

15 April 2011.

The Secretary
Protecting Victoria's Vulnerable Children Inquiry
Box 4708, GPO
MELBOURNE, Vic., 3001

Dear Secretary

It is possible that the Inquiry will be giving some consideration to the question of vulnerable Aboriginal children, in particular the matter of the Stolen Generations, the over-representation of Aboriginal children in substitute care away from their natural families and the legal issues involved.

I have a significant knowledge of the history and background of Aboriginal affairs. It is possible that the Inquiry may wish to consider if the relevant administrative background may have a bearing on its deliberations. However, I would point out that my direct knowledge of Victorian Aboriginal affairs issues does not extend to events after 1975

Overview.

The history of Victoria's Aboriginal affairs is complicated. Despite being a relatively small population, Victoria's Aboriginal children have a complex and controversial place in the debate about vulnerable children. The following is a brief outline of the policy themes and of the major agencies involved with Aboriginal children, up to the 1970s.

1. Benevolent Protection.

Prior to separation, the New South Wales colonial government established the Port Phillip Aboriginal Protectorate, with a Chief Protector and four Assistant Protectors (1838-1850). They travelled through extensive districts and had responsibility for very large station areas of many square miles size. Around this time, several residential schools were established at Aboriginal institutions, for example at South Yarra, Dandenong, Merri Creek, Birregurra, Antwerp, Mount Rouse and Franklinton, but most did not continue for long. The Protectorate system was not popular with policy-makers in NSW and it does not appear to have left many lasting results.

Thereafter, the families of Aboriginal children in Victoria came under the responsibility of the Board for the Protection of Aborigines (BPA) established by Order in Council in 1860 and by legislation in 1869. It was initially State policy that the care of Aboriginal families was provided at several Church mission stations and State Aboriginal stations and reserves. At these stations, there was provision for some education at special Aboriginal schools. Until about 1900, there were dormitories attached to the schools for children at several stations. The schools were also attended by children in the care of their families on the same stations.

In contrast to other States, the Victorian Board did not have legal guardianship of Aboriginal children and it did not establish central children's homes for Aboriginal children away from their families.

2. Concentration and Closure of Stations.

From 1886, there was a policy of BPA to move younger families of "half caste" descent and their children away from these missions and stations (under the provisions of a law known as the "Half Caste Act").

Using special legislation and detailed regulations, the BPA referred some children from their institutions to the care of the Dept of Neglected Children, later to become the Children's Welfare Department (CWD).

From the early 1900s, the missions and stations were closed one by one and gradually the residents were moved to other stations ("concentration") and by the 1920s, the BPA only accepted responsibility for persons of Aboriginal descent living at Lake Tyers Station.

3. Absorption and Dispersal.

Some Aboriginal people forced off Victorian stations from the 1890s did become integrated but these families did not always identify to the public as Aboriginal, although they often maintained strong family contacts.

4. Shanty Towns.

In the districts where stations were closed, shanty towns grew up, for example in the vicinity of Heywood, Warrnambool, Dimboola, Healesville and Stratford. In addition, from the late 1930s, there was a movement of Aboriginal families from NSW into the Murray and Goulburn Rivers districts and the establishment of new shanty towns at Barmah, Echuca, Shepparton-Mooroopna, Swan Hill, Robinvale, Mildura and in East Gippsland.

This movement was connected with NSW Aboriginal people leaving particular Aboriginal Stations in that State where they were escaping from various legal restrictions. They were apprehensive that their children would be removed and placed in one of two special Aboriginal Children's Homes in NSW. They were seeking better life opportunities and regular employment, particularly in the seasonal rural industries in Victoria. They made contact with relatives already living in Victoria. Gradually some of these families began to move into Melbourne, at first in small numbers and then in greater numbers after the 1950s.

5. Denial, Lobbying and Inquiry.

The BPA progressively lost interest in the Aboriginal people and refused to accept responsibility for Aboriginal people living in shanty towns. Over the 1930s-1950s, welfare and church organisations made representations to the successive Chief Secretaries, as the responsible minister, who took no action on shanty towns or conditions at Lake Tyers Station.

Three church organisations had a continuing interest in Victorian Aboriginal people and numerous other groups began to lobby on their behalf, including CWA, Apex Clubs, Abschol and smaller local groups, while the international Save the Children Fund (SCF) opened Aboriginal children's welfare day centres in several districts from the early 1950s. (Mooroopna, Dimboola, Echuca, Orbost, and later Robinvale, Nowa Nowa.)

When there was a change of government in 1955, the new Bolte Government responded to media reports and set up the McLean Inquiry on the Operation of the Aborigines Act of 1928. McLean was the former Chief Stipendiary Magistrate. His report was superficial and based on racist attitudes. He only visited six country locations and omitted Melbourne and Healesville. He had no knowledge of other Aboriginal administrations, apart from having one

meeting with the Chairman of the NSW Board. He did not understand broader welfare principles. He had to rely on the Police to provide a population count that was erroneous.

He did point out that there were only a couple of minor legal discriminations against Aboriginal people in Victoria and recommended their repeal. He mentioned the fact that Aboriginal people in Victoria had always possessed the State franchise, but many did not exercise it. They had also been entitled to the Commonwealth franchise from 1901, but he did not understand that some had been disfranchised as a result of Commonwealth legislation of 1902 and of action taken by Commonwealth electoral officers.

McLean recommended in 1957 that an executive Aborigines Welfare Board (AWB) be set up, based on the NSW model. He recommended that the executive officer should be an "authorised person" under the *Children's Welfare Act* to take protective action.. (This recommendation was not accepted by the Government).

An unexpected side-effect of the McLean inquiry was that the media publicity and debate led police to initiate protective action against a number of Aboriginal children who were made wards and placed in care, particularly at Ballarat Orphanage.

At the same time as McLean was making his inquiries, the Minister of Housing arranged for the Slum Reclamation Officer (formerly Director of the Housing Commission) to make separate inquiries and report to him. This report covered many more districts than McLean's but focussed on housing issues.

6. Assimilation.

The Aborigines Welfare Board was established by legislation in 1957, with a broad objective to foster the assimilation of Aboriginal people, irrespective of degree of descent. The Chief Secretary (or another Minister as delegate) was Chairman of a board of 9 other members including the permanent head of the Chief Secretary's Department, nominees of the Ministers of Health, Housing and Education, an anthropologist or sociologist, two Aboriginal appointees, and two other community appointees.

Having been appointed, the AWB did not look at the McLean Report again. It met on the average once per month and developed a system of delegating responsibility to an executive sub-committee of three members who came to dominate decision making.

The AWB saw its main task as providing housing for Aboriginal families in the simplistic belief that all necessary social changes would follow from living in a new house. Because the Housing Commission had already refused to provide tenancies to Aboriginal families, the Board tended to operate as a mini Housing Commission, but without the resources, and soon found that it could not use all the funds made available to it for capital works through the State Budget. The Board also directed considerable attention to the proposed closure of Lake Tyers Aboriginal Station through the dispersal and rehousing of many families in districts some distance away. This was a highly sensitive issue that led to protests.

By 1965, the AWB had become divisive, attracted public criticism, and its membership split over issues of Lake Tyers and housing policy. These issues attracted considerable attention in State Parliament, the media and public meetings. The Premier intervened and directed that the Housing Commission provide tenancies for eligible Aboriginal families where recommended by the AWB's staff. The Housing Commission required that the AWB should guarantee rents.

The Chief Secretary took action to make Lake Tyers and Framlingham into permanent Aboriginal reserves and thereby blocked any disposal of these lands. He proposed legislation

8. Integration.

In 1969, the AWB was replaced by the Ministry of Aboriginal Affairs as a full State department with broad functions. The legislation created an Aboriginal Affairs Advisory Council that later became partly elected. Its legislation required that in cases where an Aboriginal person is party to any criminal proceedings, the Ministry should be informed. It was arranged that where an Aboriginal child was brought before a Children's Court, the AAL would attend the hearings.

Because of the recent controversy about the AWB, the Ministry was at pains to denigrate the achievements of the AWB, including the development of a comprehensive Policy Document, the rescue of Lake Tyers and Framlingham from revocation and sale, and the establishment of Advisory Education bodies.

More State funds were provided to the Ministry and Commonwealth funds began to flow to Victoria for additional professional staff and capital works, including housing. It introduced a scheme of housing loans to eligible families. It established a small number of hostels and a family group home. The Ministry also established Aboriginal Land Trusts at Lake Tyers and Framlingham.

The Ministry adopted a challenging style of operation and saw it doing itself out of a job within a few years, by eliminating the need for any special services for Aboriginal people. It worked for the integration of services at a time when Aboriginal people were keen to establish their own health and legal services and to take control of specific programmes such as children's services.

During the 1970s the numbers of Aboriginal children in substitute care was about 300, including about 200 state wards in the care of CWD who came into care as a result of legal action. There were also a number of children from Northern Territory and Queensland. There were informal placements arranged by Aboriginal people and family care arrangements agreed upon with relatives where parents were not able to care for their children. The figure of 300 was used wrongly in the media to suggest that all were from the "stolen generations" and many were illegal.

At the same time, there was a significant increase in the number of young persons coming before the Children's Court for offences, and placed in Youth Training Centres.

9. Self Determination.

The Ministry lost the confidence of Aboriginal people and it was abolished in 1974 as a result of a Commonwealth-State Arrangement, pursuant to the *Commonwealth Aboriginal Affairs (Arrangements with the States) Act 1973* and to corresponding Victorian legislation. Responsibility for policy, planning and coordination was transferred to the Melbourne Office of the new Commonwealth Department of Aboriginal Affairs, while responsibility for health, housing, pre-schools, education activities etc was transferred to the relevant State departments/agencies which later established expert Aboriginal units within each agency. For a time, there was no central coordinating agency dealing with Victorian State responsibility in Aboriginal matters, apart from a unit within the Premier's Office.

From the late 1970s, as a result of independent research, there had been comment that the number of Aboriginal children in care, particularly in institutional care, was disproportionate. In 1976, the Victorian Aboriginal Child Placement Agency (later Aboriginal Child Care Agency) was established to assist in the placement of Aboriginal wards in appropriate

situations. Victorian law was amended to give attention to the "Aboriginal placement principle".

As a result of the introduction of mandatory reporting of children at risk (1989), the number of Aboriginal children coming into State protective care as wards began to increase. A factor in this increase was the growing numbers of people identifying as Aboriginal that showed extremely large increases in the Aboriginal population in data from the Bureau of Census and Statistics.

10. Wilson Inquiry.

In 1995, the National Inquiry into the Separation of Aboriginal and Torres Strait Islander Children from their Families (Wilson Inquiry) was established. It brought down the Report, *Bringing Them Home* in 1997. Some of the data were questionable but generally, the Report was not seriously challenged, apart from the analogy to genocide. Special measures were adopted in all States, for example to facilitate the link up of formerly separated children and their families.

Personal Background.

I have post-graduate qualifications from the Universities of Sydney and Melbourne in Social Anthropology and Social Work, and also training in Child Welfare at Sydney Teachers' College. I worked in senior positions between 1950 and 1974 in Aboriginal Affairs in NSW and Victoria. I subsequently worked in Victorian community welfare services and retired in 1995. I sat on several relevant Commonwealth and State Committees. In retirement, I undertook extensive research work as a consultant for the Victorian Government. My research has also included Aboriginal employment, Aboriginal education, the Aboriginal reserves of Victoria and NSW, Aboriginal family history and demography, the 1967 Referendum, the history of Aboriginal institutions in South East Australia and Aboriginal legislation. I have expert knowledge of Community welfare services and the education of community welfare workers in Tertiary and Technical Colleges in all States and Territories in the 1970s-1980s.

Hearings.

I would appreciate if I could be informed of forthcoming hearings if issues relating to Aboriginal questions are to be addressed.

Yours faithfully

Philip Felton