



Speech by

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MEMBER FOR MUNDINGBURRA

Hansard 10 March 1999

CHILD PROTECTION BILL

Ms NELSON-CARR (Mundingburra—ALP) (3.36 p.m.): I rise to speak in support of the Child Protection Bill. As a mother of five children, I can wholeheartedly support this Bill, which responds to a basic human right: that children be protected from abuse and neglect. Children who are removed from their home for whatever reason should receive safe alternative care, and those children who have suffered abuse and neglect must be given quality services to ensure that their emotional, physical, social and educational development is appropriate.

It is a sad indictment on our society that not all children are protected from harm and, indeed, many of the recent family atrocities add weight to the fact that we must legislate to protect children from harm and the risk of harm. Where the State has an obligation to intervene to ensure protection of the child, increased accountability will be exercised by the statutory body. This Bill also ensures that families will be supported. Families will be assisted to protect their children from harm. Provisions are there to involve families in making decisions about meeting the child's needs. This includes the child's voice being heard throughout the protection process. The orders are provided so that the least intrusion occurs.

This Bill promotes a partnership between State and non-Government bodies, including Aboriginal and Torres Strait Islander entities, and legislation will address the significant over-representation of indigenous children in care. Our Government's commitment to extensive consultation processes has meant that, in this legislation, all departments responsible for the implementation of the Bill have consulted ministerially, regionally and with peak bodies and the general public.

Child protection practitioners now recognise the need to assess the child in the full context of family and environment rather than concentrate on a purely investigatory approach. While recognition that the child's right to protection is paramount, recognition of the right of families to be supported and assisted in the task of providing safe care for children will be implemented.

Melinda Hinkson, in her *Politics of Aboriginality*, describes the accounts of the stolen children and their families outlined in *Bringing Them Home* as heartbreaking reading—the mothers living in daily fear; the children painted black and hidden away; the wailing, grief and hysteria as children were—literally in some cases—torn from their mothers' arms; the historical reconstruction which was then imprinted on the minds and hearts of these children; the parents who died soon after of heartbreak; the parents who died just months before being reunited with their children; and the passing on of emotional scars from generation to generation. *Bringing Them Home* is an unrelenting documentation of events such as these, rendered all the more powerful by allowing the words of those who lived through such experiences to speak for themselves. Some of the most violent treatment of children occurred after they had gone in search of comfort and protection from sexual and other physical abuse. For their "lies" they received beatings, solitary confinement and, in many cases, were returned to the close confines of their most feared tormentors. Yet these things were said not to exist, in the same way as the existence of the mothers, families and Aboriginal communities from which these children were taken, along with their very Aboriginality, was also "disappeared".

The responsibility of the State is to intervene to protect children when necessary and to do so in a way that recognises the rights of all individuals involved—in particular to ensure that when intervention occurs it does not exceed the degree necessary to protect the child. Accountability in the exercise of

authority and in administrative decision making includes administrative appeal. There is an adherence to the fundamental principles of equity, equality and participation and those arising from recognition of ethnic and cultural identity—in particular recognition of Aboriginal and Torres Strait Islander cultural practices.

Improving child protection services to Aboriginal and Torres Strait Islander communities is a priority for the Department of Families, Youth and Community Care. The report of the National Inquiry into the Separation of Aboriginal and Torres Strait Islander Children from Their Families, Bringing Them Home, made a number of recommendations concerning the child welfare system. In particular, it recommended that Governments must allow a greater degree of involvement by indigenous communities in the administration of child welfare. This Bill responds to this call by legislating to ensure proper consultation and partnership at all levels when the Government is acting to protect Aboriginal and Torres Strait Islander children and support families.

There has been extensive consultation with Aboriginal and Torres Strait Islander communities in the development of this legislation. Key principles of the Bill reflect the views expressed by Aboriginal and Torres Strait Islander community groups. The Child Protection Bill recognises the role of appropriate community representatives in providing advice and information about Aboriginal and Torres Strait Islander children and families to persons exercising powers under the Act. It sets legal requirements about consultation, taking cultural advice into account when exercising powers, and placing children in culturally appropriate placements.

The member for Kurwongbah alluded to clause 6. It recognises the special needs of indigenous children, their families and communities to receive services that meet their needs and avoid dislocation of children from their communities. It recognises the unique needs of Aboriginal and Torres Strait Islander families stemming from their history as indigenous Australians, as evidenced by the over-representation of indigenous children in care.

The child placement principle requires departmental staff to: consult with and involve representatives of Aboriginal and Torres Strait Islander child-care agencies or other appropriate community representatives during investigation of child protection concerns and at all stages in intervention; and when placing Aboriginal and Torres Strait Islander children in out-of-home care for protective reasons, to preferably place them with the child's extended family, secondly within the child's community, and failing that with other Aboriginal or Torres Strait Islander people. In 1991, the Royal Commission into Aboriginal Deaths in Custody, noting the high rate at which indigenous children are separated from their families and communities, recommended that States and Territories provide legislative recognition of the child placement principle.

The Northern Territory, New South Wales, Victoria and South Australia have incorporated the child placement principle in child protection legislation and the Queensland Government is doing likewise in this Bill. Working protocols between Aboriginal and Torres Strait Islander community agencies and the department's area offices will provide an agreed basis for the practical implementation of the legislated requirements.

The new legislation, together with policy, practice guidelines and protocols, will provide an integrated framework for child protection service delivery to Aboriginal and Torres Strait Islander families throughout Queensland. The core tenets of the framework, such as participation of the family in decision making, apply equally to all families. However, the way in which family meetings and placement meetings are conducted for indigenous children is flexible, ensuring the resultant plans are meaningful and the process is culturally sensitive. I commend this Bill to the House.
