year that she lost her baby, and now she has just come to Origins recently with this information.

The Hon. D. F. MOPPETT: I cannot speak for my colleague but the reason that I want to be quite clear about this is that what you are suggesting requires a degree of collaboration. To achieve the objective, there would be a lot of people exposing themselves to very serious predicaments. It is not one person who says, "I can get away with this." A whole series of people have to collaborate and become totally dependent on all remaining collaborators for the whole thing to be held in confidence, it would seem to me, and I think this is what we need to establish in our minds, are we talking about a number of tragic anomalies or are we talking about the development of a system?

Ms GRAHAM: Yes.

The Hon. D. F. MOPPETT: Do you believe it was a system?

Ms GRAHAM: Yes.

CHAIR: This case in 1985 that you are talking about, as I understand it, you are saying that the woman concerned obtained a body which was then buried - I think you referred to a coffin - and that no mention of adoption was ever made by anybody to anybody?

Ms GRAHAM: No, not at all.

CHAIR: But she now believes that it is possible that instead of her baby being dead, that the baby was in fact adopted and the dead baby came from somewhere else. That is the suggestion, is it? That is the gist of it?

Ms GRAHAM: Yes. She remembers that there was another woman in the hospital. I actually asked her if there were any other babies born around the same time, and she said at first, no, and then she said, yes, the day before a woman did give birth but the baby was stillborn. Now, some of her medical records say that she was admitted to the hospital on [one date] and some say on [another date], so, it looks highly suspicious.

CHAIR: Are you suggesting that a number of people at this particular hospital colluded in a series of criminal acts to replace the baby of one woman with the baby of another?

Ms GRAHAM: Yes.

CHAIR: And to bury a baby, to hand over a body to the mother and allow her to bury it when in fact it was not her baby?

Ms GRAHAM: Yes.

The Hon. Dr A. CHESTERFIELD-EVANS: The only hard evidence you have, though, is that she did not think that the baby was at risk? She only saw it the once, is that correct? She did not see it immediately after birth?

Ms GRAHAM: She saw it immediately after birth.

The Hon. Dr A. CHESTERFIELD-EVANS: And then she saw a baby that was dead that she thought was too big to be her baby? She did not recognise it as the same baby?

Ms GRAHAM: It was a tiny baby that she had given birth to and she saw a great big baby, about 10 months old or a year old, so she said she knew the difference between the sizes. It was very obvious.

CHAIR: It may be that in some of these cases it might be sensible not to use names in giving this evidence because, obviously, the suggestions being made of criminal action are very serious. Given the nature of the evidence to a parliamentary committee it may you would be better off not to use the woman's name or, indeed, the names of people you might be alleging have committed criminal offences. You might be better to refer to "the woman" or "the doctor" or "the funeral director" or "the nurse".

Ms GRAHAM: Right, okay.

CHAIR: Because what you are saying, if it could be established, is obviously incredibly serious about the actions of quite a large number of people.

The Hon. A. B. MANSON: What about privilege?

CHAIR: We are covered by privilege but the people named under privilege have certain rights. I suppose we also have to be concerned about the reputation of people who are named under privilege with, perhaps, not much evidence to suggest or support what they are alleged to have done.

Ms GRAHAM: So should I withdraw the name?

CHAIR: It is too late but if you are giving any other examples it would be sensible to be very careful.

Ms GRAHAM: Okay. That was the last example.

The Hon. A. B. MANSON: Going on to question 8, in evidence to the Committee, Ms Welfare explained that Origins has over 600 members in New South Wales, that she had spoken to over 2,000 mothers and that, almost without exception, the mother's confinement process followed a routine pattern. She said also that Origins had never come across any mother who had any idea there were alternatives to adoption prior to 1973 until they heard from Origins.

Is it your view that no prospective single mothers were ever informed about alternatives? Why do you think that is? Do you think it is possible that adoption practitioners were not aware of alternatives? Do you think that the adoption was the only viable alternative for many young women?

Ms GRAHAM: In answer to the first part, yes, it is Origins' view. As it is still historically understood that the sole parent's benefit did not come into existence until July 1973 and was understood to be a major factor in the decline of adoptable babies, we feel quite comfortable in our assertion that at least until 1973 no alternatives to adoption were being offered. Post-1973 those alternatives were still being hidden from many uninformed young women, but we are unable to ascertain how many mothers who lost their babies had actually been given this information during the 1970s.

As we have never used anecdotal evidence in making our allegations to this inquiry other than the mothers' own testimonies but have instead used the law, the social work profession's and the medical profession's own literature and documentation to validate our claims. Probably the best way to respond to this question is to use a few examples of the social workers' own literature as a way of explanation.

Although our response to this question will be answered in more depth in question 9, one very concise publication put out by the National Association of Social Workers, 1964, titled, "Social Work and Social Problems" describes how the adoption industry views the unmarried mother and her child. To quote:

Today, for a complex series of reasons that cannot be traced here, one major group of babies born out of wedlock is no longer considered a social problem. Indeed, these white, physically healthy babies are considered to be SOCIAL BOON, AN ASSET. They are awaited with impatient eagerness by married couples unable to have their own.

The author adds:

Because there are many more married couples wanting to adopt newborn white babies than there are babies, it may also be said that they, rather than the out of wedlock babies, are the social problem.

Sometimes social workers in adoption agencies have facetiously suggested setting up social provisions for more baby breeding.

In recent years these services for unmarried mothers have also taken on the purpose of protecting the wellbeing of the baby to come, valued today for its adoptability.

As for the problem of the unmarried mother herself, if she has by her own efforts or with help been able to give away the living symbol of her sin or mistake and pick up where she left off, she is solved as a social problem. If she keeps her child but needs no economic support, she is lost to public view. So, so far as is known, she is no problem. The assumption is she is paying for her transgression, and this is a morally satisfying assumption.

If, however, she keeps her child and requires economic aids for the support of herself and her child, she is not paying. Indeed, it commonly appears that perhaps she is being paid for her sins and, by such payment, even encouraged to further sexual irresponsibility.

Another example, in 1961, Clark Vincent:

If the demand for adoptable babies continues to exceed the supply then it is quite possible that, in the near future, unwed mothers will be punished by having their children taken from them right after birth. A policy like this would not be executed, nor labelled explicitly as punishment. Rather it would be implemented by such pressures and labels as: (1) scientific findings; (2) the best interest of the child; (3) rehabilitation of the unwed mother and (4) the stability of family and society.

Vincent prefaced his study by adding the following disclaimer:

We must emphasise that the present study concerned white, maternity-home unwed mothers. We must also emphasise the fact that this study was made in a location where and at a time when a demand for white adoptable infants existed.

In answer to the question, do you think it is possible that adoption practitioners were not aware of the alternatives, no, and ignorance of the law and professional standards is no legal defence.

The law was very clear in stating how a mother had to be offered all alternatives to enable her to keep her child, in her child's best interest, and to be warned of the lifelong consequences of adoption. Only if she still insisted upon adoption once all alternatives and warnings had been made available to her could an adoption proceed.

It is our view that the adoption industry had such contempt of the law and single mothers that they put their own moral imperatives above that of the State and became a law unto themselves.

A few examples of what they knew, found within their own literature, are as follows:

An explanation of the Child Welfare Act 17 1939 regulations found in the book titled *Children in Need* by Donald McLean, 1956, and endorsed by the then Deputy Premier, Mr Heffron, explains:

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

To avoid any misunderstanding or any suggestion that the mother was misled or uninformed, District Officers are instructed to explain fully to the mother, before taking the consent, the facilities which are available to help her keep the child. These include: Homes licensed under the Child Welfare Act for the private care of children apart from natural parents; financial assistance to unmarried mothers under section 27 of the Child Welfare Act; admission to State control until the mother is in a position to care for her child, and assistance to affiliate the child and obtain a maintenance order against the putative father.

Appropriate practical advice should be available to the natural mother so that she may decide freely whether to keep her child or whether to have him adopted.

When all of these aids have been rejected, the officer is expected to explain to the mother the full implications of the act of surrendering her child. Only when a mother has considered these and still wishes to proceed with the surrender should the consent be accepted.

Child Welfare of New South Wales 1958 Social Work Training Manual reiterates the above.

Again in 1968 the Department of Social Welfare reported on benefits available to unmarried mothers. Allowances for children, section 27, explicitly states that:

Not all unmarried mothers wish to have their child adopted and in many cases have no family at hand to help with the care of the child. This embryo family group has an important mother-child relationship that needs both support and nurture and the department assists the mother by acting for her in affiliation proceedings and by the granting of regular allowances once the mother's eligibility has been established. The services of the Social Aid Branch are also used in special cases to supply a layette, special foods and milk. Many unmarried mothers

call on the services of the department to act for them in court to obtain an affiliation order. There is no charge for this service.

Ms Pamela Roberts, at the Eleventh National Conference Proceedings 1969, outlined the facilities available to the unmarried mother, which included the following.

Financial assistance: From the Commonwealth the unmarried mother receives the maternity allowance of \$30 and thereafter child endowment of 50 cents a week and is entitled to a benefit from the State which varies according to circumstances but is always \$1 below that of the widow's pension which, in 1968, was \$23 a week.

Child day care facilities: She will be given priority at one of the six Sydney Nurseries Association day nurseries which take children under the age of two years.

Accommodation: In New South Wales she can apply to the Housing Commission for accommodation and she will probably be allocated a flat. In 1968 the average waiting time was three to three and a half years. There was one infants' home in Sydney where a mother could go with her child.

The new Adoption of Children Act 1965 then added offence clauses into legislation against coercion, duress and undue influence to prevent exploitation of mother and child, but they were never enforced.

In 1965 Mary Lewis, social worker, Catholic Family Welfare Bureau, Sydney, presented a paper titled Unmarried Mothers to an Australian Association Welfare Workers National Conference. In it she explains that the unmarried mother,

must be free to see, nurse and/or nurture her baby, whether or not her final plan is adoption.

Many agencies in this country have punitive, illegal and harmful rules regarding the unmarried mother's inalienable right to physical contact with her child when she has decided on adoption.

Some agencies refuse to allow the unmarried mother to see her child, nor do they tell her the child's sex.

While this may be done with the best motives, these misguided people should look more carefully into the situation.

As if that was not enough to force the adoption industry to begin complying with the law, at the First Australian Conference on Adoption in 1976, Father J Davoren, Director, Catholic Social Welfare Commission (NSW), had to again remind adoption professionals and the medical profession that they were in breach of the law. In addressing his professional audience, Father Davoren explains the way the system was set up to allow for a distortion of a balanced view in adoption, which caused a confusion in professional adoption practice that was both damaging and dangerous. Condemning the adoption worker for this confusion, he goes on to say:

In the long run the blame for this confusion must be laid at the door of the adoption workers who alone have been in the position of appreciating the whole system.

In regard to the natural mother's rights he explained how:

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 the way of physical and medical treatment, and she has the same 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 who is not subject to a committal for psychiatric reasons. She has the right to see anyone she wishes, including the putative father of the child, and he has a 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 the 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.

Of course, the Committee is already aware of the New South Wales Health Commission's policy warning distributed to all hospitals within the State of New South Wales in 1982 outlining their need to get a policy on adoption in place - to prevent future litigation?

To reiterate our response to the above question: No. It is not possible to assume the adoption profession was ignorant of the alternatives to adoption, nor is it possible to assume either the adoption profession or the medical profession was ignorant of their own professional standards of care put down in law to protect the rights of unmarried mothers.

At this point I wish to table the questionnaires of a survey that Origins sent out to mothers requesting information regarding comments written by social workers on their social work records. We have them here and we would like to table those, but I would like to read a few of them, if I may?

CHAIR: Yes. Could I just draw your attention to the fact that we are already running quite late for Link-Up, so if you could

perhaps read fewer.

Ms GRAHAM: Okay, I will not read them, we will table them.

The Hon. Dr A. CHESTERFIELD-EVANS: In evidence to the inquiry a former adoption worker acknowledged that there was a social system that was coercive. By "social system" the witness included community attitudes, views of churches, politics, media and family and the stigma of illegitimacy. Do you think that practitioners working in the adoption field simply reflected the mores of their time or do you believe an individual's personal views and expectations influenced adoption practice?

Ms GRAHAM: Trying to rush it, prior to the 1950s, charitable organisations such as the Benevolent Society and the Salvation Army provided accommodation for unmarried mothers and even assisted them in finding employment. It was when the social welfare took over the control of illegitimacy during the post-war period that a market for infants was born and the white, healthy newborn was seen as a desirable commodity which would not only meet the needs of infertile couples but would simultaneously save the Government paying out pensions. It was after the social welfare took control that conspiracy to defraud mothers of their newborn instances came into being on a massive scale. It is one thing to experience the pressure of social mores and another to be subjected to illegal and unethical conduct and its devastating lasting effects.

Social workers feign astonishment at the notion of any conspiracy. They repeatedly argue that crimes and unethical practices were the exception rather than the rule. In her testimony, Ms Margaret McDonald states that her actions and those of her colleagues were based on four pillars, to quote:

(1) Our respect for the law, that is our understanding of the Adoption of Children Act and our obligations under that Act;

(2) our commitment to the interests and welfare of the child as a paramount consideration as directed by the Act;

(3) our respect for the right of the birth mother to make a decision which she saw as being in her child's and her own interests, and

(4) our commitment to dealing fairly and professionally with the applicants for adoption.

As to the first pillar, according to the Adoption of Children Act 1964, sections 23-25:

The mother of an illegitimate child is recognised by the Act as having the full status of a parent of a child born in wedlock and her consent is just as necessary to the making of an order as is the consent of the parents of a legitimate child.

The Hon. Dr A. CHESTERFIELD-EVANS: You have basically made allegations of a pretty massive conspiracy, saying that the drive for white babies was a hugely motivating force. No doubt there was a huge drive for white babies, but that would be, I suppose you would say, circumstantial evidence. There is this massive change in practices that occurred right across the board. You said also that pensions would be saved. Were there any pensions in fact before Gough Whitlam?

Ms GRAHAM: There were, yes. In the last answer I talked about the widow's pension. It would be a dollar less than a widow's pension at all times, so the mother has always been entitled to that.

The Hon. Dr A. CHESTERFIELD-EVANS: If that is such a huge conspiracy, would you not expect there to be some documentation?

Ms GRAHAM: We have documentation. It is all here. Can I proceed?

CHAIR: Yes.

Ms GRAHAM: Yet Judith M. Watkins in her article "Motivation of Adoptive Parents", published in the *New South Wales Social Service Journal* fully acknowledges that parenthood is the most fundamental human experience of any time, that any frustration to this strong stream of feeling and living involves the whole person. However, she is referring to the infertile couples in particular and not at all to the unmarried mother. She said that the strong instinctive feelings which are aroused, the biological drive, the emotional need to give and to receive love, the family sense of belonging to the past and contributing to the future do not from the adoption worker's point of view pertain to the unmarried mother.

According to a psychiatrist who wrote on behalf of the Presbyterian Church of Australia, unmarried mothers were all too often "looked upon as a lower order of human beings, as animals who live by their instincts". He immediately added:

Nothing is further from the truth, and it is essential that the whole community be made ... to realise that they are just human beings like themselves.

Others, such as F. Grunseit, preferred to cling to the stereotypical image of the unmarried mother. Grunseit's article "The Adoption of Infants and the Role of the Advisory Clinic in New South Wales", published in the *Medical Journal of Australia*, 1973, remarks that unmarried mothers are "likely to be poor, undernourished, and of low intelligence, if not actually retarded".

This kind of stereotyping also facilitated and, for some, justified the permanent separation of the mother from her infant.

It also facilitated the burgeoning of what was to become usual or routine practice within the adoption industry. This routine practice was in direct conflict of the adoption standards referred to in question 8. These practices were, in fact, illegal and/or unethical, which gives testimony of their contempt for statutory law, common law and basic human rights. For instance, coercive techniques and using undue influence to gain consent was in breach of section 57A of the Adoption of Children Act 1965.

This Act also allows for the discharge of adoption orders. Under section 25(1) an adoption order may be discharged if the court is satisfied that the consent was not given in accordance with this Act, the consent was obtained by fraud, duress or other improper means, the instrument of consent has been altered in a material particular without authority, the person giving or purporting to give the consent was not on the date of -

CHAIR: May I interrupt for a moment. I think you have moved away from the question. The question is really about individuals' personal views as compared to the social mores of the time, which we have asked I think most witnesses today. I think you are probably giving us material in relation to sections of the Act, which we have had before. It is just that we are again getting so far behind time. Could we perhaps go on to the last question? We would like to hear what you have got to say. We do in fact have a submission from PIAC, and PIAC will be giving evidence in due course in relation to the attempts that have been made by several mothers to have their cases prosecuted, but we are anxious to hear from you if there are any future plans to pursue either criminal or civil legal action, and that obviously relates to what you were saying then.

Ms GRAHAM: In the case of *W. v The State of New South Wales*, Master Terrence Greenwood based his decision on the fact that Ms W passed on the first limitations test but failed on the second. All judges of the Court of Appeal of the Supreme Court of New South Wales in the three attempts to overturn the limitations criteria found that while W. passed the first test in providing good reason for the time delay she failed in the second. This is because Mrs Brenda Smith, the hospital almoner, whose responsibility it was to offer the plaintiff alternatives to adoption prior to the birth had committed suicide in 1989.

The district officer, who had been on a four- year working holiday in Australia, Ms Elizabeth King Goss - now residing back in New Mexico - had the responsibility to ensure that the plaintiff had been made aware of her alternatives prior to taking her consent after the birth. She claimed she could not specifically recall the plaintiff as she had taken 800 consents during her term of employment with Crown Street Women's Hospital, thus prejudicing the State's ability to defend itself.

While Master Greenwood did not dispute that these practices did exist, he accepted the testimony of Mrs Thorne - nee Roberts - who declared that such practices were the legally accepted routine of the time and that they supposedly changed in 1969 without having reviewed the actual legislation, law and the practices that were meant to be followed at the time, which contradicts her testimony. Ms W's documented evidence was not taken into consideration and was, in fact, misrepresented. We have a letter to table. It was recently discovered that Master Terrence Greenwood -

CHAIR: Would you go to that part about whether there are any future plans? As I said, PIAC is coming, and it will go through this, but we do not have any evidence about whether there are any future plans.

Ms GRAHAM: In response to documented evidence and research material sent to them by Origins in relation to the possibility of litigation, a leading Melbourne law firm responded as follows:

After reading the material you have provided to us, it is our view that it may be possible to bring a claim under the following causes of action which lawyers called torts. These include

- . Breaches of statutory duty
- . Assault
- . Negligence
- . Wrongful imprisonment,
- . Malpractice
- . Fraud

A number of mothers had begun independent proceedings for pain and suffering. *Taylor v The State of Queensland* is soon to be presented to court. A number of mothers intend to seek justice through the DPP. The Origins committee has also been called upon for assistance by a number of legal firms to provide documentation to more recent adoption-related cases on the known psychological effects of adoption separation. We believe that the evidence we have presented to this inquiry and our research into adoption legislation is bringing about a new understanding to the legal profession, which is now being addressed and understood. That answers the question.

(The witness withdrew)

Please note that the following transcript is an uncorrected proof.

BARRY JOHN DUROUX, Co-ordinator, Link-Up (NSW) Aboriginal Corporation, and

WENDY ANN HERMESTON, Senior Caseworker, Link-up (NSW) Aboriginal Corporation, affirmed and examined:

CHAIR: Have you received a summons and are you conversant with the terms of reference?

Mr DUROUX: That is correct.

CHAIR: You have not made a submission.

Mr DUROUX: Not at this stage.

CHAIR: Do either or both of you wish to make any statement before we go through these questions?

Mr DUROUX: Not particularly.

CHAIR: Have you received a summons and are you conversant with the terms of reference?

Ms HERMESTON: Yes.

CHAIR: Can you please briefly explain to the Committee the role and the function of Link-Up? When and for what reason was it established?

Mr DUROUX: Link-Up (NSW) was established in 1980 by Peter Reid and Colin Edwards. It was specifically established to assist Aboriginal adults who were separated under government policy either by removal, separation, adoption or fostering, and our role is to assist these people to find their immediate family and to reunite them with their immediate family. Since 1991, a lot of adoptees have gone through our organisation trying to locate their families. That is basically the bottom line.

CHAIR: Have you collected any statistical data or can you give the Committee any rough indication if you do not have exact figures on the number of Aboriginal people experiencing a negative impact from past adoption practices?

Mr DUROUX: It is really hard to say. We have got a client base of about 1,300. Our records show that at least 10 per cent but probably around 20 per cent would be adoptees. Basically a lot of it is to do with identity and cultural aspects. We mainly help adoptees in locating their family and counsel many natural mothers whose children have been taken from them.

Ms HERMESTON: The question that you could replace that with is: How many Aboriginal persons have not had a negative impact from past practices of adoption? Sometimes our clients clearly state, "We felt very lucky growing up. We felt we were very lucky to be placed in our family. We have had a good life," and that kind of thing. During the counselling and assistance in finding their families, they will start out being very protective of their adoptive family and very much stick up for them, and that is natural enough, for they have been their family for that period of time, and they worry about how their adoptive parents will handle them finding their families.

In quite a few cases people who come to us searching for their birth parents do not want to tell their adoptive parents that they are actually searching for fear of upsetting them. As your relationship with the client goes on, negative impacts inevitably come out in one way or another, and they are usually to do with identity issues. That is something that all people who are adopted have to deal with, whether Aboriginal or non-Aboriginal.

Quite a lot of the issues that come up are to do with abandonment, rejection and the impact that has later on in life on relationships, breakdowns in relationships, substance abuse, alcohol abuse, domestic violence, parenting skills, criminal or, I suppose you could say, anti-social behaviour and things like that. Then, of course, there are all the cultural issues that Aboriginal people deal with on top of the issues that all people who are adopted deal with. Not many people come to us who do not have some kind of issue that is a negative impact from their being adopted. Very few people come to us who do not have something to do with dealing with being adopted.

The Hon. D. F. MOPPETT: I think in your opening remarks you said that 10 per cent would be adoptees and that you have a client base of 1,300. For a moment I assumed that you were saying that about 10 per cent of the 1,300 people on your database you attribute these negative impacts to, although Wendy has now qualified that by saying maybe that might be an initial assessment in her opinion. A large majority?

Ms HERMESTON: In my opinion, a large majority have had some negative impact.

CHAIR: I assume that quite a few of the people you deal with have not actually been formally adopted. So in your case, as an organisation, you are actually dealing with impacts of people being removed from their families where the effects may be very similar but it is not necessarily a case of legal adoptions. I just wondered if you could give us some sort of indication of the breakdown of those sorts of cases?

Mr DUROUX: Well, just off the top of my head, I would say at least 20 percent of our clients are formal adoptions, and I think that is a pretty conservative estimate.

CHAIR: And the others are what?

Mr DUROUX: Fostered, institutionalised.

CHAIR: Wards?

Mr DUROUX: Yes, wards or some are actually the older ones who went through Cootamundra Girls' Home and Kinchela, those sorts of circumstances, but since 1991, since the adoption laws changed, there has been a steady increase in natural parents and adoptees utilising our service as well.

Ms HERMESTON: In fact the majority of people who call us now - I would say most of the new clients that give us a call and ask to use our services, to me pretty much most of the people, although I could not give you a percentage, but most of the calls we take - are to do with adoptions.

CHAIR: So you might say, roughly speaking, during the 1980s, given that Link-Up was founded in 1980, the majority of the cases you dealt with would have been from people who were removed from their families and sent into foster care or institutions or wards, whereas the next decade they were mostly to do with formal legal adoptions?

Mr DUROUX: Yes, once the adoption laws changed and people could access their records.

CHAIR: You have already said something about this, Wendy, but perhaps you could go on a bit more about our third question, commenting on the cultural issues surrounding adoption practice which have a particular relevance to Aboriginal people, for instance, the adoption of Aboriginal children into non-Aboriginal families.

Ms HERMESTON: Well, as I said before, I think it is a very rare situation, and I have never come across anybody who has come to us who has not had some kind of issue to deal with as a result of being adopted. No matter what length of time it takes to get into the issue and to try and resolve it, no matter how many issues there are, it is very rare that someone does come to us without some kind of problem and, as I said, for adoptees, they all deal with issues surrounding adoption, but for people who come to Link-Up there are other issues to deal with relating to cultural issues.

It is pretty well-known amongst Link-Up and also as a result of the Human Rights and Equal Opportunity Commission inquiry into removal and separation of Aboriginal people from their families that the aims behind the Aboriginal Protection Act which came into place in 1909, the amended Act in 1915 and further amendments made in 1943, the aim behind Aboriginal children being removed from their families was to stop them from growing up to be Aboriginal people. It is well-documented, it is all there, and I think that is where the difference comes into play between Aboriginal children dealing with the effects of being adopted and non-Aboriginal children dealing with the effects. That is not to take anything away at all from the pain that everyone has probably heard through this inquiry of women telling of their experiences, it is not to take away from that at all, and I take on and agree with the kind of headlines that have come out of possibly the new stolen generation. It is true, it is painful for everybody who has been through this situation, but a lot of people are not aware that the difference between Aboriginal people being removed and non-Aboriginal people being removed is that the aim was to stop Aboriginal people growing up to be Aboriginal adults.

There are a whole lot of issues that Aboriginal children deal with as a result of that. For a lot of Aboriginal children, they have grown up not knowing that they were adopted and, even more people, not knowing that they were Aboriginal, because if you look at someone like myself, who definitely does not look like a stereotypical Aboriginal person, it is very easy for that person to grow up not knowing that they are an Aboriginal person. There are a lot of people in my shoes out there who have been adopted from Aboriginal families into non-Aboriginal families. That brings into play a whole lot of different issues.

There are a whole lot of issues which come into play as a result of Aboriginality being denied to children and they manifest themselves in a lot of different ways. Perhaps the main way it comes into play is being caught between two worlds and feeling extremely alienated and isolated from both cultures, from both Aboriginal and non-Aboriginal cultures, and the problems that arise as a result of that. You just have to look at the Royal Commission into Black Deaths in Custody. I think, of the 99 people who were used as case studies for the black deaths in custody inquiry, something like 45 were removed or separated from their families as children.

They are dealing with issues of not knowing who they are, where they are from and that they have a culture that they belong to, a culture about which every day when they walk out into society they read and hear negative perceptions, when they open up a tabloid newspaper, when they watch tabloid current affairs shows, when they are around people who hold racist views about Aboriginal people. If they know that they are Aboriginal people, what are they supposed to do? Are they supposed to hate themselves? What kind of issues of self-loathing does that bring up? What kind of issues of confusion: Is this who I am? Am I supposed to be a drunk, dirty person who comes from a dirty house? Those kinds of perceptions are common in the community. They are dealing with issues around their adoption, but also issues of: Is this who I am? Is this where I belong? When they have grown up as a non-Aboriginal person, trying to reconcile that with this is who I am supposed to be can bring up a whole lot of different issues.

If I can just go into a couple of issues, people might be questioned about the way they look or the way that they are. They might feel the need to prove that they are Aboriginal by having the flag or wearing colours, that kind of thing, joining community organisations. They are questioned about whether they belong by their own community at times. It does happen; it is sad, but it does happen. They are asked to prove their Aboriginality, asked to show papers. They are accused of not really being Aboriginal,

that they are just jumping on the bandwagon. They are told: "Well, you look white, you act white, you talk white, you've got an education, so you're just like us. You can't be Aboriginal. You don't look Aboriginal, your skin is fair, your eyes are blue. You're not like others, you're different. You're not Aboriginal, you've only got one-sixteenth".

They are the sorts of issues around cultural identity that a lot of our clients will come up against in the course of their lives to varying degrees. The problems that causes is if they meet their family and they see how their family has grown up without having to deal with any of those issues, because they have grown up within the family, they have had a strong sense of who they are and where they are from. They see the difference and they see the trouble that it has caused them and how their family has not had to deal with it. Of course, they have had to deal with other issues which are really important, but they have not had to deal with issues around that and the psychological trauma that it can cause in our clients and how it can add to the problems they deal with already as a result of being adopted can be profound.

The Hon. D. F. MOPPETT: I think that is a very interesting submission. We are trying to tie this down to adoption practices particularly. A lot of your remarks cover a whole range of other factors which perhaps your clients are involved in, but you have concentrated on being adopted out of an Aboriginal culture and being adopted into a European culture. What sort of numbers are involved there?

Ms HERMESTON: Well, I could not give you actual statistical facts, if that is what you are after, but when you go back and have a look over the history of removal and how it graduated from being placed in institutions and then into foster families in the 1950s - that kind of became the norm then - and then graduated into adoption over the 1950s and 1960s, because Aboriginal people were quite often viewed as not good enough to adopt or foster other Aboriginal children, were not deemed as suitable homes for children to go to, and of course keeping in mind that the Act was to remove Aboriginal children to stop them from growing up to be Aboriginal, most of the placements were into non-Aboriginal families, to my understanding.

Mr DUROUX: I cannot think of any case where an Aboriginal child - and you have to remember that we are talking about adults here. Of the clients that are on our books, no Aboriginal has ever been adopted into another Aboriginal family.

The Hon. D. F. MOPPETT: But when you talk about your clientele, you seem to be talking about a smaller number that were actually in the adoption process and a much wider group that were involved in displacement --

Mr DUROUX: Yes.

The Hon. D. F. MOPPETT: I am just trying to go back, because our inquiry is about the process of adoption

Mr DUROUX: Yes.

The Hon. D. F. MOPPETT: Not foster, not removal.

Mr DUROUX: A lot of the issues, even though they were fostered, still arise.

CHAIR: I think what Wendy said was meant to apply to adoption.

Ms HERMESTON: That is right.

CHAIR: Because you are saying that effectively no Aboriginal children were formally adopted by Aboriginal families.

Ms HERMESTON: Yes.

CHAIR: So what you were saying about the cultural identity and so on applies to adoption.

Ms HERMESTON: Yes.

CHAIR: We are very aware that you can tell us about a whole range of processes, but nevertheless you would confirm that what you have just been saying relates to narrowly defined formal adoption?

Mr DUROUX: Yes, they experience all those issues.

CHAIR: Perhaps question 4 approaches the whole problem in a different way. It is really meant to apply to the Aboriginal mothers and the extent to which you are aware of practices in relation to Aboriginal people that could be considered unethical or unlawful and we have itemised, for instance, the taking of consent, provision of information on alternatives to adoption and medical treatment received by Aboriginal women.

Mr DUROUX: A lot of the natural mothers I have spoken to stress that there was a lot of coercion, and it has probably been mentioned here before, in regards to "This is the best for your child" and things like that. I know of two mothers specifically who went to get their child back prior to the 30 days being up and they were told that their child was deceased, and we have come around, 21 years later, knocking on their door and saying their child is still alive. Obviously there is a big emotional impact both on her and the child. Wendy might want to go into that in more detail, but they are just personal experiences that I have come across in working with people. That was a few years ago, but Wendy basically works with more people on a one to one level than I do, so do you have anything to add to that?

Ms HERMESTON: Yes, just the pressure not to exercise that right to be able to revoke the consent form that was given, and often it was in the form of coercion: "Don't be selfish; think of the adoptive parents; think of the best interests of your child; think of what kind of home you can provide them and what kind of home some loving adoptive parents may be able to provide them", a lot of different comments like that. I understand there was one incident where a woman was informed that she could see her child, but only if she signed the adoption papers. That was a woman from a mission who made that statement.

CHAIR: In your experience, have most of the Aboriginal women you are talking about been through the same sorts of institutions, the homes for unmarried women, the same hospitals and so on? Obviously you are talking to some extent about a group from very rural areas and quite isolated areas, but, on the whole, have they been through the same sorts of institutions?

Ms HERMESTON: You mean as non-Aboriginal women?

CHAIR: Yes.

Ms HERMESTON: Like Crown Street and all those places?

CHAIR: Yes.

Ms HERMESTON: Yes. We also find, for instance, someone who might have gone to the Cootamundra Girls' Home, which was where young girls were taken to learn how to be domestic servants. We are very familiar with people who have been adopted and are looking for birth parents who happen to have gone through those homes, through the Kinchela Boys' Home, the Cootamundra Girls' Home and the UAN Mission down in Bomaderry. There are also women who went through different facilities like the Parramatta Girls' Home and Burnside, particularly if they could pass as non-Aboriginal people, they could be sent to similar institutions. I could not give you a percentage, but with a lot of clients who ring up, as you are taking down their details, Crown Street Women's Hospital is where a number of women had children and those children were subsequently adopted.

CHAIR: Would they have been country women or city women?

Ms HERMESTON: Country and city women.

The Hon. H. S. TSANG: I was on the Indigenous Reconciliation Commission. I talked to some of the indigenous community. The elders were telling me they were not necessarily unwed mothers; they were just told, "The fourth child has to be taken away from you." Were your clients forcefully taken away or were they like non-Aboriginal people who were too young and there was a church pressure? It was just forced removal, not necessarily the Catholic Church or Christian church or the parents putting pressure on them; it was a government policy, an institutional thing, to forcefully remove them?

Ms HERMESTON: It was a government policy of removal. The Aboriginal Protection Act stayed in place and was not cut out until 1969. The Aboriginal Protection Act allowed children to be removed from their families legally I think up until the 1940s without even any kind of hearing before a court magistrate or anything like that.

The ways of removal kind of graduated over time. They went from overt to covert, but there were still instances of overt removal. The covert removal was what we were talking about before, not being able to exercise their right to revoke the adoption consent within 30 days, being talked into things, so it became more subtle and pressure was placed on women, you know, the pillow held up before the mother not being able to see the child, to cut off those emotional bonds and that kind of thing.

I think you will find that if there are actual removals of Aboriginal children to be taken away to be adopted, we have a very hard time finding anything that is documented, clearly set out, and I think that could be said for a lot of the removals that took place. You will have a hard time finding any documentation that shows they were forcibly taken away from the child, other than the subtle means used throughout that process so that consent was gained.

The Hon. D. F. MOPPETT: I just want to clarify a point. You are talking about the Aboriginal Protection Act and what could be regarded now as the abuses under that Act, but surely no consent form was involved in that case?

Ms HERMESTON: No, that is right.

The Hon. D. F. MOPPETT: So the idea of revocation consent does not apply there? You seem to mix the two together.

Ms HERMESTON: No, I am not. I clearly said that it graduated over time, that actual forced removal where superintendents, police, or the mission manager went into the missions and removed children, took them when they came home from school. That was separate from the means that seemed to come into play over the 1950s and 1960s.

The Hon. D. F. MOPPETT: Who went around proclaiming this? You said it happened in a couple of institutions that you named.

Ms HERMESTON: What happened? Sorry?

The Hon. D. F. MOPPETT: This idea of promoting the idea that adoption was the best option and, "Here is a consent form. You ought to be thinking about this consent form," which is quite different from the previous regime.

Ms HERMESTON: Who promoted it?

The Hon. D. F. MOPPETT: Yes.

Ms HERMESTON: I guess it is similar to what everybody else has been talking about: welfare workers, doctors, anybody within the system, basically. It is the same. Aboriginal women were dealing with the same workers that non-Aboriginal women were dealing with. Earlier on in the piece, and it is not relevant here because we are talking about adoption, it was not even a child welfare department district officer who was asked to assist with gaining consent, or removal or whatever; it was an Aboriginal Welfare Board representative, such as station managers and that kind of thing, but we are talking about adoption now, getting into the 1950s and 1960s, so the same people who non-Aboriginal people dealt with in the system.

CHAIR: Focusing on that, and I guess this inquiry is dealing with adoption rather than the Aboriginal Protection Board, what would your comment be about whether there was a systematic, illegal or unethical system of processes

Ms HERMESTON: What would my comment be about -

CHAIR: Question five basically, but focusing specifically on the adoption practices as distinct from the taking away of the children in the earlier period?

Ms HERMESTON: What would my comment be about whether I would consider it systematic, illegal or unethical? When I hear the stories of the pressure that was placed on these women in covert ways, when I hear how women were not offered options, that no resources were offered to them when they were told it was in the child's best interests, when they were kind of subtly asked what a kind of life they could give them as opposed to adopting them out, they will have a chance for a good life, a good education, to be comfortable in life, that kind of thing. I would consider that systematically unethical.

CHAIR: And illegal?

Ms HERMESTON: And illegal?

CHAIR: It is quite a complicated question, I suppose. Justice Chisholm was looking through some of these issues for an hour or so this morning.

Ms HERMESTON: I definitely consider it unethical. That is the thing, I guess, if we are talking about the policy of the Act that the children were adopted under. You can go back - the lady from Origins discussed it earlier - and if you have a look at the handbook about policy of Child Welfare Board workers, it is very clearly stated, and I hope I can find it because they were given directions on how to undergo policy. It says:

In the case that the mother is visited in hospital by a specialist lady district officer, who fully explains to the mother the facilities the department can offer to affiliate the child and to assist with monetary allowance or by admission to State control ...

And it just goes on a bit:

When all of these aids have been rejected and the mother still desires to surrender the child for adoption, the full import of surrendering her child is explained. Only when the mother still insists does the department officer prepare a form of surrender and it must be signed by the mother, witnessed by a justice of the peace who, in turn, must furnish an affidavit to the effect that the instrument of consent was read over.

That was stated earlier by the lady from Origins. So if that is their policy that they are supposed to undertake, my understanding is, then, yes, it was illegal, but I do not know if that was enshrined in law. I have not done that much research but hopefully we can get stuck into that a bit more and research it to submit a paper about it. So, yes, I do think it was illegal.

CHAIR: What about the next question about mothers being told to get on with their life, being encouraged not to speak of the loss of their child and so on? It has since been acknowledged that this advice was inappropriate, but what sort of comments can you make on the long-term impact of the advice?

Mr DUROUX: It has affected them psychologically and things like that. Sometimes they find it difficult to come forward and speak to us, particularly Aborigines, because basically they felt they were not good enough mothers because of their Aboriginality and things like that. Also you have to remember that in Aboriginal society, it is the wider family, the extended family, and they feel they have let them down, and often the extended family may not have known about the child and things like that. A lot of times they have never forgotten their child's birthday and they will have a little celebration for their child's birthday and things like that.

CHAIR: Do you deal with the mothers?

Mr DUROUX: I do not personally. Wendy probably deals more with them. The ones I know, as I said, are often scared to come forward basically because it is that thing that they probably have got on with their life, they are an adoptive child and they do not want to interrupt that life because of what was drummed into them at the time of the birth.

CHAIR: I guess this is relevant to the next question about what people tell you about reunions, because that is when they do have to come to grips with it.

Ms HERMESTON: They do run in together. In particular when they have had that advice to get on with their life and they have pushed it down, when it is suddenly brought back to them if it is the child who has decided to search for them, the impact

it can have when we make an approach to them to let them know their child is looking for them can be quite profound, particularly if they have not told their current partner, if they are with another partner, and they have made the decision for their own protection or because of fear of what it would do to the relationship, a whole lot of different issues.

If they decided not to tell their current family, it can bring up a whole lot of stuff for them. They not only need to deal with the impact of the child coming back into their lives and making an approach towards having some kind of contact, but they also have to deal with how to tell the family.

I have actually come across a situation where a woman had the child adopted out. She did not tell a soul, not even her best friend or her mother that she had had this child. What actually happened was that the child was desperate to find the mother. It had had an extremely unsatisfactory and abusive placement in an adoptive family, had really rolled on the search and had not wanted to do things how we do them, which is to pace it out and do everything in due process.

The child really rolled the search along and involved someone who was from the town where she found out her mother lived. She said, "Do you know who my mother is?" This person said, "Yes, we know who your mother is?" She said, "Do you know where they are?" The community member decided to ring around the town and say, "Do you know where Mrs Such-and-Such is?" explaining, "Her daughter is looking for her." That way, half the town found out. It almost stopped the reunion from taking place.

Whenever there has been that issue pushing it down and not telling anybody, it can have a really negative impact. But No. 7 - what do they tell us about reunions - is there anything specific there you are trying to find out? It is quite a general question. There are a lot of things involved in reunions.

CHAIR: Most of our questions are designed to get you to tell us what you think we should be hearing. You have not mentioned, for instance, what the experience is of adoptees to reunions.

Ms HERMESTON: Scary. First of all, there is the process of getting to the point of reunion, and for some people that does not happen, for whatever reason, because they have chosen not to go that far, because they are too scared, I guess you could say, to go that far, or they are unable to go that far because they cannot find who they are looking for, or they are unable to go that far because the person they are looking to be reunited with has died. So that is a whole different area.

If you are asking specifically about their experience of adoption, the way we do it is to try to set up the best environment possible for a reunion, taking into account that both sides are going to have fears and anxieties and expectations around that reunion and the role that each person will play and will continue to play in each other's lives. There can be a whole lot of stuff for people to be dealing with.

We try to set up an environment, and the way we try to do that is to act as a bit of a mediator and to try to inform both sides of their rights, that they both have the right to have this go at their own pace. They are informed of the support that is out there for them and that kind of thing, and also we just ask them how would they like it to happen, that kind of thing, because there is so much going on in the heads of both sides, I guess our role there is just to try to give them the options and be there as support.

Their experience of it is pretty rare. You do not get someone who is not nerve racked about the whole thing. Even the most cool, calm and collected people will have a whole lot of fears. The main fear that seems to come up is that they will be rejected. That is the overriding fear that adoptees have when they return to their families, that they will go back and they will not be accepted for different reasons.

One of the big fears for our clients in particular is that because their family is Aboriginal but they have grown up non-Aboriginal they will be different from their family. How will the family handle that? Will they think they are too up-town, and different issues like that? There are a whole lot of fears.

There is not much we can do other than be there with them as they go through that and try and talk to them and encourage communication as well between the different parties.

CHAIR: Are contact vetos frequent?

Ms HERMESTON: Not really, are they?

Mr DUROUX: No, I think we only have about two.

Ms HERMESTON: When they are, they are extremely damaging.

CHAIR: For the person who is seeking contact?

Ms HERMESTON: Yes, very damaging, because that rejection is right there in their face on paper and there is nothing that they can do about it legally.

The Hon. H. S. TSANG: You mean rejection by the natural parents?

Ms HERMESTON: Yes, or whoever has put the veto in place. In the cases that I know about it is a birth parent who has put that in place. I can think of one situation where we have had a door very politely closed by a birth parent. I do not know what that lady went through, but it was obviously greatly damaging. She denied that she was an Aboriginal person and she basically said she did not want to know, and the client who was seeking her birth mother has a whole lot of issues to deal with as a result of that.

I cannot imagine what she is going through, but I just wonder, as a worker, what has her mother been through to make her reject her own daughter? What kind of things has she been through to put her in that place? There are always two sides to a story.

The Hon. H. S. TSANG: Do you see consolation that is going to take place between indigenous people and the mainstream would help these sorts of problems about identity? Ultimately, when we all are part of a nation, indigenous people and the rest of the community, would that help smooth out the differences?

Ms HERMESTON: I think so, which kind of relates to question 9. If there is acceptance and respect between all cultures, the issues that some of our clients have been dealing with, particularly if they have grown up in racist families - and we do have clients who have been brought up in families where racism is an issue to varying degrees - if they do not have to deal with racism in society, there are some issues which they would not have to worry about.

CHAIR: Question 8 is what measures might assist members of the Aboriginal community who are experiencing distress due to past adoption practices and question 9 is a specific one which we have asked most people who have been involved in adoption, whether they think an apology made by the relevant government agencies and private adoption agencies would assist persons affected by past adoption practices?

Ms HERMESTON: Well, going back to question 8, there are a couple of things.

Mr DUROUX: What measures might assist members? I suppose it is not just the Aboriginal community, but actually accessing the adoption records and the fees that go along with that. That has been a major concern for a lot of natural parents and adoptees.

CHAIR: We have heard that a lot from other witnesses.

Mr DUROUX: I am sure you have, so I just wanted to reiterate that.

We often find too that someone may have been born here in New South Wales but lives in another State, has got married in another State, particularly with female adoptees, and with the amount of time and money that goes into searching every State, there should be maybe some sort of central organisation that can do that all in one go so there are no major fees in that area.

CHAIR: Is counselling an important issue?

Mr DUROUX: It is. Obviously from the Bringing Them Home report there have been things put in place in New South Wales in regard to counselling services and utilising Aboriginal mental health workers for the Aboriginal people who were adopted, but yes, that is a major concern in our work.

At present I think we have only got two workers, we are just in the process of employing another two. That is just because of staff leaving, because it can be very emotional work, but the majority of our work is done by phone counselling and we like to have at least some sort of outreach service operating to actually travel through the communities because a child that has been adopted and is coming back is obviously missed by their community as well as their parents. It affects the whole community as well. With Aboriginal people you can usually tell by their name what community they are from and where they fit into the scheme of things, so that is another thing that a lot of adoptees have missed out on as well, being put in their place in the Aboriginal community.

Ms HERMESTON: One thing I would like to add is the difficulty in accessing 24 hour crisis care. I have had a call from a client who was calling and threatening suicide, and had the means to do it, but it was after 5 o'clock on a Friday and, unless he fronted up to a hospital, which he ended up doing and sat there I think for three to four hours - and I cannot tell you under oath exactly what the outcome was, if he was given a pill or whatever it was - the only suggestion I was given was to call the police. To this particular individual and to a lot of our clients, they would rather end their lives than contact the police for assistance, if that is their last option, so that is another thing, that there is adequate funding for 24 hour crisis care for people dealing with issues surrounding adoption which can lead to the extreme of suicide.

CHAIR: That would not necessarily need to be restricted to people for whom adoption is the key issue.

Ms HERMESTON: No, definitely not.

CHAIR: It is the availability of the service in general and people being able to access it.

Ms HERMESTON: That is right, yes, and also the fact that there was nobody there to help and the person in the next jurisdiction said, "I can't help, it is not in my jurisdiction".

CHAIR: Do you think an apology would assist?

Mr DUROUX: Yes. It was called in the Bringing Them Home report, so yes, from the relevant organisations.

CHAIR: Both government and private agencies?

Mr DUROUX: Yes.

CHAIRS: Hospitals and so on.

Mr DUROUX: Yes.

Going back to question 8 again, particularly with Aboriginal people, natural parents particularly, a lot of Aboriginal people are not on the electoral rolls, so it does become very difficult for us to try and locate Aboriginal family members. I suppose one thing that would need to be considered is having access to relevant records like Medicare and RTA and things like that to actually locate those people because they are not on the electoral roll and if they are not on there they are very difficult to find. Also electoral rolls with dates of birth. We have found, particularly with someone with the name of Smith - and we may have a first name - there could be 20 to 30 people, so just to narrow it down to locate the person, because obviously we do not want to approach people and put them under undue stress if they are not the correct person.

CHAIR: This Committee did a report last year on Aboriginal representation in Parliament and one of the recommendations arising from that was a return to the program that the Federal Government had about encouraging Aboriginals in electoral registration and so on, because we were conscious that the percentage that is actually on the electoral roll is very much lower than the rest of the community, and that has been true over quite a few years.

Mr DUROUX: Yes.

CHAIR: These things interrelate.

Mr DUROUX: Yes.

Ms HERMESTON: I suppose my response to question 9 is that it is very much an individual thing. For some people an apology will never ever be enough because it cannot replace the life that they have lost and the right to bring up their child and the right that child has to grow up with their parents, knowing who they are and where they are from, so I think in some cases there is no one answer, it will be different for different people.

Working closely with a colleague who went around to different community forums to let people know that the Human Rights and Equal Opportunity Commission inquiry was going to be happening, talking to people about their experiences and going to the actual hearing themselves and hearing their stories, my colleague, with the recent apology that was made in the Federal Government, because I am aware that there has been a full apology within the New South Wales Parliament and I think nearly all the State Parliaments across Australia, this colleague said, "I remember the look in those women's eyes", and she said, "That statement that was made was not an apology, it was far from it". She said, "Nothing but an apology will ever be enough for what these people have been through".

I think when you think about what has happened over the whole century for Aboriginal people and for non-Aboriginal people who have had children removed from them, it is really hard for anyone who has not been in that situation themselves to ever possibly understand the depth of the pain that people have gone through when they have had their own children removed from them, whether forcibly or whether in a covert kind of way. To lose the right to bring up their own child and for the child to have no say whatsoever to grow up dealing with the issues, I do not think anyone who has not actually been in this situation can possibly understand the effect it can have on your life.

Normally in day to day life most people are very civil and caring about what happens to other people. If a relative or friend has passed away, at the funeral you reach out your hand when you say you are sorry, you say, "I am sorry that you are going through this, I am really sorry that you are going through pain". Why can it not happen in this as well? I would like to hear an argument yet that will convince me that it is not something that cannot help.

There are a lot of other things that need to happen, including following up on inquiries like this, so that they do not just get locked and filed away somewhere, there needs to be action that follows the inquiry, but it really is the first step in acknowledging that a wrong has occurred and that there is healing that needs to take place, so it really is the first step I think personally, but, as I said, I cannot answer for everybody. I do think it would help. It shows compassion.

(The witnesses withdrew)

STEFANIA WINIFRED SIEDLECKY, AM retired medical practitioner, and

EDITH WEISBERG, medical practitioner, affirmed and examined:

CHAIR: You each received a summons and you are conversant with the terms of reference?

ALL WITNESSES: Yes.

CHAIR: Do either of you wish to make any statement or are you content to go through the questions we have discussed with you.

Dr SIEDLECKY: I would like to make a statement. The experience I have had is to some extent peripheral, and a lot of it will be anecdotal. I received these questions only last Wednesday. I had other things on my plate and I have not had time to collect a whole lot of documentation. I have in the past written papers on teenage pregnancy and I was co-author of a book on the history of birth control, and if you are interested in having some of those I have brought them with me.

I could say that my interest has been probably multifaceted because I was a medical student at the Royal Hospital for Women in 1942 and in 1944-45, I was a resident medical officer at the Women's Hospital Crown Street. I might say that both of those cases were during the war years when certainly circumstances that young women often found themselves in were pretty tragic. I mean they often got pregnant to Australian soldiers or to American soldiers and so the experience that we had at that time is probably different to what might have been the case in later years, but certainly that is before the time of your actual inquiry years.

I then spent some 30 years in general practice during which one of the features of my practice was that I did a lot of work in contraception and I treated all women, whether they were married or not. I joined the Family Planning Association in 1971 when I sold my general practice and I was a clinic doctor and I also participated in education programs. I worked for many years as a gynaecologist at Rachel Forster Hospital. I was later on responsible or one of the people responsible for setting up the Leichhardt Women's Health Centre and the Pre-term Foundation in Sydney and between 1974 and 1986 I worked with the Department of Health in Canberra as an adviser in family planning and women's health. So although I have not been directly involved, I have certainly been on the periphery of a lot of the things you have discussed.

Dr WEISBERG: My experience is very similar to Stefania, although somewhat later. I was a student at Crown Street in 1958 and I have worked in general practice for seven years where I saw a lot of women mainly and I have been at family planning since 1972, first as medical director and in the last 18 months as director of research, so I have been involved in the field but certainly I do not have any documentation. My major reason for coming here is that in retrospect, looking back at what happened to these women and the fact that I had about four of them at various times living in acting as mother's helps, I now feel really bad about that and I felt that I really should come and make some comment about that.

CHAIR: Shall we run through these questions and how you answer them is very much up to either and both of you. We are aware that a lot of what you might say will be anecdotal but there are not that many women around with the range of experience that you have had, certainly not that many who will come and give evidence to us but whatever you tell us will be valuable.

Dr SIEDLECKY: When we were medical students, we had to spend a certain amount of time in residence in an obstetric hospital. I was here this morning and I heard some of these things being described and that was certainly true then. So in that period of time we had to witness so many cases, I think there were 20 deliveries, and we had to actually perform something like 10 deliveries each, in certain competition with the trainee nurses, too. Nurses who were doing midwifery training had to do the same.

All public patients who came to that hospital were expected to be used as training material, so any woman who came as a public patient would be seen in outpatients by usually either one of the specialists or one of the other doctors who was running an outpatient clinic and by students. When they came into the labour ward, the same thing would apply. Usually one or two students would be allotted to a patient and that woman would be confined by that student or by a midwife student under the supervision of the midwife sisters.

My experience as a student and many of the others spent a lot of time with those women during labour and talked to them and then we would be the person who might participate in the delivery and after delivery we would have to stand and wait with our hand on the woman's abdomen until she passed the afterbirth and when they were returned to the ward we usually bathed the baby. That was the sort of prize we got. I would say that probably as a student I had more contact with those patients than I did as a resident medical officer.

As a resident medical officer, my role was to be clinical supervisor, people who had blood pressure or who had some other complication would be treated by the RMOs. We also did anaesthetics, gynaecology, and district blood transfusions. We had quite a busy time, and being the war years we were usually short staffed, but we did not as a rule attend the actual normal deliveries of public patients.

Private patients were attended to only by their specialists and in the public ward if there was a complication, if a woman required forceps or had to go to the theatre, that was the only time the doctors were actually involved. I might say at both Crown Street and at the Royal, there were what were called waiting patients. In the Royal they were housed in a building across the road. At Crown Street Hospital they were housed in a building within the hospital grounds, and these were women who usually had no where else to go and so they stayed at the hospital.

They comprised two groups. One small group of them were women who had come down from country towns who had a complication who were expected that if they came into labour they might need to have fairly urgent attention, so they would come perhaps a week or two before the baby was born and they would stay there until they had the baby and then they would be treated like any of the other women who went home with their babies.

The other group, probably the biggest group, were the women who came there about six or seven months pregnant who were going to have their babies adopted and had no where else to stay. It was usually assumed and anticipated by the women themselves and certainly by the staff that those women were the ones who were going to have their babies adopted. Of course, these were very often young, inexperienced women. When they came there they were probably scared stiff, they felt they had no other alternative. They were actually being pressured by people from home and so on, so they came there with the idea that they would have their baby, have it adopted and go home without a baby. They were ones who usually rarely wore maternity dresses. They usually did not prepare layettes.

I do not think they had any idea of what they were in for afterwards, but at that time they did all the domestic work in the

hospital. They did the laundry, kitchen work, cleaning, and they lived a fairly institutionalised life. They had to get leave to leave the waiting patients' building. They were kept to some extent separate, at arm's length, mostly because they were working so hard, I think, but there was a certain amount of camaraderie amongst them and support for each other. These women would come in then and have their babies like anyone else in the public ward except with a difference, that whereas there was and I think that this became very much more apparent to me later, an ordinary woman who had her baby really experienced a matter of great joy, these women were expected not to experience great joy.

It was expected that they knew what they were in for and they would just automatically accept this. It was considered that it was good for them not to bond with their babies, that the actual separation trauma would have been less if they could not bond with their babies. So there was this question of screening them and they did not hold or suckle their baby because it was feared that that would actually mean it was harder for them to give up. It might seem pretty cruel to us now, but at that time that was what happened. They were asked to treat their babies as though they had been stillborn. I heard someone say they were often told they were stillborn. That is not my experience but I know they were virtually told to regard it as a death.

When these girls came to the hospital, if they came to outpatients first, and they might have been referred by their general practitioner, they would have been perhaps referred to what we called the almoner in those days whose job it was to investigate their circumstances and arrange for them to come in as a waiting patient. As far as the actual adoption process was concerned, the doctors that I recall were not involved with them at all. This was usually arranged by the almoner, by the midwives, by the sisters in charge of the nursery and by Matron Shaw herself. It was Matron Shaw's stern feeling that the girls should be saved from bonding too much with their babies, you might say. She was the one who insisted they be screened and also that they should not suckle their babies.

I think have you asked this question later on and I hope I do not repeat myself later, but this was a sort of generally accepted idea. If you did not have those ideas you were the unusual one. I mean those ideas would not be unusual, they are the usual. The unusual thing was to have a different idea. So this was a generally accepted practice in all hospitals. At that same time there was a laundry at Tempe which I think was called the Star of the Sea which was run by a Catholic institution and that laundry was staffed by women who were waiting to have babies or who had had babies.

So these women were treated in this sort of way throughout society generally. It was handled in a fairly confidential way - I would not say secret but confidential - to some extent to try to save the woman from embarrassment. But there were also judgements. Although at individual level, I think each woman might have been treated with a certain amount of kindness. The labour ward nurses were kind to them and certainly the students were, but there was still that general judgemental and punitive attitude that these women were very lucky that someone was going to do this for them.

CHAIR: Everything you are describing was sort of in the air, it was not written down, no written policies, no instructions?

Dr SIEDLECKY: Well, if it was, I never saw it. No, it was not written down. Nobody came to us and said, "This is what happened", and we were never involved in the actual things like signing the consent forms. These women came in with the expectation that they would be giving up their babies, and I am not quite sure how many of them might have changed their mind later because by that time they had finished with medical treatment and so we did not see them again. We saw the babies often, we were often called in to see the babies, we were called in sometimes to circumcise the babies.

There were criticisms too of women who took their babies home, not only in that era but later too, girls that took their babies home. The story was that they took them home without realising what their responsibilities were going to be and that they treated the babies like a doll and, after a few months, they would get tired of this baby and would try and give it up for adoption or the baby would be neglected and given over to an institution. These were the sorts of excuses that were made and I think they were made in reasonably good faith, although I would have to say after a while one tends to become a little more critical. When we were students and resident medical officers we ourselves were young people and inexperienced, and certainly had not had experience of what it was like to have our own baby.

Dr WEISBERG: I think Dr Siedlecky's experience very much reflects mine. I do not think that the single women, as far as the labour ward until after they gave birth, were treated in any different way than public patients anyway.

As Dr Siedlecky has said, public patients were regarded as being there to be able to teach students, both nurses and doctors, and the medical staff were not really involved with these women at all, and certainly were not involved in any of the adoption practices or anything like that, the almoner was the one who decided that, and certainly my experience with the unmarried mother was that her expectation was that the child would be adopted and they did not consider the possibility of having the child and keeping it.

CHAIR: You have probably covered our first few questions. Could we ask you specifically about large doses of drugs and the question as to whether there is any evidence that women who were expecting to have their babies adopted received more drugs than others?

Dr SIEDLECKY: I have no experience of that. I heard what was said this morning by Dr Hinde and I was never asked to give unusual sedation. I do not recall even the PRN sedation. I mean the things that you remember are usually the things that stand out, but whether that happened I cannot recall.

The experience in those days was this, in Crown Street anyway: Very often women might have been given a sedative if they

had a long labour, but they were given an anaesthetic machine which was an ether machine. The idea was that, if their pain was very bad, they could breathe it up and that would half put them to sleep and then the pain would ease off a bit and they would have a little rest and, when the pain got bad, they would breathe up the machine again. That was self-administered and that was actually during labour.

At the time I was at Crown Street they had just started to talk about spinal anaesthesia for childbirth, and there was a big argument going on at the time as to whether or not women should have access to pain relief. There were people in those days who said: In pain you shall bring forth children. They expected women should put up with the pain, but that applied not just to single mothers but to all mothers. There was a big argument at that time about whether or not women should have access to pain relief in labour and my memory is that when this anaesthesia was introduced it was mainly for private patients. Now I have to say too that this was war years and things were a little bit scarce.

My only recollection of differences was that for women having an operation, and usually this was gynaecology and obstetrics, the public patients had ether induction to their anaesthesia and it was only the private patients who could have a pentothal induction to general anaesthesia. That is the only thing that I can recall, but that did not relate to single women.

Dr WEISBERG: My recollection is not that there were large doses of sedative drugs given during labour any differently to single women than to married women and we did not see the women after they had given birth, so I have no idea what happened after that.

Dr SIEDLECKY: My feeling is that after birth, if they were distressed, they might have been given a sedative to help them sleep or, if they were weeping, to simply help them get over the anxiety.

CHAIR: Are either of you able to tell us anything about the percentage of single mothers who relinquished their babies while you were at Crown Street?

Dr SIEDLECKY: Of the ones at Crown Street, I would say that almost all of those who came through waiting patients would have had their babies adopted, and I cannot recall any incident where any of them were revoked, but then I may not have known about them anyhow, but they came there almost with that purpose. There were other single women who came in and had babies and who did not have them adopted, but they were usually people who came in as independent women, came through the outpatients in the ordinary way, and if they had decided not to have their babies adopted I am not aware of any actual pressure on them, except that a lot of working class girls, if they came there, or girls who had been thrown out of home - and that happened in those days - would come there as a last resort, or their GP or their priest might have sent them there as a sort of last resort, and they would come there knowing that they were probably going to have their babies adopted. They would be sent to the almoner and I do not know what the almoner actually did, but the idea was that the almoner would help them if there was any possibility of getting financial support and she would probably arrange for them to come in to the waiting patients and she would have made the preliminary arrangements for the adoption to occur.

Could I say something about the rapid adoptions?

CHAIR: Yes.

Dr SIEDLECKY: This was also something that happened. I think probably in the era I was at Crown Street, it would have only happened about two or three times, but it could have happened more often, and usually it was regarded as a very good thing, it was an achievement to have done this. I might say Matron Shaw herself was given an award for her services to women and to mothers and, although we might be critical, at that time I would say that anything she did would have been, you might say, in agreement with general societal expectations.

Certainly during that time there were only two or three women who had rapid adoptions and I used to wonder about them actually because, if a woman has come in and lost her own baby and you give her someone else's baby, I do not know, if it were me, whether I would feel some resentment about that baby having survived when my own baby did not. I am not quite sure whether or not there were repercussions later in all directions. Certainly the woman who gave up her baby was more or less told what a wonderful thing she was doing in giving up this baby, but I am not quite sure whether any of those things in the end worked out as good things, but certainly it was considered an achievement.

Usually it was a private patient as I recall. I do not actually recall it happening to a public patient, but I could be wrong. If a private patient had lost their baby it would be the honorary gynaecologist or the honorary obstetrician who might have been involved in it. At the public patient level there was no identification unless there was something wrong. There was no identification as between the visiting specialist and the woman who was going to give up the baby or the woman who had lost the baby, the public patient.

CHAIR: In talking about Matron Shaw, I will just go on to our next question about whether you think practitioners working in the field at the time simply reflected the mores of their time or whether you believe their personal views and expectations influenced adoption practice, for instance their religious beliefs?

Dr SIEDLECKY: I think they did reflect the general views and I think if you asked the man in the street or the woman in the street they would have said exactly the same. In fact when I was at Crown Street I became struck with what I thought was a certain double standard and a certain hypocrisy. Whether it is right to call it hypocrisy, I do not know, because "hypocrisy" means

that you know one thing and act in a different way, but I think that is what certain people did. Certainly there were double standards regarding class, what they perceived to be the social background or social class of the woman who came in and had a baby for adoption. I think, as I said before, the rare thing would have been for anyone to have a different view. So I think that by and large --

CHAIR: What was their attitude to the class of women --

Dr SIEDLECKY: I think that they were more concerned with replacing a woman's baby if it was stillborn. When it came to adoptions, I think there was some talk this morning about clearing the women because somebody, and I presume it was the almoner, had to decide where a baby was going to be, so very often the baby who was going to be adopted, and I think I have mentioned this somewhere later its ethnic origin, its sex, the sort of social background that came from the anticipation of the parents, these things were all considered in selecting a suitable adopting couple.

There were some babies who were not considered suitable for adoption particularly those who might have had some physical deformity. Very often those babies were sent to institutions or foundling homes and some other babies who were not considered suitable for adoption might also have been sent to foundling homes. There were women who took their babies home and who might have never actually had them adopted officially anywhere but the babies would have been reared by somebody else in the family perhaps.

In my own experience in my town when I was in practice, in fact where I grew up, there was a family where a woman had a daughter and a son separated by about 16 years because the son was actually the son of her daughter but it was reared as her son and not as the daughter's son. That happened in quite a lot of families. They were never officially adopted.

Dr WEISBERG: Some of them were, because I have a patient at the moment who is now in her 70s who had a child when she was very young and that child had been adopted by one of her brothers. Officially he is her nephew but in actual fact he is her son, so I think it was quite a common practice if those days.

Dr SIEDLECKY: It was not nearly as painful as giving a baby up to a stranger. This was reinforced at every level. My experience at that time was that very few partners were interested in what happened. Very often the partner's family would have intervened strongly to prevent any contact, very often because they thought it would interfere with the boy's career. Certainly it interfered with the girl's career. There was a sort of saying amongst young men - you must not be caught for a baby.

The parents of the young woman would have been concerned about shame and stigma on their family, the cost of rearing a child, the future that the girl could give to the baby and the way it would interfere with her own prospects of marriage. If she was connected with the church there would be a strong emphasis on morality, that it is very important that she give up this baby to somebody who was more worthy. So to some extent the emphasis was on undoing something wrong by giving up the baby.

Teachers were often sympathetic but girls had to leave school if they got pregnant and very often it was hard for them to come back. I have many anecdotes that I could tell you but I probably have not time for that. I could tell you of one, and this happened in the mid 1970s, a girl who was doing her higher school certificate at that time and a boy at a different school who made her pregnant and I say that because she did not go out and get herself pregnant. Anyhow, they were having a love affair and she got pregnant.

His family offered to pay a for an abortion. I might say they were Jewish and were opposed to him having a relationship with a non-Jewish girl. Her parents were European, I do not think they were German but they were central European and they were opposed to her having anything to do with a Jewish boy. So the young couple broke up. She went ahead and the teachers helped her to do her higher school certificate. She left school a few weeks before the exam and she attended the exam in a tunic without a belt because by that time she was looking fairly pregnant. That was October. She had the baby just after Christmas. By that time she had toxæmia of pregnancy and she had to have a caesarean section and the baby died.

I look back on that and I think it is one of the worst histories I have ever heard of because here was a girl who had to face her adult life with a cut in her belly, no baby, no boyfriend and a family full of bitterness. To her great credit she got a teachers college scholarship and I think she went on to become quite successful but I lost track of her after that. The doctors used to present this to people who came to them as possibly the best solution. Although I was in practice for quite a long time, I do not recall ever sending one of my patients to have an adoption, but there may have been young women who went off and had an adoption without my ever knowing and possibly without their parents ever knowing, and that often did happen.

I used to think how terribly painful that was, that a young girl had to make those sorts of decisions, to go away on her own, she might or might not have been able to tell her parents, go through the labour on her own, adopt the baby on her own and she was expected to come back and resume her life and never be able to tell anybody about it.

At one stage of my life I was asked to employ a young woman who was in just that state who had had a nervous breakdown. She did work for me I think for about nine months or 12 months but I met her in the street some time later. She had another nervous breakdown and by this time the baby would have been about three or four years old. She carried in her handbag a picture that she cut out of a newspaper of a baby boy about nine months old and even when I met her four years later she dragged that picture out and said, "Do you remember my baby? That is what he would have looked like now". I did not know her when she had the baby but she knew I knew she had had one. She still carried that picture like her baby. She did not have a picture of her own baby.

This was a very painful thing and I think what we expected of young women in those days was really a terrible cruelty. They had no counselling afterwards. They were never allowed to mention it to their families or friends and one young woman I remember in my town who was not in my town at the time this happened but when she actually came to me for a delivery she told me she had had no children but at the time of birth she thought she ought to tell me because I might recognise that she had had a birth before. She said to me, "I'm sorry, I didn't ever tell you that I have had a baby and I had it adopted" and she had kept that entirely to herself all that time. So those are just some of the sorts of stories that people have.

I might say there were such distinctions in the ways parents regarded this sort of position of a family, too. Some of the working-class girls who had grown up in circumstances where there were other what you might call illegitimate children would often keep their babies because they had an example to follow. There was a study done by a woman called Clarke in 1981 in which she looked at women in western Sydney areas and she found there were a lot of girls with low career prospects and there were examples around them of women who kept babies and they were more likely to accept the role of a mother as a natural thing but in some other families where there was a lot of emphasis on the girl's career, perhaps on the boy's career and certainly on the family's status that they would not have accepted having an illegitimate child coming into their home.

I think most people had the feeling that adoption was best for the baby because these new parents would give it a good home, they would give it security, they would give it the love and the care that the single mother could not give it and there would be no stigma of illegitimacy on the baby. They thought for the mother it was better to let her have an adoption because then she could get on with her life, resume her education and get a job.

Certainly in the 1940s and 1950s, for a young woman who had a baby it was very difficult for her to get a job. There was very little child care. There was a stigma attached to her, difference between that of a woman who had an extra marital birth and a separated woman who was rearing a child, but the implication was that they were unfit and unworthy and they should regard themselves as very lucky that someone was prepared to do this for them, that sort of patronising sort of attitude. The other party, of course, was the adopting parent, that this was very good for the adopting parent to be able to get a child that they could love and give them a good home when they could not have a baby of their own.

CHAIR: Dr Weisberg, you mentioned your experience of taking single mothers into your home while they were pregnant. Can you tell us how you got involved in that?

Dr WEISBERG: I cannot remember how I got involved in it. It was a long time ago when my children were very small. I was aware of waiting patients from when I had been a student at Crown Street and I do not know whether I contacted them or whether I was contacted to see if I could place some of these young women. My experience was that I had four young girls over a period. They usually stayed with me for about two to three months from about six months of pregnancy.

The four that I had, three of them were in their 20s. One was actually in her late 30s and came from Yagoona. All of them were in the same situation, that their families were horrified when they found out that they were pregnant and felt that the shame of it all was more than they could cope with. The families actually told them to go away and to come back after the child was born.

There was no question for these women but that they would have an adoption because they had no means of support. The alternative for them was to either stay at Crown Street and work in the laundry and so on or to come into a private home where they had a little more freedom than they had at Crown Street. Looking back on it now, I think it was the most shocking exploitation and I am really ashamed of my part in it, which is why I wanted to come and talk to this group.

But it was the accepted practice at the time and a number of my friends also had these girls. We were all working and we needed help with our children and they worked as mothers help and did lighthouse work, but I still think it was exploitation. We paid them a minimal sum. We gave them a room of their own, food, lodging, and they had time off. But they were very sad girls because although some of them kept in contact with their families, they certainly could not go and visit them or have any physical contact with their families.

In fact one of the girls was from New Zealand and she eventually after the adoption of her baby went back to New Zealand and she sent me a photograph of her wedding photo with the father of the child, but it was certainly unacceptable for them to stay in the family situation mainly because of the shame and the fact that they were regarded, I guess if you want to use a sort of hackneyed phrase, as fallen women. It was always seen as the fault of the woman. It was never the man. It was always the woman because she had to be the one who did not have sexual relationships. The men generally had no contact with these women at all. The women stayed at my house until they went into labour and then my husband drove them to the labour ward. I think the whole thing was terribly sad.

CHAIR: But they did not come back after giving birth?

Dr WEISBERG: No, I think they were glad to put it all behind them and start their lives again.

CHAIR: When are we talking about exactly?

Dr WEISBERG: This would have been the mid 1960s. I was a student at Crown Street in 1958 and this would have been about the mid 1960s when my children were very small.

CHAIR: Did any of them contemplate keeping the baby?

Dr WEISBERG: No, there was never a question. They had no ability to keep their children. They had no means of support, they had no family support. There was no way that they could keep the child and keep themselves as well, so to my knowledge, with the four women that I had staying with me, none of them ever contemplated keeping the child. It was always understood that they had left their homes and they would stay away until after they had the child and then they would be accepted back into the home. What their parents told the neighbours or families, I have no idea, but it was certainly not mentioned to other family members and so on what had happened to them.

CHAIR: I think between you you have probably answered our questions about things like attitudes to single mothers and so on. You have not said anything explicitly about whether you think that the practices we are talking about were unethical or unlawful.

Dr WEISBERG: I think in view of our attitudes now, yes, they were unethical. I think the prevailing attitudes at the time were that this was accepted practice, that the community attitudes were that women who had sex before they were married were rather shameful, and there was always the double standard: It was okay for men, but it was not okay for women, and particularly if you got pregnant. That was your fault, you should have been more careful, you should not have had sex and you were a bad person because that happened to you. I think that the practices reflected the community attitudes at the time.

When I joined family planning in 1972 it was still not acceptable and very many general practitioners would not prescribe the pill for an unmarried woman, and many of the women we saw at family planning were unmarried and would come to us because they were afraid of the judgmental attitudes of general practitioners and gynaecologists in providing contraception for unmarried women. There are still judgmental attitudes now amongst certain practitioners about women's sexual behaviour, which do not seem to apply to male sexual behaviour.

Dr SIEDLECKY: In our book we documented, in one chapter, the correspondence in the Medical Journal of Australia which occurred during the 1970s. I might say that this followed the fact that in 1971 the Queensland branch of the AMA decided that it would be the inalienable right of any doctor to prescribe what he considered to be in the best interests of his patient.

Now up until that time there was a lot of reluctance to prescribe for women who were not married and certainly women who were under the age of 21, which was a minor, and although the pill was introduced in 1961 it was not generally available to young women, except from people like myself, and probably Dr Weisberg, who would have ordered the pill for anyone who wanted it at the time, but it was not an official thing and there was a concern amongst doctors that they would be colluding in a crime if they ordered the pill for anyone under the age of 21 and certainly under the age of consent. If they ordered the pill for someone under the age of consent, this was supposed to be colluding in a crime, and that was actually raised in the Royal Commission on Human Relations in the 1970s.

I will just read you out one sentence which comes from one doctor in the correspondence over that period. This doctor said:

Re Prescribing of the Pill for Minors.

I have felt constrained on occasion to express the point of view to these young ladies that I did not do a six years medical course merely for the sake, *inter alia*, of providing the young bucks with the means of having their pleasure without responsibility.

Dr WEISBERG: I think the other attitude that came through from doctors and the community was that, if people had sex, they had to put up with the consequences of it and be punished for it and I think that attitude persisted right through the 1970s and well into the 1980s, still amongst some groups, particularly among some medical practitioners.

CHAIR: But only the women were punished?

Dr WEISBERG: Yes.

Dr SIEDLECKY: When the Royal Commission was held, the Royal Commission on Human Relations, they held a number of workshops beforehand and they did have one on family planning and the law. In our book I have quoted one paper, although I have not quoted it in detail, but this doctor was a psychologist and the title was Pregnancy as a Symptom of Emotional Disturbance. Now that implied, of course, that if you got pregnant you were emotionally disturbed. It did not say that the man who might have been responsible was in any way emotionally disturbed, nor did it say the woman who used contraceptives, but the person who actually went ahead and had the pregnancy was emotionally disturbed. A lot of people still talk about women who go out and get themselves pregnant and I thought at the time that this was a very judgmental thing, that the only person who was regarded as being psychologically disturbed was the woman who got pregnant. On the other hand, this same sort of attitude was applied to her at every level: If she kept the baby she was psychologically disturbed; if she gave the baby up later on they would say to her, "But really you abandoned your baby", so really she could not win in any direction.

The Hon. D. F. MOPPETT: You seem to have a very mature view of the whole setting of this. I think it is remarkable that it is just this unique period when, on the one hand, forces had built up to try and strengthen the adoption process because if you went back further in history - not very much further - ex-nuptial births were dealt with in a different way and formal adoptions were not always the solution. It just seems that when you get into the 1950s it was suddenly a decision by people of good conscience in order to make the circumstances of any adoptions that were taking place more effective. They talked about trying to create a situation by an altered birth certificate where the child thought, to all intents and purposes, it was their child, but that is only

a narrow window in our experience really.

There was the period when guardianship was as far as you needed to go really for protection of children, you did not have to formally adopt them. A lot of children were brought up, and we have seen not only from experience in our own families but from books how many children were brought up as simply the ward of a relation, never been adopted.

Then we got to the period in the 1950s and 1960s when legislative changes were made to try and create a new and more strongly bonded relationship between adopting parents and the children they adopted, which relatively soon ran into trouble.

What do you think, looking back? I mean it is all very well to say that that was wrong, but previous arrangements obviously appeared to some people to be not satisfactory and less than in the best interests of the child who was left without, shall I say, more normal parental support. What do you think about that in the sweep of your experience?

Dr SIEDLECKY: I think we do have to look at all of these things as stages in history because, if we go back far enough, Governor Bligh was concerned about the number of babies that were abandoned in the colony. If a young convict woman was sent out to work in a home as a domestic, as she often was, sent to a farm or something, and she got pregnant, we quote in here a writer who said that it was expected that they would have an abortion, because otherwise they would be sent back to the factory, which was the women's prison, and yet very often they were made pregnant by the people they were actually working for, the men they were working for, but they would be sent away because they had done something immoral and got pregnant, they had got themselves pregnant.

Then we went through the period in the 1800s where there were scandals of baby farming, which were often women who had had babies that they could not support themselves and they would send it to someone who would supposedly look after the baby for a fee and the mother went to work - and women were paid very badly and the jobs that were available were not very good ones and not very many - so women were really exploited in all sorts of directions. Very often they would put their babies into some of these places, which got the name of baby farming, and there was a very high death rate.

If you look through the history of this in the 1800s, you will find that there are very high death rates amongst those babies and it was very difficult for women to keep a baby on her own. There were cartoons that appeared in *The Bulletin*, one of the local newspapers, about baby farming and a woman called Judith Allen has written a book called *Sex and Secrets* in which she has traced the change from women abandoning babies or giving them over to baby farms. Child abandonment and infanticide became replaced to some extent by adoption and by abortion and, when you have asked here about unlawful and unethical, I do not think those terms were actually changes that happened, changes in attitude. I do not think anybody ever banned baby farming. I think if you look at those things now from an ethical point of view, we might say now that some of these things are unethical, but at that time they were an improvement on what had gone before. The concept of ethics in the 1940s would have probably meant that they were actually behaving ethically to consider the welfare of the baby more than the welfare of the mother who was giving up her child, so I think it has to be looked at in the historical sense.

Dr WEISBERG: I do think that, if you look at what happened in the 1950s and 1960s as far as adoption is concerned, a lot of the attitude was that people who could not have children of their own had a right to have a child and people who were single, women who were single, had no right to keep their child and that it was better for the child to go to a married couple, so I think it was more in the interests of the couples who were childless than in the interests of the single parent.

The Hon. D. F. MOPPETT: Yes, I do not think anyone would dispute that. People have attributed the single parent supporting benefit that came in in the 1970s as being specifically directed towards unmarried mothers whereas in fact, of course, the vast majority of recipients were widowed or the results of the dissolution of a marriage rather than specifically single. It was wonderful that they got it as well, but it was specifically designed to cope with women where the breadwinner had walked out the door in that particular social context.

Dr WEISBERG: I think there are still stigmas attached to single women who go ahead and have children because you read often about how women are getting pregnant, young women are getting pregnant, because they want to go on the supporting mother's benefit. Anybody who has ever looked at the socioeconomics of that knows that they are going to be living below the poverty line, and so are their children, but the community attitude, the prevailing attitude, still seems to be this negative attitude towards single women, not so much the older woman who is a professional woman who decides to have a child on her own in her late 30s and so on, but I think again there is a social class distinction and, if you look back at what happened in the 1960s, say, again there was a class distinction between many of the women who gave up their children for adoption because the women who came from high socioeconomic groups could in fact, if they could afford it, go and get an abortion because there were certainly quite a number of qualified doctors who carried out abortions for a fee.

The Hon. D. F. MOPPETT: Even as recently as the 1990s, if I remember rightly, and the name of the show escapes me, Kylie Mole expressed how absolutely mortified she was - she put it in different terms - but all her colleagues would know she had been bonked. It still is a difficult thing for teenagers.

Dr WEISBERG: Well, I certainly remember when I was a resident a mother bringing in her daughter saying she thought she had acute appendicitis and in fact the girl was in labour and the mother was absolutely horrified and the girl had been just too frightened to say anything, so she must have gone through eight months at least of hell trying to keep this a secret until she actually went into labour and she could no longer hide it.

Dr SIEDLECKY: Actually I had that same type of experience in my country town when I was in practice and there was a young woman in the town who everybody knew was pregnant, but she denied it, until one Saturday morning, at the end of my surgery visits, she was in my waiting room and she waited until the end and when she came in she said she had a pain in her belly. I put her on to my examination couch and delivered her baby. She had been sitting in my waiting room going through her labour and she still denied she was pregnant until the baby actually arrived on my examination couch.

That, of course, goes back a bit, but this attitude that Dr Weisberg has mentioned about young women getting a supporting mother's benefit, I think if you look at a young woman who is on the dole, who is unemployed and has no career prospects and she finds herself pregnant, it is reasonable - probably a very logical decision - that she should change from the status of a dole bludger to a supporting mother. There is certain logic in that, but it is still too easy for people to say, and I have heard people say it this very year: Why should the taxpayers support these girls who go out and get themselves pregnant just so they can go on the supporting mother's benefit?

You mentioned the number of single women, unmarried mothers on supporting pension. You are quite right. I think there are only about 3 per cent or 4 per cent who are actually single teenage mothers. The average length of time they stay on the supporting mothers benefit is only about three and a half to four years. I am surprised at how many young women have been able to go through childbirth, rear a baby, go to university, and get a career who have done extremely well.

At one time I had some contact with the Council for the Single Mother and Her Child, and they were very annoyed about the stigma of girls going out and getting pregnant so they could get the supporting mother's pension. It is actually a very cruel criticism. Both Edith and I have been involved in family planning. From the point of view of giving women the right to make choices and to prevent unwanted or unplanned pregnancies, most of these pregnancies start off as unwanted. By the time the woman has the baby you could hardly say it was unwanted. Nevertheless, they certainly do not go into it with the idea of getting pregnant and I do not think many young men go into a relationship with the idea of making the girl pregnant.

We must recognise that what has happened in our society is that we have developed a stage of life called adolescence, which did not exist when I was young. When I was young you went to school, you left school at 14 except if you were like me and you kept going, and within about six months or so you would get a job, you would start going to local dances and you became an adult. Adolescence has put things out of sync because although we might reach sexual maturity earlier, we are not supposed to be societally mature until we are in our 20s.

So we have this period of about 10 years when young men and women are at the peak of their sexual urges and we are trying to tell them either not to have sex or, if they have sex, certainly not to have babies. So we are trying to say to them they should be using a contraceptive and that is certainly where Edith and I come in, more from the point of view of preventing an unplanned pregnancy.

I could quote you some experiences which I collected and some of these are in my head but I remember in about 1972 I was on the Parents and Citizens Association of Sydney Boys High School and the question arose as to whether or not they would allow a sex education course to be run by the fathers and sons movement. At that time I was working at family planning, so I suggested they might even have my team. We used to have a team of volunteers going out giving sex education. They decided not to because they said parents are the best people to advise their children.

Most of the time I found that parents did not give them any information at all. But the deputy head at that time, who was acting head, came to me and in very vulgar language told me that he did not think a school was a place for teaching young boys how to have sex. I might say that is putting it mildly. He said it in very vulgar language to me which showed the extent of his actual anger.

Dr WEISBERG: The implication from that is that all the unintended pregnancies is in adolescents. That is not true. I did a survey of all the abortions being done in New South Wales a few years ago and in fact an unintended pregnancy can happen to any woman, married or single, of any age in her reproductive years.

Dr SIEDLECKY: The people who push the idea of adoption most are the ones who tend to oppose contraception, tend to oppose sex education, tend to oppose abortion, but promote adoption as the best solution.

CHAIR: The Committee would be more than happy to collect any material and certainly the articles in the book you referred to but any other material as well.

Dr SIEDLECKY: I would like to say in spite of the bad reputation that young people have, teenage births started to decline in 1971 and by 1985 they had declined by 60 per cent. But what had declined, perhaps, the most was that whereas in the early 1970s the number per thousand population of teenagers, out of every thousand, 22 would have had a birth within the first seven months of marriage. In other words, it would have been a forced marriage. Twenty-two out of every 1,000 girls of that age group.

By 1985 that had been reduced to three out of every 1,000. In other words, women were voting with their feet. They decided they would not be involved in a forced marriage. Most of the people who were serious enough to contemplate marriage were using contraception. The decline in teenage births, which of course also meant a big decline in births of babies for adoption, was due more to better contraceptive advice than it was to an interest in abortion. I have that documented in some of these papers if you would like that. Otherwise thank you very much for listening.

(The witnesses withdrew)