

NSW GOVERNMENT RESPONSE



Report of the National Inquiry into the Separation
of Aboriginal and Torres Strait Islander Children
from their Families

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MINISTER'S FOREWORD

In May 1997, the Human Rights and Equal Opportunity Commission (HREOC) released the Report of its Inquiry into the Separation of Aboriginal and Torres Strait Islander Children from Their Families – *Bringing them home*. *Bringing them home* is testimony to the loss suffered by Aboriginal people and communities through the removal policies of previous Australian governments. The NSW Government is committed to working with Aboriginal communities and organisations to address the mistakes of the past.

The NSW Government has made considerable progress in addressing the issues raised in *Bringing them home* and has implemented many of the report's recommendations.

On 18th June 1997, the Premier of NSW became the first leader of an Australian Parliament to formally apologise to Aboriginal people for the separation of generations of Aboriginal children from their parents, families and communities. The apology was supported unanimously by the NSW Parliament. In his address to Parliament the Premier said:

The meaning of reconciliation, the purpose of our apology today, the lessons we take from this report, our acceptance of its hard truths, our determination to make amends, all these things can best be understood and fully realised as part of a great national act of bringing us all home. The path home for all Australians

lies through the achievement of justice, equality and respect for the Aboriginal people of Australia.

The NSW Government response to the *Bringing them home* report is an important step in the process of reconciliation. A separate report on the outcomes and comments from the consultations is available from the Department of Aboriginal Affairs. The NSW Government is committed to working in partnership with Aboriginal people to achieve meaningful, practical outcomes to redress the social and economic disadvantages affecting their communities. The *NSW Government Statement of Commitment to Aboriginal People*, released in November 1997, is the document outlining the programs and services that have been put in place to achieve social justice and economic advancement for Aboriginal people.

This response to the *Bringing them home* report is further evidence of the commitment of the NSW Government to address the needs of Aboriginal people. Working together, we can achieve real and long-term change for the future.

Andrew Refshauge, MP
Deputy Premier,
Minister for Urban Affairs and Planning
Minister for Aboriginal Affairs
Minister for Housing

INTRODUCTION

The National Inquiry

Throughout 1996, the Human Rights and Equal Opportunity Commission (HREOC) undertook a National Inquiry and produced the report *Bringing them home: National Inquiry Into the Separation of Aboriginal and Torres Strait Islander Children from Their Families* ('Bringing them home'). The report outlines the history and the impact of the laws, practices and policies which resulted in the forcible removal of Indigenous children from their families and communities. The report made 54 recommendations for Government and community action.

NSW Government Submission to the Inquiry

The NSW Government assisted the Inquiry and provided a detailed submission, now published as *Securing the Truth*, and available from the NSW Department of Aboriginal Affairs. The Human Rights and Equal Opportunity Commission described the NSW Government submission as one of the most comprehensive and well researched of the Inquiry.

Link-Up's Submission to the Inquiry

Link-Up (NSW) is a community based Aboriginal organisation which works with Aboriginal people who were removed from their families. The philosophy of Link-Up's counselling practice with Aboriginal people is to empower clients to take charge of their experiences, their journey home and their recovery.

Link-Up, with the assistance of the NSW Government, held community forums in the following places to inform people about the Inquiry: Albion Park, Wallaga Lake, Narooma, Cooma Gaol, Wagga Wagga Juvenile Justice Centre, Junee Gaol, Cowra (Erambie), Bathurst Gaol, Taree (Purfleet), Corindi, Grafton Gaol, Glen Innes, Inverell, Tingha, Broken Hill, Bourke, Moree, Newcastle and Sydney. Link-Up's submission to the Inquiry was published in the Aboriginal History Monograph Series as *In the Best Interest of the Child? Stolen Children: Black*

Pain/White Shame. In compiling its response to *Bringing them home*, the NSW Government has considered the recommendations made in Link-Up's submission.

The NSW Government Response

Achieving reconciliation and improving outcomes for Aboriginal people requires sustained effort from all levels of Government, from the general community, and from Aboriginal people themselves. The NSW Government renews its commitment to this challenge, and to securing a strong and just future for Aboriginal people in NSW.

This report sets out the NSW Government's response to *Bringing them home* and draws together the significant activity being undertaken in NSW in key areas of concern. These initiatives include existing programs and new or modified services, which have been introduced or modified in response to *Bringing them home*.

To oversee the NSW Government's response to *Bringing them home*, the Department of Aboriginal Affairs established a Committee with representatives from a number of Government agencies and members of the Stolen Generations' Working Group who provided advice on key recommendations.

Aboriginal Community Consultations

The NSW Government is committed to working in partnership with Aboriginal people. Accordingly, the Government closely consulted with Aboriginal communities in preparing its response to *Bringing them home*.

The NSW Department of Aboriginal Affairs (DAA), in conjunction with other NSW Government agencies including Health, Juvenile Justice, Community Services and Archives, held a series of Public Consultation forums during July and August 1998. These were held in the following regional centres: Lismore, Yass, Narooma, Dubbo, Broken Hill and Sydney. The results of the community consultation process have been compiled in a

separate document that is available from the Department of Aboriginal Affairs. The Director-General, Department of Aboriginal Affairs will take the community's views to the CEOs' Group on Aboriginal Affairs. This will ensure that community views are considered further in the implementation of the actions outlined in the NSW Government response to *Bringing them home*.

The Government's response to *Bringing them home* has been arranged in the following thematic areas:

- 1. Apology, Acknowledgment and Reparations**
- 2. Commemoration, History, Culture**
- 3. Education and Training**
- 4. Archives and Records**
- 5. Indigenous Well-being Model**
- 6. Contemporary Separations**
- 7. Monitoring Processes**

The Government is proud of its achievements in Aboriginal Affairs and will continue to ensure that Aboriginal people have a real say in policy and program development and delivery in NSW.

APOLOGY, ACKNOWLEDGMENT AND REPARATIONS

Apology and Acknowledgment

Bringing them home underscored the necessity of acknowledging past wrongs, and making reparations to those affected by the policies of separation.

On 18 June 1997 the Premier, the Hon. Bob Carr MP, became the first Government head in Australia to offer a formal apology to Aboriginal people for practices and policies that were responsible for the Stolen Generations. The NSW Parliament unanimously passed the Premier's resolution:

That this House, on behalf of the people of New South Wales –

- (1) *apologises unreservedly to the Aboriginal people of Australia for the systematic separation of generations of Aboriginal children from their parents, families and communities;*
- (2) *acknowledges and regrets Parliament's role in enacting laws and endorsing policies of successive governments whereby profound grief and loss have been inflicted upon Aboriginal Australians;*
- (3) *calls upon all Australian Governments to respond with compassion, understanding and justice to the report of the Human Rights and Equal Opportunity Commission entitled *Bringing them home*; and*
- (4) *reaffirms its commitment to the goals and processes of reconciliation in New South Wales and throughout Australia.*

In recognition of their role in the removal of Aboriginal children from their families, the following key NSW Government agencies have apologised for past practices:

NSW Police and Chief Executive Officers of NSW Justice Agencies

On behalf of the Police Service, I offer a sincere apology to members of the Stolen Generations and to all Aboriginal and Torres Strait Islander people for the

prominent role the police played in enforcing past unjust laws...

NSW Police Commissioner 22 May 1998

On behalf of [NSW justice agencies], we reaffirm our commitment to working in partnership, based on justice, equality and respect, with Aboriginal and Torres Strait Islander people.

CEO's NSW Justice Agencies 22 May 1998

The statement recognised that a partnership is required between Aboriginal people and justice agencies, based on a shared understanding of what contributes to the involvement of Aboriginal people in the criminal justice system. NSW Justice agencies committed to a "renewed priority" to reduce the number of Indigenous people in custody.

NSW Department of Juvenile Justice

The Director-General and Executive Committee issued a formal apology which is displayed in all Juvenile Justice offices.

NSW Department of Community Services

The Director-General and Senior Executive Committee, issued a Statement of Apology to members of the Stolen Generations. The Statement acknowledges the pain and anguish experienced by Aboriginal people, records the sincere regret for the role of the Department's predecessors in those practices, and pledges a renewed and ongoing partnership, to deliver culturally appropriate community services.

NSW Health

The Director General of NSW Health apologised formally to Aboriginal staff for the Department's role in the removal of Aboriginal children from their families. The apology was issued at NSW Health's Sorry Day function on 26 May 1998.

NSW Ageing and Disability Department

The Director General issued a Statement expressing regret about the impact of previous State and Federal Government policies on the health and well-being of Aboriginal and Torres Strait Islander people. In working with older people and people with disabilities and their families and carers, the Department respects the values, culture and heritage of Aboriginal and Torres Strait Islander people, and seeks to work together to provide services that empower people through ensuring greater autonomy.

Reparations

The NSW Government is committed to making reparations to individuals, families and communities by involving Aboriginal organisations and communities in the development and delivery of programs and services for Aboriginal people. The NSW Government will continue to work in partnership with Aboriginal people, communities and organisations to make reparation for past injustices, and to seek to promote social justice, equality and reconciliation. Key aspects of the Government's actions are noted below.

In *Bringing them home*, the Human Rights and Equal Opportunity Commission recommended the establishment of a National Compensation Fund to administer monetary compensation for members of the Stolen Generations. Monetary compensation is a matter for the Commonwealth Government.

National Commitment to Improved Outcomes in the Delivery of Programs and Services for Aboriginal Peoples and Torres Strait Islanders

The NSW Government is committed to achieving better outcomes for Aboriginal people and communities. We will continue to pursue the implementation of the 1992 *National Commitment to Improved Outcomes in the Delivery of Programs and Services for Aboriginal Peoples and Torres Strait Islanders*, ('National Commitment'). At the second

annual Black Parliament on 16 September 1998, the Premier, Leader of the Opposition, Chairperson of the NSW Aboriginal Land Council and ATSIC representatives signed the 'Renewing our Partnership' agreement, which affirms support for the *National Commitment*. Practical examples of the NSW Government's steps in this direction are set out below.

Statement of Commitment

In November 1997, the NSW Government launched its *Statement of Commitment to Aboriginal People*, developed in partnership with the Aboriginal Reference Group. The *Statement of Commitment* sets out the NSW Government's determination to lead Australia towards justice and equality for Aboriginal people. It is the blueprint for the Government's initiatives in infrastructure, health, housing, family services, education, economic development, consumer and industrial rights, cultural heritage, Aboriginal relationship with country and a responsive justice system. It commits the NSW Government to working with Aboriginal organisations as a way to build effective partnerships based on mutual respect and trust.

Aboriginal Communities Development Program

In May 1998 the NSW Government announced the new \$200 million Aboriginal Communities Development Program (ACDP). This innovative seven year program will deliver infrastructure and environmental health services to Aboriginal communities throughout NSW.

Under the program, housing, sewerage connections, water supplies and other essential infrastructure services will be delivered with the co-operation and participation of Aboriginal communities. Community project managers will work with the ACDP program managers on projects. Aboriginal community members will be involved in the planning, construction and maintenance of

services. Employment and training opportunities within Aboriginal communities will be a focus of the Aboriginal Communities Development Program.

Urgent minor works will be undertaken in 1999 in communities such as Mehi Crescent (Moree), Cabbage Tree Island, Summervale, Karuah and Tingha. Major works will be determined in consultation with communities, as well as local councils and ATSIC.

National Parks (Aboriginal Ownership) Amendment Act

On 5 September 1998, the NSW Government returned the Mootwingee National Park to its traditional owners. The Park has been renamed Mutawintji National Park and will be jointly managed by the National Parks and Wildlife Service and traditional owners. This landmark event was made possible by the *National Parks and Wildlife (Aboriginal Ownership) Amendment Act 1996*. Other parks will also be handed back to Aboriginal owners in the future. Negotiation and partnership are key elements of the handback scheme.

Aboriginal Health

The NSW Government has entered into a partnership with the NSW Aboriginal Health Resource Co-operative. Through the partnership, the Government has developed important strategies including the *Aboriginal Mental Health Strategy*, *Aboriginal Family Health Strategy* and *Otitis Media Strategy*. In October 1997 the Partnership released *Ensuring Progress in Aboriginal Health: A Framework for the NSW Health System*, establishing principles and strategic directions for Aboriginal health in NSW.

Aboriginal Housing

The NSW *Aboriginal Housing Act 1998* was proclaimed on 24 July 1998. The Act establishes a new statutory authority, the Aboriginal Housing Office to direct and manage Aboriginal housing in NSW and is underpinned by a three year agreement

between ATSIC, and the Commonwealth and NSW Governments which pools Aboriginal housing funds. The NSW Aboriginal Housing Office board is comprised of 6 ATSIC representatives (elected), 6 State representatives (appointed), including a representative from the NSW Aboriginal Land Council, an independent chair, and a non voting executive officer. Regional Committees have been established in all regions to ensure Aboriginal housing decisions are made in partnership with local communities.

The new Aboriginal Housing Office provides a powerful model for Government and Aboriginal communities to work together in a robust and balanced partnership. The establishment of this office, combined with the pooling of funds, will provide the strongest model yet adopted in Australia for Aboriginal housing.

Review of NSW Programs for Aboriginal People

The NSW Council on the Cost of Government's review of *NSW Government Programs for Aboriginal People*, released in November 1998, outlines State and Commonwealth expenditure on Aboriginal specific programs, and provides a basis for ongoing performance review and improvement. An inter-departmental working group, overseen by the CEOs' Group on Aboriginal Affairs, has been established to further the Review's findings by investigating avenues to enhance service delivery and to develop improved performance indicators for programs.



COMMEMORATION, HISTORY AND CULTURE

The Human Rights and Equal Opportunity Commission highlighted the importance of commemorating the Stolen Generations. In this spirit, the NSW Government participated in National 'Sorry Day' on 26 May 1998, and has supported, and will continue to support, events and initiatives to promote Reconciliation.

Commemoration

In his speech to Parliament on 18 June 1997, the Premier invited submissions from Aboriginal groups on proposals for a suitable public memorial to the Stolen Generations. The Premier announced, on National Sorry Day 1998, a \$45,000 Government grant to the *Stolen Generations Memorial Foundation*, a public trust established by the Stolen Generations Working Group and managed by Public Trustees. (The Foundation will consider options for an appropriate memorial for members of the Stolen Generations.)

The NSW Government supports Aboriginal Reconciliation and is the only State providing funding to its State Reconciliation Committee. The Government has provided \$76,000 for administrative costs to the State Reconciliation Committee. A further \$25,000 has been made available to the NSW State Reconciliation Committee, in partnership with the Premier's Council on Crime Prevention, to visit and inform communities about current issues in Aboriginal Affairs, including issues of the Stolen Generations.

The NSW Government established an annual 'Black Parliament' involving members of the NSW Parliament and elected representatives of Aboriginal communities. Held on 27 June 1997 and 16 September 1998, the first two meetings of Black Parliament have provided the opportunity for an exchange of ideas and acknowledgment of the importance of reconciliation.

History and Culture

The Human Rights and Equal Opportunity

Commission noted that the Commonwealth Government had an obligation to support Indigenous language, cultural and history centres. While the establishment of cultural and language centres is a Commonwealth responsibility, the NSW Government continues to support initiatives to promote and protect Aboriginal cultures and histories.

The NSW Government will work with Elders from Aboriginal communities to record oral histories, in consultation with agencies such as the Australian Institute of Aboriginal and Torres Strait Islander Studies.

The Government will also work with Aboriginal Elders to record the languages and histories of communities and to protect the cultural heritage of Aboriginal people. Five community projects will be undertaken to record Aboriginal languages.

The Department of Education and Training provides Aboriginal Language programs in sixteen public schools in NSW. Financial support was also provided for the 1997 Elders Indigenous Language Summit held in Dubbo.

In 1996, the NSW Government established the Indigenous Arts Reference Group, to promote relations between Aboriginal artists, non-Aboriginal artists and the Government. The Reference Group assists the Government in promoting and protecting Aboriginal cultural heritage and artistic traditions.

In 1997, the *Festival of the Dreaming*, the first of four Olympics arts festivals, was held to much acclaim. Aboriginal and Torres Strait Islander people will continue to be represented in all the arts festivals for the Olympics.

An Indigenous Art Fund has been established to provide a 'quick response' to Aboriginal artists seeking support and assistance. The NSW Ministry for the Arts has also created a Biennial Indigenous Arts Fellowship, worth \$15,000, and an Indigenous History Fellowship, to support the continued work of Aboriginal artists and historians. In addition, the Government's Cultural Grants Program continues to

assist Indigenous artists, with more than \$800,000 provided to organisations to foster Indigenous art and cultural activities.

NSW Museums and Cultural Centres also promote Indigenous cultures. The Australian Museum will commence a 'Museum on the Road' exhibition over the next five years, which will explore Aboriginal spirituality, cultural heritage, and social justice, including a focus on stories of the Stolen Generations. The exhibition will tour the south coast, northern tablelands and western NSW during 1998/99. The Art Gallery of NSW has also established the Yiribana Gallery as a permanent centre for Indigenous art, and our major cultural institutions will continue to work with Aboriginal people.



EDUCATION AND TRAINING

Bringing them home emphasised the importance of education about the history of forcible removal and the impact of these practices, both in schools and the wider community.

In his speech to Parliament on 18 June 1997, the Premier noted:

The apology extended today is an act of recognition and acceptance – the recognition of deep wrongs, mistaken policies and misguided attitudes, and the acceptance of responsibility where it belongs. It brings to an end the denial of truth and history that has always been the great barrier to reconciliation.

The NSW Government recognises the importance of education in promoting reconciliation and ensuring that the stories of Aboriginal people are heard and the grief and trauma of the Stolen Generations remembered.

School Education

The NSW Department of Education and Training (DET) is incorporating aspects of *Bringing them home* into the following syllabuses and resources:

- Years K to 6 *Human Society and Its Environment*.
- Years 7-10 *History and Aboriginal Studies* and other syllabus documents.
- HSC Online materials for Years 11 and 12 *Aboriginal Studies*.

Copies of the community document *Bringing them home – a guide to the findings and recommendations* are to be distributed to all public schools and district offices throughout NSW (2,500 in total).

Supporting these initiatives, the Government will continue to implement the NSW Aboriginal Education Policy, developed with the NSW Aboriginal Education Consultative Group. The policy aims to improve outcomes for Aboriginal students as well as educating all students and the wider

community about Aboriginal histories and cultures. Additional initiatives include:

- A Reconciliation Kit for all schools in NSW.
- Sponsoring the TAFE NSW Student and Staff Awards.
- Recruiting additional Aboriginal teachers and para-professionals.
- Grants of \$15,000 to schools with significant Aboriginal student numbers to support literacy programs.
- Operating Indigenous community language programs in sixteen public schools in NSW.
- Funding support for district based Reconciliation activities including student performances in Sydney's Martin Place and a student art exhibition at the NSW Art Gallery.

Vocational Education and Training

In NSW, the Board of Vocational Education and Training (BVET) has commissioned the development of a vocational education and training strategy for Indigenous people. A draft strategy will be released in 1999.

The Strategy will include a series of principles to improve the chances of Indigenous people completing and succeeding in training, and areas of strategic action. The Strategy will require the endorsement of the NSW Aboriginal Education Consultative Group.

Professional Training and Community Awareness Programs

The NSW Government has sought advice from the Aboriginal Reference Group on a rolling program of Aboriginal cultural awareness training for all Government employees who are in contact with Aboriginal clients. NSW Government agencies have already incorporated, or are in the process of

incorporating, information about the history and effects of forcible removal into training packages. Some examples are noted below.

Department of Education and Training

- A training and development program has been initiated, in consultation with the Aboriginal Education Consultative Group, to support the NSW Aboriginal Education Policy.
- A support document for school staff has been developed to increase teachers' knowledge of Aboriginal history and cultural heritage including material about the separation of Aboriginal children from their families. The document will be distributed to schools in 1999.
- A Creative Arts Years 7-10 Conference on Aboriginal issues included a component on the separation of Aboriginal children.
- The Aboriginal Studies Unit of the Curriculum Support Directorate is developing a community awareness package to increase community involvement in developing NSW educational programs. A pilot is to be launched in 1999 in two areas, one rural and one metropolitan.
- The NSW Government continues to support the employment of Aboriginal Education Assistants and Aboriginal teachers in NSW.

Department of Community Services

- The Department's Aboriginal cultural awareness training program *Bridging Cultures* has a significant component on Aboriginal history, including a study of the processes of forcible removal and the historical and contemporary effects of these practices. The program commenced in 1998.
- The Department's District Officer Entry Level Training Course is to include issues about separation and consequences of forcible removal into the child protection and substitute care modules.

Department of Juvenile Justice

- In October 1997, the Department of Juvenile Justice launched its Competency Based Training for Senior Youth Workers and Juvenile Justice Officers. The Certificate in Juvenile Justice Direct Care Work (Senior Youth Worker) and Certificate IV in Juvenile Justice Direct Care Work (Juvenile Justice Officer) include Aboriginal cultural awareness training. The *Bringing them home* video is used in other in-house training sessions as a teaching tool to focus staff on the effects of forcible removal and its implications for their work.

NSW Police Service

- The NSW Police Service has introduced a Cultural Awareness Program into training within the Service that includes education about the history and effects of forcible removal. Student police officers, as part of their academy based training, also participate in training about the history and effects of forcible removal practices.

Department of Corrective Services

- The Corrective Services Academy conducts courses for uniformed staff that include Aboriginal issues and history, such as the separation of Aboriginal children from their families.
- The Academy recently trained several Aboriginal staff in the Probation and Parole Service in training techniques. These staff will conduct in-service training for staff on Aboriginal issues, including the history and effects of the forcible removal of Aboriginal children.

Attorney General's Department

- The Attorney General's Department is developing a new Aboriginal cultural awareness program for staff. The cross-cultural training course will include a component on the history and effects of forcible removal of Aboriginal children.
- The Department will consult with the Legal Profession Admission Board, responsible for the curriculum of legal practitioners, on the inclusion

of the history and effects of forcible removals in its program.

NSW Health Department

- NSW Health is liaising with tertiary and training institutions to encourage inclusion of the history and effects of forcible removal in undergraduate courses. NSW Health's Education Centre Against Violence has developed a package on Aboriginal issues for use in undergraduate courses, including medicine, nursing and psychology.
- NSW Health is ensuring that Aboriginal health worker training programs are implemented over the next twelve months through the *NSW Aboriginal Mental Health Policy*. The content of these programs will include material from *Bringing them home*. NSW Health is also developing core standards for cultural awareness training for all staff, including issues relating to the separation of Aboriginal children from their families.

ARCHIVES AND RECORDS

In response to the need to assist in family tracing and reunions, and the findings of *Bringing them home*, the NSW Government has in place several programs and projects. These include record preservation, access guidelines, tracing and reunion services and record indexes and guides.

Records Access, Guides and Preservation

In his formal apology in the NSW Parliament on 18 June 1997, the Premier announced that the Department of Aboriginal Affairs would convene a records working group, the Records Access Taskforce, to analyse the recommendations from *Bringing them home* and to develop a strategy for improving access to records in New South Wales.

To ensure the protection of all records relating to Aboriginal people a moratorium preventing their destruction has been initiated and will stay in place until the Taskforce has completed its work.

A set of common guidelines for records access has been completed. These guidelines will ensure easier access to records for Aboriginal people who have been separated from their families.

The NSW Government will establish a 'One Stop Shop' that will enable Aboriginal people to access records about themselves or their families. This initiative has been designed to increase accessibility and to ensure that Aboriginal people who have been affected by the removal policies, receive appropriate support, information and advice on how to trace their families and research and document their own family and community histories.

Connecting Kin

The Records Access Taskforce has worked closely with the Department of Community Services on the *Connecting Kin* Project. *Connecting Kin*, launched in September 1998, is a resource kit which assists in tracing records for people separated from their families. It includes a list of records, contact details, practical advice on accessing records, listings of support

services, and ways to access tracing assistance.

Connecting Kin has a specific focus on *Bringing them home* and employed an Aboriginal Project Officer to assist with the report. *Connecting Kin* is available from the Department of Community Services.

State Records NSW (formerly the Archives Authority) released a *Guide to NSW Archives Relating to Aboriginal People* in August 1998. The Guide lists records relating to Aboriginal people from sources including the Aborigines Welfare Board, the Colonial Secretary, Police and Education. It includes the location of search rooms and regional repositories where records can be viewed. The Guide can be obtained from State Records NSW.

The Archives Authority of NSW has also commenced a Special Preservation Project, to preserve the files of the Aboriginal Welfare Board. The project commenced in 1997, with \$103,000 provided over two years to ensure records are maintained and accessible to Aboriginal researchers and communities.

Support for Link-Up (NSW)

The NSW Government acknowledges that Link-Up (NSW) is the primary provider of family reunification services for Aboriginal people in NSW. In the Premier's formal apology on 18 June 1997, he thanked Link-Up for its tireless work over many years in helping with the reunification of Aboriginal families.

In NSW, Link-Up provides support for clients in regional centres with assistance from mental health workers from NSW Area Health Services. The mental health workers complement the work of Link-Up by providing emotional support to the client after the visit from the Link-Up worker.

To assist this important work, in 1997/98 the Department of Community Services (DoCS) made a grant to Link-Up (NSW) of \$100,000. A further \$50,000 was allocated from NSW Health. These grants are additional to recurrent funding provided by DoCS.

Aboriginal Certification

Bringing them home recommended that Aboriginal organisations which assist Aboriginal people in tracing their families, such as Link-Up, be recognised as Indigenous communities for the purposes of certifying Aboriginality.

The following protocol is observed by Link-Up in establishing Aboriginality within its own organisation:

- A person must be a registered client (18 years or over) of Link-Up.
- Requests must be forwarded to Link-Up's governing committee.
- Endorsement can only be approved at a full committee meeting.

Link-Up (NSW) does not provide certification of Aboriginal identity for government departments. The NSW Government will continue to work with Aboriginal communities to develop appropriate processes for the purposes of identification and to ensure culturally appropriate services are provided to Aboriginal people seeking reunification with their families.

INDIGENOUS WELL-BEING MODEL

The NSW Government is committed to working in partnership with Aboriginal communities to improve services for Aboriginal people affected by separations.

Health

The involvement of Aboriginal communities in planning and delivering of health services, as identified in *Bringing them home*, is essential if services are to meet the needs of Aboriginal people.

The model of partnerships with Aboriginal community controlled health organisations is supported by the NSW Government.

In 1995 the NSW Government and the Aboriginal Health Resource Co-operative formed the NSW Aboriginal Health Partnership. The Partnership, reaffirmed in 1997, ensures that Aboriginal people and organisations are active participants in the development and delivery of health services to Aboriginal communities in NSW. On 1 October 1998 the Director General of NSW Health launched *Ensuring Progress in Aboriginal Health: A Framework for the NSW Health System*. The framework establishes principles and strategic directions for the NSW health system based on an Indigenous Well Being model.

The *NSW Aboriginal Mental Health Policy: A Strategy for the Delivery of Mental Health Services for Aboriginal People in NSW* was launched in October 1997. The Policy emphasises Aboriginal 'well-being' models and is to be implemented by Area Health Services in local partnership arrangements. The Policy recognises, in particular, the effects of past policies on the mental health status of Aboriginal people, and is guided by the findings of the HREOC Inquiry. The Policy identifies four Strategic Directions:

1. All policies, strategies, programs, services and research projects of NSW Health and Area Health Services reflect a respect for an Aboriginal person as an individual within a family, community, nation and society.
2. Aboriginal people, Aboriginal communities and

Aboriginal community controlled organisations are consulted in the identification of needs, development, implementation and evaluation of health programs and services which are the responsibility of Health and Area Services.

3. Recruitment of Aboriginal people into the public health system in partnership with Aboriginal community controlled organisations.
4. Education is an integral aspect of the workplace for both Aboriginal and non-Aboriginal people.

NSW Health is working with Area Health Services and Aboriginal community controlled health organisations to promote further recruitment of Aboriginal mental health workers throughout NSW.

In recognition of the mental health needs of Aboriginal communities, the NSW Minister for Health provided an additional \$250,000 in 1997/98 for services to Aboriginal people to address trauma, loss and grief issues. The Aboriginal Health Partnership allocated the following funds from the Minister's grant:

- \$50,000 to Link-Up (NSW) in 1997/98 to provide follow-up support to Aboriginal people involved in the National Inquiry process.
- \$50,000 to the Aboriginal Medical Service Redfern for the development of a training program for Aboriginal health workers and mental health workers in the area of trauma, loss and grief issues.
- \$50,000 to the Aboriginal Medical Service (Armidale) for a training course with the University of New England on trauma, loss and grief issues for Aboriginal health workers and mental health workers.
- \$60,000 for a conference on trauma, loss and grief in Aboriginal communities to be held in mid-1999 with Link-Up participation.
- \$40,000 for the development of health promotion material, such as pamphlets and videos, which deal with issues of trauma, loss and grief.

The Government has also established the *Aboriginal Family Health Strategy*, a \$3.9 million program to improve family health services. Under this strategy, Aboriginal community organisations will receive funding and support for family health programs, including strategies to address violence and substance abuse.

Issues relating to substance abuse will be addressed in the *NSW Health Drug Strategy* for 1999–2004. Specific Aboriginal initiatives in the Strategy will assist in a joint Commonwealth and State plan for Aboriginal people, which will recognise the impact of substance abuse, physical or sexual assault and other traumas on the well-being of Aboriginal people.

These strategies are supported by programs such as *Healing Time*, a school drug education program. The program will target upper primary and junior secondary students. A *Healing Time* comic and resource kit for staff, parents and planning activities has been piloted in the Wellington and Walgett communities.

Parenting Issues

The HREOC Report emphasised that the effect of separations on Aboriginal families and communities was to erode family and community ties.

Consequently, programs to support parents and families are essential.

The NSW Government's *Families First* program aims to strengthen and extend the parenting skills of parents in NSW who have a child under eight. The program will offer parents a variety of services centred around support for parents with newborn babies, linking new parents with experienced parents to provide practical help, specialist counselling and health services for families, and local development plans. The program is initially being implemented in the north coast and south western Sydney, with new and modified services to commence in 1999/2000. Funding of \$1.1 million in 1998/99 will increase to

\$3.6 million in 1999/2000 with a further increase to \$5 million annually.

Families First has a strong emphasis on supporting Aboriginal families. The following programs and initiatives are being sponsored by *Families First*.

Aboriginal Family Support Services

Parenting skills and family well-being programs are provided by the Department of Community Services on a needs basis. In 1996/97 the Department's Orana Far West Area conducted parenting skills programs in 16 small communities across the area. The Department has enhanced its funding to women's safe houses in Orana Far West to provide support and care for Aboriginal women and children.

Casino Intensive Family Based Service (IFBS)

This program has been identified as a model of best practice in the provision of services to Aboriginal families. The Service is modelled on the Native American Intensive Family Based Service in the United States and provides intensive home-based assistance to families over a two to three month period. Families are assisted where at least one child at risk of placement due to protective concerns, or at the time of the reunion of a child with their natural family.

Schools as Community Centres Project

From 1995 to 1998 this program operated in Curren (Macquarie Fields), Redfern, Chertsey (Central Coast) and Coonamble Public Schools. An evaluation in 1997 found that the project had met its objectives in providing Aboriginal families with access to a range of support services. The program is expected to commence in Kempsey and Kelso in 1999: both regions have a high number of Aboriginal families.

CONTEMPORARY SEPARATIONS

Bringing them home emphasised, and the NSW Government recognises, that separations through community welfare agencies and the juvenile justice system continue at an unacceptably high rate. To reduce this over-representation requires a multi-faceted approach in partnership with Aboriginal people, through family support, youth initiatives and the development of best practice principles when contact with the child welfare or juvenile justice systems occurs. The NSW Government is committed to reducing the contact Aboriginal people have with current child welfare and juvenile justice systems and has established principles of best practice to ensure that Government funded services further this objective.

Child protection and youth issues

Recently the NSW Government funded the Youth Action Policy Association (YAPA), to conduct an Aboriginal Youth Gathering. 50 Aboriginal young people from across NSW attended a 3 day camp focusing on culture, career and leadership. The Government has also provided YAPA with \$120,000, over two years, to employ an Aboriginal worker. In 1998 the Government introduced the *Children and Young Persons (Care and Protection) Act 1998*. The Act establishes a new system of protection for children at risk of abuse or neglect, and the care of children in these circumstances. The Act specifically provides that Aboriginal and Torres Strait Islander people are to participate in the care and protection of their children and young persons. To assist in the implementation of this principle, the Minister may negotiate and agree with Aboriginal and Torres Strait Islander people on the implementation of programs and strategies that promote self-determination.

In contrast to the 1987 child protection legislation, the new Act takes an expansive, inclusive approach to responding to Aboriginal and Torres Strait Islander children. The legislation provides that

in every stage of Department of Community Services involvement with Aboriginal families the best interest of the child, including the child's expressed wishes, is at the forefront of its processes. The aim is to develop programs and strategies that promote self-determination for Aboriginal and Torres Strait Islander families. The Act was framed with due regard to the concerns expressed in *Bringing them home*, particularly concern about past failures to include Aboriginal families in determining the best outcomes for their children.

The Department of Community Services is establishing a state-wide Leaving Care and After Care Service for Aboriginal young people leaving care placements. This service will assist young people in their transition to independent living. The Department has also established five identified Aboriginal District Officer positions to assist Aboriginal Foster Carers.

More generally, in recognition of the day to day issues involved in providing services to Aboriginal people, DoCS has developed an Aboriginal Framework which recognises the liaison role which Aboriginal staff are often required to undertake beyond their duties. This role will be included in reviews of job descriptions and duty statements.

Justice and Juvenile Justice Matters

The NSW Government's fifth report on the implementation of the recommendations of the *Royal Commission into Aboriginal Deaths in Custody* was released in June 1998. Since the 1995-96 report, a new reporting format was devised to outline policies and programs which address disadvantage experienced by Aboriginal people in a clear and thematic way. The thematic areas are:

Reducing the high level of Aboriginal people in custody.

This encompasses policing, legal representation and diversion from custody.

Reducing the rates of death in custody.

'Custody' includes detention in Juvenile Justice, Police and Corrective Service facilities.

Addressing underlying issues of disadvantage.

This includes barriers experienced by Aboriginal people in the areas of housing, community infrastructure, health and alienation from land.

The thematic approach will assist Government agencies to direct resources and focus on the development and provision of programs which will reduce rates of incarceration and social and economic disadvantage. This reporting arrangement reflects the NSW Government's continued commitment to the *Royal Commission into Aboriginal Deaths in Custody* recommendations.

The Attorney General's Department and the Department of Juvenile Justice have implemented initiatives which have been designed to reduce Aboriginal young people's contact with the criminal justice system and provide additional support services.

Aboriginal Night Patrol Programs.

\$60,000 has been provided to four local community based Aboriginal organisations for local volunteer night patrols. Each Aboriginal Night Patrol will be responsible for the transport of young Aboriginal people, who are in public places at night, to their homes or some other safe place.

Post Release Program.

The Department of Juvenile Justice funds a number of community organisations across the state to provide voluntary post-release support services to clients in the first three months of release from custody, the period of highest risk of reoffending. Post-release services provide assistance with accommodation, education, life skills and employment and facilitate reintegration into the community. The areas covered by these community organisations include rural regions with high Aboriginal populations.

Safehaven Alternative Accommodation Placement Program.

This program is designed to provide Aboriginal people who are eligible for bail with a positive alternative to being remanded in custody.

Bail Accommodation Hostels (Nardoola and Ja-Biah).

These services provide assistance to young Aboriginal people who would otherwise be remanded into custody due to a lack of accommodation and support. The hostels also provide young people with the opportunity to participate in educational activities, behaviour management and developing life skills in a residential environment.

Aboriginal Mentor Program.

The Aboriginal Mentor Program was developed to recruit community members to provide Aboriginal clients with positive role models, offer personal support and to provide input and take an active interest in their lives. Mentors encourage positive growth, facilitate community reintegration and assist young people to reduce reoffending.

Ending Offending Program.

This program is a structured alternative to the incarceration of young offenders. Participants are referred, via the court, and participation is mandatory one day a week for twelve weeks.

Aboriginal Program Support Officers (APSOs).

The Department of Juvenile Justice currently employs nine APSOs across the State to consult and work with agencies and organisations regarding projects, programs and community initiatives for Aboriginal young people and their families. Examples of such programs include the Purfleet Youth Centre at Taree and the Kemp Program in Kempsey, where by young people are encouraged to participate in TAFE courses provided by the Djigay Aboriginal Unit at Kempsey TAFE.

Crime Prevention Grants Program.

The Crime Prevention Unit in the Attorney General's Department administers this program and funds community crime prevention plans. Projects include the Koori Justice Program, operated by South Sydney Youth Services, and a cultural heritage strategy developed by the Coffs Harbour Indigenous Family Community Care Centre. The Crime Prevention Unit's role was recently expanded through the creation of a Safer Communities Fund which makes an extra \$500,000 available annually for local crime

prevention initiatives. Programs run by Aboriginal people for Aboriginal young people will be a strong feature of the scheme.

Youth Justice Conferencing.

This scheme came into effect in NSW in April 1998, applying the principles of restorative justice as a means of diverting young people from the court system. The scheme aims to strengthen and support families by assisting young people to reintegrate into their community and is based on the New Zealand Maori model. The structure is extremely flexible and Aboriginal communities are being encouraged to adapt the conferences to suit cultural and community needs. Aboriginal conference convenors are employed in Dubbo, Kempsey, Armidale and Orange. Under the conferencing arrangement, the young person, with family and members of their community, is involved in choosing culturally appropriate means to make reparations for the offence committed. It is expected that many of the outcome plans, developed at the conferences for Aboriginal children and young people, will involve programs fully designed, controlled and run by their own communities. Data collection and monitoring on the acceptance and success of Youth Justice Conferencing has commenced between the Department of Juvenile Justice and the NSW Police Service.

Aboriginal Justice Advisory Council.

The former Aboriginal Justice Advisory Committee was restructured in 1998 to improve its ability to represent Aboriginal community views. The new Aboriginal Justice Advisory Council (AJAC) will operate as the main advisory body to Government on law and justice issues affecting Aboriginal people. The Council is jointly funded by the Attorney General's Department, Juvenile Justice, Corrective Services, and the NSW Police Service, and consists of six Aboriginal representatives and a chairperson appointed by Government. The new structure will also include six regional councils to provide an effective forum for community views to be communicated to the NSW Government, including issues relating to Aboriginal young people in the juvenile justice system.

The NSW Police Service.

The Police service is currently implementing its revised Aboriginal Policy Statement and Strategic Plan 1997 – 2000. The goal of the policy statement is to build mutual respect and trust which will lay the foundation for further improving relations between Aboriginal people and the Police Service. The Policy was developed in consultations with Aboriginal people. The Service is undertaking culturally appropriate consultation with Aboriginal communities, conducting workshops and jointly planning and implementing local initiatives.

National Standards for Indigenous Children

Bringing them home proposed a number of national standards, to guide Governments and other agencies in protecting Aboriginal children. The Human Rights and Equal Opportunity Commission also recommended a national legislative framework on child welfare and juvenile justice issues. The Ministerial Council on Aboriginal and Torres Strait Islander Affairs (MCATSIA) determined instead that such issues were best addressed at State and Territory levels. The NSW Government has closely considered the proposed national standards in the *Children and Young Persons (Care and Protection) Act 1998*.

Standard 1: Best interests of the child

In deciding what is in the best interests of a child for care and protection purposes, a decision-maker is to take into account the views of the child and his or her family, the need to maintain contact with his or her community and culture, and the advice of accredited Aboriginal organisations. This standard has been enshrined in the new *Children and Young Persons (Care and Protection) Act 1998*.

Standard 2: When best interests are paramount

Standard 2 proposed that in any judicial or administrative decision affecting care and protection, the best interests of a child are paramount. This principle is central to the *Children and Young Persons (Care and Protection) Act 1998*. It is also included in the 1997 – 2000 Aboriginal Policy Statement and Strategic Plan of the NSW Police

Service, which emphasises that police exercise appropriate use of discretion.

Standard 3: When other factors apply

Standard 3 applies in situations where the danger to the community as a whole outweighs the desirability of retaining the child in his or her family and community. Section 33(2) of the *Children (Criminal Proceedings) Act 1987* presently incorporates the principle of imprisonment as a last resort in relation to all children, including Aboriginal children. Regulations have been finalised to further emphasise the importance of these principles in relation to the detention of Aboriginal children following arrest. These regulations, encompassed within the *Crimes Amendment (Detention after Arrest) Act 1997*, commenced on 9 February 1998.

Standard 4: Involvement of accredited Indigenous organisations

Standard 4 relates to the proper consultation of accredited Indigenous organisations. The new *Children and Young Persons (Care and Protection) Act 1998* promotes consultation with representative Aboriginal organisations. The NSW Police Service has in place the practice of contacting an Aboriginal Legal Service representative who is then responsible for representing an Aboriginal child when he/she is taken into custody. Consultation with the child or young person and their family is also an important principle in such circumstances.

Standard 5: Judicial decision-making

Standard 5 concerns judicial decision making and ensuring appropriate representation for Indigenous children. In relation to juvenile justice issues, it is generally the responsibility of the NSW Police Service to determine whether a child or young person is Aboriginal. In relation to care and protection issues, the new Act allows for representation by an Aboriginal organisation.

Standard 6: Indigenous Child Placement Principle

The *Children and Young Person (Care and Protection) Act 1998* sets out the terms of the placement principle which applies following court orders and not to decision making processes about voluntary care placements made for children or young people

elsewhere under the Act. Temporary placements can be made for up to 3 months. Placements are normally made with the consent of the child's or young person's parents, but can be made without that consent if the parents cannot be located. The only situation to which the placement principle does not immediately apply is to emergency placements to protect a child or young person from harm, and to placements of less than two weeks' duration.

Provision is made for situations where a child or young person has parents from both the Aboriginal or Torres Strait Islander community and another community. Where this occurs, the child or young person may be placed with the person with whom the best interests of the child or young person will be served, having regard to the placement principles. Where an Aboriginal child or young person is placed in the care of a person who is not Aboriginal, a key objective is to be the reunion of the child or young person with his or her family or the Aboriginal community, and continuing contact must be ensured between the child or young person and his or her Aboriginal or Torres Strait Islander family, community and culture.

Removal is a measure of last resort and the following options are required to be considered, in descending order, in each individual case:

1. The child or young person is to be placed with a member of the child or young person's extended family or kinship group, as recognised by the Aboriginal or Torres Strait Islander community to which the child or young person belongs.
2. If it is not practicable to place the child or young person in terms of paragraph (1), or it is not in the best interests of the child or young person to be so placed, the child or young person is to be placed in the care of a member of the Aboriginal or Torres Strait Islander community to which the child or young person belongs.
3. If it is not practicable to place the child or young person in terms of paragraphs (1) or (2) or it is not in the best interests of the child or young person to be so placed, the child or young

person is to be placed in the care of some other Aboriginal or Torres Strait Islander family residing in the vicinity of the child's usual place of residence.

4. If it is not practicable for the child or young person to be placed in terms of paragraphs (1), (2) or (3), or it would be detrimental to the safety, welfare and well-being of the child or young person to be so placed, the child or young person is to be placed in the care of a suitable person approved by the Director-General after consultation with members of the child's extended family as recognised by the community to which the child or young person belongs, and such Aboriginal and Torres Strait Islander Welfare organisations as are appropriate to the child or young person.

Standard 7: Adoption as a last resort

Standard 7 requires that adoption be a last resort. Since 1995 the Department of Community Services (DoCS) has allowed birth parents the option of a variety of adoption arrangements. The arrangements are usually presented to the court as part of the adoption application and are recognised in the adoption order. The NSW Law Reform Commission has prepared a report on NSW adoption legislation that specifically considers adoption of Aboriginal children. This report recognises that adoption is not a concept in Aboriginal customary law and that any adoption of an Aboriginal child should only occur when it is clearly in the child's best interests and no lesser order would suffice. The Department of Community Services is currently considering the report.

Standard 8: Juvenile Justice

Standard 8 concerns juvenile justice, and recommends that certain rules be followed in all matters involving Indigenous young people or children. The NSW Government recognises the need to consider each of the rules, which are outlined below as they relate to the well being of Aboriginal children and young people in NSW.

The Attorney General's Department has made changes to legislation which reflect the spirit of the

Bringing them home. These changes encompass new legislation, including the *Young Offenders Act 1997* as well as amendments to the *Evidence (Children) Act 1997* and the *Crimes Act 1900* (by the *Crimes Amendment (Detention after Arrest) Act 1997*).

Bringing them home recommended that the national standards legislation incorporate the following Rules to be followed in every matter involving an Indigenous young person or child, and also that any evidence obtained in breach of any of the rules be inadmissible against the child or young person except at the instance of the young person or child himself or herself.

Rule 1 – Warnings

The NSW *Young Offenders Act 1997* (commenced in April 1998) is designed to encourage the use of warnings for summary offences committed by young offenders. A child or young person will not need to admit the offence in order to be eligible for a warning. Where a warning or caution is imposed on a young person, no penalty or obligation may be imposed on the child or young person. The Police Service has commissioned a research project to analyse the data collected since the Act commenced.

The *Evidence (Children) Act 1997*, once it has commenced, will require an investigating official to ensure that any representation made by a child witness in relation to possible criminal proceedings is the subject of a video or audio recording.

Rule 2 – Summons and attendance notices

NSW Police are using summonses and court attendance notices regularly. Section 8 of the *Children (Criminal Proceedings) Act 1987* stipulates that criminal proceedings should not be commenced against a child other than by way of summons or attendance notice. Exceptions may apply where:

- the criminal proceedings relate to a serious indictable offence;
- there are reasonable grounds for considering that the child is unlikely to comply with the summons or attendance order;
- there are reasonable grounds for considering

that the child would be likely to commit further offences if proceedings were commenced by way of summons or attendance notice; and/or

- the violent behaviour of the child or the violent nature of the offence indicates that the child should not be at liberty.

Rule 3 – Notification.

In accordance with the Police Commissioner's Instructions and in line with the *Royal Commission into Aboriginal Deaths in Custody* recommendations, the responsible police officer is required to contact an Aboriginal Legal Service whenever an Aboriginal person is detained. Following the release of *Bringing them home*, regulations have been finalised which make this practice a statutory requirement. These regulations, encompassed within the *Crimes Amendment (Detention After Arrest) Act 1997*, commenced on 9 February 1998.

Rule 4 – Consultation

In accordance with the Police Commissioner's Instructions, police officers are required to make every effort to advise relatives, friends, those in a guardianship role, or an Aboriginal Legal Service of the presence of an Aboriginal child or young person in custody and to encourage contact. All Local Area Commands are required to consult with relatives to determine the most appropriate means of dealing with a young Aboriginal person in custody.

Rule 5 – Interrogation

Section 13 of the *Children (Criminal Proceedings) Act 1987* currently provides that any confession, admission, or statement made by a child under 16 to a member of the police force is not to be used in criminal proceedings unless:

- (a) an adult responsible for the child; or
- (b) a legal practitioner of the child's choosing was present at the time of the confession, admission or statement.

If the court is satisfied that it was proper and sufficient for such a person *not* to be present, it may consider that it is advisable to allow the material to be used in the particular circumstances.

Under the *Young Offenders Act 1997*, an admission

is only recognised where it is made in the presence of the person responsible for the child or a legal practitioner chosen by the child. The *Crimes Amendment (Detention After Arrest) Act 1997* provides that a child may not waive their right to a support person. The relevant Aboriginal Legal Service is currently notified when a young Aboriginal person is in custody and when interviews are conducted.

In relation to the issue of interpreters, section 356S of the *Crimes Act 1900* places the onus on the custody manager to ensure that where there are reasonable grounds for believing that a person cannot communicate with reasonable fluency in English, the use of an interpreter is arranged. The custody manager may only proceed without an interpreter if it is not reasonably practicable to secure the services of an interpreter.

Rule 6 – Cautions

Section 356M of the *Crimes Act 1900* provides that a custody manager must, orally and in writing, caution a person taken into custody that they do not have to say or do anything, but that anything the person does say or do may be used in evidence. The person is then requested to sign an acknowledgment that this information has been given.

The Attorney General's Department has finalised a regulation that requires that, in the circumstances where an Aboriginal or Torres Strait Islander person is detained, the custody manager must ensure that the Aboriginal person understands the caution. If a detained person is cautioned in the absence of a support person, the caution must be repeated in the presence of a support person. This regulation, encompassed within the *Crimes Amendment (Detention After Arrest) Act 1997*, commenced on 9 February 1998.

Rule 7 – Withdrawal of consent to an interview

In NSW, a person who is not under arrest cannot be detained for questioning without their consent. Where a witness refuses to co-operate with police investigations, the police can only secure their attendance at the police station for questioning by arresting a person.

An accused person cannot be required to answer questions during an interview. The NSW Police

Service advises that it will terminate an interview when the suspect or witness wishes to withdraw their consent. It is considered that the tape recording of the interview and the presence of a support person for the child are sufficient to safeguard the child's interests and prevent an abuse of power on the part of the interrogating police officers.

Rule 8 – Recording of interviews

The NSW Police Service advises that only interviews relating to indictable offences are recorded on audio tape or audio-visual tape. Consent is obtained from the young offender before an interview begins and clarification is gained that the young person understands the process and outcomes reached.

The *Evidence (Children) Act 1997* will require an investigating official to ensure that any representation made by a child in relation to possible criminal proceedings is the subject of a video or audio recording. Whilst this requirement does not explicitly apply to the caution, it is in the interests of the investigating official to ensure that the caution is also recorded.

A 1800 Legal Advice line for young people charged with offences has been established, with \$150,000 in funding provided to the NSW Legal Aid Commission for this innovative service.

Rule 9 – Bail

The *Bail Act 1978* states that the presumption is in favour of bail. The circumstances outlined in this proposed Rule are already included in the current *Bail Act*. A child may be refused bail if this is considered necessary on the basis of the child's past behaviour or to ensure their attendance at court at a later date. Commissioner's Instructions 7.04 provides clear guidance on conditional bail for police officers.

Rule 10 – Bail Review

The question of the right to have a senior officer review a decision of a police officer to refuse bail was also the subject of Recommendation 91 of the *Royal Commission into Aboriginal Deaths in Custody*. This was considered but not supported on the basis that it would be likely to give rise to allegations of undue influence, bias or corrupt conduct. Unlike court bail

decisions, police bail decisions are not publicly recorded. Instead, section 9 of the *Children (Criminal Proceedings) Act 1987* provides that where a child is not released on bail, the child shall be brought before an authorised justice by the next working day for the purpose of the justice making a further determination on bail. This approach is preferable in the interests of ensuring an open and accountable justice system. Following the release of *Bringing them home*, the Attorney General's Department has finalised a regulation that requires a custody manager to notify an Aboriginal Legal Service when an Aboriginal person has been detained, unless that person has already made arrangements for a legal representative. If the services of an Aboriginal Legal Service are not available, the Legal Aid Commission provides legal representation for all initial bail applications without the application of a means or merit test. This regulation, encompassed within the *Crimes Amendment (Detention After Arrest) Act 1997*, commenced on 9 February 1998.

Rule 11 – Bail Hostels

Two bail hostels have been established by the Department of Juvenile Justice in recognition that Aboriginal young offenders are often refused bail due to a lack of suitable accommodation. Both hostels are operated by Aboriginal organisations. One is located in Sydney (Ja-Biah) and one at Moree (Nardoola). The Safehaven Foster Care Placement Program, offering longer term accommodation for Aboriginal juveniles who are homeless or unable to remain with their families, is also available. These services offer the courts and police viable alternatives to custody for Aboriginal young people awaiting a court appearance.

Rule 12 – Detention in Police Cells

The *Crimes Amendment (Detention After Arrest) Act 1997* stipulates that an Aboriginal child charged with an offence is not to be placed in a cell except in exceptional circumstances where it is necessary for the welfare of the child.

Aboriginal people are not detained in police custody when other facilities are available. Aboriginal people are not detained for intoxication or other minor offences unless the offender is violent

or the offence is likely to continue. Bail procedures are instituted as soon as possible. Police Aboriginal Community Liaison Officers are on call 24 hours a day and provide support and assistance to Aboriginal people in custody.

Rule 13 – Non-custodial sentences

In relation to all offences other than serious indictable offences, the *Children (Criminal Proceedings) Act 1987* stipulates that a custodial sentence may only be imposed on a child where the Court is satisfied that it would be wholly inappropriate for the court to impose any less serious penalty.

In relation to any summary proceedings for an offence committed by a child or any proceedings remitted to the Children's Court, reasons must be given when a custodial offence is imposed on a child. The Department of Juvenile Justice is responsible for preparing pre-sentence reports for juveniles and for providing non-custodial sentencing alternatives for children.

The aim of the new Youth Justice Conferencing scheme is to develop an outcome plan for a child or young person to complete, in place of a sentence handed down by the court. The child or young person's consent is required for the plan, which may be chosen in consultation with the family. In relation to an Aboriginal child or young person, these people may include a respected member of the Aboriginal community, an Aboriginal mentor or an Elder. The availability and accreditation of programs run by Aboriginal people that are suitable for inclusion in outcome plans is being considered by the Department of Juvenile Justice.

Rule 14 – Sentencing

The NSW Law Reform Commission will release its report on sentencing of Aboriginal offenders in 1999. The NSW Government will consider the findings of the report. Under the *Children (Criminal Proceedings) Act 1987*, a court may not sentence a

child to imprisonment who has pleaded guilty to a criminal offence unless a background report has been tendered in evidence. Copies of this report must be given to the child and any other person appearing in the proceedings.

The Department of Juvenile Justice is responsible for preparing background reports. Several factors are taken into account, including:

- the best interests of the child or young person;
- the wishes of the child or young person's family and community;
- the advice of the appropriate accredited Indigenous organisation;
- the principle that Indigenous children are not to be removed from their families and communities except in extraordinary circumstances.

These factors are to be incorporated into Operational Guidelines.

The Youth Justice Conferencing scheme will implement this proposed Rule by allowing for input from an Aboriginal child's or young person's family and community in determining an outcome plan. The child's or young person's wishes are an essential consideration, and no outcome plan may be approved without the child's or young person's consent.

Rule 15 – Custodial sentences

Under the *Children (Criminal Proceedings) Act 1987*, where a Children's Court imposes a custodial sentence on a child, it must record reasons for imposing the custodial sentence and the reasons for alternative penalties being deemed wholly inappropriate.

The NSW Government does not support a requirement that these reasons be forwarded to the Attorney-General and the appropriate accredited Aboriginal organisation. Such action could give rise to the impression that the judiciary is being subjected to improper influence. It is also arguable that this practice would infringe upon the child's right to privacy. As neither the Attorney General

nor any Aboriginal organisation has the power to intervene in the judicial decision making process, this information would be better maintained in the form of annual statistics thereby ensuring the anonymity of the individuals concerned.

Sentences in NSW may not be indeterminate and there are no mandatory sentences applicable to people under the age of 18 years.



MONITORING PROCESSES

The NSW Government has established mechanisms to ensure that the concerns of Aboriginal communities and organisations are incorporated in all levels of Government policy and administration.

The key mechanisms for monitoring the implementation of the actions and commitments outlined in this response will be the Cabinet Committee on Aboriginal Affairs and the Chief Executive Officers Group on Aboriginal Affairs.

The Cabinet Committee will oversee the implementation of the Government's ongoing commitment to addressing the issues raised in the *Bringing them home* report. The Cabinet Committee will provide a forum for consideration of further action on the thematic areas identified in the report, ensuring a whole-of-Government response.

The CEOs Group on Aboriginal Affairs is jointly chaired by the Director-General of the Department of Aboriginal Affairs and the Director-General of The Cabinet Office and includes the CEOs of relevant NSW Government agencies. It will ensure coordinated responses to service delivery issues and co-ordination between key agencies. It will report to the Cabinet Committee on the implementation of the actions in the NSW Government response to the *Bringing them home* report.

The Department of Aboriginal Affairs will continue to liaise with Government agencies, to ensure that departments consider the recommendations of the *Bringing them home* report as required. The Department of Aboriginal Affairs will monitor progress in key areas. The Minister for Aboriginal Affairs will oversee this process.

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APPENDIX

Bringing them home:

The Recommendations from The National Inquiry

Recording testimonies

1. That the Council of Australian Governments ensure the adequate funding of appropriate Indigenous agencies to record, preserve and administer access to the testimonies of Indigenous people affected by the forcible removal policies who wish to provide their histories in audio, audio-visual or written form.

Procedure for implementation

- 2a. That the Council of Australian Governments establish a working party to develop a process for the implementation of the Inquiry's recommendations and to receive and respond to annual audit reports on the progress of implementation.
- 2b. That the Commonwealth fund the establishment of a National Inquiry audit unit in the Human Rights and Equal Opportunity Commission to monitor the implementation of the Inquiry's recommendations and report annually to the Council of Australian Governments on the progress of implementation of the recommendations.
- 2c. That ATSIC fund the following peak Indigenous organisations to research, prepare and provide an annual submission to the National Inquiry audit unit evaluating the progress of implementation of the Inquiry's recommendations: Secretariat of National Aboriginal and Islander Child Care (SNAICC), Stolen Generations National Secretariat, National Aboriginal Community-Controlled Health Organisation (NACCHO) and National Aboriginal and Islander Legal Services Secretariat (NAILSS).
- 2d. That Commonwealth, State and Territory Governments undertake to provide full detailed and complete information to the National Inquiry audit unit annual on request concerning progress on implementation of the Inquiry's recommendations.

Components of reparations

3. That, for the purposes of responding to the effect of forcible removals, 'compensation' be widely defined to mean 'reparation'; that reparation be

made in recognition of the history of gross violations of human rights and that the van Boven principles guide the reparation measures.

Reparation should consist of:

1. acknowledgment and apology
2. guarantees against repetition
3. measures of restitution
4. measures of rehabilitation
5. monetary compensation

Claimants

4. That reparation be made to all who suffered because of forcible removal policies including:
 1. individuals who were forcibly removed as children
 2. family members who suffered as a result of their removal
 3. communities which, as a result of the forcible removal of children, suffered cultural and community disintegration, and
 4. descendants of those forcibly removed who, as a result, have been deprived of community ties, culture and language, and links with entitlements to their traditional land.

Acknowledgment and Apology: Parliaments and Police Forces

- 5a. That all Australian Parliaments:
 1. officially acknowledge the responsibility of their predecessors for the laws, policies and practices of forcible removal
 2. negotiate with the Aboriginal and Torres Strait Islander Commission a form of words for official apologies for Indigenous individuals, families and communities and extend those apologies with wide and culturally appropriate publicity, and
 3. make appropriate reparation as detailed in the following recommendations.
- 5b. That State and Territory police forces, having played a prominent role in the implementation of the laws and policies of forcible removal, acknowledge that role and, in consultation with the Aboriginal and Torres Strait Islander Commission, make such formal apologies and participate in such commemorations as are determined.

Acknowledgment and Apology: Churches and others

6. That churches and other non-government agencies which played a role in the administration of the laws and policies under which Indigenous children were forcibly removed acknowledge that role and in consultation with the Aboriginal and Torres Strait Islander Commission make such formal apologies and participate in such commemorations as may be determined.

Commemoration

- 7a. That the Aboriginal and Torres Strait Islander Commission, in consultation with the Council for Aboriginal Reconciliation, seek proposals for further commemorating the individuals, families and communities affected by forcible removal at the local and regional levels. That proposals be implemented when a widespread consensus within the Indigenous community has been reached.

School Education

- 8a. That State and Territory Governments ensure that primary and secondary school curricula include substantial modules on the history and continuing effects of forcible removal.
- 8b. That the Australian Institute of Aboriginal and Torres Strait Islander Studies be funded by the Government to develop these modules.

Professional Training

- 9a. That all professionals who work with Indigenous children, families and communities receive in-service training about the history and effects of forcible removal.
- 9b. That all under-graduates and trainees in relevant professions receive, as part of their core curriculum, education about the history and effects of forcible removal.

Genocide Convention

10. That the Commonwealth legislate to implement the Genocide Convention with full domestic effect.

Assistance to return to country

11. That the Council of Australian Governments

ensure that appropriate Indigenous organisations are adequately funded to employ family reunion workers to travel with clients to their country, to provide Indigenous community, education on the history and effects of forcible removal and to develop community genealogies to establish membership of people affected by forcible removal.

Language, culture and history centres

- 12a. That the Commonwealth expand the funding of Indigenous language, culture and history centres to ensure national coverage at regional level.
- 12b. That where the Indigenous community so determines, the regional language, culture and history centre be funded to record and maintain local Indigenous languages and to teach those languages, especially to those people whose forcible removal deprived them of opportunities to learn and maintain their language and to their descendants.

Indigenous identification

13. That Indigenous organisations, such as Link-Up and Aboriginal and Islander Child Care Agencies, which assist those forcibly removed by undertaking family history research be recognised as Indigenous communities for the purpose of certifying descent from the Indigenous peoples of Australia and acceptance as Indigenous by the Indigenous community.

Heads of damage

14. That monetary compensation be provided to people affected by forcible removal under the following heads.
 1. Racial discrimination
 2. Arbitrary deprivation of liberty
 3. Pain and suffering
 4. Abuse, including physical, sexual and emotional abuse
 5. Disruption of family life
 6. Loss of cultural rights and fulfillment
 7. Loss of native title rights
 8. Labour exploitation

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9. Economic loss
 10. Loss of opportunities

National Compensation Fund

15. That the Council of Australian Governments establish a joint National Compensation Fund.

National Compensation Fund Board

- 16a. That the Council of Australian Governments establish a Board to administer the National Compensation Fund.
- 16b. That the Board be constituted by both Indigenous and non-Indigenous people appointed in consultation with Indigenous organisations in each State and Territory having particular responsibilities to people forcibly removed in childhood and their families. That the majority of members be Indigenous people and that the Board be chaired by an Indigenous person.

Procedural Principles

17. That the following procedural principles be applied in the operations of the monetary compensation mechanism
 1. Widest possible publicity
 2. Free legal advice and representation for claimant
 3. No limitation period
 4. Independent decision-making which should include the participation of Indigenous decision-makers
 5. Minimum formality
 6. Not bound by the rules of evidence
 7. Cultural appropriateness (including language)

Minimum lumpsum

18. That an Indigenous person who was removed from his or her family during childhood by compulsion, duress or undue influence be entitled to a minimum lumpsum payment from the National Compensation Fund in recognition of the fact of removal. That it be a defence to a claim for the responsible government to establish that the removal was in the best interests of the child.

Proof of particular harm

19. That upon proof on the balance of probabilities any person suffering particular harm and/or loss resulting from forcible removal be entitled to monetary compensation from the National Compensation Fund assessed by reference to the general civil standards.

Civil claims

20. That the proposed statutory monetary compensation mechanism not displace claimants' common law rights to seek damages through the courts. A claimant successful in one forum should not be entitled to proceed in the other.

Destruction of records prohibited

21. That no records relating to Indigenous individuals, families or communities or to any children, Indigenous or otherwise, removed from their families for any reason, whether held by government or non-government agencies, be destroyed.

Record preservation

- 22a. That all government record agencies be funded as a matter of urgency by the relevant government to preserve and index records relating to Indigenous individuals, families and/or communities and records relating to all children, Indigenous or otherwise, removed from their families for any reason.
- 22b. That indexes and other finding aids be developed and managed in a way that protects the privacy of individuals and, in particular, prevents the compilation of dossiers.

Joint records taskforces

23. That the Commonwealth and each State and Territory Government establish and fund a Records Taskforce constituted by representatives from government and church and other non-government agencies and Indigenous user services to:
 1. develop common access guidelines to Indigenous personal, family and community records as appropriate to the jurisdiction and in accordance with established privacy principles

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2. advise the government whether any church or other non-government record-holding agency should be assisted to preserve and index its records and administer access
 3. advise government on memoranda of understanding for dealing with inter-State enquiries and for the inter-State transfer of files and other information
 4. advise government and churches generally on policy relating to access to and uses of Indigenous personal, family and community information, and
 5. advise government on the need to introduce or amend legislation to put these policies and practices into place.

Inter-State enquiries

24. That each government, as advised by its Records Taskforce, enter into memoranda of understanding with other governments for dealing with inter-State enquiries and for the inter-State transfer of records and other information.

Minimum access standards

25. That all common access guidelines incorporate the following standards:
 1. The right of every person, upon proof of identity only, to view all information relating to himself or herself and to receive a full copy of the same
 2. No application fee, copying fee or other charge of any kind to be imposed
 3. A maximum application processing period to be agreed by the Records Taskforce and any failure to comply to be amenable to review and appeal
 4. A person denied the right of access or having any other grievance concerning his or her information to be entitled to seek a review and, if still dissatisfied, to appeal the decision or other matter free of charge
 5. The right of every person to receive advice, both orally and in writing, at the time of application about Indigenous support and assistance services available in his or her State or Territory of residence

6. The form of advice provided to applicants to be drafted in consultation with local Indigenous family tracing and reunion services and to contain information about the nature and form of the information to be disclosed and the possibility of distress
7. The right of every person to receive all personal identifying information about himself or herself including information which is necessary to establish the identity of family members (for example, parents' identifying details such as name, community of origin, date of birth)
8. The right of every person who is the subject of a record, subject to the exception above, to determine to whom and to what extent that information is divulged to a third person.

Freedom of Information legislation in the Northern Territory

26. That the Northern Territory Government introduce Freedom of Information legislation on the Commonwealth model.

Indigenous Family Information Service

27. That the Commonwealth and each State and Territory Government, in consultation with relevant Indigenous services and its Records Taskforce, establish an Indigenous Family Information Service to operate as a 'first stop shop' for people seeking information about and referral to records held by the government and by churches. That these Services be staffed by Indigenous people. That to support these Services each government and church record agency nominate a designated contact officer.

Training

28. That the Commonwealth and each State and Territory Government institute traineeships and scholarships for the training of Indigenous archivists, genealogists, historical researchers and counsellors.

Indigenous repositories

- 29a. That on the request of an Indigenous community, the relevant Records Taskforce sponsor negotiations between government,

church and/or other non-government agencies and the relevant Indigenous language, culture and history centre for the transfer of historical and cultural information relating to that community and its members.

- 29b.** That the Council of Australian Governments ensure that Indigenous language, culture and history centres have the capacity to serve as repositories of personal information that the individuals concerned have chosen to place in their care and which is protected in accordance with established privacy principles.

Establishment of family tracing and union services

- 30a.** That the Council of Australian Governments ensure that Indigenous community-based family tracing and reunion services are funded in all regional centres with a significant Indigenous population and that existing Indigenous community-based services, for example, health services, in smaller centres are funded to offer family tracing and reunion assistance and referral.

- 30b.** That the regional services be adequately funded to perform the following functions:

1. Family history research
2. Family tracing
3. Support and counselling for clients viewing their personal records
4. Support and counselling for clients, family members and community members in the reunion process, including travel with clients
5. Establishment and management of a referral network of professional counsellors, psychologists, psychiatrists and others as needed by clients
6. Advocacy on behalf of individual clients as required and on behalf of clients as a class, for example with record agencies
7. Outreach and publicity
8. Research into history and effects of forcible removal
9. Indigenous and non-Indigenous community education about the history and effects of forcible removal
10. Engaging the service of Indigenous experts for

provisions of genealogical information, traditional healing and escorting and sponsoring those returning to their country of origin

11. Participation in training of Indigenous people as researchers, archivists, genealogists and counsellors
12. Participation in national networks and conferences
13. Effective participation on Records Taskforces
14. Support of test cases and other efforts to obtain compensation.

Return of those removed overseas

- 31a.** That the Commonwealth create a special visa class under the Migration Act 1951 (Cth) to enable Indigenous people forcibly removed from their families and from Australia and their descendants to return to Australia and take up permanent residence.

- 31b.** That the Commonwealth amend the Citizenship Act 1948 (Cth) to provide for the acquisition of citizenship by any person of Aboriginal or Torres Strait Islander descent.

- 31c.** That the Commonwealth take measures to ensure the prompt implementation of the International Transfer of Prisoners Bill 1996.

Research

- 32.** That the Commonwealth Government work with the Aboriginal and Torres Strait Islander Health Council in consultation with the National Aboriginal Community-Controlled Health Organisation (NACCHO) to devise a program of research and consultations to identify the range and extent of emotional and well-being effects of the forcible removal policies.

Indigenous well-being model

- 33a.** That all services and programs provided for survivors of forcible removal emphasise local Indigenous healing and well-being perspectives.

- 33b.** That government funding for Indigenous preventive and primary mental health (well-being) services be directed exclusively to Indigenous community-based services

including Aboriginal and Islander health services, child care agencies and substance abuse services.

- 33c.** That all government-run mental health services work towards delivering specialist services in partnership with Indigenous community-based services and employ Indigenous mental health workers and community members respected for their healing skills.

Health professional training

- 34a.** That government health services, in consultation with Indigenous health services and family tracing and reunion services, develop under-graduate training for all students in the history and effects of forcible removal.

Mental health worker training

- 35.** That all State and Territory Governments institute Indigenous mental health worker training through Indigenous-run programs to ensure cultural and social appropriateness.

Parenting skills

- 36.** That the Council of Australian Governments ensure the provision of adequate funding to relevant Indigenous organisations in each region to establish parenting and family well-being programs.

Prisoner services

- 37.** That the Council of Australian Governments ensure the provision of adequate funding to relevant Indigenous health and medical services and family well-being programs to establish preventive mental health programs in all prisons and detention centres and to advise prison health services. That State and Territory corrections departments facilitate the delivery of these programs and advice in all prisons and detention centres.

Private collections

- 38a.** That every church and other non-government agency which played a role in the placement and care of Indigenous children forcibly removed from their families, at the request of an Indigenous language, culture and history

centre, transfer historical and cultural information it holds relating to the community or communities represented by the centre.

- 38b.** That churches and other non-government agencies which played a role in the placement and care of Indigenous children forcibly removed from their families identify all records relating to Indigenous families and children and arrange for their preservation, indexing and access in secure storage facilities preferably in consultation with relevant Indigenous communities and organisations, in the National Library, the Australian Institute of Aboriginal and Torres Strait Islander Studies or an appropriate State Library.
- 38c.** That every church and non-government agency which played a role in the placement and care of Indigenous children forcibly removed from their families provide detailed information about its records to the relevant Indigenous Family Information Service or Services.

Application of minimum standards and common guidelines

- 39.** That church and other non-government record agencies implement the national minimum access standards (Recommendation 25) and apply the relevant State, Territory or Commonwealth common access guidelines (Recommendation 23).

Counselling services

- 40a.** That churches and other non-government welfare agencies that provide counselling and support services to those affected by forcible removal review those services, in consultation with Indigenous communities and organisations, to ensure they are culturally appropriate.
- 40b.** That churches and other non-government agencies which played a role in the placement and care of Indigenous children forcibly removed from their families provide all possible support to Indigenous organisations delivering counselling and support services to those affected by forcible removal.

Land holdings

41. That churches and other non-government agencies review their land holdings to identify land acquired or granted for the purpose of accommodating Indigenous children forcibly removed from their families and, in consultation with Indigenous people and their land councils, return that land.

Social justice

42. That to address the social and economic disadvantages that underlie the contemporary removal of Indigenous children and young people the Council of Australian Governments,
1. in partnership with ATSIC, the Council for Aboriginal Reconciliation, the Office of the Aboriginal and Torres Strait Islander Social Justice Commissioner and Indigenous community organisations dealing with Indigenous families and children's issues, develop and implement a social justice package for Indigenous families and children, and
 2. pursue the implementation of the recommendations of the Royal Commission into Aboriginal Deaths in Custody which address underlying issues of social disadvantage.

Self-determination

- 43a. That the Council of Australian Governments negotiate with the Aboriginal and Torres Strait Islander Commission, the Aboriginal and Torres Strait Islander Social Justice Commissioner, the Secretariat of National Aboriginal and Islander Child Care and the National Aboriginal and Islander Legal Services Secretariat national legislation establishing a framework for negotiations at community and regional levels for the implementation of self-determination in relation to the well-being of Indigenous children and young people (national framework legislation).
- 43b. That the national framework legislation adopt the following principles.
1. That the Act binds the Commonwealth and every State and Territory Government
 2. That within the parameters of the Act

Indigenous communities are free to formulate and negotiate an agreement on measures best suited to their individual needs concerning children, young people and families

3. That negotiated agreements will be open to revision by negotiation.
 4. That every Indigenous community is entitled to adequate funding and other resources to enable it to support and provide for families and children and to ensure that the removal of children is the option of last resort.
- 43c. That the national framework legislation authorise negotiations with Indigenous communities that so desire on any or all of the following matters:
1. the transfer of legal jurisdiction in relation to children's welfare, care and protection, adoption and/or juvenile justice to an Indigenous community, region or representative organisation
 2. the transfer of police, judicial and/or departmental functions to an Indigenous community, region or representative organisation
 3. the relationship between the community, region or representative organisation and the police, court system and/or administration of the State or Territory on matters relating to children, young people and families including where desired by the Indigenous community, region or representative organisation, policy and program development and the sharing of jurisdiction, and/or
 4. the funding and other resourcing of programs and strategies developed or agreed to by the community, region or representative organisation in relation to children, young people and families.

National standards for Indigenous children

44. That the Council of Australian Governments negotiate with the Aboriginal and Torres Strait Islander Commission, the Aboriginal and Torres Strait Islander Social Justice Commissioner, the Secretariat of National Aboriginal and Islander

Child Care and the National Aboriginal and Islander Legal Services Secretariat national legislation binding on all levels of government and on Indigenous communities, regions or representative organisations which take legal jurisdiction for Indigenous children establishing minimum standards of treatment for all Indigenous children (national standards legislation).

National standards for Indigenous children under State, Territory or shared jurisdiction

- 45a. That the national standards legislation include the standards recommended below for Indigenous children under State, Territory or shared jurisdiction.
- 45b. That the negotiations for national standards legislation develop a framework for the accreditation of Indigenous organisations for the purpose of performing functions prescribed by the standards.

Standard 1: Best interest of the child – factors

- 46a. That the national standards legislation provide that the initial presumption is that the best interest of the child is to remain within his or her Indigenous family, community and culture.
- 46b. That the national standards legislation provide that in determining the best interest of an Indigenous child the decision-maker must also consider
1. the need of the child to maintain contact with his or her Indigenous family, community and culture
 2. the significance of the child's Indigenous heritage for his or her future well-being
 3. the views of the child and his or her family, and
 4. the advice of the appropriate accredited Indigenous organisation.

Standard 2: When best interests are paramount

47. That the national standards legislation provide that in any judicial or administrative decision affecting the care and protection, adoption or residence of an Indigenous child the best interest of the child is the paramount

consideration.

Standard 3: When other factors apply

48. That the national standards legislation provide that removal of Indigenous children from their families and communities by the juvenile justice system, including for the purposes of arrest, remand in custody or sentence, is to be a last resort. An Indigenous child is not to be removed from his or her family and community unless the danger to the community as a whole outweighs the desirability of retaining the child in his or her family and community.

Standard 4: Involvement of accredited Indigenous organisations

49. That the national standards legislation provide that in any matter concerning a child the decision-maker must ascertain whether the child is an Indigenous child and in every matter concerning an Indigenous child ensure that the appropriate accredited Indigenous organisation is consulted thoroughly and in good faith. In care and protection matters that organisation must be involved in all decision-making from the point of notification and at each stage of decision-making thereafter including whether and if so on what grounds to seek a court order. In juvenile justice matters that organisation must be involved in all decisions at every stage including decisions about pre-trial diversion, admission to bail and conditions of bail.

Standard 5: Judicial decision-making

50. That the national standards legislation provide that in any matter concerning a child the court must ascertain whether the child is an Indigenous child and, in every case involving an Indigenous child, ensure that the child is separately represented by a representative of the child's choosing or, where the child is incapable of choosing a representative, by the appropriate accredited Indigenous organisation.

Standard 6: Indigenous Child Placement Principle

- 51a. That the national standards legislation provide

that, when an Indigenous child must be removed from his or her family, including for the purpose of adoption, the placement of the child, whether temporary or permanent, is to be made in accordance with the Indigenous Child Placement Principle.

51b. Placement is to be made according to the following order of preference:

1. placement with a member of the child's family (as defined by local custom and practice) in the correct relation to the child in accordance with Aboriginal or Torres Strait Islander law
2. placement with a member of the child's community in a relationship of responsibility for the child according to local custom and practice
3. placement with another member of the child's community
4. placement with another Indigenous carer.

51c. The preferred placement may be displaced where:

1. that placement would be detrimental to the child's best interests
2. the child objects to that placement, or
3. no carer in the preferred category is available.

51d. Where placement is with a non-Indigenous carer the following principles must determine the choice of carer:

1. family reunion is a primary objective
2. continuing contact with the child's Indigenous family, community and culture must be ensured, and
3. the carer must live in proximity to the child's Indigenous family, community and culture.

51e. No placement of an Indigenous child is to be made except on the advice and with the recommendation of the appropriate accredited Indigenous organisation. Where the parents or the child disagree with the recommendation of the appropriate accredited Indigenous organisation, the court must determine the best interests of the child.

Standard 7: Adoption as a last resort

52. That the national standards legislation provide that an order for adoption of an Indigenous child is not be made unless adoption is in the

best interests of the child, and that adoption of an Indigenous child be an open adoption unless the court or other decision-maker is satisfied that an open adoption would not be in the best interests of the child. The terms of an open adoption order should remain revisable at any time at the instance of any party.

Standard 8: Juvenile Justice

53a. That the national standards legislation incorporate the following rules to be followed in every matter involving an Indigenous child or young person.

53b. That the national standards legislation provide that evidence obtained in breach of any of the following rules is to be inadmissible against the child or young person except at the instance of the child or young person himself or herself.

Rule 1. Warnings

Arrest and charges are actions of last resort. Subject to Rule 2, a police officer is to issue a warning, without charge, to a child or young person reasonably suspected of having committed an offence without requiring the child or young person to admit the offence and without imposing any penalty or obligation on the child or young person as a condition of issuing the warning.

Rule 2. Summons, attendance notice

A child or young person may be charged with an offence when the alleged offence is an indictable offence. The charging officer must secure the suspect's attendance at the court hearing in relation to the charge by issuing a summons or attendance notice unless the officer has a reasonable belief that the suspect is about to commit a further indictable offence, or to the suspect's previous conduct, that the suspect may not comply with a summons or attendance notice.

Rule 3. Notification

When a child or young person has been arrested or detained the responsible officer must notify the appropriate accredited Indigenous organisation immediately of the fact of the arrest and make arrangements for the attendance of a representative of that organisation.

Rule 4. Consultation

The responsible officer, in accordance with Standard 4, must consult thoroughly and in good faith with the appropriate accredited Indigenous organisation as to the appropriate means of dealing with every child or young person who has been arrested or detained.

Rule 5. Interrogation

No suspect or witness is to be interviewed in relation to an alleged offence unless:

- a. a parent or person responsible for the suspect or witness is present, unless the suspect or witness refuses to be interviewed in the presence of such a person or such a person is not reasonably available
- b. a legal adviser chosen by the suspect or witness or, where he or she is not capable of choosing a legal adviser, a representative of the appropriate accredited Indigenous organisation is present, and
- c. an interpreter is present in every case in which the subject or witness does not speak English as a first language.

Rule 6. Caution

No suspect or witness is to be interviewed in relation to an alleged offence unless:

- a. the caution has been explained in private to the suspect or witness by his or her legal adviser or representative
- b. the interviewing officer has satisfied himself or herself that the suspect or witness understands the caution, and
- c. the suspect or witness freely consents to be interviewed.

Rule 7. Withdrawal of consent

The interview is to be immediately discontinued when the suspect or witness has withdrawn his or her consent.

Rule 8. Recording

Every interview must be recorded on audio tape or audio visual tape. The tape must include the pre-interview discussions between the suspect or witness and the interviewing officer in which the officer must satisfy himself or herself that the suspect or

witness understands the cautions and freely consents to be interviewed.

Rule 9. Bail

Unconditional bail is a right. The right to bail without conditions can only be varied where conditions are reasonably believed due to the suspect's past conduct to be necessary to ensure the suspect will attend court as notified. The right to bail can only be withdrawn where it is reasonably believed due to the nature of the alleged offence or because of threats having been made by the suspect, that remand in custody is necessary in the interests of the community as a whole.

Rule 10. Bail review

The suspect has a right to have the imposition of bail conditions or the refusal of bail reviewed by a senior officer. In every case in which the senior officer refuses to release the suspect on bail, the officer must immediately notify a Magistrate, bail justice or other authorised independent person who is to conduct a bail hearing forthwith. The suspect is to be represented at that hearing by a legal adviser of his or her choice, or where incapable of choosing, by a representative of the appropriate accredited Indigenous organisation.

Rule 11. Bail hostels

When bail has been refused, the suspect is to be remanded in the custody of an Indigenous bail hostel, group home or private home administered by the appropriate accredited Indigenous organisation unless his option is not available in the locality.

Rule 12. Detention in police cells

No suspect is to be confined in police cells except in extraordinary and unforeseen circumstances which prevent the utilisation of alternatives. Every suspect confined in police cells overnight is to be accompanied by an Indigenous person in a relationship of responsibility to the suspect.

Rule 13. Non-custodial sentences

Custodial sentences are an option of last resort. Every child or young person convicted of an offence who, in accordance with Rule 14 cannot be dismissed without sentence, is to be sentenced to a non-

custodial program administered by the appropriate accredited Indigenous organisation or by an Indigenous community willing to accept the child. The child's consent to be dealt with in this way is required. The selection of the appropriate program is to be made on the advice of the appropriate accredited Indigenous organisation and, where possible, the child's family.

Rule 14. Sentencing factors

The sentencer must take into account:

- a. the best interests of the child or young person
- b. the wishes of the child or young person's family and community
- c. the advice of the appropriate accredited Indigenous organisation
- d. the principles that Indigenous children are not to be removed from their families and communities except in extraordinary circumstances, and
- e. Standard 3.

Rule 15. Custodial sentences

Where the sentencer, having taken account of all the factors stipulated in Rule 14, determines that a custodial sentence is necessary, the sentence must be for the shortest appropriate period of time and the sentencer must provide its reasons in writing to the State or Territory Attorney General and the appropriate accredited Indigenous organisation. No child or young person is to be given an indeterminate custodial sentence or a mandatory sentence.

Family law

- 54.** That the *Family Law Act 1975* (Cth) be amended by:
1. including in section 60B(2) a new paragraph (ba) 'children of Indigenous origins having a right, in community with other members of their group, to enjoy their own culture, profess and practice their own religion, and use their own language', and
 2. replacing in section 68F(2)(f) the phrase 'need' with the phrase 'the need of every Aboriginal and Torres Strait Islander child'.



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APPENDIX

Extracts from Parliamentary Debates (Hansard)
Apology to NSW Aboriginal People

by Premier the Hon. R.J. Carr MP
18 June 1997

LEGISLATIVE ASSEMBLY

Wednesday, 18 June 1997

STOLEN ABORIGINAL CHILDREN

Mr SPEAKER: Order! Pursuant to a resolution adopted earlier today, the House will proceed with the motion to be moved by the Premier and with the address to be given by Nancy de Vries. The Chair notes the presence in the gallery of a number of members of the Aboriginal community who have been in some way affected by the policies involved in this debate. The Chair also acknowledges the presence in the gallery of Carol Kendall, Lola McNaughton, Jean Carter and Barry Duroux, of the Aboriginal community organisation Link-Up; Laurel Williams, Co-commissioner of the Human Rights and Equal Opportunity Commission's national inquiry into the separation of Aboriginal and Torres Strait Islander children from their families; Linda Burney, of the Council for Aboriginal Reconciliation; and Aden Ridgeway, of the New South Wales Aboriginal Land Council. The Chair also acknowledges the presence in the gallery of the teachers and students of St Vincent's College, Potts Point, who have made a special trip to be here to listen to this debate.

[Ms Nancy de Vries was conducted by the Serjeant-at-Arms onto the floor of the Chamber.]

Ms de VRIES [10.32 a.m.]: Thank you, Mr Speaker. Premier, Leader of the Opposition, honourable members and members of the Aboriginal community. I thank you very much for the honour today to speak here in this House. I might add that this is very emotional for me; it is wonderful.

I was taken away from my mother at the age of 14 months and my journey as a lonely, homeless, unloved child began. Nobody could really understand the loneliness of an Aboriginal child in a non-Aboriginal environment who has nobody whatsoever around them, who is not treated the same as the other children in the home who are not Aboriginal, who is isolated, who is lonely, who cries at night, and who cries during the day. You could not possibly comprehend the life of that child.

Like hundreds and thousands of other Aboriginal children, I was taken away so that I could be given a better life. Believe you me, to put somebody in 22 different places before they are 18 is not giving them a better life.

When I finally reached home I found members of my family who were following the same profession. I was a registered nurse. There were members of my family who were registered nurses.

There were members of my family who had been to university and who had become workers in the humanities. So, even though I was outside that family, I still had the same feelings and the same goals as my family. I can see no reason why I was ever taken away.

Growing up I had to live with people always telling me that Aboriginal people were no good, that Aboriginal people were drunks. I had no contact with Aboriginal people. I would see Aboriginal people, and I would want to run up to them and say, "Do you know Ruby?", who was my mother, but I was not allowed to. I used to run away. By the time I was eight or nine I became a real rebel. I was acting out my behaviours because I was angry and I did not know what was going on in my life. I used to run away.

I took myself to Queens Square to the department where the births, deaths and marriages registers were and asked an old man behind the counter, "Can you please help me find my mother?" This continued on all through my life. The authorities thought that it was a behavioural problem. It was not. I was searching for my identity and for my family. I needed my family.

I read my papers later in my life and read what had been written about one of my foster parents. It said, "We feel that this woman has regretted having such a member of such a despised race in her family." The first wonderful thing that happened to me in my life was when my first child was born, my son. Suddenly I had somebody who would love me unconditionally and accept me for what I was.

When I finally got home to meet my mother after 53 years, she could not relate to me. For 53 years she had been blotting out the fact that she had lost her child. I am very much like her to look at. She was a great lady. I just thank God that I got home in time to meet her and to actually speak to her. I am still not properly home yet. Because of my mother's inability to accept me again into the family, my family is very divided. But I met her.

This not only affected my life; it affected my children's lives too. They did not have a grandmother and they often used to ask me why. My son, who is 26 now, and a very male person, believe you me-sometimes overly male, I think-was standing in a pub up in Bourke. One of my cousins said to David, "Here, look, this is your uncle." My 26-year-old

cried. Thank God it is not affecting my grandchildren. Two of my grandchildren have two grandmothers who were removed, but they are growing up with love, surrounded by a loving family. They are proud of their Aboriginality. They know who they are, and they know where we are going. I will protect their rights to the last breath in my body. I will never allow anything to happen to them.

I want to thank you for this opportunity to come here and share some of these experiences with you. It is very emotional for me. I do thank you.

Mr CARR (Maroubra-Premier, Minister for the Arts, and Minister for Ethnic Affairs) [10.40 a.m.]: I move:

That this House, on behalf of the people of New South Wales-

- (1) apologises unreservedly to the Aboriginal people of Australia for the systematic separation of generations of Aboriginal children from their parents, families and communities;
- (2) acknowledges and regrets Parliament's role in enacting laws and endorsing policies of successive governments whereby profound grief and loss have been inflicted upon Aboriginal Australians;
- (3) calls upon all Australian Governments to respond with compassion, understanding and justice to the report of the Human Rights and Equal Opportunity Commission entitled *Bringing them home*; and
- (4) reaffirms its commitment to the goals and processes of reconciliation in New South Wales and throughout Australia.

The unanimous resolution of the House on 14 November last year was a landmark in this country's move to reconciliation. In moving that resolution, I referred to the national inquiry. I extended on behalf of the Government and people of New South Wales our apology to the Aboriginal people. We became the first Parliament to do that. The Human Rights and Equal Opportunity Commission has now published its report. It is called "*Bringing them home*". It is a profoundly moving, deeply disturbing document. It has stirred the conscience of our nation.

The lost generations of the stolen children have been given a voice at long last. We have been privileged to hear their message from Nancy de Vries. No more memorable or moving words have been spoken in this Parliament in the past 150 years. In the introduction to its report the Human Rights and Equal Opportunity Commission quotes from one

of more than 500 testimonies that the inquiry heard, from Link-Up, the organisation devoted to reuniting Aboriginal families in this State and throughout Australia. Link-Up said:

We may go home, but we cannot relive our childhoods. We may reunite with our mothers, fathers, sisters, brothers, aunts, uncles, communities but we cannot relive the 20, 30, 40 years that we spent without their love and care, and they cannot undo the grief and mourning they felt when we were separated from them. We can go home to ourselves as Aboriginals, but this does not erase the attacks inflicted on our hearts, minds, bodies and souls, by caretakers who thought their mission was to eliminate us as Aboriginals.

That is what Nancy has put to us today, although in her case the separation is beyond those 40 years, having been 50 years separated from her mother. That Link-Up statement and Nancy's statement to this House distil the hurt that Aboriginal people feel today about these matters. We are not dealing with some abstraction from the remote past. We are confronted with continuing, contemporary pain, grief and loss, as has been demonstrated in this House this morning.

The Link-Up statement goes directly to the root cause of this immense human tragedy, not only the specific issue of the stolen children, but the wider, complex question of our relationship with the Aboriginal people of this continent, the homeland that we share together. Let me emphasise these words "caretakers who thought their mission was to eliminate us as Aboriginals". What a wealth of meaning, and instruction, that phrase contains. The report acknowledges, and I gladly acknowledge, the many foster and adoptive relationships which grew up in a spirit of love, trust and hope-good, decent Australians also caught up in the web of this tragedy.

But while the report, in line with the terms of reference, focuses on forcible removal, it makes it painfully clear that the whole system of child separation was deeply tainted from the beginning-corrupted at its heart, not so much by the conduct of individuals or institutions acting under the law, but by the law itself and the official attitudes underpinning it, not least the laws and attitudes of this Parliament of New South Wales, acting in the name of the people of New South Wales. This great Parliament was the ultimate caretaker.

We cannot ignore the overwhelming evidence before the Human Rights and Equal Opportunity Commission that for a century this Parliament supported laws which inflicted, and continue to inflict, grief, suffering and humiliation-laws designed, in the words of the Link-Up statement "to eliminate us as Aboriginals". That is why this House must apologise. That is why today, in the presence of members of the stolen generations, I reiterate the words I spoke in this Chamber on November 14 last year:

I reaffirm in this place, formally and solemnly as Premier in behalf of the Government and people of New South Wales, our apology to the Aboriginal people. I invite the House to join me in that apology.

My own Government's submission to the inquiry in June last year dealt very frankly with this Parliament's role. A key piece of legislation in the process was the Aborigines Protection Amending Act of 1915. In his second reading speech the then Chief Secretary declared the purpose of the bill:

If we give the Protection Board these powers [that is, to take children from their parents on the sole ground of their Aboriginality] the Aboriginals will soon become a negligible quantity and the young people will merge into the present civilisation and become very worthy citizens.

The House will better understand the bipartisan nature of our responsibility in the eye of history when I recall that the Minister was George Black, a foundation member of the Australian Labor Party in 1891, and that the Government in 1915 was one of the great reforming Labor governments in New South Wales, under Premier W. A. Holman. It is, of course, one example of a wider truth: that the Australian story is many stories; that we can take pride in the achievements of the pioneer generations and celebrate what they did, while at the same time acknowledging the tragedy of Aboriginal dispossession. These co-exist as themes in the Australian story, in our history. But, as I have said, in the case of the stolen generations we are dealing with a living legacy. The testimony of physical and sexual abuse, of economic exploitation and social deprivation, form only one part of the story. The deliberate attempt at psychological elimination-the denial of Aboriginal identity-remains the unhealing wound for many thousands of our fellow Australians. It is not surprising therefore that the inquiry found:

Many witnesses were taught to feel contempt for Aborigines. Those who knew their own heritage transferred that contempt to themselves.

Yet, in truth, the most remarkable characteristic of the Aboriginal community, the brightest hope for the future, is absence of hatred, the faith that, despite everything, justice will prevail. That these people, who suffered such an injustice, can today deal with us without a sense of hatred is a great statement about the nature of our Aboriginal citizens, about the Aboriginal people

When I moved the motion of 14 November I outlined the Government's specific programs to advance the cause of reconciliation. The Leader of the Opposition and the Leader of the National Party spoke in equally positive and constructive terms. I believe we are similarly obliged to respond to the report of the Human Rights and Equal Opportunity Commission. It contains 54 recommendations, which are now being carefully analysed by the New South Wales Government. Today I make some initial comments. The Government already is reviewing child welfare legislation, and an Aboriginal officer has been seconded to the Department of Community Services to ensure that Aboriginal communities are properly consulted in this process. An important part of this review is to ensure child welfare laws provide adequate support for Aboriginal communities to care for their children.

On oral history, more than 535 Aboriginal people told their stories in the course of the national inquiry. For most, it was their first chance to describe to a government official the impact of these policies on their lives. However, due to the limitations of the inquiry, many people are still waiting for the chance to tell their story. This is part of Australia's history and it should be recorded. I will be asking the State Library to work with the relevant government and Aboriginal organisations to establish an oral history strategy.

In recognition of the important role of the Aboriginal organisation Link-Up, a grant of \$100,000 will be allocated to further counselling and family reunion services. I take this opportunity to acknowledge and thank Link-Up for its tireless efforts over many years and its dedication to the immensely important task of reuniting Aboriginal families. The national inquiry documented the immense grief and hurt that still exists within the Aboriginal community. Now that the extent of these policies has been fully revealed, there is a sadness not only among Aboriginal people but also in the broader community. This aspect of Australia's history is worthy of commemoration, and I extend an

invitation to Aboriginal organisations and to communities for their ideas on what may be appropriate as a permanent memorial. While for many the search is over, others are still trying to trace their origins. A significant section of the report of the national inquiry dealt with access to records.

Today I announce that the New South Wales Department of Aboriginal Affairs will convene a working group to analyse these recommendations in detail and develop a strategy for improving access to records in New South Wales. Normally about 90 per cent of all government records are destroyed in accordance with the Archives Act. To ensure that valuable information is not inadvertently discarded, a moratorium on destroying government records relevant to the separation of Aboriginal families will be implemented for one year while the working group develops its strategy. The files of the former Aborigines Welfare Board constitute the most significant body of archival records documenting this area of government policy during the twentieth century, and the Government has already made the preservation of this information a priority. The real advances will come from the community itself. The report has shocked but also galvanised the community throughout New South Wales and Australia. Schools and churches have spontaneously offered their apologies. The Local Government Association of New South Wales adopted a resolution, from which I quote:

That the members of the State Executive of the Local Government Association of NSW unreservedly apologise for the appalling treatment of the Aboriginal people . . .

With that resolution and the one I hope the Parliament will endorse today, two tiers of government have formally apologised to Aboriginal people. We now await the third. The apology of this Parliament extended today is an act of recognition and acceptance—the recognition of deep wrongs, mistaken policies and misguided attitudes, and the acceptance of responsibility where it belongs. It brings to an end the denial of truth and history that has always been the great barrier to reconciliation. No longer can any of us say we did not know or we did not understand. There is a special significance in the title of the report, "Bringing them home". The commission has dedicated this report to "the generations of Aboriginal children taken from their families and communities, those who are still searching for home, and to the memory of the children who will never return".

But, in a deeper sense, the report is dedicated to all Australians who love this land and who believe in its great future—all of us who call Australia home. For, Mr Speaker, the meaning of reconciliation, the purpose of our apology today, the lessons we take from this report, our acceptance of its hard truths, our determination to make amends, all these things can best be understood and fully realised as part of a great national act of bringing us all home. The path home for all Australians lies through the achievement of justice, equality and respect for the Aboriginal people of Australia.

Mr COLLINS (Willoughby-Leader of the Opposition) [10.54 a.m.]: This morning we have heard one very personal account of the grief and sorrow inflicted on this continent's first inhabitants. We have heard the very personal story of Nancy de Vries, a woman who has suffered more than any of the speakers who will follow her in the Chamber today—suffered as a result of legislation passed by this Parliament. We have heard first-hand of the hardship and pain inflicted on Aboriginal families by a policy that was conceived and pursued until just 20 years ago by what may have been well-motivated but ill-informed governments of both political persuasions. Today we are talking about an event that is not a remote event shrouded in history; we are talking about an event that has occurred time and time again in our own lifetimes. The people who went through this experience are alive to tell us their story today. They have grown up sometimes alongside us; they are around to tell their story. This is a very personal story for all Australians.

Nancy de Vries has told us about the way in which children like her were taken from their families not because they lacked love, not because they were in danger, not because they were in need, but because they were Aboriginal and just because they were Aboriginal—nothing more and nothing less. The policy saw 100,000 Aboriginal children forcibly removed from their parents. The policy has seen 10 per cent of Aboriginal and Torres Strait Islanders aged 25 years and over separated from their families. The policy resulted in many cases of sexual, physical and mental abuse. Put simply, it meant stripping away the honour and dignity in being an Aboriginal and, even more fundamentally, in being human. The dishonour and indignity are expressed on every page of Sir Ronald Wilson's report, "Bringing them home", and especially in the moving accounts of the men and women who gave evidence to the Human Rights and Equal Opportunity Commission. One

witness expressed the totality of her separation with these haunting words:

I remember this woman saying to me: "Your mother's dead, you've got no mother now. That's why you're here with us." Then about two years after that my mother and my mother's sister came to The Bungalow but they weren't allowed to visit us because they were black. They had to sneak around onto the hills. Each mother was picking out which they think was their children. And this other girl said: "Your mother up there." And because they told me that she was dead, I said: "No. That's not my mother. I haven't got a black mother."

Another witness spoke of the sexual abuse she suffered when she was removed from her mother as a three-year-old. She said:

I led a very lost, confused, sad, empty childhood, as my foster father molested me . . . I remember once having a bath with my clothes on 'cause I was too scared to take them off. I was scared of the dark 'cause my foster father would often come at night. I was scared to go to the outside toilet as he would often stop me on the way back from the toilet. So I would often wet the bed cause I didn't want to get out of the bed. . .

Another stolen child told Sir Ronald Wilson's hearings about the way in which her Aboriginality, far from entitling her to education she would not have got with her natural mother, actually denied her an education. She said:

I was the best in the class, I came first in all the subjects. I was fifteen when I got into second year and I wanted to . . . continue at school, but I wasn't allowed to, because they didn't think I had the brains, so I was taken out of school and that's when I was sent out to farms just to do housework.

The commission's report catalogues hundreds of accounts like those, revealing all victims' feelings of separation; in most cases the primitive living conditions they survived; and, all too frequently, the brutal punishments and sexual abuse they endured and the education and medical attention often denied them. They were miserable lives, led day in and day out, as a result of decisions made and legislation passed by this and other parliaments. If it had occurred under the gaze of today's international media, this policy would place Australia amongst those in the international community whose odious human rights records rightly attract the opprobrium of all right-thinking nations. If this policy had been inflicted overnight instead of over decades, Australia would be witnessing a humanitarian disaster to rival the great catastrophes of this century. If this policy had occurred visibly rather than being buried under layers of bureaucracy and hidden in remote places, it would doubtless have been stopped much sooner.

Although it is true that the policy was never motivated by malice, it was always inspired by ignorance. Today the Opposition joins in this apology, this recognition of past injustice to all who suffered at the hands of this policy based on ignorance and paternalism. This is the fourth time in the past year that this Parliament has expressed that sentiment and affirmed its commitment to reconciliation with the nation's first inhabitants. It is to the credit of this Parliament that it has not been dragged into recognition of the injustice which befell the stolen children of Aboriginal families. It is to the credit of this, the mother of Australian parliaments, that we took the initiative.

As we set our eyes on the next millennium we must look forward to working with Aboriginal Australians to deliver real results to overcome their disadvantage. We must remember that Aboriginal men aged between 15 and 24 are nearly three times more likely to die than non-indigenous males, and that the death rate of young Aboriginal women is 3½ times the average. The disparity is even more pronounced in higher age brackets. We must remember that indigenous males die from diabetes-related illness at 12 times the rate of other Australian men, and that the rate for indigenous women is 17 times the average. We must remember that the life expectancy of an Aboriginal child born today is almost 20 years less than that of other Australian babies. Also, we must recognise that infant and perinatal mortality rates for Aborigines are about three times those for the general population.

These statistics fall easily from the lips but we must never forget that the raw figures equate to real suffering, that they equate to death. That is why in the past the coalition made Aboriginal health a priority in this State. I am proud that when I was the Minister for Health the former Government was able to advance Aboriginal health policy. I am pleased also that the current Minister has pursued many of those initiatives and has a similar personal commitment to Aboriginal health. It was the former Government that funded the first ever family health strategy targeting Aboriginal families. It established the first Aboriginal health policy branch of the Department of Health. Those initiatives should have been taken, and they are being continued today.

Those achievements were part of a new but long-awaited approach to Aboriginal health. It meant treating Aboriginal health as a health issue in its own right, not just one of the many problems facing the

system. This applies also to black deaths in custody. I had a strong personal commitment to overcoming the problems leading to black deaths in custody, and we as a Parliament are committed to overcoming those problems today. We must not forget our achievements in the past 30 years. Remembering those achievements will inspire us to do more. Federally, we have witnessed the creation of the Department of Aboriginal Affairs. We have seen the passage of landmark Commonwealth legislation, such as the Aboriginal Land Rights (Northern Territory) Act 1976, the Racial Discrimination Act 1975 and the Council for Aboriginal Reconciliation Act 1991. We have seen landmark court cases unfold, such as Brown and Mabo. And, of course, this year we celebrate the thirtieth anniversary of the great referendum, conceived and delivered by a coalition Government, which for the first time, in 1967, saw full citizenship rights extended to Aboriginal Australians. So it should have, but much, much earlier.

In conclusion, though we always recognise the pain, always share the pain, and are always sorry for it, we must remember the progress that has been made; and this should motivate us to achieve more. Also, though we respect the solemnity of this occasion and acknowledge the importance of our apology, we must never let mere words, even important words like "sorry", overshadow our deeds. Future generations will not measure our success by just listening to our words or reading the record of this Parliament. They will look to see whether we addressed this disadvantage, whether we improved Aboriginal health and whether, in the words of the Governor-General, Sir William Deane, "Aborigine and non-Aborigine went forth together throughout the country as friends and equals, and overcame the injustice and disadvantage" which has flowed from the actions of our ancestors. If future generations realise that we did act and that we were successful, they will remember our words and deeds and regard them as perhaps this generation's greatest gift to the nation. I commend the motion.

Dr REFSHAUGE (Marrickville-Deputy Premier, Minister for Health, and Minister for Aboriginal Affairs) [11.07 a.m.]: I support the Premier's motion and lend my support to the words of the Leader of the Opposition. However, I condemn in the strongest terms any attempt to divide this debate in the community into an apology versus health, education and jobs. The two must go together. It is intellectually dishonest to claim that we can

improve the living standards of Australia's indigenous people without dealing with the past. Those governments that have been the least supportive of Aboriginal self-determination have also been the least supportive of health, education and jobs.

When a doctor diagnoses the poor health of a patient he or she needs to look at the patient's history to establish the causes leading to the poor health. A government diagnosing poor health in a community should also look at the history of that community to treat all of the factors leading to that poor health. Poor health is a result of many factors. Some of the strongest influences on the health of Aboriginal people are as a direct result of their historical treatment. Grief is one of those factors: grief at dispossession, at attempted genocide, for lost children, for lost parents, for lost language and for lost culture. Grief plays a powerful role in everyone's health. Every honourable member in this House must have witnessed the debilitating effects of grief on a person who has suffered loss.

Every honourable member would be aware of how important it is to the state of mind and wellbeing of someone who has suffered a loss to deal with his or her grief fully and openly and to be supported through that grieving process. It is totally counterproductive to suggest that Aboriginal communities should stop that grieving process or that governments should not support them in that process. Healing and good health come from dealing honestly and compassionately with grief and loss. Our apology today says, "We value your culture, we recognise your loss, we support you in your grieving and we wish to begin the process of healing."

Closely associated with grief among Aboriginal communities is another factor in poor health—the abuse of alcohol and other drugs, a problem that is rampant throughout Australia. A list of factors that make children vulnerable to drugs includes family problems, poor self-esteem, the lack of support, and a feeling of isolation. Can any member of this House doubt that the same happens for all children, black or white? Can anyone doubt that the stolen generation and their loss of culture and family support are major factors in vulnerability? If anyone does doubt that, I suggest he visit the service run by Bobby McCloud at Doonooch near Nowra. It has been successful in helping young men with drug and alcohol problems by rebuilding their cultural and spiritual values. No-one can see the powerful effect of returning cultural

values and not understand the power of loss.

When this Parliament supported a policy which forcibly separated thousands of Aboriginal children from their families, members claimed to be acting in the best interests of Aboriginal children. They claimed they were offering better education, health care and job prospects than the children would get from their own families. They were wrong then, and those who claim that members should only focus on health, education and jobs now are still wrong. The best chance Aboriginal children have of good health, appropriate education and an opportunity for a job is through the support of their families and communities. Their best chance is to make sure that the healing of that grief occurs in each family in each community. The best chance an Aboriginal community has of being able to support families in their community is to be involved in the delivery of those services.

The best chance the Government has of supporting communities is by building healthy Aboriginal community-controlled organisations, working with them to deliver services, and listening to what communities have to say. Right now communities are asking us to acknowledge and respond to their grief. They are asking us to respect their grief. They are asking that the next time the Government wishes to improve Aboriginal health, education or employment, that it is done in partnership with Aboriginal communities and families and not just by deciding that the bureaucracy knows best. "Bringing them home", the human rights commission report into the separation of Aboriginal and Torres Strait Islander children from their families, had a positive finding about New South Wales. The report praised Link-Up, the Aboriginal corporation which has provided comprehensive assistance and support to Aborigines in New South Wales who are attempting to reunite with their families.

I am proud of the Government's support for Link-Up and very grateful to Link-Up for the work it does. I commend to all members the book *In the Best Interests of the Child*, which is based on Link-Up's submission to the national inquiry. It provides insight into and evidence of actual events in New South Wales. Today members have been privileged to hear Nancy de Vries talk to us and explain in her own words her own story—a very moving story, but one of many. Honourable members are thankful that Nancy has taken the time to air her grief publicly to help

them understand a little more of what happened and will continue to happen in our lifetime. The Government will continue to work with Aboriginal organisations such as our Aboriginal reference group. Those organisations will form partnerships with the Government to deliver services to Aboriginal communities.

I should like to mention the members of the New South Wales Aboriginal land councils who are present in the Chamber. They are the chief executive, Aden Ridgeway, the chair, Ossie Cruse, Ivern Ardler, Millie Ingram, Ken Foster, Robert Lester, Tom Winters, Tom Briggs, David Clark, Rod Towney, William Murray and Wayne Griffiths. They also have a great task ahead of them and I am pleased that their direction forward is one that the Government certainly supports strongly and which will, I am sure, receive bipartisan support.

In conclusion, I should like to put a different light on this debate. We always talk about the Aboriginal problem. Sometimes it might be better to think about the white problem. Perhaps white Australians share unresolved grief about the destruction of the culture, language, and family ties which are part of our nation. Perhaps some of the poor self-esteem and anxiety which are making all Australian kids vulnerable can be linked to insecurity about our role in this nation, about our collective inability to deal honestly, frankly and openly with our past. All of us are going to be better off by not only making an apology, but by understanding it, meaning it and together going forward. I commend the motion.

Mr ARMSTRONG (Lachlan-Leader of the National Party) [11.15 a.m.]: I speak on behalf of members of the National Party, some of whom have asked to be named individually, such as the honourable member for Wagga Wagga. This debate has no doubt been accentuated this morning by the presence in the Chamber of Ms Nancy de Vries. I am sorry that this facade will end with an apology and nothing more. I would ask honourable members to dwell on those words. I am sorry for the pain that Aborigines have suffered, but my position at the outset has been clear: an apology is a sham unless it is accompanied by real action. This Parliament is the place of government in New South Wales where action can be taken to ensure from this day forward that incidents that occurred in the past will never again occur. But unless there is action, we may be judged by future generations as having participated

in nothing more than a political exercise.

There is no doubt that at that time State and Federal governments, academics and, indeed, churches and many other bodies thought the separation policy was correct. There is no doubt that under Ministers such as Sir Paul Hasluck, who was in office in the 1950s and went on to be one of the most revered Governors-General and academics this nation has had, thought it was right, but hindsight has an amazing capacity to be able to educate us all. There is no doubt that the policies during the 1930s, 1940s and 1950s which saw 20,000-plus children taken from their families—some were orphans and some of the parents did not even know that their children had been sent to the United Kingdom—were abusive by today's standards. There is no doubt that abuses occurred to children, be they Aboriginal children or other children under myriad schemes such as Fairbridge farms, little brothers and big brother movements, et cetera. That is inexcusable.

There is no doubt that when talking about apologies, modern society has much to say sorry about; but unless we look forward it is simply a hollow exercise. How do we say sorry to the veterans of World War II and Vietnam who were not old enough to vote yet were sent away to defend this country? How do we say sorry to their parents? That is a difficult question by any standards and, of course, people in Australia and New South Wales are not the only ones thinking about such questions. This very question is currently being debated in the United States Congress. The debate there is whether America should apologise to black Americans for the slavery of the past. In recent days Ward Connolly, an African American community leader, said of an apology, "It's absurd. Apologising is dumb. It's not going to get us anywhere. Let's move ahead. The nation wants to move ahead."

Jessie Jackson, a noted black civil rights leader, said, "A motion for an apology is distracting the nation from what is most important. There is no substance or value to an apology. There must be a program of substance beyond any apology." Congress Speaker Newt Gingrich said that the motion for an apology is "nothing more than airy-fairy talk, just emotional symbolism that won't teach one more child to read". That is the point I want to make this morning. If we walk out of here today with a sanctimonious feeling, we will not have achieved one thing for Australians, be they white, black or from the myriad national backgrounds that we have.

We have a responsibility to do more than talk. This morning the Premier said that on four occasions in recent times this subject has been discussed here. On four occasions we have talked about it but little action has resulted. That is my objection this morning.

As to the making of an apology, I ask the following questions. Will it wipe away despair? Will it create jobs? Will it give hope? Will it provide education? Will it stop petrol sniffing? Will it reduce domestic violence in black and white communities? Will it reduce the high level of sexually transmitted diseases in Aboriginal communities? Will it reduce the level of Aboriginal incarcerations in this country? If we are serious today we will look at the issues of jobs, education, health and one Australia and not go through this sanctimonious exercise. The Premier referred to a motion in this House last year when I joined with him and the Leader of the Opposition in talking about reconciliation. I am pleased that he made reference to my remarks. At that time I said:

That is not to say that these hurdles cannot be overcome, but attitudinal difficulties that exist throughout all sections of the community can be simplified and softened only by education, explanation and encouragement within rational debate. It could be argued that the progress of reconciliation is made more difficult by the recent robust debate on immigration and racism, which has been mainly directed towards Asian migration to this country. I have no doubt that the process of reconciliation will survive and endure the more emotive debate over Asian immigration. My personal wish is quite simple: I long for all Australians to be as one, observing one Constitution and one set of laws, and recognising one flag. I want our indigenous people to have the same desire and opportunity as non-indigenous people in bringing about a partnership founded on equality, justice, fairness and respect.

Further on I said:

Starting at ground level means identifying and acknowledging what changes must take place in our minds, our homes and our schools, and in the way we approach housing, employment, education, health, law and order, and welfare.

This should not be a one-way concern. It should be an attitude shared by indigenous and non-indigenous Australians . . .

I am pleased that in his presentation this morning the Premier acknowledged the statements that I made last year. I suggest that those statements are unarguable. The fact is that we are one Australia and an apology can only be meaningful if it leads to positive action to address the problems I mentioned I

am on record as having said that I will apologise to the Aboriginal people, but my heart will not be in it. The Government has manufactured this theatre today but not one Aboriginal person will necessarily benefit from it. It is convenient to vilify past generations in order to conform with today's correctness. How will our generation be judged in the future? Will our churches be vilified for extending their care and protection to children, the homeless and the battered?

Whilst I have the opportunity I indicate that I am sorry. I am sorry for the homeless kids in Kings Cross this morning who can buy drugs in the streets. I am sorry for the people who slept in the streets of this city last night. I am sorry for the women who were bashed in their homes last night. When I turned on the radio at 3.15 this morning I listened to a university student say on 2GB that he cannot get a job and is on the dole at the age of 24. I am sorry for him. I apologise to them all. But the bottom line is that they are no better off unless we do something meaningful to redress the problems of our society. Sanctimonious, hypocritical words will not do it. In speaking to this debate I have the benefit of being from a older generation; I lived through most of the events we are discussing. Many of us understand about love in homes and about respect.

All I ask is that equality of value be extended throughout our New South Wales and Australian societies. All I ask is that we recognise that we cannot change history but can learn from it. I ask that the Parliament announce this morning as its main statement the following aims: that it is prepared to redress in real terms drug abuse in our Aboriginal and white communities and in our high schools; that it is prepared to work towards getting real jobs for Aboriginal people, whether they be at, say, Wilcannia, Bourke or Kempsey; that it is prepared to assist in the process of ensuring that all New South Wales people have fair and reasonable access to housing; and that it will address today's imbalances where children are taken from their homes without just cause. A serious examination needs to be undertaken of the Department of Community Services and its treatment of both black and white children.

This is an historic day from which, through the experience of Aboriginal Australians, we can learn to understand the many problems in Australian society today. History should not be used for rhetoric and for feel-good purposes; it should be used to benefit future Australians, irrespective of colour, religion or

background, and to help us become a society that looks after the disadvantaged and remedies inequalities. Right now, within five minutes walk of this place, people are suffering in a way that none here has ever dreamt of, and while we sit here very little, if anything, is being done about it. It is hypocrisy that last week one of the leading publications of this city identified the sale of drugs on a street within 10 minutes of here in the middle of the day.

The press can uncover this crime but we as law-makers in control of law enforcement agencies cannot stop it. The reason is quite simple. We can talk about policies, but we must make a decision to fix the problem. I have had enough of talk; it is time to get serious. If the press can locate the crime, so should the police be able to. It has been a privilege to participate in this debate this morning and I thank the Parliament for the opportunity. I hope that this day becomes a landmark from which we set out to rectify for all people in New South Wales many of the inequalities, injustices and sufferings that occur today. If we do not we all stand condemned.

Mr MARKHAM (Keira) [11.28 a.m.]: I apologise to the Aboriginal people in the gallery today for that statement by the Leader of the National Party. I am absolutely disgusted at his conduct and I apologise to you on his behalf. We are here today as a result of a convention held in Melbourne on 26, 27 and 28 May. Eight resolutions of that convention were incorporated in a document entitled "A Call to the Nation". Resolution 5 states:

We note that leaders across the social spectrum promised their own personal apologies and sorrow for the treatment of indigenous peoples; this was itself an historic moment. We call on all parliaments, local governments, organisations and institutions to follow this lead with their own form of apology so that we can all move forward together to share the responsibility for the future.

Let me talk about that historic convention in Melbourne and express the feelings that I experienced over those three days at the end of May. I know that my colleague the honourable member for Wakehurst would agree totally with my comments, because he was there with me at that convention, each of us representing this Parliament and our respective political parties. I will never forget the incredible changes of emotion at that convention, from anger on the first day when the Prime Minister lost his cool and screamed hysterically at the 2,000 delegates, to feelings of humility and sadness.

During his summing up of the conference, Father Frank Brennan asked Patrick Dodson to come to the platform. He then suggested that every non-indigenous person should turn around or lean over and shake the hand of an indigenous person and apologise to him. I took that opportunity, and I did it with humility, but I was deeply saddened at having to do so because of what happened in this country over the last 209 years. And we should not kid ourselves that similar things are not happening today. Father Brennan also asked the non-indigenous delegates to that conference to stand and give a pledge. I shall repeat that pledge to this House and I believe that all of us should do likewise in the near future. We all stood and we made this pledge:

We who are recent migrants who have come to this land, having attended the Australian Reconciliation Convention, thank you, the Indigenous people gathered at this conference, for your tolerance of us, our cultures and aspirations.

Also, we apologise for the hurt done to you, your ancestors and your lands by our ancestors and our presence and our actions on this land over the last 209 years.

I cannot believe what was said by the Leader of the National Party. The invaders abused not only the children of this country—this very land is still being abused. The very mother of the indigenous people of this country is still being abused. Go and look at our river systems, go out and look at the land, go and look at what we have really done. We have decimated the very soul of the indigenous people of this country. After making that pledge, all 2,000 delegates were asked by Patrick Dodson to stand and complete their apology with the following words. Again I was proud as an Australian to be able to make a commitment to reconciliation, and I continued with my pledge:

[We are] committed to walk together on this land, we commit ourselves to reconciliation and building better relationships so that we can constitute a united Australia, respecting the land, valuing the Aboriginal and Torres Strait Islander heritage and providing justice and equity to all.

I assure every member of this House, every person in the gallery and every citizen of New South Wales that I do not feel guilty for what happened—it was not of my doing—but for me not to recognise the past would make me feel guilty. It is all right for Australians to celebrate great achievements of this country, recognise great sports people, recognise national days and recognise what happened in the past in time of peace and of war, but we should flip the coin and also recognise past injustices. We must recognise

what we have done. We cannot have it all one way.

I should like now to quote from some information that is available to anybody wishing to seek the truth about what happened to the indigenous people of this country. Three international speakers who attended the conference all referred in their speeches during that week to what had happened on the previous Monday. One of the most stirring speeches was from Mililani B. Trask, a native Hawaiian attorney who has walked the international stage fighting for the rights of her people. The convention heard also from Dr Alexander Boraine, Vice Chairperson of the Truth and Reconciliation Commission of South Africa; Professor S. James Anaya, Professor of Law at the University of Iowa; and Grand Chief Ted Moses, a long-committed activist for Aboriginal human rights. These people gave the conference first-hand experiences of what they have suffered as indigenous people in their own lands. It should not be forgotten that indigenous people throughout this world suffer at the hands of the so-called superior race.

I congratulate the Premier on his comments in this House today. Some weeks ago I spoke to the Premier about this very debate and suggested that one thing this House should do is to make sure that the first recommendation of "Bringing them home" is implemented: that all governments make sure that indigenous people in this country have the right to be able to tell their story. Sir Ronald Wilson told the conference that he sat opposite an Aboriginal woman who spoke to him for about an hour and a half about her experiences as a stolen child, and that he was moved to tears. His important final comments were, "That woman said to me, 'Thanks for the opportunity to be able to tell my story. I feel as though the healing has already started'."

Counselling is about people being able to tell their stories unfettered. I shall conclude my remarks by referring to the Link-Up report to the human rights commission. I recommend that everyone obtain a copy of this report because it is a great book; it tells some tragic stories, and it has been one of the driving forces in bringing the children home. I recite a poem entitled *Coming home*, which was written by Bill Hennessy in January:

Finding our people
and coming home
Is like lighting a fire
and catching the smoke.
So much is hidden

living memory our fire
has been silently smothered
by indifference and time.
We stand in the ashes
and sift through the dust
Searching for traces
of what we have lost.

I say to all indigenous Australians: I am very sorry for what happened in the past and I will do whatever I can to make the future better for all of us.

Mr HAZZARD (Wakchurst) [11.40 a.m.]: I fail to understand how any Australian could not be moved by what occurred to 100,000—perhaps more—of our first Australians. I fail to understand how any Australian could not be moved, with great sadness, by the destruction of many Aboriginal families—a destruction that continues today. This issue is part of Australia's history, but it is just as relevant today. Families still suffer high levels of stress because their children were taken away, because mothers have not seen their sons and daughters, and because Aboriginal children have not been able to learn about their culture, their history, their family and their place in the world. No reasonable-minded Australian should fail to be moved by that.

On behalf of the New South Wales coalition, I reach out to every Australian and say: you should listen to what Aboriginal people are saying, to what the first Australians are saying, and you should understand that an apology makes a difference. Aboriginal people need to know that we care about what happened to them and what is happening to them. I will not accept, under any circumstances, the proposition that we simply have to look after the material aspects of the lives of Aboriginal people. Certainly we want to see improved education, improved health, lower incarceration rates and a lot of such things. However, many of those things will follow if Aboriginal people understand that non-indigenous Australians feel sorry about what happened to them.

When we live in a country we are in a marriage with the other people who live in that country. We should be in a marriage with the indigenous Australians, the people who cared for this country for at least 60,000 years before the coming of Europeans. We should be prepared to say to the indigenous Australians that we, as a community, are sorry for the hurt that has occurred to them and to their families in the past 208 years. I have no hesitation in saying that; that is where we should be.

Aboriginal people should know that the House supports this motion as strongly as possible.

Some people may not know this history, which may excuse their ignorance. I encourage all Australians to make the effort to at least get the summary version of "Bringing them home" and to learn a little bit about what happened to families and individuals in our community. The volumes of "Bringing them home", prepared by the human rights commission, outline a litany of injustice, the horror and the unbelievable tales of sadness that most non-indigenous Australians would probably not know about. We tend to live our lives in little cocoons and to not hear what is happening to other people.

As the honourable member for Keira indicated, I attended the Australian Reconciliation Convention on behalf of the Opposition. People who attended that convention could not fail to be moved by the agony, the concern and the sadness that were exhibited. There is hope of moving forward by sharing our history, by acknowledging past mistakes. If we are to get to the stage where we can acknowledge the way forward, we have to acknowledge what has happened in the past. We cannot avoid that. As I said, it is like a marriage: we talk about the problems of the past and we try to work out the way of the future.

No-one can tell me that this policy was in the interests of indigenous Australians. I do not accept that. I accept that on many occasions there were good motivations; that people thought they were doing the right thing. However, does that make it right? With the benefit of hindsight, clearly it was not right. We should apologise for the people who thought they were doing the right thing but got it wrong. It gets worse. Some policies were not motivated by good deeds or thoughts, and there was a lot of that. The human rights commission report, brought together so ably by Sir Ronald Wilson, outlines that the motivations were not always good, and there are plenty of examples of that. For example, I refer to "Council for Aboriginal Reconciliation: Sharing History: A Sense for All Australians of a Shared Ownership of Their History, Key Issues Paper No. 4", in which the chief protector-what a strange word-of Aborigines in Western Australia is quoted as saying in 1909:

I would not hesitate for one moment to separate any half-caste from its-

note the use of the word "its"-

Aboriginal mother, no matter how frantic her momentary grief might be at the time. They soon forget their offspring.

I cannot believe that any human being could say that; I cannot believe that any human being could ever justify those sorts of statements. On behalf of the New South Wales Opposition, I reject any suggestion that we should ever accept those sorts of words when dealing with indigenous Australians. Those words need to be thought about and we should realise what they are: they are not words of great kindness, they are not words motivated by trying to achieve an increase in education or health or to lower incarceration. There was one simple fact: if people were Aboriginal or half-caste-as people liked to refer to them in those days-if they were the product of an Aboriginal parent and a non-Aboriginal parent, they were taken away and removed from their families, in all sorts of horrific circumstances. They were told to forget about love, affection and human relationships; to forget about an encouraging, nurturing family background in which to grow up. They were told, "We will give you another family or a home or just enough education to get you a job as a domestic."

People cannot tell me that that is acceptable to this Parliament or to Australians generally. It should not be. The simple fact is that those sorts of justifications existed. Fortunately the first volumes of the report became available during the Australian Reconciliation Convention, which I attended. I am sure that all the 1,800 convention delegates thought it deeply appropriate that the "Bringing them home" report should have its public viewing at a convention looking towards the future, looking towards Australia's reconciliation and towards the pathway that Australians can take for reconciliation-the way forward. But the report also emphasised the great sadness of what had occurred. More than 500 people presented their stories to Sir Ronald Wilson. I am not the slightest bit surprised that Sir Ronald Wilson has been moved by the highest level of compassion.

When one hears him speak one understands that he has been touched by the horrors that occurred to indigenous Australians: and so he should have been, and so should every Australian, because it was an horrific past. Today, in pockets around Australia, the approach to the difficulties experienced by indigenous Australians is not much better. The examples given by those 500 people were just horrific. They were examples of a complete lack of compassion, a complete lack of care. The report contains many examples, but I will quote from one that explains how a family was separated:

I was at the post office with my Mum and Auntie (and cousin). They put us in the police ute and said they were taking us to Broome. They put the mums in there as well. But when we'd gone (about ten miles) they stopped, and threw the mothers out of the car. We jumped on our mothers' backs, crying, trying not to be left behind. But the policemen pulled us off and threw us back in the car. They pushed the mothers away and drove off, while our mothers were chasing the car, running and crying after us. We were screaming in the back of that car. When we got to Broome they put me and my cousin in the Broome lock-up. We were only ten years old. We were in the lock-up for two days waiting for the boat to Perth.

That is but one example. As shadow minister for Aboriginal affairs I have a fairly knowledgeable position. I have been around a while; I would like to say that I am young, but I am not. I have heard these sorts of stories, but I did not know just how uncaring, dispassionate and horrific these sorts of separations were. So let us get it right today. Our history is not necessarily a good history, although it has many good parts. Many times non-indigenous Australians have tried to do the right thing for indigenous Australians. But, regrettably, until we as a community acknowledge the horror and the incredibly intensive psychological anguish and pain inside many Aboriginal people, and are big enough to say, "We are sorry that this happened to you", why should Aboriginal people feel that we are one community?

Why should they feel that we have a sense of one shared history and direction forward, until we Australians as a community acknowledge what happened. We should do that not with a sense of guilt—we were not there, we did not do it—but it is our country, and it is part of our history that these wrongs were done to Aboriginal people. I heard recently that some people are saying that similar events still happen on occasions in various parts of Australia. Hopefully, they do not occur with the frequency or natural inevitability of such happenings during the late 1950s and early 1960s. But in order for us to go forward, we non-indigenous Australians need to acknowledge what happened in the past. We need to say that we are really sorry that this happened, we are really sorry that their lives were in turmoil, we are sorry that they suffered such anguish and were not able to get on with their lives in the way that they should have been able to.

I encourage all Australians to read the executive summary in "Bringing them home" and to read books on similar topics. At the moment I am halfway through *If Everyone Cared*, the autobiography of Margaret Tucker. It is a story about an Aboriginal child who was separated from her

family. She was a member of a normal Aboriginal family working on the station and she attended the station school. But along came the police. They took her and her elder sister away, but left the younger sister. The police threatened the mother with handcuffs because the mother did not want the two girls to go. After that Margaret Tucker did not see her mother for a long time. She was left in a training centre for Aboriginal girls and became a domestic.

Her story is told not with hatred, not with a contempt for other Australians, but with humour, intellect, objectivity and, most importantly, in a way to inform other Australians about what happened to Aboriginal people. I encourage all my parliamentary colleagues to borrow this book and read it. I also encourage all Australians to read it and try to come to grips with what Australian history is all about. The Liberal Party recognises that many Aboriginal people are still locked on this island, Australia, with lost identities. We want Aboriginal people to have their identities, we want them to be able to share their identities and our collective histories. We want to go forward with Aboriginal people because it enriches all of us to do so. To achieve that aim I ask Aboriginal people to understand that we are sorry about what happened to them and their families in the history of Australia.

Mr SOURIS (Upper Hunter-Deputy Leader of the National Party) [11.58 a.m.]: I am pleased to have this opportunity to make my personal contribution to this motion. In the 1950s and 1960s I was a child, and my contemporaries included children of the lost generation. I grew up with this issue. This is not an issue of the past; it is not strictly about 1788, it is not about distant history. It is about our contemporary history of the 1950s and 1960s. I am a member of that contemporary society of the 1950s and 1960s. I believe society should apologise, and I add my apology. That is not to say that a mere apology resolves anything, but it is an expression of our humanity. I am equally concerned about the tragic issues of homelessness, education, health, social tragedy and suicide that still pervade the Aboriginal community. We need to address drug and alcohol abuse and the often seen lack of direction or motivation towards a better future.

As an Australian I want something done about those problems. Equally, I want something done about a whole raft of social issues facing Australia, including the tragedy of drought in rural Australia and the debilitating social dislocation caused by an

Overall loss of economy, depopulation and job opportunities to the bush. I am concerned about the desperate community problems faced in the cities, regional centres and rural communities as a result of our lost youth. Anyone who thinks the National Party might be less sensitive to the problems caused by the stolen generation would not be aware of the relationship National Party members of Parliament have with the Aboriginal communities in their electorates. I am proud of the Aboriginal community, which is predominantly from the Kamilaroi, in my electorate of Upper Hunter. I am particularly proud of the achievements of the Walhallow community near Quirindi.

I have taken people, including the Governor of New South Wales, to Walhallow to meet Mr Terry Allan and other leaders in the area, as well as the community. I have received the debts at the Walhallow debutante ball. The Aboriginal artwork presented to me hangs on my wall. The Aboriginal community is part of our whole community, especially in country New South Wales, and we all want to work together to solve the totality of the social, economic and environmental issues confronting rural Australia. The trap is to apply the political correctness and morality of this contemporary society to the morality of more than 40 years ago, when the process was endorsed by and participated in by governments at all levels, academics, social experts, educational experts and the churches. Likewise, 40 years from now the trap will be in applying the morality of the future to today's actions.

The test in the current era is whether we can successfully use our existing resources to deal with and advance solutions to the problems of the Aboriginal community contemporaneously with other issues affecting the whole community. I ask the Aboriginal community to accept this heartfelt apology and to respond with goodwill and a commitment to a better future. The future is in your lands and only you can fulfil your destiny. With a sense of human equality and an equitable share of resources, the Aboriginal community will be faced with the problem of finding a contribution that both black and white can make to a greater Australia.

Dr MACDONALD (Manly) [12.02 p.m.]: I support the motion. I also support what has been said by those who have already spoken in the debate, with the exception of the Leader of the National Party; I found his words both confusing and uncertain. An

apology is an important gesture and an important part of the repair process. However, an apology will only have significance if the ills of past policies of assimilation are genuinely recognised. I have read the report "Bringing them home", and I should like to quote from what was written about Millicent. The report states:

At the age of four, I was taken away from my family and placed in Sister Kate's Home-Western Australia where I was kept as a ward of the state until I was eighteen years old. I was forbidden to see any of my family or know of their whereabouts. Five of us D. children were all taken and placed in different institutions in WA. The Protector of Aborigines and the Child Welfare Department in their "Almighty Wisdom" said we would have a better life and future brought up as whitefellas away from our parents in a good religious

environment. All they contributed to our upbringing and future was an unrepairable scar of loneliness, mistrust, hatred and bitterness. Fears that have been with me all of life. The empty dark and lonely existence was so full of many hurtful and unforgivable events, that I cannot escape from no matter how hard I try. Being deprived of the most cherished and valuable thing in life as an Aboriginal Child-love and family bonds.

The policy was evil; Aborigines were not even regarded as human beings. The report reveals a great deal about the impact of removal policies on present Aboriginal communities. The Sydney Aboriginal Mental Health Unit advised the inquiry of its experience with patients presenting with emotional distress. It is worth recording what the inquiry was told, because it puts the ramifications of past policies in a contemporary light. The inquiry was told:

This tragic experience, across several generations, has resulted in incalculable trauma, depression and major health problems for Aboriginal people. Careful history taking during the assessment of most individuals and families identifies separation by one means or another-initially the systematic forced removal of children and now the continuing removal by Community Services or the magistracy for detention of children.

Incidentally, I advise the honourable member for Wakehurst that the policies continued into the 1970s, and the report contains many reports of it occurring perhaps even into the 1980s. The report continues:

This process has been tantamount to a continuing cultural and spiritual genocide both as an individual and a community experience and we believe it has been the single most significant factor in emotional and mental health problems which in turn have impacted on physical health.

The report then states:

The Unit identified the risk of "major depressive disorder and use of alcohol and other drugs to ease feelings of hopelessness, helplessness, marginalisation, discrimination and dispossession, leading to breakdown in relationships, domestic violence and abuse" among its clients. The forcible removal policies are seen as the principal cause of these "presenting issues".

An apology is an acknowledgment of past wrongs. Those wrongs have given me feelings of great regret, shame and sorrow. The past cannot be undone, but we can attempt to right some of the wrongs. Opportunities for reparation are available. The greatest gesture that could follow an apology would be finding a way through the problem of native title rights and providing Aboriginal communities with the opportunity to celebrate their culture and to share the same access to resources that other Australians enjoy. Respect for those who have suffered under past policies is best shown by an unwillingness to entertain any current policy that perpetuates dispossession. By that I mean that nothing should be done to undermine the landmark decisions of the last few years, including those in Mabo and Wik.

On 6 June I organised a luncheon in Parliament House to celebrate the sixtieth anniversary of one of the major development agencies, Plan International. The guest speaker at that luncheon was Noel Pearson. Aboriginal communities can be proud of him. He talked about the Mabo judgment. He said that the white judges of the High Court had made a unilateral offer of peace to Australia's indigenous people with the Mabo and Wik decisions. He went on to say:

It is the only real chance we have to forge a peace plan, not on the basis of war, not on the basis of struggle, but on the basis of our democratic institutions delivering on this peace proposal.

He continued:

The High Court said that in 1788 when this glorious vista here [he gestured over to the domain] was occupied by the Eora peoples, at that moment when the Crown declared sovereignty over Australia, Aboriginal people were supposed to be recognised as citizens of the British Crown.

They were entitled to the recognition of their humanity and their traditional connection to their homeland.

Noel Pearson went on to say that of all the miserable baggage that came out of England, three things were of value: Earl Grey tea, the sublime game of cricket

and the common law. He said the common law came upon the shoulders of those who held the sword of imperialism. That troubling imperialism for indigenous people had the redemptive prospect within it that the imperialists carried within them a law on their shoulders that was capable of civilised conduct. That civilisation came to the surface very late in the day but it came to redeem us all. His reference to redemption was a reference to the decisions of Mabo and Wik. The current attempts, particularly by the Federal Government, to undo the wisdom of Wik are a perpetuation of the dispossession and disadvantage imposed on the Aboriginal people that has been recorded in the report "Bringing them home".

An apology is of paramount importance, but as politicians we must not tolerate any perpetuation of policies that further disadvantage our indigenous people. I have a deep interest in Aboriginal health, and I am appalled by the shocking statistics relating to the plight of the Aboriginal people in that regard. In the past six months I have taken the opportunity to travel twice into remote Aboriginal communities to try to come to grips with the problem. As a member of Parliament based in the Sydney metropolitan area I have no significant Aboriginal community in my electorate but as a member of this House I consider it my responsibility to familiarise myself with the problems that exist in Aboriginal communities, particularly those relating to health.

I was saddened by the stories I heard and the conditions I witnessed in those remote regions. I have absolutely no doubt that resources to those areas must be increased. We also need to consider carefully and review the way services are delivered to those areas. Most importantly, those remote Aboriginal communities must be given a much greater role in decision making relating to housing, employment, culture, health and welfare services. Too many of those communities are still marginalised in disadvantaged conditions and lack proper services. In Brewarrina I had a most moving discussion with an 87-year-old Aboriginal woman who described the history of her displacement over the years. She was born in tribal conditions in a remote area and suffered what she called three displacements.

The first displacement was when she was moved with her tribe into a reserve. Some years later, I believe it was before the war, the second displacement involved the tribe being moved off the reservation and into a mission. After the war she was

moved out of the Brewarrina mission and into the reserve on the outskirts of Brewarrina. That was the third displacement. Each time the members of the tribe were accorded no respect: they were moved in cattle trucks. My conversation with that woman has left me with a lasting impression and I personally pledge that for the balance of my political life I will work for the benefit of the indigenous people.

Mr PHILLIPS (Miranda-Deputy Leader of the Opposition) [12.13 p.m.]: First I thank Nancy de Vries for her courage in sharing her story with members of this House today. We listened to what she had to say and felt her anguish, but it is difficult to believe that we all truly understood her lifelong pain and the lifelong pain that is felt by so many members of the community she so ably represented in this House today. As the history of this tragedy has unfolded over many months, the real shock to me was the realisation that this problem occurred in my generation. The honourable member for Clarence is sitting on the other side of the Chamber. We went to school together and it happened in our time. It is not a part of the history we were taught at school of atrocities in some far-distant country. We are talking about something that happened in our time and in our own backyard. At school we were taught by the wonderful Christian Brothers that our nation was a land of milk and honey-it was the land of the Anzacs, a land of sweeping golden plains, the lucky country. But it was not lucky for everyone. In Sydney we lived in wonderful times of growth, development and education.

Ms MOORE: Insularity.

Mr PHILLIPS: And insularity-very much so. While I was attending a Christian Brothers school, well-meaning religious people of the same order were separating children from their parents. I am not referring to the occasional disadvantaged or abused child; I am referring to the taking away of more than 100,000 children in our lifetime, in our generation, from their parents to live somewhere else. Their lives were changed. Their dignity was stolen. I wonder what our response would have been if while we were growing up we knew or lived next door to children who were stolen or taken away for no reason other than their race. That is the great tragedy of this story. At that time some members of this House were attending schools run by other religious orders such as the Methodists. Those religious orders were also taking children away and placing them in other homes in far distant parts of Australia.

While other honourable members were attending public schools the Government of this State was also separating children from their families and placing them all over the State and in other parts of the country. While we were living in ignorance and absorbing the bounties of this land, this tragedy was happening here in Australia, in our own land. I have no hesitation in joining with all of my colleagues in this Parliament to support this important motion. As members of Parliament we are not expected to know everything about every issue; I do not believe the community expects us to be experts on all issues. We are not expected to have experienced all life can offer or to have experienced all the pains of life. That would be unrealistic.

However, the community expects us to listen, to try to understand issues and to respond in a positive manner. That is all that is expected of us: no more and no less. There is only one response for anyone who has considered this issue in any way, who has read about it or spoken about it to members of the Aboriginal community. That response is an unreserved apology to the Aboriginal people of Australia for "the systematic separation of generations of Aboriginal children from their parents, families and communities". We all know that apologising, as heartfelt as it may be, is not enough. We must make amends, as other speakers have said. We have apologised in this House on four occasions in the past and, generally, those apologies have gone unrecognised. On 14 November the Premier made a substantial apology in this House. He said when debating a motion that he had moved, "They are the stolen children of lost generations." Later in debate on the motion he said:

I reaffirm in this place, formally and solemnly as Premier on behalf of the Government and people of New South Wales, our apology to the Aboriginal people. I invite the House to join with me in that apology.

We did and we will do so again today. We know that those words will turn into hollow rhetoric if, in the longer term, we do not take positive action. We must reaffirm our commitment to the goals and processes of Aboriginal reconciliation. We must be committed to addressing issues concerning the disadvantaged and we must take account of the aspirations of indigenous people in Australia. If we are genuine about this issue it should be constantly on our minds; it should not be placed on the agenda to which we return occasionally. We should try to correct some of the significant errors of the past.

For me, today is not about protecting our international reputation; it is not about the economic stability of our pastoralists; it is not about salving our consciences; and it is not about what we should do or could be doing physically for Aborigines. For me, today is purely and simply about being caring human beings, struggling to find meaningful ways in which to end the hurt of fellow Australians. That is our simple agenda today. We cannot heal the body unless we first heal the heart—a matter which must be stressed in debate today. We must not be distracted from our goal. This motion is an important step towards healing the heart and correcting the hurt that has been suffered by the Aboriginal community. I apologise unreservedly to the Aboriginal community. I make a commitment to do all that I can to ensure that members of that community have a better lifestyle.

Ms MOORE (Bligh) [12.22 p.m.]: I strongly support the motion moved by the Premier, namely, that this House, on behalf of the people of New South Wales apologises unreservedly to the Aboriginal people of Australia for the systematic separation of generations of Aboriginal children from their parents, families and communities. I join with all other honourable members in supporting this motion. We must recognise and acknowledge what has happened and give support to members of the Aboriginal community as they grieve and attempt to heal the hurt of the past. We must work with the Government and members of the Australian community to overcome the disadvantages confronting those people. I will refer to a few matters which I believe are important. It is obvious that all members of Parliament support this motion. It has been pointed out in debate today that this policy of separation, which was pursued up until 20 years ago—it was based on ignorance and paternalism—emanated from this very Chamber. Laws were enacted that led to the action that caused such shocking dislocation of and destruction to the original inhabitants of this country.

As so many other members have done, I draw attention to the fact that the majority of people in Australia did not know that this policy was being enacted. They did not know what its consequences would be. They, like members of this Parliament, are truly shocked and saddened by the revelations that have come to light over recent months about the effects that this policy had on the Aboriginal community. I draw to the attention of honourable members the obvious: history can repeat itself. We

study history because we know that it can repeat itself. Today I say to the Parliament, as I said yesterday, that we must have proper questioning, scrutiny and accountability in this place. Decisions must not be made and rubber-stamped behind closed doors. Legislation should not be rushed through this House. The community must not be kept in ignorance about what is happening in this place. Without proper questioning, debate and accountability, terrible policies such as this will again be enacted.

I call upon the Premier and members of the Australian Labor Party not to support what is happening at present, that is, a departure from democratic parliamentary processes. As I said earlier, the policy that has been so destructive of the Aboriginal community was enacted in this place. The majority of the Australian community who live in our cities had no knowledge about what was happening to the Aboriginal community. If they did I do not believe that they would have supported or endorsed that policy. Notwithstanding the mores, morality and policies of various churches of the day, I do not believe that the majority of fair-minded and right-minded Australians would have gone along with that. History must not repeat itself. This Parliament should be a proper place of scrutiny, accountability and questioning.

Paternalistic, unjust policies should not be allowed to develop again. We all say that these things will not happen again, but we know that history repeats itself. We must put this issue to rest and say that we require an accountable Parliament that will not allow such laws to emerge again. In conclusion, I support all the sentiments expressed by other honourable members in debate on this matter.

Today has been an incredibly moving experience; it is something that had to happen. I echo the words of the honourable member for Keira, who has been so impressive in the work that he has done in this area over many years. I am sorry for what has happened in the past. I will do everything I can, as a legislator, to make things better for the Aboriginal community in the future.

Mr COCHRAN (Monaro) [12.27 p.m.]: I have probably had as much experience in relation to this issue as any other honourable member. However, I have not had as much experience as those who were in the gallery earlier.

[Interruption]

The honourable member for Swansea might view this matter flippantly. However, some honourable members are aware of the anguish that many members of the Aboriginal community have suffered. It might do the honourable member a world of good to rest her bottom jaw. I had the good fortune of being able to spend some of the period of my youth in the Alice Springs area. When I was 17 or 18 I worked with surveyors and on cattle stations in that area. I witnessed first-hand the lifestyle of Aboriginal people. During that time I developed a great affinity for them and an understanding of the problems they faced. As members of Parliament, we are here today to apologise to the Aboriginal people for our past mistakes. We should not detract in any way from the heartfelt concerns of churches, institutions and Aboriginal people. We, as a society, undertook to protect Aboriginal children from a number of traumatic experiences; we tried to drag a stone-age people into a modern society, which was an impossible task. It was a task that the people did not understand; Aboriginal people certainly did not understand, and monumental problems had to be faced.

We are here to apologise for the sins of those who, with the best of intentions, instigated legislation which would provide for children to be removed from their parents, forcibly in some cases. But the sins continue. It was not only in 1962 that children were removed from their parents; it still happens today in Sydney and across New South Wales. The faces, places and names have changed, but it still goes on under the auspices of government-I refer to the Aboriginal Children's Service and the Department of Community Services. But first I wish to provide a background to my understanding of what has occurred.

In 1963, in Alice Springs, camps were set up at Amooonganah, Jay Creek and, for those who were less lucky, Todd River. I was a young fellow, a stranger in a strange land; I came from the Snowy Mountains, in the south of New South Wales. There were few people my age in Alice Springs. I became friendly with Harry Wilson, an Aboriginal from the Top End. He had been taken from his parents at Daly River to Melville Island, where he was raised at a Catholic mission. Today Harry Wilson is Chairman of the Peppimenarti Aboriginal Land Council, south-west of Alice Springs. I hope to see him in a couple of months. I befriended Harry because he was about

my age. In those days people were not allowed to drink until they were 21 years of age. I had other friends in the Aboriginal community: the Bray family, Robert in particular; the Perkins family, of which one member, Charlie, has become famous in recent times; the Taylors, a white couple who owned Elkira Court, and their son and daughter, Betty and Richard. We were all great mates.

When the prohibition on alcohol was lifted Bill Wentworth was the member for Mackellar and Minister for Aboriginal Affairs. He did everything in his power to prevent the lifting of the prohibition on alcohol consumption by Aborigines, not because he wanted to discriminate against them but because he saw great pitfalls for the race if the prohibition was lifted. I was amazed that he was labelled as a racist by the media. I did not understand what a racist was, because there was no such thing as black and white to me-they were all people. I have known Barbara Wentworth since I was a child. The Wentworths do not need to apologise.

Drunkenness became a major problem from the time prohibition was lifted, and as a consequence many Aboriginal children were neglected, as white children are neglected today when alcohol is involved. An Aboriginal woman by the name of Mrs Flynn-I have never known her first name-was respected by the members of our gang. Her humble home became a haven for the neglected children on the street, because there was no other place in Alice Springs which could take care of the children or young people. Because we were not allowed to drink we played football barefoot on the adjoining football field, in the dust and the bindi burrs. Mrs Flynn became ill, and I realise today that would have been because of undernourishment; she shared her food with all the children. She died and was buried a pauper. Her funeral was attended by 10 people, three of whom were white-Richard and Betty Taylor and me. When she died the children for whom she had cared were placed in the care of missionaries and the gang broke up.

Churches and missionaries in Alice Springs took care of Aboriginal children and their mothers. On one occasion I was camped with friends at a bore near Mount Ebenezer, a tourist centre on the way to Ayers Rock, and a young Aboriginal woman came to our camp in the middle of the night with half her cheek hanging off and a cut on the arm. She had been attacked by one of the elders of the Aboriginal tribe because she was bearing the child of a white man and

was looking for a safe haven. Ted and Val Kunoth, who owned Mount Ebenezer station, took her in, cared for her and arranged for her to be taken to Alice Springs for treatment. That made me aware of the dire circumstances in which people such as that young woman- weeis as they were known-lived, and explained their failings or the failings of the white people with whom they associated, and the consequent costs to the children. Those children face great difficulties today. Many of them were placed in homes, as was the child of that young woman, The Aboriginal Children's Service today plays the role of Mrs Flynn and the Alice Springs churches and missionaries. I am sorry to say that the Aboriginal Children's Service and the Department of Community Services are not doing it very well.

For the past three months I have been dealing with the case of Tracey Fardell. I raised the matter with the Minister for Aboriginal Affairs, the Minister for Community Services and his staff, the media, and in this House. Tracey Fardell was separated from her children in 1991 when they were taken into the care of the Aboriginal Children's Service. The Aboriginal Children's Service has failed the children and failed Tracey Fardell. A report has been provided to me, which I will not read to the House because it would expose the identities of innocent people.

I appeal to this House and to the Minister for Aboriginal Affairs on this day, which has been set aside as a day of some significance, to consider the case of Tracey Fardell, a white woman who was married to an Aboriginal man. After her children were removed from her care they were placed in the care of the Aboriginal Children's Service and subsequently placed into foster care. It has been alleged that one of those children has been sexually abused, and I have documentation to support that allegation. Tracey Fardell is not able to see her children despite the fact that there have been opportunities for negotiations to take place between the Aboriginal Children's Service, Tracey Fardell and others, and directions have been given that access should be granted to the children.

Tracey's husband, the father of the children, has not been able to see them. In fact, he has reached such a point of frustration that he is prepared to relinquish his Aboriginality in order to have access to his children. The situation is intolerable. The Aboriginal Children's Service needs to take account of the fact that if it accepts responsibility for the custody of these children, whether it be in foster care

or through its own administration, it must also accept responsibility for the welfare of the parents. The reunification of the family unit is the responsibility of the service. Tracey Fardell faces a desperate situation. Apart from my appeal to the Parliament today, all avenues have been exhausted, and it seems that no-one is interested in taking up her case.

There would be little doubt in anyone's mind about the sincerity and depth of feeling that most people have for the future of Aboriginal people. Much of today's debate has demonstrated the existence of that sincerity. The Leader of the National Party made the point that an apology is fruitless, worthless and hollow unless there is some follow-up so that people such as Tracey Fardell, her four children and her husband receive some benefit from the remarks that have been made by members of this House. We should not encourage divided and bigoted debate about the issue of who owns Australia or who owns the children; rather, we should strive to achieve what is best for Australia.

Mr CHAPPELL (Northern Tablelands) [12.41 p.m.]: On behalf of many people in my electorate I join with those honourable members who have contributed to today's debate to say that I, too, feel heartfelt sympathy for the Aboriginal people of this country. I apologise for the great disservice that was done to them by a system that simply did not understand. We all have our stories to tell, and many of those stories have been recounted today. I was raised on an orphanage property-not in the orphanage, but my father ran the property. I shared a good deal of time with people who were supposedly orphans. Most of them had mums or dads of one form or another somewhere around the place, so they were not all necessarily orphans. They were there because they had been taken into care and were being looked after.

I have great empathy with those people who, as children, were raised outside a normal home environment with loving parents such as I enjoyed. We know that many Aboriginal kids were taken into care for their own welfare and protection. Today's debate is not about those kids, as much as their stories are profound and regardless of how many suffered the same sorts of trauma. Today we are simply talking about a policy that was wrong. The genesis of the policy was wrong: the implementation of the policy was wrong, and the pain and the trauma that was visited upon so many people-over 100,000 children, their parents, brothers and sisters, and the

communities they lived in-were wrong. For that I apologise.

I am not personally guilty; I was not there, in the sense of making that decision and implementing it. But that does not stop me from joining with the many people in this country who share a sense of grief for what the system has done to some Australians, simply on the basis that they were born Aboriginal. That policy can never be accepted and can never in any way be explained away. The policy was simply wrong. As a consequence of that policy many people grieved then, many people grieve now, and many will continue to grieve for the rest of their days.

Many honourable members on both sides of this House-in fact, I would say every member who contributed to this debate-have said that in some way or other we are all grappling with the consequences of a policy that was wrong. Until the spirit has healed we will never be able to attend to all the current day-by-day issues that have emerged from the dispossession, the trauma and the wrongs that have occurred between people over the years. Today is a step in the right direction towards that healing process. Today's debate will not solve the problems of homelessness, ill-health, lack of education, poverty and all of those things that we know about and in some way try to deal with on a day-by-day basis. However, the debate provides an opportunity for us to recommit ourselves to continue to deal with those issues and to continue to chip away, as quickly as we can and as genuinely as we can, at all those problems until we get it right. In so doing, as policymakers we might better inform ourselves about improving relationships between black and white Australians, between older residents and new immigrant families, and so on, according to the best human values we can possibly attain. Nevertheless, we will not have apologised as well as we might have done.

In a sense, it is true that words are cheap. But unless each of us, in the individual roles that we play, backs up those words with action, commitment and determination to try to improve the situation, to ensure that wrong policies dealing with human relationships are abolished, and that better policies replace them, we really will not have apologised as well as we ought to have done. I am proud to be part of this Parliament, in almost every way one could possibly imagine. But I am ashamed that this Parliament, along with many other parliaments in

Australia and around the world, has from time to time got it very, very wrong. We did get it wrong, and I apologise.

Mr KERR (Cronulla) [12.47 p.m.]: Kurnell, which is situated in my electorate, is the birthplace of modern Australia. There was a meeting in Kurnell between two cultures. I place on record the words spoken by Sir John Carrick on Thursday, 14 November 1996, Aboriginal Reconciliation Day. Sir John Carrick said:

The Report of the Committee of Review of NSW schools, adopted by the NSW Liberal Government in 1989 and subsequently implemented, contained these memorable words:

"Very few Australians understand the immense differences between the environment of the western world and the traditional culture, religion, family and tribal structures, divisions of labour and methods of learning and communication of the Aborigines. Fewer still know of the rich and complex history of the Aboriginal People, their achievements in survival, conservation of natural resources, their development of skills and creative arts. To know is to appreciate the present sense of alienation and loss of dignity, and sense of purpose of many Aborigines. To spread a sympathetic understanding throughout the community is an essential step in the healing and uniting process."

And these sentiments and understanding, reinforced by a series of sensitive and imaginative policies approved by Aboriginal educators, have been implemented throughout NSW schools to the great benefit of both Aborigines and non-aborigines. In these policies lies the great hope for the genuine fellowship of future generations.

Simply to advocate and implement equality of opportunity for all Australians according to Western values was not and is not enough. The abolition of the White Australia Policy . . . [and] the successful 1967 Referendum . . . gave Aborigines equal citizenship with others.

The referendum mentioned by Sir John Carrick was referred to earlier by the Leader of the National Party. The greatest disservice one can do to an individual is to treat that individual as a non-person. That is what happened before 1967. The Deputy Leader of the Opposition spoke about his generation. The speech of the present Governor-General is worthy of examination because this achievement occurred in 1967, in part of the baby boom generation of the Deputy Leader of the Opposition. Sir William Deane said:

From the wider social and political point of view, the significance of the carriage of the 1967 referendum is beyond measure. It marked the first great turning point in the relationship between Australia's indigenous people and the

nation of which they formed such an important part.

Laws in themselves cannot confer equality, dignity and respect. It is individual attitudes which will determine a division or unification of a community. That is the message in the motion expressing apology. It is genuine understanding which will remove so many of the artificial causes and prejudices of division. Australian Aborigines have been, and remain, disadvantaged in spite of great efforts and public expenditure to mitigate hardships. The greatest invasion of Aboriginal traditional lifestyle was not by weapons but by the inevitable spread of western communicable diseases-including upper respiratory tract infections, smallpox, measles, and sexually transmitted diseases-to which they were and remain very vulnerable. The western diet too, so different from the foodstuffs of their hunting and foraging, has added its toll of diabetes and alcoholism.

Better dwelling conditions and improved health and hygiene are vital. But if Aborigines are to have equal dignity and friendship alongside other Australians, their problems will not be resolved simply by government patronage and handouts. Social security, health and housing supports are important but unless Aborigines, as others, can have access to worthwhile and satisfactory employment-not just the wholly unskilled jobs that others will not do-they cannot achieve that spirit of independence and achievement that is vital to their wellbeing. In true and genuine reconciliation there is no place for

second-class citizenship. Neither Aboriginal children nor adults must be de facto wards of the State through permanent dependence on handouts.

Aborigines have achieved much in war and peace, in sport, in tertiary education, in the professions and in commerce and industry. They will achieve so much more and add significantly to the culture and way of life of all Australians if we break down those unconscious barriers that somehow divide us. Let us not wait for them to take the steps towards us. Many of us are naturally shy and may have memories, real or imagined, of past rejection. The bonds within the Aboriginal extended family have valuable lessons for us all. Above all, they, like us, are vital human beings, with so many of the same hopes, fears and strivings, and the hunger for spiritual values. They are different, yes, in many ways. But so are so many of our newer migrant arrivals. However, as with all human beings, the things that unite us are greater than those which divide us. Fine words, high-sounding pledges or even strong laws will not achieve reconciliation. Reconciliation is a positive and spontaneous expression of the human spirit, the natural "fair go" of the Australian philosophy.



APPENDIX

The Stolen Generations:
Useful contacts

For further information on this response contact:

Department of Aboriginal Affairs

83 Clarence Street
SYDNEY NSW 2000
(02) 9290 8700

Copies of the *NSW Government Statement of Commitment to Aboriginal People* can also be obtained from the Department of Aboriginal Affairs.

Other useful sources and contacts:

Connecting Kin Report

NSW Department of Community Services
164-174 Liverpool Road
ASHFIELD
(02) 9716-2222

Available also on the internet at:
www.community.nsw.gov.au.

Family Information Service

This service assists adoptees and birth parents to access information about each other.

NSW Department of Community Services

PO Box 3485
PARRAMATTA NSW 2124
(02) 9865-5964 or
(toll free within NSW) 1800-049-956.
E-mail: adoption@community.nsw.gov.au

A Guide to NSW State Archives relating to Aboriginal People

State Records NSW
2 Globe Street, The Rocks
SYDNEY NSW 2000
(02) 9237-0254
Available also on the internet at:
www.records.nsw.gov.au.

Link-Up (NSW) Aboriginal Organisation

Link-Up is a community organisation staffed and run by Aboriginal people, which provides reunion assistance, counselling and support to Aboriginal people separated from their families.
PO Box 93
LAWSON NSW 2783
(02) 4759-1911 or
(toll free) 1800-624-332.
E-mail: linknsw@pnc.com.au

NSW Aboriginal Land Council

The NSW Aboriginal Land Council is the peak Land Council for NSW, incorporated under the *Aboriginal Land Rights Act 1983*. It can advise enquirers about obtaining certification of Aboriginality through Local Aboriginal Land Councils.
(02) 9689 4444
Website: www.alc.org.au

Human Rights and Equal Opportunity Commission (HREOC)

Copies of the summary guide to *Bringing them home* are available from the Commission.
(02) 9284 9600
E-mail: hreoc@hreoc.gov.au
The text of the full and summary reports is available on the internet at:
www.hreoc.gov.au

Australian Institute of Aboriginal and Torres Strait Islander Studies (AIATSIS)

For assistance in family tracing contact Sharon Ingram
1800 730-129

Legal Aid Commission

323 Castlereagh Street
HAYMARKET NSW 2000
(02) 9219 5000

Young Peoples Hotline

An advice hotline for children and young people under 18 years in trouble with the police.
Call any time to speak to a specialist children's lawyer:
Monday-Friday: 9am-12 midnight
Saturday, Sunday and Public Holidays:
12 midday – 12 midnight
1800 10 18 10

Youth Action and Policy Association

Suite 209
410 Elizabeth Street
SURRY HILLS NSW 2010
(02) 9281 2344
E-mail: yapa@ozemail.com.au

Department of School Education

35 Bridge Street
SYDNEY NSW 2000
(02) 9561 8000
Website: www.dft.nsw.edu.au

Office of the Board of Studies

Level 4
117 Clarence Street
SYDNEY NSW 2000
(02) 9367 8111
Website: www.boardofstudies.nsw.edu.au

Aboriginal Early Childhood Support Services Unit

Cnr Park Road/Power Road
ALEXANDRIA NSW 2015
(02) 9319 4800

NSW Aboriginal Education Consultative Group (Inc.)

37 Cavendish Street
STANMORE NSW 2037
(02) 9550 5666



NSW Department of Aboriginal Affairs

Level 5, 83 Clarence St, Sydney

Telephone: 02 9290 8700

Facsimile: 02 9262 2690